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SENATE BILL NO. 855

Offered January 13, 2027

Prefiled November 10, 2026

A BILL to amend and reenact §§ 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, and 58.1-611.1 of the Code of Virginia, relating to sales and use tax; food purchased for human consumption and essential personal hygiene products; emergency.

Patrons—DeSteph, Jordan, Mulchi, Peake and Sturtevant

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, and 58.1-611.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-603.1. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235) Additional state sales tax in certain counties and cities.

A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 a retail sales tax at the rate of 0.70 percent. In no case shall an additional sales tax be imposed pursuant to both clause (ii) of subsection A and this subsection.

C. The tax imposed pursuant to subsections A and B shall ~~not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall~~ be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-3701. For additional planning districts that may become subject to this section, funds shall be established by appropriate legislation.

§ 58.1-603.1. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date, see Acts 2013, c. 766) Additional state sales tax in certain counties and cities.

In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax

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imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.

A. For purposes of this section:

"Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

"Historic Triangle Recreational Facilities Authority" means a regional government entity created by the City of Williamsburg and the Counties of James City and York for the purpose of developing and managing recreational facilities for the benefit of such localities' residents and visitors.

B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created pursuant to subsection F and used for the purposes set forth therein; and

2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall not be used to reduce the funding dedicated by the recipient localities to regional tourism promotion and product development.

E. 1. The revenues received by a locality pursuant to subsection D shall not be used to reduce such locality's funding dedicated to regional tourism promotion and product development. In meeting the requirements of this subsection, each locality shall annually allocate the following minimum amounts, to be distributed as provided in subdivision 2:

a. The City of Williamsburg shall allocate at least $800,000;

b. James City County shall allocate at least $740,000; and

c. York County shall allocate at least $438,600.

2. As determined by agreement among the City of Williamsburg and the Counties of James City and York, the amounts allocated under subdivision 1 shall be appropriated so that each of the recipients identified in this subdivision receive the following minimum amounts:

a. The Williamsburg Tourism Council shall receive at least $126,600;

b. The Greater Williamsburg Chamber of Commerce shall receive at least $402,000; and

c. The Historic Triangle Recreational Facilities Authority shall receive at least $1,450,000.

F. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the Williamsburg Tourism Council. The Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in

the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the legislative branch of state government. The Council shall consist of members as follows: one member of the James City County Board of Supervisors, one member of the York County Board of Supervisors; one member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one representative of the Jamestown Rediscovery Foundation, one representative of the Williamsburg Hotel and Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chair of the Greater Williamsburg Chamber of Commerce and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio, nonvoting members of the Council.

3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional with extensive experience in marketing or advertising and in the tourism industry. The Office shall be responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv) performing any other function related to the promotion of the Historic Triangle region as may be identified by the Council.

4. The Council shall report annually on its long-term and short-term strategic plans and the implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region; use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such report shall be delivered no later than December 1 of each year to the managers or chief executive officers of the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on Finance and Appropriations.

§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235) Additional state use tax in certain counties and cities.

A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 a retail use tax at the rate of 0.70 percent. In no case shall an additional use tax be imposed pursuant to both clause (ii) of subsection A and this subsection.

C. The tax imposed pursuant to subsections A and B shall ~~not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall~~ be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning District 15, the revenue generated and collected therein shall be deposited into the fund established in

§ 33.2-3701. For any additional planning districts that may become subject to this section, funds shall be established by appropriate legislation.

§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date, see Acts 2013, c. 766) Additional state use tax in certain counties and cities.

In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. Such tax shall ~~not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall~~ be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for public transportation, or construction or renovation of schools.

A. 1. a. In addition to the sales tax authorized under §58.1-605, any county or city not located in Planning District 8, may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue solely for capital projects for the construction or renovation of schools serving each such county or city. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under §58.1-622 shall be allowed on this local sales tax.

b. Any tax imposed pursuant to this subsection shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subdivision 2 a. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subdivision 2 a.

2. a. The tax authorized by this subsection may be levied only if the tax is approved in a referendum within the county or city held in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, a specified date on which the sales tax shall expire.

b. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The question on the ballot for the referendum shall include language stating (i) that the revenues from the sales tax authorized by this subsection shall be used solely for capital projects for the construction or renovation of schools and (ii) the date on which the sales tax shall expire.

3. The governing body of the county or city, if it elects to impose a local sales tax under this section after approval at a referendum as provided in subdivision A 2 shall do so by the adoption of an ordinance stating its purpose and referring to this subsection and providing that such ordinance shall be effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

4. Any local sales tax levied under this subsection shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state sales tax~~; however, the local sales tax levied under subsection A 1 a shall not be levied on food purchased for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1~~.

5. All local sales tax moneys collected by the Tax Commissioner under this subsection shall be paid into

the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each county or city under the name "Collections of Additional Local Sales Taxes in ____ (INSERT NAME OF THE COUNTY OR CITY)." Each fund shall be administered as provided in § 58.1-605. A separate fund shall be created for each county or city. Only local sales tax moneys collected pursuant to this subsection in that county or city shall be deposited in that county's or city's fund.

6. As soon as practicable after the local sales tax moneys pursuant to this subsection have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper amount in favor of each county or city, and such payments shall be charged to the account of the county or city under its special fund created by subdivision A 5. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payment for each of the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to each county or city and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

7. The revenues from the tax authorized in this subsection shall be used solely for capital projects for new construction or major renovation of schools serving the county or city, including bond and loan financing costs related to such construction or renovation.

