

HOUSE BILL NO. 90

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on February 11, 2022)

(Patron Prior to Substitute--Delegate McNamara)

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, 58.1-611.1, 58.1-638, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia, relating to sales tax; exemption for food purchased for human consumption and essential personal hygiene products.

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, 58.1-611.1, 58.1-638, and 58.1-2425, as it is currently effective and as it may become effective, 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)

26 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
27 of the criteria have been met.

28 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
29 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et
30 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
31 imposed pursuant to both clause (ii) of subsection A and this subsection.

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

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

47 **§ 58.1-603.1. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**
48 **date, see Acts 2013, c. 766) Additional state sales tax in certain counties and cities.**

49 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in
50 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
51 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
52 most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has

53 a total transit ridership of not less than 15 million riders per year across all transit systems within the
54 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
55 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a
56 retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii)
57 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
58 of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption
59 and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added
60 to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be
61 subject to all the provisions of this chapter and the rules and regulations published with respect thereto.
62 No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be
63 administered and collected by the Tax Commissioner in the same manner and subject to the same penalties
64 as provided for the state sales tax under § 58.1-603.

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

72 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**
73 **use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

74 A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the
75 Counties of James City and York.

76 B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby
77 levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not
78 be levied upon food purchased for human consumption and essential personal hygiene products, as such
79 terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax imposed pursuant

80 to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the provisions of
81 this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622
82 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by
83 the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales
84 tax under § 58.1-603.

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

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

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

98 2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books
99 of the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the
100 locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this
101 subsection shall not be used to reduce the amount of other revenues appropriated by such locality to or for
102 use by the Greater Williamsburg Chamber and Tourism Alliance below the amount provided in fiscal year
103 2018.

104 E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the
105 Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and
106 administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The

107 Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this section
108 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall
109 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon,
110 at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in
111 the Fund shall be used solely for the purposes of marketing, advertising, and promoting the Historic
112 Triangle area as an overnight tourism destination, with the intent to attract visitors from a sufficient
113 distance so as to require an overnight stay of at least one night, as set forth in this subsection. Expenditures
114 and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
115 Comptroller upon written request signed by the Secretary of Finance.

116 2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council)
117 shall consist of members as follows: one member of the James City County Board of Supervisors, one
118 member of the York County Board of Supervisors; one member of the Williamsburg City Council, one
119 representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown
120 Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic
121 Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative
122 of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism
123 Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio,
124 non-voting members of the Council.

125 3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office)
126 to administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle
127 area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary
128 expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a
129 professional with extensive experience in marketing or advertising and in the tourism industry. The Office
130 shall be responsible for (i) developing and implementing, in consultation with the Council, long-term and
131 short-term strategic plans for advertising and promoting the numerous facilities, venues, and attractions
132 devoted to education, historic preservation, amusement, entertainment, and dining in the Historic Triangle
133 as a cohesive and unified travel destination for local, national, and international travelers; (ii) assisting,

134 upon request, with the coordination of cross-advertising and cross-marketing efforts between various
135 tourism venues and destinations in the Historic Triangle region; (iii) identifying strategies for both
136 increasing the number of overnight visitors to the region and increasing the average length of stay of
137 tourists in the region; and (iv) performing any other function related to the promotion of the Historic
138 Triangle region as may be identified by the Council.

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

145 **§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and**
146 **cities.**

147 A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed
148 in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
149 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
150 most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has
151 a total transit ridership of not less than 15 million riders per year across all transit systems within the
152 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
153 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a
154 retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii)
155 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
156 of the criteria have been met.

157 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
158 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et
159 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
160 imposed pursuant to both clause (ii) of subsection A and this subsection.

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

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

176 **§ 58.1-604.01. (Contingent effective date) Additional state use tax in certain counties and**
177 **cities.**

178 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in
179 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
180 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
181 most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has
182 a total transit ridership of not less than 15 million riders per year across all transit systems within the
183 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
184 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a
185 retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii)
186 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
187 of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption~~

188 ~~and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added
189 to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject
190 to all the provisions of this chapter and the rules and regulations published with respect thereto. No
191 discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be
192 administered and collected by the Tax Commissioner in the same manner and subject to the same penalties
193 as provided for the state use tax under § 58.1-604.

