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HOUSE BILL NO. 540
Offered January 10, 2024
Prefiled January 9, 2024

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.*

Patron—McNamara

Referred to Committee on Subcommittee #2

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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

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

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

59 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~
 60 ~~products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax
 61 imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this
 62 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be
 63 allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax
 64 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under
 65 § 58.1-603.

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

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

74 A. For purposes of this section:

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

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

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

87 C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and
 88 imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be levied upon~~
 89 ~~food purchased for human consumption and essential personal hygiene products, as such terms are defined in~~
 90 ~~§ 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and
 91 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the
 92 rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the
 93 tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the
 94 same manner and subject to the same penalties as 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 F 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 the
 100 Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in
 101 which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall
 102 not be used to reduce the funding dedicated by the recipient localities to regional tourism promotion and
 103 product development.

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

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

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

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

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

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

115 b. The Greater Williamsburg Chamber of Commerce shall receive at least \$402,000; and

116 c. The Historic Triangle Recreational Facilities Authority shall receive at least \$1,450,000.

117 F. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic
 118 Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the
 119 Williamsburg Tourism Council. The Fund shall be established on the books of the Comptroller. All revenues

120 generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned
 121 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
 122 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
 123 the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting
 124 the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a
 125 sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection.
 126 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by
 127 the Comptroller upon written request signed by the Secretary of Finance.

128 2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the legislative
 129 branch of state government. The Council shall consist of members as follows: one member of the James City
 130 County Board of Supervisors, one member of the York County Board of Supervisors; one member of the
 131 Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative
 132 of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one
 133 representative of the Jamestown Rediscovery Foundation, one representative of the Williamsburg Hotel and
 134 Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chair of the
 135 Greater Williamsburg Chamber of Commerce and the Chief Executive Officer of the Virginia Tourism
 136 Corporation shall serve as ex officio, nonvoting members of the Council.

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

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

157 **§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**
 158 **Additional state use tax in certain counties and cities.**

159 A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each
 160 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title
 161 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent
 162 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit
 163 ridership of not less than 15 million riders per year across all transit systems within the Planning District or
 164 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and
 165 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of
 166 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective
 167 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

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

179 D. The revenue generated and collected pursuant to the tax authorized under this section, less the
 180 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds

181 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be
182 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated
183 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning
184 District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-
185 3701. For any additional planning districts that may become subject to this section, funds shall be established
186 by appropriate legislation.

187 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date,**
188 **see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

189 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each
190 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title
191 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent
192 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit
193 ridership of not less than 15 million riders per year across all transit systems within the Planning District or
194 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and
195 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of
196 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective
197 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.
198 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~
199 ~~products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax
200 imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this
201 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be
202 allowed for the tax described under this section. Such tax shall be administered and collected by the Tax
203 Commissioner in the same manner and subject to the same penalties as provided for the state use tax under §
204 58.1-604.

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

211 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**
212 **renovation of schools.**

213 A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a general
214 retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue
215 solely for capital projects for the construction or renovation of schools in each such locality. Such tax shall be
216 added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the
217 provisions of this chapter and the rules and regulations published with respect thereto. No discount under §
218 58.1-622 shall be allowed on this local sales tax.

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

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

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

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

242 D. Any local sales tax levied under this section shall be administered and collected by the Tax

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

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

252 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any
253 month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper
254 amount in favor of each qualifying locality, and such payments shall be charged to the account of the
255 qualifying locality under its special fund created by this section. If errors are made in any such payment, or
256 adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the
257 errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half
258 of the total adjustment shall be included in the payment for each of the next two months. In addition, the
259 payment shall include a refund of amounts erroneously not paid to each qualifying locality and not previously
260 refunded during the three years preceding the discovery of the error. A correction and adjustment in payments
261 described in this subsection due to the misallocation of funds by the dealer shall be made within three years
262 of the date of the payment error.

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

266 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**
267 **renovation of schools.**

268 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax under §
269 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in such
270 locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be
271 subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations
272 published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

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

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

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

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

299 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for
300 remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax
301 returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and
302 cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately
303 to assign any shipment to a particular county or city, the local use tax on the tangible personal property

304 involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to
305 any county or city.

