

DEPARTMENT OF TAXATION

2016 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 216

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 over a five-year period, beginning July 1, 2016. Each fiscal year, the combined rate of the state and local tax on qualifying food would decrease by ½ percent until the tax is completely phased out on July 1, 2020. In addition, beginning in Fiscal Year 2017, the bill would allocate a portion of General Fund revenues to counties and cities in order to offset the losses from the rate reductions.

Under current law, food purchased for human consumption is subject to the state Retail Sales and Use Tax at the rate of 1½ percent and the local Retail Sales and Use Tax at the rate of 1 percent, for a total tax rate of 2½ percent.

The effective date of this bill is not specified.

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

ITEM(S): Page 1, Revenue Estimates
275 and 277, 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>
2015-16	\$575,000	0	GF
2016-17	\$ 62,000	0	GF
2017-18	\$ 26,000	0	GF
2018-19	Minimal	0	GF
2019-20	Minimal	0	GF
2020-21	Minimal	0	GF
2021-22	Minimal	0	GF

8. Fiscal implications:

Administrative Costs

The Department would incur administrative expenses of approximately \$575,000 in Fiscal Year 2016, \$62,000 in Fiscal Year 2017, \$26,000 in Fiscal Year 2018, \$6,000 in Fiscal Year 2019, \$4,000 in Fiscal Year 2020, and \$2,000 in Fiscal Years 2021 and 2022 in implementing this bill. The Department would incur expenses in modifying its forms and schedules to account for the rate changes, updating its systems, notifying taxpayers, and responding to additional inquiries involving the rate changes.

Revenue Impact

Under this bill, the Retail Sales and Use Tax rate on food purchased for human consumption, which is currently taxed at a combined state and local rate of 2 ½ percent , is reduced gradually over five years beginning in Fiscal Year 2017. General Fund revenues also would be allocated to counties and cities. The following chart shows the estimated revenue impact of the bill:

Effective July 1, 2016
Revenue Impact (In Millions)

Fund	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Food						
School-age	(\$5.5)	(\$7.9)	(\$10.9)	(\$14.1)	(\$16.0)	(\$13.0)
TTF	(\$18.8)	(\$40.0)	(\$63.1)	(\$87.8)	(\$114.4)	(\$120.5)
Local	(\$37.6)	(\$80.1)	(\$126.3)	(\$175.7)	(\$228.7)	(\$241.0)
General Fund -Unrestricted	<u>(\$31.5)</u>	<u>(\$71.5)</u>	<u>(\$114.6)</u>	<u>(\$160.9)</u>	<u>(\$210.5)</u>	<u>(\$225.6)</u>
Total Revenue Impact	<u>(\$93.3)</u>	<u>(\$199.5)</u>	<u>(\$314.9)</u>	<u>(\$438.5)</u>	<u>(\$569.6)</u>	<u>(\$600.2)</u>

9. Specific agency or political subdivisions affected:

Department of Taxation
Transportation Trust Fund
All Counties and Cities

10. Technical amendment necessary: No.

11. Other comments:

Food Purchased for Human Consumption, Generally

Food purchased for human consumption is subject to a different state sales tax rate than other tangible personal property. 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.

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 $\frac{1}{2}$ 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 $4\frac{1}{2}$ 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 $1\frac{1}{2}$ percent. The January 1, 2000 $\frac{1}{2}$ 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 $\frac{1}{2}$ percent reduction took effect. Legislation enacted by the 2005 General Assembly eliminated the entire $1\frac{1}{2}$ 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 is $2\frac{1}{2}$ percent.

Disposition of Food Tax Revenues

The state sales tax rate on food was reduced from three percent to $1\frac{1}{2}$ percent in July 2005. Of this $1\frac{1}{2}$ percent, $\frac{1}{2}$ percent is allocated to the Transportation Trust Fund and the remaining one percent is allocated to counties and cities based on school-age population. The local sales tax rate remains at one percent.

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.

Proposal

This bill would phase out the state and local Retail Sales and Use Tax on food purchased for human consumption beginning July 1, 2016. In Fiscal Year 2017, the state Retail Sales and Use tax rate on qualifying food would be 1.2 percent and the local rate would be 0.8 percent. Each fiscal year thereafter, the state rate would decrease by 0.3 percent and the local rate would decrease by 0.2 percent. One-third of the total food tax revenues collected would be allocated to the Transportation Trust Fund and two-thirds would be distributed to localities, based on school-age population. The total state and local Retail Sales and Use Tax rate would be 2 percent in Fiscal Year 2017, 1½ percent in Fiscal Year 2018, 1 percent in Fiscal Year 2019, and ½ percent in Fiscal Year 2020. No tax on food purchased for human consumption would be imposed on or after July 1, 2020.

In addition, the bill would allocate 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 2017, ii) a 0.06 percent sales and use tax in Fiscal Year 2018, iii) a 0.09 percent sales and use tax in Fiscal Year 2019, iv) a 0.12 percent sales and use tax in Fiscal Year 2020, and v) a 0.15 percent sales and use tax in Fiscal Year 2021 and each fiscal year thereafter. The revenues would be distributed to each locality based on its proportionate share of the total net amount of sales and use tax revenue collected by all localities in the prior fiscal year.

The effective date of this bill is not specified.

Similar Legislation

House Bill 849 would reduce the rate of the state sales and use tax imposed on food purchased for human consumption from one and one-half percent to one percent, beginning July 1, 2016.

cc : Secretary of Finance

Date: 1/23/2016 KP
DLAS File Name: HB216F161