B. 1. a. In addition to the sales tax authorized under § 58.1-605, any county or city that is located in Planning District 8 may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue solely for (i) capital projects for the construction or renovation of schools serving each such county or city, or (ii) public transportation purposes serving such county or city or (iii) both capital projects for the construction or renovation of schools serving each such county or city, and public transportation purposes serving each such county or city. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.

b. Any taxing authority authorized by subsection B 1 a of § 58.1-605.1 shall expire for any county or city that does not comply with the provisions of § 33.2-3404.

2. a. A tax pursuant to this subsection may be levied only if the tax is approved in a referendum within the county or city held in accordance with § 24.2-684 and initiated by a resolution of the local governing body.

b. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The question on the ballot for the referendum shall include language stating that the revenues from the sales tax authorized by subsection B 1 a shall be used solely for public transportation or for capital projects for the construction or renovation of schools.

3. The governing body of the county or city, if it elects to impose a local sales tax under subsection B 1 a after approval at a referendum as provided in subdivision B 2 shall do so by the adoption of an ordinance stating its purpose and referring to this subsection and providing that such ordinance shall be effective on the first day of a month at least 120 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

4. Any local sales tax levied under this subsection shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state sales tax~~; however, the local sales tax levied under subsection B 1 a shall not be levied on food purchased for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1~~.

5. All local sales tax moneys collected by the Tax Commissioner under subsection B 1 a shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each county or city under the name "Collections of Additional Local Sales Taxes in __ (INSERT NAME OF THE COUNTY OR CITY)." Each fund shall be administered as provided in § 58.1-605. A separate fund shall be created for each county or city. Only local sales tax moneys collected pursuant to subsection B 1 a in that county or city shall be deposited in that county's or city's fund.

6. As soon as practicable after the local sales tax moneys authorized by subsection B 1 a have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper amount in favor of each county or city, and such payments shall be charged to the account of the county or city under its special fund created by subsection B 5. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payment for each of the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to each county or city and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within

three years of the date of the payment error.

7. The revenues from the tax pursuant to this subsection shall be used solely for (i) capital projects for new construction or major renovation of schools serving each such county or city, including bond and loan financing costs related to such needs, or (ii) public transportation purposes serving such county or city, including bond and loan financing costs related to such needs, or (iii) both capital projects for the new construction or renovation of schools serving each such county or city and public transportation purposes serving such county or city. Appropriate uses of such revenues shall include bond and loan financing costs related to clauses (i), (ii), and (iii). Revenues from this tax shall not be used for repayment of existing indebtedness authorized by the county or city for public school capital projects that began or were completed prior to the imposition of such tax.

§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for public transportation, or construction or renovation of schools.

A. 1. a. The governing body of a county or city not located in Planning District 8 may levy a use tax at the rate of such sales tax under subsection A 1 a of § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools serving such county or city. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

b. The governing body of a county or city located in Planning District 8 may levy a use tax at the rate of such sales tax under subsection B 1 a of § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools or for public transportation purposes. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

2. a. Any tax imposed pursuant to subsection A 1 a shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subsection B.

b. Any tax imposed pursuant to subsection A 1 b shall expire for any county or city that does not comply with the provisions of § 33.2-3404.

B. The governing body of the county or city, if it elects to impose a local use tax under subsection A 1 a or subsection B 1 a may do so only if it has previously imposed the local sales tax authorized by subsection A 1 a or subsection B 1 a of § 58.1-605.1, by the adoption of an ordinance stating its purpose and referring to subsection A 1 a or subsection A 1 b and providing that the local use tax shall become effective on the first day of a month at least 120 days after its adoption. Such ordinance for a tax imposed under subsection A 1 a shall state the date on which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state use tax~~; however, the local use tax levied under this section shall not be levied on food purchased for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1~~.

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the county or city of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the county or city of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased outside the Commonwealth for use or consumption within the county or city imposing the local use tax, or stored within the county or city for use or consumption, where the property would have been subject to the sales tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any county or city.

F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection A 5 or subsection B 5 of § 58.1-605.1. The Comptroller shall distribute the revenue to the county or city.

G. 1. The revenues from the tax authorized by subsection A 1 a shall be used solely for capital projects for new construction or major renovation of schools serving the county or city, including bond and loan financing costs related to such construction or renovation.

2. The revenues from the tax authorized by subsection A 1 b shall be used solely for (i) capital projects for new construction or major renovation of schools serving each such county or city, including bond and loan financing costs related to such needs, or (ii) public transportation purposes serving each such county or city, including bond and loan financing costs related to such needs, or (iii) both capital projects for the new construction or renovation of schools serving each such county or city and public transportation purposes serving each such county or city. Appropriate uses of such revenues shall include bond and loan financing costs related to clauses (i), (ii), and (iii). Revenues from this tax shall not be used for repayment of existing indebtedness authorized by the county or city for public school capital projects that began or were completed prior to the imposition of such tax.

§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene products.

A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption and essential personal hygiene products shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of § 58.1-638.

B. *1.* On and after January 1, 2023, *but before February 1, 2027,* and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter, on food purchased for human consumption or essential personal hygiene products.

~~C.~~ *2.* Beginning February 1, 2023, an amount equal to the revenue that would have been distributed pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of § 58.1-638 based on the estimates of the population of cities and counties ages five to 19.

C. 1. On and after February 1, 2027, no tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter, on food purchased for human consumption or essential personal hygiene products.

2. Beginning March 1, 2027, an amount equal to the revenue that would have been distributed if the tax imposed pursuant to §§ 58.1-605 and 58.1-606 had continued to be imposed on food purchased for human consumption and essential personal hygiene products shall be distributed among the cities and counties of the Commonwealth as provided in § 58.1-605. The amount received by each city or county shall be determined by its pro rata share of total sales and use tax collections in the month for which such distribution is made.

D. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this chapter.

2. That an emergency exists and this act shall be in force from its passage.