

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** James M. LeMunyon

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Rate on Food for Human Consumption

2. **Bill Number** HB 433

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would phase out the state and local retail sales and use tax on food purchased for human consumption beginning July 1, 2014. The rate of the state retail sales and use tax on qualifying food would be 1.2 percent and the rate of the local retail sales and use tax would be 0.8 percent in Fiscal Year 2015. The state retail sales and use tax on qualifying food would decrease by 0.3 percent each fiscal year and the local retail sales and use tax on qualifying food would decrease by 0.2 percent each fiscal year. One-third of the revenue would be dedicated to the Transportation Trust Fund and two-thirds of the revenue would be dedicated to localities and distributed based on school-age population. The total state and local retail sales and use tax rate would be 2 percent in Fiscal Year 2015, 1.5 percent in Fiscal Year 2016, 1.0 percent in Fiscal Year 2017, and 0.5 percent in Fiscal Year 2018. No tax on food purchased for human consumption would be imposed on or after July 1, 2018.

The bill also would dedicate General Fund revenues to the Transportation Trust Fund equal to the revenue generated by i) a 0.015 percent sales and use tax in Fiscal Year 2015, ii) a 0.03 percent sales and use tax in Fiscal Year 2016, iii) a 0.045 percent sales and use tax in Fiscal Year 2017, iv) a 0.06 percent sales and use tax in Fiscal Year 2018, and v) a 0.075 percent sales and use tax in Fiscal Year 2019 and each Fiscal Year thereafter.

Additionally, the bill would dedicate General Fund revenues to counties and cities equal to the revenue generated by i) a 0.03 percent sales and use tax in Fiscal Year 2015, ii) a 0.06 percent sales and use tax in Fiscal Year 2016, iii) a 0.09 percent sales and use tax in Fiscal Year 2017, iv) a 0.12 percent sales and use tax in Fiscal Year 2018, and v) a 0.15 percent sales and use tax in Fiscal Year 2019 and each Fiscal Year thereafter. The revenues would be distributed to the localities based on school age population. The bill also would dedicate additional sales and use tax revenues in the same manner to counties and cities that would be distributed based on the locality's proportionate share of the total net amount of sales and use tax revenue collected by all of the localities in the prior fiscal year.

Under current law, food purchased for human consumption is subject to the state retail sales and use tax at the rate of 1.5 percent and the local retail sales and use tax at the rate of 1 percent, for a total tax rate of 2.5 percent.

The effective date of this bill is not specified.

6. Budget amendment necessary: Yes.

ITEM(S): Page 1, Revenue Estimates
270 and 272, Department of Taxation

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013-14	\$610,000	0	GF
2014-15	\$80,000	0	GF
2015-16	\$0	0	GF
2016-17	\$0	0	GF
2017-18	\$0	0	GF
2018-19	\$0	0	GF
2019-20	\$0	0	GF

8. Fiscal implications:

Administrative Costs

The Department would incur administrative expenses of approximately \$610,000 in Fiscal Year 2014 and \$80,000 in Fiscal Year 2015 for systems and forms changes.

Revenue Impact

Under the bill, the retail sales and use tax on food purchased for human consumption, which is currently taxed at a rate of 2.5% (state and local), is reduced gradually over five years beginning in Fiscal Year 2015. General Fund revenues also would be dedicated to the Transportation Trust Fund and counties and cities. The following chart shows the estimated revenue impact of the bill assuming that Congress does not grant the authority for remote seller collection:

Effective July 1, 2014

Fund	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
School-age	\$ (3.0)	\$ (3.4)	\$ (3.8)	\$ (4.2)	\$ (3.5)	\$ (0.2)
TTF	(0.3)	(0.4)	(0.6)	(0.7)	(0.8)	(0.9)
Local	(3.5)	(3.9)	(4.5)	(4.9)	(5.4)	(2.3)
General Fund	<u>(73.0)</u>	<u>(163.9)</u>	<u>(261.9)</u>	<u>(365.8)</u>	<u>(476.4)</u>	<u>(507.3)</u>
Total Revenue Impact	<u>\$(79.9)</u>	<u>\$(171.7)</u>	<u>\$(270.8)</u>	<u>\$(375.5)</u>	<u>\$(486.0)</u>	<u>\$(510.7)</u>

