

HOUSE BILL NO. 979
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Finance
on _____)
(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 58.1-320, 58.1-322.03, 58.1-339.8, 58.1-439.30, 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, and 58.1-611.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-320.1 and by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15, relating to taxation provisions.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-320, 58.1-322.03, 58.1-339.8, 58.1-439.30, 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, and 58.1-611.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-320.1 and by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15 as follows:

§ 58.1-320. Imposition of tax.

A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:

~~Two~~ 1. For taxable years beginning before January 1, 2027, two percent on income not exceeding \$3,000;

~~Three~~ three percent on income in excess of \$3,000; but not in excess of \$5,000;

~~Five percent on income in excess of \$5,000; but not in excess of \$12,000 for taxable years beginning before January 1, 1987;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;~~

~~Five~~ five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning

January 1, 1990;

Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; and

Five and five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990.

2. For taxable years beginning on and after January 1, 2027, two percent on income not exceeding \$3,000; three percent on income in excess of \$3,000 but not in excess of \$5,000; five percent on income in excess of \$5,000 but not in excess of \$17,000; five and three-quarters percent on income in excess of \$17,000 but not in excess of \$600,000; eight percent on income in excess of \$600,000 but not in excess of \$1,000,000; and 10 percent on income in excess of \$1,000,000.

§ 58.1-320.1. Distribution of revenue; Standards of Quality basic aid payments.

A. From the total revenue generated on the individual income tax pursuant to § 58.1-320 each fiscal year, as estimated by the Tax Commissioner, 5.5 percent of such revenue shall be distributed to counties and cities in the manner described in subsection B.

B. Each county and city shall be distributed a portion of the estimated revenue pursuant to subdivision A that shall be used 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. Such portion shall be determined by multiplying the estimated revenue pursuant to subdivision A by a fraction, the numerator of which is the aggregate income tax revenue from all individual income tax brackets reported by taxpayers in such county or city, and the denominator of which is the aggregate income tax revenue from all individual income tax brackets reported by all Virginia taxpayers in all counties and cities. The numerator and denominator shall be estimated annually by the Tax Commissioner based on the amount of income reported on returns filed for the most recent applicable year for which such data is available.

C. Beginning in May 2028 and for each May thereafter, the Tax Commissioner shall make a written

certification to the Comptroller annually certifying the estimated income tax revenue as described in subsection A during the fiscal year. Within three calendar days of receiving such certification, the Comptroller shall transfer such amounts described in subsection B as estimated by the Tax Commissioner from the general fund of the state treasury to the counties and cities.

§ 58.1-322.03. Virginia taxable income; deductions.

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, ~~and on and after January 1, 2027~~, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (iii) for taxable years beginning on and after January 1, 2022, but before January 1, 2024, \$8,000 for single individuals and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2025, \$8,500 for single individuals and \$17,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); ~~and~~ (v) for taxable years beginning on and after January 1, 2025, but before January 1, 2027, \$8,750 for single individuals and \$17,500 for married persons (one-half of such amounts in the case of a married individual filing a separate return); ~~and~~ (vi) for taxable years beginning on and after January 1, 2027, \$12,000 for single individuals, \$18,000 for a taxpayer who qualifies as head of household, as defined in § 2(b) of the Internal Revenue Code, and \$24,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income. In taxable years beginning on and after January 1, 2028, the deduction amount authorized

94 under this subdivision b shall be adjusted annually based on the preceding change in the Chained Consumer
95 Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S.
96 Department of Labor or any successor index for the 12-month period ending August 31 of the preceding
97 calendar year over the 12-month period ending August 31 of the second preceding calendar year beginning
98 with calendar year 2028.

99 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal
100 income tax purposes.

101 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to
102 an additional personal exemption in the amount of \$800.

103 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable
104 regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

105 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
106 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
107 necessary for gainful employment.

108 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under
109 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child
110 as a personal exemption under § 151 of the Internal Revenue Code.

111 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

112 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the
113 age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted
114 gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers
115 filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal
116 adjusted gross income of both spouses exceeds \$75,000.