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

201 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction**
202 **or renovation of schools.**

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

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

215 B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying
216 locality held in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such
217 resolution shall state (i) if the capital projects for the construction or renovation of schools are to be
218 financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital
219 projects for the construction or renovation of schools are not to be financed by bonds or loans, a specified
220 date on which the sales tax shall expire.

221 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general
222 circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The
223 question on the ballot for the referendum shall include language stating (i) that the revenues from the sales
224 tax shall be used solely for capital projects for the construction or renovation of schools and (ii) the date
225 on which the sales tax shall expire.

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

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

236 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
237 into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for
238 each qualifying locality under the name "Collections of Additional Local Sales Taxes in ____ (INSERT
239 NAME OF THE QUALIFYING LOCALITY)." Each fund shall be administered as provided in § 58.1-
240 605. A separate fund shall be created for each qualifying locality. Only local sales tax moneys collected
241 in that qualifying locality shall be deposited in that locality's fund.

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

253 G. The revenues from this tax shall be used solely for capital projects for new construction or
254 major renovation of schools in the qualifying locality, including bond and loan financing costs related to
255 such construction or renovation.

256 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**
257 **renovation of schools.**

258 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax
259 under § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in
260 such locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter
261 and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and
262 regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on
263 a local use tax.

264 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the
265 construction or renovation of schools are to be financed by bonds or loans, on the date by which such
266 bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools
267 are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any

268 resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than
269 20 years after the date of the resolution passed pursuant to the provisions of subsection B.

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

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

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

290 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their
291 customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their
292 monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth
293 by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer
294 is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible

295 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to
296 assign the shipment to any county or city.

297 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection
298 E of § 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

299 G. All revenue from this local use tax revenue shall be used solely for capital projects for new
300 construction or major renovation of schools in the qualifying locality, including bond and loan financing
301 costs related to such construction or renovation.

302 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal**
303 **hygiene products.**

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

309 B. ~~The provisions of this section shall not affect the imposition of tax on food purchased for human~~
310 ~~consumption and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606.~~

311 C. ~~No tax shall be imposed under this chapter, or pursuant to any authority granted under this~~
312 ~~chapter, on food purchased for human consumption or essential personal hygiene products.~~

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

322 for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of
323 registration pursuant to § 58.1-613.

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

329 **§ 58.1-638. Disposition of state sales and use tax revenue.**

330 A. The Comptroller shall designate a specific revenue code number for all the state sales and use
331 tax revenue collected under the preceding sections of this chapter.

332 The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
333 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in
334 this section, to the Commonwealth Transportation Fund established pursuant to § 33.2-1524. The Fund's
335 share of such net revenue shall be computed as an estimate of the net revenue to be received into the state
336 treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in
337 the preceding month. All payments shall be made to the Fund on the last day of each month.

338 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
339 among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

340 C. The localities' share of the net revenue distributable under this section among the counties and
341 cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller
342 drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the
343 net revenue was received into the state treasury. The distribution of the localities' share of such net revenue
344 shall be computed with respect to the net revenue received into the state treasury during each month, and
345 such distribution shall be made as soon as practicable after the close of each such month.

346 D. The net revenue so distributable among the counties and cities shall be apportioned and
347 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to
348 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such

349 population estimate produced by the Weldon Cooper Center for Public Service of the University of
350 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are
351 dependents living on any federal military or naval reservation or other federal property within the school
352 division in which the institutions or federal military or naval reservation or other federal property is
353 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the
354 University of Virginia shall account for members of the military services who are under 20 years of age
355 within the school division in which the parents or guardians of such persons legally reside. Such
356 population estimate produced by the Weldon Cooper Center for Public Service of the University of
357 Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental
358 health facilities, persons who are confined in state or federal correctional institutions, or persons who
359 attend the Virginia School for the Deaf and the Blind within the school division in which the parents or
360 guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center
361 for Public Service of the University of Virginia shall account for persons who attend institutions of higher
362 education within the school division in which the student's parents or guardians legally reside. To such
363 estimate, the Department of Education shall add the population of students with disabilities, ages two
364 through four and 20 through 21, as provided to the Department of Education by school divisions. The
365 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
366 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
367 operation of the public schools, which shall be considered as funds raised from local resources. In any
368 county, however, wherein is situated any incorporated town constituting a school division, the county
369 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
370 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
371 amount received by him in the ratio that the school population of such town bears to the school population
372 of the entire county. If the school population of any city or of any town constituting a school division is
373 increased by the annexation of territory since the last estimate of school population provided by the
374 Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added

375 to the school population of such city or town as shown by the last such estimate and a proper reduction
376 made in the school population of the county or counties from which the annexed territory was acquired.