Under the Marketplace Fairness Act (S. 743), states would not be able to require remote collection of sales and use tax until the first day of the calendar quarter (January, April, July, October) that is at least 6 months after the date the state enacts legislation to exercise the authority granted by the bill. As Virginia has already passed legislation exercising the authority, if Congress were to grant states the authority to collect retail sales and use taxes from remote sellers by December 31, 2014, remote seller collections of sales and use tax could begin as early as April 1, 2015. For purposes of this bill, it is assumed that remote collections would begin July 1, 2015.

Under the Marketplace Fairness Act, the total state and local revenue impact would be the same, but with a larger sales tax base, the localities would receive larger distributions. The following chart shows the estimated revenue impact of the bill assuming that Congress does grant the authority for remote seller collection:

Effective July 1, 2014

Fund	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
School-age	\$(3.0)	\$(0.8)	\$ 1.0	\$ 2.6	\$ 5.5	\$ 9.3
TTF	0.3	1.0	1.9	2.8	3.7	3.9
Local	(3.5)	(1.4)	0.4	2.0	3.6	7.3
General Fund	(73.0)	(170.5)	(274.1)	(383.0)	(498.8)	(531.2)
Total Revenue Impact	<u>\$(79.9)</u>	<u>\$(171.7)</u>	<u>\$(270.8)</u>	<u>\$(375.5)</u>	<u>\$(486.0)</u>	<u>\$(510.7)</u>

9. Specific agency or political subdivisions affected:

Department of Taxation
Transportation Trust Fund
All Counties and Cities

10. Technical amendment necessary: Yes.

If the intent of the bill is to increase the sales and use tax revenue dedicated to localities based on school-age population, the following technical amendment is suggested:

Page 5, Line 284, After revenue
Strike: generated by a one percent sales and use tax

If the intent of the bill is to dedicate an amount of sales and use tax revenue, such as that generated by the 1 percent local retail sales and use tax, to localities based on the locality's previous share of total local sales tax revenues collected, the following technical amendments are suggested:

Page 6, Line 361, After amounts
Insert: of sales and use tax revenue, such as that generated pursuant to §§ 58.1-605 and 58.1-606,

11. Other comments:

Generally

The Transportation Trust Fund was established in 1986 as a permanent fund and receives all of the revenue generated as a result of the 0.5 percent retail sales and use tax increase effective January 1, 1987. Moneys in this fund are dedicated to transportation needs in the Commonwealth.

Food purchased for human consumption is subject to a different state sales tax rate than other tangible personal property. The state sales tax rate on food was reduced from three percent to 1.5 percent in July 2005. Of this 1.5 percent, 0.5 percent continued to be allocated to the Transportation Trust Fund and the remaining one percent continued to be allocated to counties and cities based on school age population. The local sales tax rate remains at one percent. Thus the combined state and local sales and use tax rate on food purchased for human consumption is 2.5 percent.

Food purchased for human consumption includes most staple grocery food items and cold prepared foods packaged for home consumption. Specifically excluded from the definition of food for human consumption are alcoholic beverages, tobacco, and prepared hot foods sold for immediate consumption on and off the premises.

Remote Collection Authority

Several bills are being considered in Congress that would grant states meeting specified simplification requirements the authority to compel remote sellers to collect sales taxes for the state into which sales are made. Specifically, the Marketplace Equity Act would grant remote collection authority to states that meet certain minimum simplification requirements. The Marketplace Fairness Act would grant remote collection authority to states that either become full members of the Streamlined Sales and Use Tax Agreement or adopt the Act's minimum simplification requirements. The federal proposals generally require the state to i) make software and services available that identify the state's applicable sales tax rates; ii) require only one audit for all taxing jurisdictions in the Commonwealth, and one sales and use tax return for each remote seller; and iii) provide an exemption from the requirement for remote sellers with annual sales under a specified amount (small seller exception).

Proposal

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The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/24/2014 AM
DLAS File Name: HB433F161