117 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
118 gross income minus any benefits received under Title II of the Social Security Act and other benefits subject
119 to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

120 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow
121 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for
122 the payment of such fee on his federal income tax return.

123 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed

during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Commonwealth Savers Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Commonwealth Savers Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.

9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal

155 income tax return.

156 10. The amount an individual pays annually in premiums for long-term health care insurance, provided
157 that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years
158 beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after
159 January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual
160 during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such
161 taxable year for long-term health care insurance premiums paid by him.

162 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as
163 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
164 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

165 a. If the payment is received in installment payments, then the recognized gain may be subtracted in the
166 taxable year immediately following the year in which the installment payment is received.

167 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
168 subtracted in the taxable year immediately following the year in which the single payment is received. The
169 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

170 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et
171 seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible
172 personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators
173 that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental
174 Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an
175 electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has
176 a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance
177 of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that
178 yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor
179 of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner
180 that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater
181 that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
182 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating
183 of 85; and (x) programmable thermostats.

184 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue

for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. Business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code:

a. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of such disallowed business interest;

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2024, 30 percent of such disallowed business interest;

c. For taxable years beginning on and after January 2, 2024, 50 percent of such disallowed business interest.

For purposes of subdivision 15, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

214 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of
215 \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this
216 subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in
217 which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15
218 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or
219 student aide serving accredited public or private primary and secondary school students in Virginia, and
220 "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator during the
221 taxable year for participation in professional development courses and the purchase of books, supplies,
222 computer equipment (including related software and services), other educational and teaching equipment, and
223 supplementary materials used directly in that individual's service to students as an eligible educator, provided
224 that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal
225 income tax return for such taxable year.

226 19. For taxable years beginning on and after January 1, 2026, the amount paid or cost incurred for
227 installing a qualifying upgrade required to interconnect a triggering project. No deduction shall be allowed
228 under this section for a taxpayer who has claimed a deduction under subsection I of § 58.1-402 for the same
229 amount paid or cost incurred to install such qualifying upgrade.

230 For purposes of this subdivision, "qualifying upgrade" and "triggering project" have the same meanings as
231 provided for those terms in § 56-596.5.

232 **§ 58.1-339.8. Income tax credit for low-income taxpayers.**

233 A. For purposes of this section:

234 "Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an
235 individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's
236 income tax return for the taxable year.

237 "Household" means an individual, or in the case of married individuals, an individual and his spouse,
238 regardless of whether or not the individual and his spouse file combined or separate Virginia individual
239 income tax returns.

240 "Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of
241 Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services
242 under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

243 "Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or married individuals filing jointly whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married individuals' income tax return for the taxable year. For any taxable year in which married individuals file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married individuals.

2. For taxable years beginning on and after January 1, 2006, any individual or married individuals filing jointly, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision 1, claim a nonrefundable credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision 1 or 3 for the same taxable year.

3. a. For taxable years beginning on and after January 1, 2022, but before January 1, 2025 any individual or married individuals filing jointly, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision 1 or 2, claim a refundable credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 15 percent of the credit claimed by the individual or married individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year.

b. For taxable years beginning on and after January 1, 2025 ~~but before January 1, 2027~~, any individual or married individuals filing jointly may, for the taxable year, in lieu of the credit authorized under subdivision 1 or 2, claim a refundable credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year.

c. The refundable credit claimed pursuant to this subdivision 3 shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner. In no case shall a household be allowed a credit pursuant to this subdivision 3 and subdivision 1 or 2 for the same taxable year.

275 C. The amount of the credit claimed pursuant to subdivision B 1 and B 2, or in the case of a nonresident or
276 a person to which § 58.1-303 applies, subdivision B 3, for any taxable year shall not exceed the individual's
277 or married individuals' Virginia income tax liability.

278 D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B
279 in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a
280 dependent on such individual's or married individuals' income tax return, claims one or any combination of
281 the following on his or their income tax return for such taxable year:

282 1. The subtraction under subdivision 8 of § 58.1-322.02;

283 2. The subtraction under subdivision 15 of § 58.1-322.02;

284 3. The subtraction under subdivision 16 of § 58.1-322.02;

285 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision 2 b
286 of § 58.1-322.03; or

287 5. The deduction under subdivision 5 of § 58.1-322.03.

