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HOUSE BILL NO. 960

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 58.1-638 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-603.3, relating to additional state sales tax on firearms and ammunition; use of proceeds; Student Mental Health and Safety Fund and Program.

Patrons—Levine and Samirah

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-638 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-603.3 as follows:

§ 58.1-603.3. Additional state sales tax on firearms and ammunition.

A. For the purposes of this section:

"Ammunition" or "ammunition for a firearm" means the same as that term is defined in § 18.2-308.2.

"Department" means the Department of Education.

"Fund" means the Student Mental Health and Safety Fund.

"Firearm" means the same as that term is defined in § 18.2-308.2:4.

"Program" means the Student Mental Health and Safety Program.

B. In addition to all other sales taxes imposed by this chapter, there is hereby levied and imposed an additional retail sales tax on firearms and ammunition in the Commonwealth. The amount of the tax shall be 10 percent minus the amount of tax imposed by all other sales taxes under this chapter.

C. In addition to all other use taxes imposed by this chapter, there is hereby levied and imposed an additional retail use tax on firearms and ammunition in the Commonwealth. The amount of the tax shall be 10 percent minus the amount of tax imposed by all other use taxes under this chapter.

D. The additional sales and use taxes levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided in §§ 58.1-603 and 58.1-604, respectively.

E. There is hereby created in the state treasury a special nonreverting fund to be known as the Student Mental Health and Safety Fund. The Fund shall be established on the books of the Comptroller. All revenues deposited in the Fund pursuant to § 58.1-638, all funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf 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 providing grants to enable public school divisions to fund full-time (i) school counselor positions at a ratio of 250:1 or better, (ii) school social worker positions at a ratio of 400:1 or better, and (iii) school psychologist positions at a ratio of 500:1 or better. 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 Education.

F. The Student Mental Health and Safety Program is hereby established for the purpose of awarding grants on a competitive basis from such funds as may be available from the Fund to public school divisions to enable those divisions to fund full-time (i) school counselor positions at a ratio of 250:1 or better, (ii) school social worker positions at a ratio of 400:1 or better, and (iii) school psychologists at a ratio of 500:1 or better. The Program shall be administered by the Department. In administering the Program, the Department shall establish and publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Department and grant recipients relating to providing grants to enable public school divisions to fund full-time (i) school counselor positions at a ratio of 250:1 or better, (ii) school social worker positions at a ratio of 400:1 or better, and (iii) school psychologists at a ratio of 500:1 or better. The Department shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant.

G. Funds received through this program shall be used to supplement, not supplant, any other funds appropriated or otherwise made available to fund such positions.

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

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted

INTRODUCED

HB960

59 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
60 in this section, to the Transportation Trust Fund as defined in § 33.2-1524. Of the funds paid to the
61 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
62 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
63 Airport Fund as provided in this section; and an aggregate of 14.7 percent shall be set aside as the
64 Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue
65 shall be computed as an estimate of the net revenue to be received into the state treasury each month,
66 and such estimated payment shall be adjusted for the actual net revenue received in the preceding
67 month. All payments shall be made to the Fund on the last day of each month.

68 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
69 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

70 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds
71 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
72 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be
73 paid to any authority, locality or commission for the purposes hereinafter specified.

74 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth
75 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to
76 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary
77 ports within the Commonwealth. Expenditures for such capital needs are restricted to those capital
78 projects specified in subsection B of § 62.1-132.1.

79 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the
80 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
81 ports of Virginia, including but not limited to the ports of Richmond, Hopewell, and Alexandria.

82 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
83 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
84 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
85 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
86 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
87 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
88 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
89 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access
90 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
91 Airports Authority (MWAA), as follows:

92 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
93 Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to
94 MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as
95 provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
96 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
97 than it received in fiscal year 1994-1995.

98 Of the remaining amount:

99 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
100 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
101 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
102 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

103 b. Sixty percent of the funds shall be allocated as follows:

104 (1) For the first six months of each fiscal year, the funds shall be allocated as follows:

105 (a) Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
106 airports on a discretionary basis, except airports owned or leased by MWAA; and

107 (b) Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
108 on a discretionary basis; and

109 (2) For the second six months of each fiscal year, all remaining funds shall be allocated by the
110 Aviation Board for all eligible airports on a discretionary basis, except airports owned or leased by
111 MWAA.

112 3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall
113 be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight
114 Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and
115 the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall
116 remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

117 a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.2-1526 shall be
118 allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia
119 Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating
120 costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund.

b. The amounts allocated pursuant to § 33.2-1526.1 shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Commonwealth Transportation Board, and these amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds.

c. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 33.2-1800 and for purposes as enumerated in subdivision 7 of § 33.2-1701 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several

182 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
183 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
184 local resources. In any county, however, wherein is situated any incorporated town constituting a school
185 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
186 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
187 proportionate amount received by him in the ratio that the school population of such town bears to the
188 school population of the entire county. If the school population of any city or of any town constituting a
189 school division is increased by the annexation of territory since the last estimate of school population
190 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
191 section, be added to the school population of such city or town as shown by the last such estimate and a
192 proper reduction made in the school population of the county or counties from which the annexed
193 territory was acquired.

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

209 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
210 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
211 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
212 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
213 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
214 increase as provided in this subdivision. The transfers to the Public Education Standards of
215 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
216 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
217 the month of August 2004 and for each month thereafter.

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

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

227 G. (Contingent expiration date — see note) Beginning July 1, 2013, of the remaining sales and use
228 tax revenue, an amount equal to the following percentages of the revenue generated by a one-half
229 percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision
230 A 1, shall be paid to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530:

- 231 1. For fiscal year 2014, an amount equal to 10 percent;
- 232 2. For fiscal year 2015, an amount equal to 20 percent;
- 233 3. For fiscal year 2016, an amount equal to 30 percent; and
- 234 4. For fiscal year 2017 and thereafter, an amount equal to 35 percent.

235 The Highway Maintenance and Operating Fund's share of the net revenue distributable under this
236 subsection shall be computed as an estimate of the net revenue to be received into the state treasury
237 each month, and such estimated payment shall be adjusted for the actual net revenue received in the
238 preceding month. All payments shall be made to the Fund on the last day of each month.

239 H. (Contingent expiration date — see note) 1. The additional revenue generated by increases in the
240 state sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and
241 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

242 2. The additional revenue generated by increases in the state sales and use tax from Planning District
243 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the

244 Comptroller in the fund established under § 33.2-2600.

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

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

252 I. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by
253 increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be
254 deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle
255 Marketing Fund established pursuant to subsection E of § 58.1-603.2; and (ii) 50 percent shall be
256 deposited in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the
257 localities in which the revenues were collected. The net revenues distributable under this subsection shall
258 be computed as an estimate of the net revenues to be received by the state treasury each month, and
259 such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All
260 payments shall be made to the appropriate funds on the last day of each month.

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

264 K. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
265 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

266 L. The term "net revenue," as used in this section, means the gross revenue received into the general
267 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
268 less refunds to taxpayers.

269 *M. The additional revenue generated by the taxes authorized under § 58.1-603.3 shall be deposited*
270 *by the Comptroller into the Student Mental Health and Safety Fund established pursuant to*
271 *§ 58.1-603.3.*