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## HOUSE BILL NO. 1601

Offered January 13, 1999

A BILL to amend the Code of Virginia by adding a section numbered 58.1-611.1, relating to rate of retail sales and use tax on food purchased for human consumption; Food Tax Reduction Program.

Patrons—Callahan and Parrish

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 58.1-611.1 as follows:**

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction Program.

A. Subject to the conditions of subsections D and E, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be levied and distributed as follows:

1. From July 1, 2000, through June 30, 2001, the tax rate on such food shall be three 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, (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, and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. From July 1, 2001, through June 30, 2002, the tax rate on such food shall be two 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, (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, and (iii) the revenue from the tax at the rate of one percent shall be used for general fund purposes.

3. From July 1, 2002, through June 30, 2003, the tax rate on such food shall be two 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, (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, and (iii) the revenue from the tax at the rate of one-half percent shall be used for general fund purposes.

4. On and after July 1, 2003, the tax rate on such food 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. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption pursuant to §§ 58.1-605 and 58.1-606.

C. 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.

D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased for human consumption shall not be reduced below the rate in effect for the Commonwealth's preceding fiscal year if:

1. Actual general fund revenues for the second fiscal year preceding a fiscal year in which a rate reduction is contemplated in subsection A do not exceed the official general fund revenue estimates for such second preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act, by at least one percent; or

2. Any of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have occurred.

E. If the tax rate on food purchased for human consumption remains the same for consecutive fiscal years, the tax rate on such food shall remain the same unless none of the conditions described in subsection D have occurred, in which event the tax rate on food purchased for human consumption for the immediately following fiscal year shall be equal to the next lowest tax rate listed in subsection A.

F. For purposes of any of the computations required under the Personal Property Tax Relief Act of 1998, Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1, the decrease in net revenue attributable to the

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HB1601

60 provisions of this section shall be considered as receipts or amounts actually collected. The decrease in  
61 net revenue attributable to this section for any fiscal year shall be calculated by multiplying the taxable  
62 sales of food for human consumption as reported by dealers on their sales and use tax returns filed with  
63 the Department of Taxation during that fiscal year by the difference between (i) the tax rate imposed  
64 under § 58.1-603 and (ii) the state retail sales and use tax rate imposed during the fiscal year on food  
65 purchased for human consumption.

66 G. There is hereby created on the books of the Comptroller a nonreverting fund entitled the Food  
67 Tax Reserve Fund which shall be used solely for the statutory purposes of the Food Tax Reduction  
68 Program as established by this section, and as may be provided for in the general appropriation act.  
69 For the purpose of the Comptroller's preliminary and final annual reports required by § 2.1-207, all  
70 balances remaining in the Fund on June 30 of each year shall be considered a portion of the fund  
71 balance of the general fund of the state treasury..