306 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of §
307 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

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

311 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene**
312 **products.**

313 A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human
314 consumption and essential personal hygiene products shall be one and one-half percent of the gross sales
315 price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-
316 half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at
317 the rate of one percent shall be distributed as provided in subsections B, C, and D of § 58.1-638.

318 B. 1. On and after January 1, 2023, *but before July 1, 2024*, and except for taxes imposed pursuant to §§
319 58.1-605 and 58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under
320 this chapter, on food purchased for human consumption or essential personal hygiene products.

321 2. *On and after July 1, 2024, no tax shall be imposed under this chapter, or pursuant to any authority*
322 *granted under this chapter, on food purchased for human consumption or essential personal hygiene*
323 *products.*

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

327 D. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food"
328 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted
329 pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption.
330 For the purpose of this section, "food purchased for human consumption" shall not include food sold by any
331 retail establishment where the gross receipts derived from the sale of food prepared by such retail
332 establishment for immediate consumption on or off the premises of the retail establishment constitutes more
333 than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel
334 purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.
335 For purposes of this section, "retail establishment" means each place of business for which any "dealer," as
336 defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

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

342 **§ 58.1-638. Disposition of state sales and use tax revenue.**

343 A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax
344 revenue collected under the preceding sections of this chapter.

345 The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the
346 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this
347 section, to the Commonwealth Transportation Fund established pursuant to § 33.2-1524. The Fund's share of
348 such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury
349 each month, and such estimated payment shall be adjusted for the actual net revenue received in the
350 preceding month. All payments shall be made to the Fund on the last day of each month.

351 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among
352 the counties and cities of the Commonwealth in the manner provided in subsections C and D.

353 C. The localities' share of the net revenue distributable under this section among the counties and cities
354 shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn
355 on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue
356 was received into the state treasury. The distribution of the localities' share of such net revenue shall be
357 computed with respect to the net revenue received into the state treasury during each month, and such
358 distribution shall be made as soon as practicable after the close of each such month.

359 D. The net revenue so distributable among the counties and cities shall be apportioned and distributed
360 upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided
361 by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate
362 produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for
363 persons who are domiciled in orphanages or charitable institutions or who are dependents living on any
364 federal military or naval reservation or other federal property within the school division in which the

365 institutions or federal military or naval reservation or other federal property is located. Such population
 366 estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall
 367 account for members of the military services who are under 20 years of age within the school division in
 368 which the parents or guardians of such persons legally reside. Such population estimate produced by the
 369 Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving
 370 services in state hospitals, state training centers, or mental health facilities, persons who are confined in state
 371 or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind
 372 within the school division in which the parents or guardians of such persons legally reside. Such population
 373 estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall
 374 account for persons who attend institutions of higher education within the school division in which the
 375 student's parents or guardians legally reside. To such estimate, the Department of Education shall add the
 376 population of students with disabilities, ages two through four and 20 through 21, as provided to the
 377 Department of Education by school divisions. The revenue so apportionable and distributable is hereby
 378 appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest
 379 payments, or other expenses incurred in the operation of the public schools, which shall be considered as
 380 funds raised from local resources. In any county, however, wherein is situated any incorporated town
 381 constituting a school division, the county treasurer shall pay into the town treasury for maintenance,
 382 operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the
 383 public schools, the proper proportionate amount received by him in the ratio that the school population of
 384 such town bears to the school population of the entire county. If the school population of any city or of any
 385 town constituting a school division is increased by the annexation of territory since the last estimate of school
 386 population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of
 387 this section, be added to the school population of such city or town as shown by the last such estimate and a
 388 proper reduction made in the school population of the county or counties from which the annexed territory
 389 was acquired.

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

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

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

416 3. For the purposes of the Comptroller making the required transfers under ~~subdivision~~ *subdivisions* 1 and
 417 2, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of
 418 each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
 419 days of receiving such certification, the Comptroller shall make the required transfers to the Public Education
 420 Standards of Quality/Local Real Estate Property Tax Relief Fund.

