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SENATE BILL NO. 850

Offered January 11, 2023

Prefiled December 29, 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, as it is currently effective and as it shall become effective, 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.

 Patron—Suetterlein

Referred to Committee on Finance and Appropriations

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, as it is currently effective and as it shall become effective, 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

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

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

76 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**
77 **use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

78 A. For purposes of this section:

79 "Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

80 "Historic Triangle Recreational Facilities Authority" means a regional government entity created by
81 the City of Williamsburg and the Counties of James City and York for the purpose of developing and
82 managing recreational facilities for the benefit of such localities' residents and visitors.

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

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

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

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

105 2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of
106 the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the
107 locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this
108 subsection shall not be used to reduce the funding dedicated by the recipient localities to regional
109 tourism promotion and product development.

110 E. 1. The revenues received by a locality pursuant to subsection D shall not be used to reduce such
111 locality's funding dedicated to regional tourism promotion and product development. In meeting the
112 requirements of this subsection, each locality shall annually allocate the following minimum amounts, to
113 be distributed as provided in subdivision 2:

114 a. The City of Williamsburg shall allocate at least \$800,000;

115 b. James City County shall allocate at least \$740,000; and

116 c. York County shall allocate at least \$438,600.

117 2. As determined by agreement among the City of Williamsburg and the Counties of James City and
118 York, the amounts allocated under subdivision 1 shall be appropriated so that each of the recipients
119 identified in this subdivision receive the following minimum amounts:

120 a. The Williamsburg Tourism Council shall receive at least \$126,600;

- b. The Greater Williamsburg Chamber of Commerce shall receive at least \$402,000; and
 c. The Historic Triangle Recreational Facilities Authority shall receive at least \$1,450,000.

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

2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the legislative branch of state government. The Council 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 the Jamestown Rediscovery Foundation, one representative of the Williamsburg Hotel and Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chair of the Greater Williamsburg Chamber of Commerce and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio, nonvoting 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. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235) 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.

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

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

197 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**
198 **date, see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

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

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

222 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**
223 **renovation of schools.**

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

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

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

242 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general
243 circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The

question on the ballot for the referendum shall include language stating (i) that the revenues from the sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii) the date on which the sales tax shall expire.

C. The governing body of the qualifying locality, if it elects to impose a local sales tax under this section after approval at a referendum as provided in subsection B shall do so by the adoption of an ordinance stating its purpose and referring to this section and providing that such ordinance shall be effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the sales 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.

D. Any local sales 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 sales tax; ~~however, the local sales 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.~~

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each qualifying locality under the name "Collections of Additional Local Sales Taxes in _____ (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. (Effective until date pursuant to Va. Const., Art. IV, § 13) Exemption for food purchased for human consumption and essential personal hygiene products.

A. Before January 1, 2023, 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. 1. On and after January 1, 2023, *but before July 1, 2023*, and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-606, 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.

2. *On and after July 1, 2023, 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.*

C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of § 58.1-638 based on the estimates of the population of cities and counties ages five to 19.

D. 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.

§ 58.1-611.1. (Effective pursuant to Va. Const., Art. IV, § 13) Exemption for food purchased for human consumption and essential personal hygiene products.

A. Before January 1, 2023, 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. 1. On and after January 1, 2023, *but before July 1, 2023*, and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-606, 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.

2. *On and after July 1, 2023, 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.*

C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of § 58.1-638 based on the estimates of the population of cities and counties ages five to 19.

D. 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~~ subdivisions 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, 2023, of the remaining sales and use tax revenue, an amount equal to the revenue that would have been distributed if the tax imposed by §§ 58.1-605 and 58.1-606 continued to be imposed on food purchased for human consumption and essential personal hygiene products 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 2 and according to the procedures of

subsection C.

2. Such supplemental school payment shall be distributed (i) beginning July 1, 2023, but before July 1, 2025, based upon each city's and county's estimated average share of monthly distributions pursuant to §§ 58.1-605 and 58.1-606 attributable to sales of food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1, between February 2021 and December 2022 and (ii) beginning July 1, 2025, based upon each city's and county's pro rata share of collections pursuant to §§ 58.1-605 and 58.1-606.

3. Beginning October 1, 2026, the Department shall make an annual review of the distributions under this subsection made beginning July 1, 2025, and make any necessary adjustments in accordance with the same procedures set forth in § 58.1-605.

I. (Contingent expiration date)

1. The additional revenue generated by increases in the state sales 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 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

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

3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by increases in the state sales and 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 be deposited by the Comptroller in the fund established under § 33.2-3701.

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

5. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by 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 appropriate funds on the last day of each month.

I. J. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund established pursuant to subsection F of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues were collected. The net revenues distributable under this subsection shall be computed as an estimate of the net revenues to be received by 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 appropriate funds on the last day of each month.

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

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

§ 58.1-2425. (Contingent expiration 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 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; (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

613 Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the
614 Commonwealth Transportation Fund established pursuant to § 33.2-1524.

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