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HOUSE BILL NO. 90

Offered January 12, 2022

Prefiled January 6, 2022

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.

Patrons—McNamara, Durant, Keam, Ballard, Campbell, J.L., Cordoza, Head, Hodges, Kilgore, LaRock, Leftwich, March, O'Quinn, Orrock, Rasoul, Runion, Tata, Walker, Wiley, Williams, Wright and Wyatt; Senators: Suetterlein and Ruff

Referred to Committee on Finance

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, 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. (Contingent expiration date) 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. (Contingent effective date) 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

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57 clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant
58 to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year
59 in which all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human~~
60 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such
61 tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county
62 and city and shall be subject to all the provisions of this chapter and the rules and regulations published
63 with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this
64 section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and
65 subject to the same penalties as provided for the state sales tax under § 58.1-603.

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

73 **§ 58.1-603.2. (Contingent expiration date) Additional state sales and use tax in certain counties**
74 **and cities of historic significance; Historic Triangle Marketing Fund.**

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

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

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

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

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

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

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

117 2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council)
118 shall consist of members as follows: one member of the James City County Board of Supervisors, one

member of the York County Board of Supervisors; one member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic 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

180 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of
181 Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most
182 recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a
183 total transit ridership of not less than 15 million riders per year across all transit systems within the
184 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
185 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i),
186 a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause
187 (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which
188 all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human~~
189 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such
190 tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and
191 city and shall be subject to all the provisions of this chapter and the rules and regulations published with
192 respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section.
193 Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject
194 to the same penalties as provided for the state use tax under § 58.1-604.

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

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

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

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

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

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

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

233 D. Any local sales tax levied under this section shall be administered and collected by the Tax
234 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
235 state sales tax; ~~however, the local sales tax levied under this section shall not be levied on food~~
236 ~~purchased for human consumption or essential personal hygiene products, as such terms are defined in~~
237 ~~§ 58.1-611.1.~~

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

in § 58.1-605. A separate fund shall be created for each qualifying locality. Only local sales tax moneys collected in that qualifying locality shall be deposited in that locality's fund.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in 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. *Of the remaining sales tax revenue, there shall be distributed to each county and city a supplemental school payment. The payment shall be distributed according to the procedures of*

426 subsection C.

427 2. For purposes of this subsection:

428 "Local sales tax index" means the ratio by which sales tax revenues in a county or city for the
429 current year exceed the previous year's revenues. If the calculated ratio is less than one, such ratio
430 shall be one.

431 "Supplemental school payment" means (i) for fiscal year 2023, the amount distributed to a county or
432 city pursuant to § 58.1-611.1 for fiscal year 2022 plus the amount distributed to the county or city
433 pursuant to §§ 58.1-605 and 58.1-606 for fiscal year 2022 attributable to taxes imposed on food
434 purchased for human consumption and essential personal hygiene products, as such terms are defined in
435 § 58.1-611.1 and (ii) for fiscal year 2024 and after, the previous year's supplemental school payment
436 multiplied by the local sales tax index of the county or city.

437 H. I. (Contingent expiration date) 1. The additional revenue generated by increases in the state sales
438 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
439 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

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

443 3. (Contingent expiration date) The additional revenue generated by increases in the state sales and
444 use tax from Planning District 15 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall
445 be deposited by the Comptroller in the fund established under § 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. (Contingent expiration date) The additional revenue generated by increases in the state sales and
454 use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the Comptroller as
455 follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund established pursuant
456 to subsection E of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund created
457 pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues were
458 collected. The net revenues distributable under this subsection shall be computed as an estimate of the
459 net revenues to be received by the state treasury each month, and such estimated payment shall be
460 adjusted for the actual net revenue received in the preceding month. All payments shall be made to the
461 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) Disposition of revenues.**

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

(Contingent effective date) 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) Disposition of revenues.

(Contingent expiration date) 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

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