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

425 The Commonwealth Transportation Fund's share of the net revenue distributable under this subsection

426 shall be computed as an estimate of the net revenue to be received into the state treasury each month, and
 427 such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All
 428 payments shall be made to the Fund on the last day of each month.

429 *H. I. Beginning July 1, 2024, of the remaining sales and use tax revenue, an amount equal to the revenue*
 430 *that would have been distributed if the tax imposed by §§ 58.1-605 and 58.1-606 continued to be imposed on*
 431 *food purchased for human consumption and essential personal hygiene products shall be distributed to cities*
 432 *and counties as a supplemental school payment and credited to the account of each city and county based on*
 433 *the distribution set forth in subdivision 2 and according to the procedures of subsection C.*

434 *2. Such supplemental school payment shall be distributed (i) beginning July 1, 2024, but before July 1,*
 435 *2026, based upon each city's and county's estimated average share of monthly distributions pursuant to §§*
 436 *58.1-605 and 58.1-606 attributable to sales of food purchased for human consumption and essential personal*
 437 *hygiene products, as such terms are defined in § 58.1-611.1, between February 2022 and December 2023*
 438 *and (ii) beginning July 1, 2026, based upon each city's and county's pro rata share of collections pursuant to*
 439 *§§ 58.1-605 and 58.1-606.*

440 *3. Beginning October 1, 2027, the Department shall make an annual review of the distributions under this*
 441 *subsection made beginning July 1, 2026, and make any necessary adjustments in accordance with the same*
 442 *procedures set forth in § 58.1-605.*

443 *I. (Contingent expiration date)*

444 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8
 445 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
 446 fund established under § 33.2-2509.

447 2. The additional revenue generated by increases in the state sales and use tax from Planning District 23
 448 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
 449 fund established under § 33.2-2600.

450 3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by increases
 451 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,
 452 and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-3701.

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

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

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

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

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

474 **§ 58.1-2425. (Contingent expiration date — see Acts 2013, c. 766) Disposition of revenues.**

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

487 pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or
 488 on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for
 489 use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use
 490 tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a
 491 Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is
 492 used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a
 493 Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7
 494 percent tax shall be distributed pursuant to § 58.1-603.1; (d) if the all-terrain vehicle, moped, or off-road
 495 motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or
 496 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
 497 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (e) an
 498 amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of
 499 subsection *I J* of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the
 500 additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402; and (iii) all remaining
 501 funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor
 502 vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524
 503 .

504 (For contingent effective date — see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
 505 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
 506 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
 507 remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes
 508 set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so
 509 derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and
 510 maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all
 511 funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100,
 512 shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a
 513 dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds,
 514 and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an
 515 amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax
 516 pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or
 517 on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for
 518 use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use
 519 tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a
 520 Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is
 521 used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a
 522 Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7
 523 percent tax shall be distributed pursuant to § 58.1-603.1; and (d) if the all-terrain vehicle, moped, or off-road
 524 motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or
 525 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
 526 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (iii) all
 527 remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on
 528 motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to §
 529 33.2-1524.

530 **§ 58.1-2425. (Contingent effective date — see Acts 2013, c. 766) Disposition of revenues.**

531 (For contingent expiration date — see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the
 532 Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section,
 533 these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances
 534 remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes
 535 set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so
 536 derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and
 537 maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all
 538 funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100,
 539 shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a
 540 dwelling; (ii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds,
 541 and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an
 542 amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax
 543 pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or
 544 on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for
 545 use; (b) an amount equal to a four percent tax shall be distributed in the same manner as the state sales and
 546 use tax pursuant to § 58.1-638, except that this amount collected on sales by anyone other than a Virginia
 547 dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or

548 stored for use; and (c) an amount equal to a one percent tax shall be distributed in a manner consistent with
549 the provisions of subsection *F J* of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle
550 subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402; and (iii) all
551 remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on
552 motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund established
553 pursuant to § 33.2-1524.

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