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**HOUSE BILL NO. 90****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations  
on February 11, 2022)

(Patron Prior to Substitute—Delegate McNamara)

*A BILL to amend and reenact §§ 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-611.1, 58.1-638, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia, relating to sales tax; exemption for food purchased for human consumption and essential personal hygiene products.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-611.1, 58.1-638, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-603.1. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235) Additional state sales tax in certain counties and cities.**

A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 a retail sales tax at the rate of 0.70 percent. In no case shall an additional sales tax be imposed pursuant to both clause (ii) of subsection A and this subsection.

C. The tax imposed pursuant to subsections A and B ~~shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax~~ shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-3701. For additional planning districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-603.1. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date, see Acts 2013, c. 766) Additional state sales tax in certain counties and cities.**

In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such~~

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60 tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county  
61 and city and shall be subject to all the provisions of this chapter and the rules and regulations published  
62 with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this  
63 section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and  
64 subject to the same penalties as provided for the state sales tax under § 58.1-603.

65 The revenue generated and collected pursuant to the tax authorized under this section, less the  
66 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
67 established by law. In the case of Planning District 8, the revenue generated and collected therein shall  
68 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
69 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For  
70 additional Planning Districts that may become subject to this section, funds shall be established by  
71 appropriate legislation.

72 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**  
73 **use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

74 A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the  
75 Counties of James City and York.

76 B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied  
77 and imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not be~~  
78 ~~levied upon food purchased for human consumption and essential personal hygiene products, as such~~  
79 ~~terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax imposed  
80 pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the  
81 provisions of this chapter and the rules and regulations published with respect thereto. No discount  
82 under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered  
83 and collected by the Tax Commissioner in the same manner and subject to the same penalties as  
84 provided for the state sales tax under § 58.1-603.

85 C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied  
86 and imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be~~  
87 ~~levied upon food purchased for human consumption and essential personal hygiene products, as such~~  
88 ~~terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed  
89 pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the  
90 provisions of this chapter and the rules and regulations published with respect thereto. No discount  
91 under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered  
92 and collected by the Tax Commissioner in the same manner and subject to the same penalties as  
93 provided for the state use tax under § 58.1-604.

94 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
95 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

96 1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created  
97 pursuant to subsection E and used for the purposes set forth therein; and

98 2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of  
99 the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the  
100 locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this  
101 subsection shall not be used to reduce the amount of other revenues appropriated by such locality to or  
102 for use by the Greater Williamsburg Chamber and Tourism Alliance below the amount provided in fiscal  
103 year 2018.

104 E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the  
105 Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and  
106 administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The  
107 Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this  
108 section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the  
109 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including  
110 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the  
111 Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and  
112 promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract  
113 visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in  
114 this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on  
115 warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

116 2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council)  
117 shall consist of members as follows: one member of the James City County Board of Supervisors, one  
118 member of the York County Board of Supervisors; one member of the Williamsburg City Council, one  
119 representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown  
120 Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic  
121 Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative

of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio, non-voting members of the Council.

3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional with extensive experience in marketing or advertising and in the tourism industry. The Office shall be responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv) performing any other function related to the promotion of the Historic Triangle region as may be identified by the Council.

4. The Council shall report annually on its long-term and short-term strategic plans and the implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region; use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such report shall be delivered no later than December 1 of each year to the managers or chief executive officers of the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on Finance and Appropriations.

**§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and cities.**

A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 a retail use tax at the rate of 0.70 percent. In no case shall an additional use tax be imposed pursuant to both clause (ii) of subsection A and this subsection.

C. The tax imposed pursuant to subsections A and B ~~shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax~~ shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-3701. For any additional planning districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-604.01. (Contingent effective date) Additional state use tax in certain counties and cities.**

In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the

183 Planning District or (ii) as shown by the most recent United States Census meets the population criteria  
184 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i),  
185 a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause  
186 (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which  
187 all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human~~  
188 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such  
189 tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and  
190 city and shall be subject to all the provisions of this chapter and the rules and regulations published with  
191 respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section.  
192 Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject  
193 to the same penalties as provided for the state use tax under § 58.1-604.

194 The revenue generated and collected pursuant to the tax authorized under this section, less the  
195 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
196 established by law. In the case of Planning District 8, the revenue generated and collected therein shall  
197 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
198 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any  
199 additional Planning Districts that may become subject to this section, funds shall be established by  
200 appropriate legislation.

201 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**  
202 **renovation of schools.**

203 A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a  
204 general retail sales tax at a rate not to exceed one percent as determined by its governing body to  
205 provide revenue solely for capital projects for the construction or renovation of schools in each such  
206 locality. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and  
207 shall be subject to all the provisions of this chapter and the rules and regulations published with respect  
208 thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.

209 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction  
210 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans  
211 shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be  
212 financed by bonds or loans, on a date chosen by the governing body and specified in any resolution  
213 passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more than 20  
214 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

215 B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying  
216 locality held in accordance with § 24.2-684 and initiated by a resolution of the local governing body.  
217 Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to  
218 be financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the  
219 capital projects for the construction or renovation of schools are not to be financed by bonds or loans, a  
220 specified date on which the sales tax shall expire.

221 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general  
222 circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The  
223 question on the ballot for the referendum shall include language stating (i) that the revenues from the  
224 sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii)  
225 the date on which the sales tax shall expire.

226 C. The governing body of the qualifying locality, if it elects to impose a local sales tax under this  
227 section after approval at a referendum as provided in subsection B shall do so by the adoption of an  
228 ordinance stating its purpose and referring to this section and providing that such ordinance shall be  
229 effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the  
230 date on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the  
231 Tax Commissioner so that it will be received within five days after its adoption.