288 **§ 58.1-339.15. Child tax credit.**

289 *A. For taxable years beginning on and after January 1, 2026, but before January 1, 2031, an individual*
290 *or married individuals filing jointly shall be allowed a one-time credit against the tax levied pursuant to*
291 *§ 58.1-320 for each dependent member of the taxpayer's household who is younger than six years of age. The*
292 *amount of the credit shall be equal to \$400 for each dependent household member. Only one credit may be*
293 *claimed per such dependent household member. The credit allowed by this section shall be allowed only for*
294 *an individual or married individuals whose family Virginia adjusted gross income does not exceed \$100,000.*
295 *For purposes of this section, "Virginia adjusted gross income" means federal adjusted gross income for the*
296 *taxable year with the modifications specified in §§ 58.1-322.01 and 58.1-322.02.*

297 *B. 1. If the taxpayer is a resident of Virginia and not a person to whom § 58.1-303 applies, and if the*
298 *amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the*
299 *Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth*
300 *for 100 percent of face value. The Department shall establish a process to allow taxpayers to receive one or*
301 *more payments of any such refund of the credit under this section. The Department shall not distribute*
302 *multiple payments to a taxpayer who does not elect to receive multiple payments.*

303 *2. If the taxpayer is a nonresident or a person to whom § 58.1-303 applies, the credit shall be*
304 *nonrefundable and the amount of the credit claimed pursuant to this section for any taxable year shall not*
305 *exceed the individual's or married individuals' Virginia tax liability.*

C. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-439.30. Virginia housing opportunity tax credit.

A. Subject to the provisions of subsection H, a housing opportunity tax credit may be allowed for each qualified project for each year of the credit period, in an amount up to the amount of federal low-income housing tax credit allocated or allowed by the Authority to such qualified project. The credit shall be allowed ratably for each qualified project, with one-tenth of the total credit amount allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.

B. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2031, a qualified taxpayer may claim a housing opportunity tax credit against its Virginia tax liability prior to reduction by any other credits allowed the taxpayer. The housing opportunity tax credit may be allocated by pass-through entities to some or all of its partners, members, or shareholders in any manner agreed to by such persons, regardless of whether or not any such person is allocated or allowed any portion of any federal low-income housing tax credit with respect to the qualified project, whether or not the allocation of the housing opportunity tax credit under the terms of the agreement has substantial economic effect within the meaning of § 704(b) of the Internal Revenue Code, and whether any such person is deemed a partner for federal income tax purposes as long as the partner or member would be considered a partner or member as defined under applicable state law, and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return, including any amendments thereto, with respect to the year of the housing opportunity tax credit. Such pass-through entities or qualified taxpayer may assign all or any part of its interest, including its interest in the tax credits, to one or more pass-through entities or qualified taxpayers, and the qualified taxpayer shall be able to claim the housing opportunity tax credit so long as its interest is acquired prior to the filing of its tax return claiming the housing opportunity tax credit.

2. If a housing opportunity tax credit has been awarded according to the terms of subsection G prior to January 1, 2031, such credit may continue to be claimed on a return for taxable years on and after January 1, 2031, but only pursuant to the applicable credit period specified in § 58.1-439.29.

335 C. The housing opportunity tax credit authorized by this article shall not be refundable. Any housing
336 opportunity tax credit not used in a taxable year may be carried forward by a qualified taxpayer for the
337 succeeding five years.

338 D. A qualified taxpayer claiming a housing opportunity tax credit shall submit a copy of the eligibility
339 certificate at the time of filing its tax return with the Department. If the owner of the qualified project has
340 applied to the Authority for the eligibility certificate but the Authority has not yet issued the eligibility
341 certificate at the time the qualified taxpayer files its original tax return claiming the housing opportunity tax
342 credit, the taxpayer may claim the housing opportunity tax credit based upon the amount of tax credit set
343 forth in the award letter issued by the Authority for the housing opportunity tax credit issued to the qualified
344 project and shall amend its tax return to include the eligibility certificate upon its receipt. If the amount of tax
345 credit in the eligibility certificate is different than the amount of tax credit previously claimed, the taxpayer
346 shall adjust the tax credit amount claimed on the amended tax return.

