

**DEPARTMENT OF TAXATION  
2024 Fiscal Impact Statement**

1. **Patron** Joseph P. McNamara

3. **Committee** House Finance

4. **Title** Sales tax; Exemption for food purchased for human consumption and essential personal hygiene products

2. **Bill Number** HB 540

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would provide, beginning July 1, 2024, an exemption from local sales and use tax for food purchased for human consumption and essential personal hygiene products. This exemption would render these items completely exempt from sales and use tax. The bill would also provide an allocation to fund the distribution to localities for funding that would have been distributed to them absent the exemption created by the bill.

Under current law, food purchased for human consumption and essential personal hygiene products are exempt from state sales and use tax but are subject to local sales and use taxation.

If enacted during the regular session of the 2024 General Assembly, the bill would become effective July 1, 2024.

**6. Budget amendment necessary:** Yes.

**7. Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

**8. Fiscal implications:**

Administrative Costs

This bill would have no impact on local administrative costs. The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

As this bill would create a local tax exemption, it would reduce local sales tax revenues. However, the bill would hold localities harmless for the lost revenue through the distribution of a supplemental school payment. Therefore, there would be no net impact on overall local revenues. The total estimated negative impact of this distribution would be \$272.5 million in Fiscal Year 2025, \$309.4 million in Fiscal Year 2026, \$326.2 million in Fiscal Year 2027, \$344.7 million in Fiscal Year 2028, \$356.7 million in Fiscal Year 2029, and \$368.2 million

in Fiscal Year 2030. This distribution would reduce the amount of General Fund revenues available for appropriation.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
All localities

**10. Technical amendment necessary:** No.

**11. Other comments:**

Background

Legislation enacted during the 2022 General Assembly exempted food purchased for human consumption and essential personal hygiene products from the state 1.5 percent Retail Sales and Use Tax beginning January 1, 2023. The local one percent rate of the tax continues to apply to these items.

“Food purchased for human consumption” has the same meaning as “food” defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, except it does not include seeds and plants which produce food for human consumption. Also, “food purchased for human consumption” does 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.

“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.

Proposal

This bill would provide, beginning July 1, 2024, an exemption from local sales and use tax for food purchased for human consumption and essential personal hygiene products. This exemption would render these items completely exempt from sales and use tax. The bill would also provide an allocation to fund the distribution to localities for funding that would have been distributed to them absent the exemption created by the bill.

If enacted during the regular session of the 2024 General Assembly, the bill would become effective July 1, 2024.

Similar Legislation

**Senate Bill 110** is identical to this bill.

cc : Secretary of Finance

Date: 1/17/2024 VB  
HB540F161