232 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
233 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
234 state sales tax; ~~however, the local sales tax levied under this section shall not be levied on food~~  
235 ~~purchased for human consumption or essential personal hygiene products, as such terms are defined in~~  
236 ~~§ 58.1-611.1.~~

237 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
238 into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books  
239 for each qualifying locality under the name "Collections of Additional Local Sales Taxes in \_\_\_\_  
240 (INSERT NAME OF THE QUALIFYING LOCALITY)." Each fund shall be administered as provided  
241 in § 58.1-605. A separate fund shall be created for each qualifying locality. Only local sales tax moneys  
242 collected in that qualifying locality shall be deposited in that locality's fund.

243 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
244 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the

proper amount in favor of each qualifying locality, and such payments shall be charged to the account of the qualifying locality under its special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payment for each of the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to each qualifying locality and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. The revenues from this tax shall be used solely for capital projects for new construction or major renovation of schools in the qualifying locality, including bond and loan financing costs related to such construction or renovation.

**§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or renovation of schools.**

A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax under § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in such locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subsection B.

B. The governing body of the qualifying locality, if it elects to impose a local use tax under this section may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by the adoption of an ordinance stating its purpose and referring to this section and providing that the local use tax shall become effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state use tax; ~~however, the local use tax levied under this section shall not be levied on food purchased for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the locality of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax, or stored within the locality for use or consumption, where the property would have been subject to the sales tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any county or city.

F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of § 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

G. All revenue from this local use tax revenue shall be used solely for capital projects for new construction or major renovation of schools in the qualifying locality, including bond and loan financing costs related to such construction or renovation.

**§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene products.**

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption and essential personal hygiene products 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 and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606.

~~C. No tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter, on food purchased for human consumption or essential personal hygiene products.~~

B. 1. 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. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this chapter.

**§ 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.

The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Commonwealth Transportation Fund established pursuant to § 33.2-1524. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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

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

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

G. (Contingent expiration date) Beginning July 1, 2020, of the remaining sales and use tax revenue, an amount equal to 20 percent of the revenue generated by a one-half percent sales and use tax, such as that paid to the Commonwealth Transportation Fund as provided in subsection A, shall be paid to the Commonwealth Transportation Fund established pursuant to § 33.2-1524.

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

H. 1. Beginning July 1, 2022, of the remaining sales and use tax revenue, an amount equal to revenue generated by a 0.182 percent sales and use tax shall be distributed to cities and counties as a supplemental school payment and credited to the account of each city and county based on the distribution set forth in subdivision H 2 and according to the procedures of subsection C.

2. Such supplemental school payment shall be distributed (i) beginning on July 1, 2022, but before July 1, 2024, based upon each city and county's estimated average share of monthly distributions

429 pursuant to §§ 58.1-605 and 58.1-606 attributable to sales of food purchased for human consumption  
430 and essential personal hygiene products, as such terms are defined in § 58.1-611.1, between February  
431 2020 and December 2021, and (ii) beginning on July 1, 2024, based upon each city and county's pro  
432 rata share of collections pursuant to §§ 58.1-605 and 58.1-606.

433 3. Beginning October 1, 2025, the Department shall make an annual review of the distributions  
434 under this subsection made beginning July 1, 2024, and make any necessary adjustments in accordance  
435 with the same procedures set forth in § 58.1-605.

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

439 2. The additional revenue generated by increases in the state sales and use tax from Planning District  
440 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the  
441 Comptroller in the fund established under § 33.2-2600.

442 3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by  
443 increases in the state sales and use tax from Planning District 15 pursuant to §§ 58.1-603.1, 58.1-604.01,  
444 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under  
445 § 33.2-3701.

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

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

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

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

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

467 ~~L. M.~~ The term "net revenue," as used in this section, means the gross revenue received into the  
468 general fund or the Commonwealth Transportation Fund of the state treasury under the preceding  
469 sections of this chapter, less refunds to taxpayers.

470 **§ 58.1-2425. (Contingent expiration date — see Acts 2013, c. 766) Disposition of revenues.**

471 (For contingent expiration date — see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the  
472 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this  
473 section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any  
474 balances remaining in these funds at the end of the year shall be available for use in subsequent years  
475 for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these  
476 funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the  
477 construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for  
478 no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from  
479 manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein  
480 such manufactured home is to be situated as a dwelling; (ii) all funds collected pursuant to the  
481 provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are  
482 defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be  
483 distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this  
484 amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be  
485 distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a  
486 4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to  
487 §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia  
488 dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is  
489 used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a  
490 Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a



0.7 percent tax shall be distributed pursuant to § 58.1-603.1; (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (e) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection I J of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524.

(For contingent effective date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1; and (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524.

**§ 58.1-2425. (Contingent effective date - see Acts 2013, c. 766) Disposition of revenues.**

(For contingent expiration date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; and (c) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection I J of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund

552 established pursuant to § 33.2-1524.

553 (For contingent effective date - see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the  
554 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this  
555 section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any  
556 balances remaining in these funds at the end of the year shall be available for use in subsequent years  
557 for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these  
558 funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the  
559 construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for  
560 no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from  
561 manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein  
562 such manufactured home is to be situated as a dwelling; (ii) all funds collected pursuant to the  
563 provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are  
564 defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be  
565 distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this  
566 amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be  
567 distributed to the county or city in which the vehicle is used or stored for use and (b) an amount equal  
568 to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to  
569 § 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on sales  
570 outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for  
571 use; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from  
572 the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth  
573 Transportation Fund established pursuant to § 33.2-1524.