347 E. If under § 42 of the Internal Revenue Code, as amended, a portion of any federal low-income housing
348 credits taken on a qualified project is required to be recaptured or is otherwise disallowed during the credit
349 period, the taxpayer claiming housing opportunity tax credits with respect to such project shall also be
350 required to recapture a portion of any tax credits authorized by this article. The percentage of housing
351 opportunity tax credits subject to recapture shall be equal to the percentage of federal low-income housing
352 credits subject to recapture or otherwise disallowed during such period. Any tax credits recaptured or
353 disallowed shall increase the income tax liability of the qualified taxpayer who claimed the tax credits in a
354 like amount and shall be included on the tax return of the qualified taxpayer submitted for the taxable year in
355 which the recapture or disallowance event is identified. The balance of any tax credits recaptured or
356 disallowed shall be allocated by the Authority for any qualified project in accordance with subsection G.

357 F. The Authority shall administer the housing opportunity tax credit program and shall be authorized to
358 promulgate the regulations and guidelines necessary to implement and administer this article. Such
359 regulations and guidelines may include the imposition of application, allocation, certification, and monitoring
360 fees designed to recoup the costs of the Authority in administering the housing opportunity tax credit
361 program.

362 G. 1. Any housing opportunity tax credit amounts authorized in a calendar year that are subsequently (i)
363 canceled and returned to the Authority or (ii) recaptured or disallowed pursuant to subsection E may be

awarded in the following calendar year, but no later than December 31, 2030. If the amount of housing opportunity tax credits authorized in a calendar year for qualified projects is less than the total amount of credits available for qualified projects under subdivision H 2 1, the balance of such credits, in an amount not greater than 15 percent of the amount of credits available for qualified projects under subdivision H 2 1, (a) shall be allocated by the Authority for any qualified project in the following calendar year, (b) shall not be allocated at any time after such following calendar year, and (c) shall be allocated no later than December 31, 2030.

2. Such housing opportunity tax credits issued pursuant to this subsection shall be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.

~~H. 1. Notwithstanding any other provision of law to the contrary, the aggregate amount of housing opportunity tax credits authorized for all qualified projects under this article shall not exceed \$575 million across all calendar years.~~

~~2.~~ The total amount of housing opportunity tax credits authorized for qualified projects under this article shall not exceed \$15 million for calendar year 2021.

~~3.~~ 2. For calendar years 2022 through 2025, the total amount of housing opportunity tax credits authorized for qualified projects under this article shall not exceed \$60 million per calendar year.

~~4.~~ 3. For calendar years 2026 through 2030, the total amount of housing opportunity tax credits authorized for qualified projects under this article shall not exceed \$64 million per calendar year.

~~5.~~ 4. Such credits issued on and after January 1, 2022, shall be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.

I. Notwithstanding any provision of law or regulation to the contrary, only Virginia housing opportunity tax credits awarded in calendar year 2021, up to a maximum of \$15 million total for all taxpayers in all taxable years, may be claimed pursuant to the provisions of this section as set forth in Chapter 495 of the Acts of Assembly of 2021, Special Session I, prior to its amendment by the ninth enactment of Chapter 2 of the

394 Acts of Assembly of 2022, Special Session I.

395 J. The Authority shall, upon request from the Chairs of the House Committee on Appropriations, the
396 House Committee on Finance, and the Senate Committee on Finance and Appropriations, provide
397 information, data, and any other requested advisement on the potential structure and cost of a separately
398 authorized certificated Virginia housing opportunity tax credit program that would allow a qualified project
399 to sell all or any portion of its Virginia housing opportunity tax credits, to one or more unrelated taxpayers
400 based on findings in the report of the Department of Housing and Community Development and the
401 Authority stakeholder advisory group submitted pursuant to Chapter 517 of the Acts of Assembly of 2020.

