

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

1. **Patron** Benjamin L. Cline

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Reduction in Food
Tax Rate

2. **Bill Number** HB 2168

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would reduce the rate of the state tax on food purchased for human consumption from 1½ percent of the gross sales price to 1 percent, eliminating the ½ percent tax that is allocated to the Transportation Trust Fund. The revenue from the 1 percent tax would continue to be distributed among the counties and cities on the basis of school-age population. The bill would have no impact on the imposition of the local sales and use tax on food purchased for human consumption.

Under current law, “food purchased for human consumption” is subject to state and local sales and use taxes at a combined rate of 2½ percent. “Food for human consumption” has the same meaning as under the Food Stamp Act of 1977, and includes most staple grocery food items and cold prepared foods packaged for home consumption. The ½ percent tax revenue is distributed to the Transportation Trust Fund and the one percent state portion is distributed to localities on the basis of school age population. The remaining one percent local portion is distributed to the locality in which the sale was made.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

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

8. **Fiscal implications:**

Administrative Costs Impact

The Department considers implementation of this bill as “routine” and does not require additional funding.

Revenue Impact

This bill would effectively eliminate the ½ percent portion of food tax revenue that is currently paid into the Transportation Trust Fund. The bill is estimated to result in a revenue loss to the Transportation Trust Fund of \$84.1 million in Fiscal Year 2016, \$95.2 million in Fiscal Year 2017, \$99.1 million in Fiscal Year 2018, \$102.7 million in Fiscal Year 2019, \$106.3 million in Fiscal Year 2020 and \$109.9 million in Fiscal Year 2021. The reduction in the food tax rate would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Department of Transportation

10. Technical amendment necessary: No.

11. Other comments:

Food Purchased for Human Consumption

The reduced sales tax rate applies to “food purchased for human consumption,” and is based upon the definition of “food” in the Food Stamp Act of 1977, 7 U.S.C. § 2012. The definition includes most staple grocery food items and cold prepared foods packaged for home consumption. Specifically excluded from the definition of food for home consumption are alcoholic beverages, tobacco, and prepared hot foods sold for immediate consumption on and off the premises. The reduced rate does not apply to seeds and plants which produce food for human consumption.

History of the Food Tax Reduction

The 1999 General Assembly established the Food Tax Reduction Program to reduce the state sales and use tax rate on food for human consumption by ½ percent per year over a four-year period, beginning January 1, 2000 and extending through April 1, 2003. At the time the legislation was enacted, the sales and use tax was imposed on food purchased for human consumption at a combined state and local rate of 4½ percent. The intent of the 1999 legislation was to ensure that effective April 1, 2003, when fully implemented, the state sales and use tax rate on food for human consumption would have been reduced 1 ½ percent.

The January 1, 2000 ½ percent reduction was implemented. However, in order for the remaining reductions to be implemented, the law required the following:

- The next level of the Car Tax Relief had to be implemented for the fiscal year; and
- Actual General Fund revenues for the fiscal year preceding the proposed rate reduction exceeded the official revenue estimates for that preceding fiscal year by at least 1 percent

When these conditions were not met, only the initial ½ percent reduction took effect.

Legislation enacted by the 2005 General Assembly eliminated the entire 1½ percent remaining General Fund portion of the state sales tax on food for human consumption, effective July 1, 2005. As a result, the combined state and local sales and use tax rate on food purchased for human consumption was 2½ percent.

Current Law

The tax remains in effect at the combined 2 ½ percent rate under current law. A ½ percent portion of the revenue is distributed to the Transportation Trust Fund and a 1 percent state portion is distributed to localities on the basis of school age population. The remaining 1 percent local portion is distributed to the locality in which the sale was made.

Proposal

This bill would reduce the rate of the state tax on food purchased for human consumption from 1½ percent of the gross sales price to 1 percent, thereby eliminating the portion of revenue that is allocated to the Transportation Trust Fund. Revenue from the 1 percent tax would continue to be distributed among the counties and cities on the basis of school-age population. The bill would have no impact on the imposition of the local sales and use tax on food purchased for human consumption.

cc : Secretary of Finance

Date: 1/25/2015 KP
DLAS File Name: HB2168F161