377 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
378 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting
379 equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-
380 watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most
381 recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce,
382 Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be
383 paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the
384 cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall
385 transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund.
386 At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.01, is equal
387 to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred
388 to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the
389 Board, after deduction of other amounts which accrue to the Board and are set aside for the Game
390 Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement
391 Fund is less than \$35 million.

392 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
393 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General
394 Assembly, the Comptroller shall transfer from the general fund of the state treasury to the Public Education
395 Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an
396 amount equivalent to one-half of the net revenue generated from such one-half percent increase as
397 provided in this subdivision. The transfers to the Public Education Standards of Quality/Local Real Estate
398 Property Tax Relief Fund under this subdivision shall be for one-half of the net revenue generated (and
399 collected in the succeeding month) from such one-half percent increase for the month of August 2004 and
400 for each month thereafter.

401 2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the
402 revenue generated by a 0.125 percent sales and use tax shall be distributed to the Public Education
403 Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be
404 used for the state's share of Standards of Quality basic aid payments.

405 3. For the purposes of the Comptroller making the required transfers under subdivision 1 and 2,
406 the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth
407 of each month certifying the sales and use tax revenues generated in the preceding month. Within three
408 calendar days of receiving such certification, the Comptroller shall make the required transfers to the
409 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

410 G. (Contingent expiration date) Beginning July 1, 2020, of the remaining sales and use tax revenue,
411 an amount equal to 20 percent of the revenue generated by a one-half percent sales and use tax, such as
412 that paid to the Commonwealth Transportation Fund as provided in subsection A, shall be paid to the
413 Commonwealth Transportation Fund established pursuant to § 33.2-1524.

414 The Commonwealth Transportation Fund's share of the net revenue distributable under this
415 subsection shall be computed as an estimate of the net revenue to be received into the state treasury each
416 month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding
417 month. All payments shall be made to the Fund on the last day of each month.

418 H. 1. Beginning July 1, 2022, of the remaining sales and use tax revenue, an amount equal to
419 revenue generated by a 0.182 percent sales and use tax shall be distributed to cities and counties as a
420 supplemental school payment and credited to the account of each city and county based on the distribution
421 set forth in subdivision H 2 and according to the procedures of subsection C.

422 2. Such supplemental school payment shall be distributed (i) beginning on July 1, 2022, but before
423 July 1, 2024, based upon each city and county's estimated average share of monthly distributions pursuant
424 to §§ 58.1-605 and 58.1-606 attributable to sales of food purchased for human consumption and essential
425 personal hygiene products, as such terms are defined in § 58.1-611.1, between February 2020 and
426 December 2021, and (ii) beginning on July 1, 2024, based upon each city and county's pro rata share of
427 collections pursuant to §§ 58.1-605 and 58.1-606.

428 3. Beginning October 1, 2025, the Department shall make an annual review of the distributions
429 under this subsection made beginning July 1, 2024, and make any necessary adjustments in accordance
430 with the same procedures set forth in § 58.1-605.

431 ~~H-I.~~ (Contingent expiration date) 1. The additional revenue generated by increases in the state
432 sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-
433 614 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

434 2. The additional revenue generated by increases in the state sales and use tax from Planning
435 District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the
436 Comptroller in the fund established under § 33.2-2600.

437 3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by
438 increases in the state sales and use tax from Planning District 15 pursuant to §§ 58.1-603.1, 58.1-604.01,
439 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-3701.

440 4. The additional revenue generated by increases in the state sales and use tax in any other Planning
441 District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special
442 funds that shall be established by appropriate legislation.

443 5. The net revenues distributable under this subsection shall be computed as an estimate of the net
444 revenue to be received by the state treasury each month, and such estimated payment shall be adjusted for
445 the actual net revenue received in the preceding month. All payments shall be made to the appropriate
446 funds on the last day of each month.

447 ~~I-J.~~ (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by
448 increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be
449 deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle
450 Marketing Fund established pursuant to subsection E of § 58.1-603.2; and (ii) 50 percent shall be deposited
451 in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in
452 which the revenues were collected. The net revenues distributable under this subsection shall be computed
453 as an estimate of the net revenues to be received by the state treasury each month, and such estimated

454 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
455 be made to the appropriate funds on the last day of each month.