402 K. 1. Of the \$60 million of Virginia housing opportunity tax credits authorized per calendar year from
403 2022 through 2025 for qualified projects by the Authority pursuant to this article, \$20 million of such credits
404 shall be first allocated exclusively for qualified projects located in a locality with a population no greater than
405 35,000 as determined by the most recent United States census.

406 2. Of the \$64 million of Virginia housing opportunity tax credits authorized per calendar year from 2026
407 through 2030 for qualified projects by the Authority pursuant to this article, \$20 million of such credits shall
408 be reserved for qualified projects located in a geographic area within the Balance of State Pool. The
409 Authority shall notify the Virginia Housing Commission upon any change to the Balance of State Pool.

410 3. Such allocation of Virginia housing opportunity tax credits shall constitute the minimum amount of
411 such tax credits to be allocated for qualified projects in such localities. However, if the amount of such tax
412 credits requested for qualified projects in such localities is less than the total amount of such credits available
413 for qualified projects in such localities, the balance of such credits shall be allocated for any qualified project,
414 regardless of location. In allocating or allowing such credits to qualified projects in such localities, the
415 Authority may give equal consideration to qualified projects allocated or allowed a federal low-income
416 housing credit in an amount equal to the 10-year present value calculation of the percentages prescribed under
417 26 U.S.C. §§ 42(b)(1)(B)(i) and 42(b)(1)(B)(ii).

418 **§ 58.1-603.1. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**
419 **Additional state sales tax in certain counties and cities.**

420 A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each
421 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title
422 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent

United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

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

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

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

In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit

ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such 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.

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. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

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

A. For purposes of this section:

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

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

B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1 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.

C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01 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 use tax under § 58.1-604.

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

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

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

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

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

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

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

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

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.

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~~

574 shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall
575 be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No
576 discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be
577 administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as
578 provided for the state use tax under § 58.1-604.

579 D. The revenue generated and collected pursuant to the tax authorized under this section, less the
580 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
581 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be
582 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated
583 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning
584 District 15, the revenue generated and collected therein shall be deposited into the fund established in
585 § 33.2-3701. For any additional planning districts that may become subject to this section, funds shall be
586 established by appropriate legislation.

587 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date,**
588 **see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

589 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each
590 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title
591 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent
592 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit
593 ridership of not less than 15 million riders per year across all transit systems within the Planning District or
594 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and
595 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of
596 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective
597 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.
598 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~
599 ~~products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax
600 imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this
601 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be
602 allowed for the tax described under this section. Such tax shall be administered and collected by the Tax
603 Commissioner in the same manner and subject to the same penalties as provided for the state use tax under
604 § 58.1-604.

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. For any additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

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

A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue solely for capital projects for the construction or renovation of schools in each such locality. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter 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 on this local sales 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 subdivision B 1. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying locality held in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, 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, a specified date on which the sales tax shall expire.

2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general 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

635 which the sales tax shall expire.

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

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

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

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

663 G. The revenues from this tax shall be used solely for capital projects for new construction or major
664 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

695 tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals
696 of tangible personal property where the place of business of the lessor is outside the Commonwealth and such
697 leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the
698 state use tax applies.

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

706 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of
707 § 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

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

711 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene**
712 **products.**

713 A. *For purposes of this section:*

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

718 "Food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act
719 of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall
720 not include seeds and plants that produce food for human consumption. "Food purchased for human
721 consumption" does not include food sold by any retail establishment where the gross receipts derived from
722 the sale of food prepared by such retail establishment for immediate consumption on or off the premises of
723 the retail establishment constitutes more than 80 percent of the total gross receipts of that retail
724 establishment, including motor fuel purchases, regardless of whether such prepared food is consumed on the

premises of that retail establishment.

"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.

B. 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.~~ C. On and after January 1, 2023, *but before July 1, 2026*, 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.

~~C.~~ D. Beginning February 1, 2023, *but before August 1, 2026*, an amount equal to the revenue that would have been distributed pursuant to clause (ii) of subsection A ~~B~~ 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.~~

E. On and after July 1, 2026, 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

756 *products.*