456 ~~J-K.~~ Beginning July 1, 2020, the first \$40 million of sales and use taxes remitted by online retailers
457 with a physical nexus established pursuant to subsection D of § 58.1-612 shall be deposited into the Major
458 Headquarters Workforce Grant Fund established pursuant to § 59.1-284.31.

459 ~~K-L.~~ If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall
460 be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

461 ~~L-M.~~ The term "net revenue," as used in this section, means the gross revenue received into the
462 general fund or the Commonwealth Transportation Fund of the state treasury under the preceding sections
463 of this chapter, less refunds to taxpayers.

464 **§ 58.1-2425. (Contingent expiration date — see Acts 2013, c. 766) Disposition of revenues.**

465 (For contingent expiration date — see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
466 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
467 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
468 remaining in these funds at the end of the year shall be available for use in subsequent years for the
469 purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The
470 revenue so derived, after refunds have been deducted, is hereby allocated for the construction,
471 reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose.
472 However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as
473 defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home
474 is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-
475 terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be
476 distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as
477 the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone
478 other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in
479 which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in
480 the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this

481 amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be
482 distributed to the county or city in which the vehicle is used or stored for use; (c) if the all-terrain vehicle,
483 moped, or off-road motorcycle was purchased from a Virginia dealer in a county or city in a planning
484 district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to §
485 58.1-603.1; (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other
486 than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning
487 district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the county
488 or city in which the vehicle is used or stored for use; and (e) an amount equal to a one percent tax shall be
489 distributed in a manner consistent with the provisions of subsection ~~I~~J of § 58.1-638 for each all-terrain
490 vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under
491 subdivision A 1 of § 58.1-2402; and (iii) all remaining funds, after the collection costs of the Department
492 of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the
493 Commonwealth Transportation Fund pursuant to § 33.2-1524.

494 (For contingent effective date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
495 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
496 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
497 remaining in these funds at the end of the year shall be available for use in subsequent years for the
498 purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The
499 revenue so derived, after refunds have been deducted, is hereby allocated for the construction,
500 reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose.
501 However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as
502 defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home
503 is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-
504 terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be
505 distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as
506 the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone
507 other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in

508 which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in
509 the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this
510 amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be
511 distributed to the county or city in which the vehicle is used or stored for use; (c) if the all-terrain vehicle,
512 moped, or off-road motorcycle was purchased from a Virginia dealer in a county or city in a planning
513 district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to §
514 58.1-603.1; and (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone
515 other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a
516 planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the
517 county or city in which the vehicle is used or stored for use; and (iii) all remaining funds, after the
518 collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall
519 be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524.

520 **§ 58.1-2425. (Contingent effective date - see Acts 2013, c. 766) Disposition of revenues.**

521 (For contingent expiration date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
522 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
523 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
524 remaining in these funds at the end of the year shall be available for use in subsequent years for the
525 purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The
526 revenue so derived, after refunds have been deducted, is hereby allocated for the construction,
527 reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose.
528 However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as
529 defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home
530 is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-
531 terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be
532 distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as
533 the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone
534 other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in

535 which the vehicle is used or stored for use; (b) an amount equal to a four percent tax shall be distributed
536 in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected
537 on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the
538 county or city in which the vehicle is used or stored for use; and (c) an amount equal to a one percent tax
539 shall be distributed in a manner consistent with the provisions of subsection ~~I~~J of § 58.1-638 for each all-
540 terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle
541 under subdivision A 1 of § 58.1-2402; and (iii) all remaining funds, after the collection costs of the
542 Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and
543 paid into the Commonwealth Transportation Fund established pursuant to § 33.2-1524.

544 (For contingent effective date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
545 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
546 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
547 remaining in these funds at the end of the year shall be available for use in subsequent years for the
548 purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The
549 revenue so derived, after refunds have been deducted, is hereby allocated for the construction,
550 reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose.
551 However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as
552 defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home
553 is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-
554 terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be
555 distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as
556 the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone
557 other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in
558 which the vehicle is used or stored for use and (b) an amount equal to a four percent tax shall be distributed
559 in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected
560 on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the
561 county or city in which the vehicle is used or stored for use; and (iii) all remaining funds, after the

562 collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall
563 be distributed to and paid into the Commonwealth Transportation Fund established pursuant to § 33.2-
564 1524.

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