

1 HOUSE BILL NO. 2196

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Finance

4 on _____)

5 (Patron Prior to Substitute--Delegate Byron)

6 A BILL to amend and reenact §§ 58.1-603.1, as it is currently effective and as it may become effective,
7 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1,
8 58.1-606.1, and 58.1-611.1, as it is currently effective and as it shall become effective, of the Code
9 of Virginia, relating to local sales and use tax; exemption for essential personal hygiene products
10 and infant formula.

11 **Be it enacted by the General Assembly of Virginia:**

12 **1. That §§ 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-**
13 **604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, and 58.1-**
14 **611.1, as it is currently effective and as it shall become effective, of the Code of Virginia are amended**
15 **and reenacted as follows:**

16 **§ 58.1-603.1. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**

17 **Additional state sales tax in certain counties and cities.**

18 A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
19 in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
20 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
21 most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has
22 a total transit ridership of not less than 15 million riders per year across all transit systems within the
23 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
24 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a
25 retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii)

26 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
27 of the criteria have been met.

28 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
29 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et
30 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
31 imposed pursuant to both clause (ii) of subsection A and this subsection.

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

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

47 **§ 58.1-603.1. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**
48 **date, see Acts 2013, c. 766) Additional state sales tax in certain counties and cities.**

49 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in
50 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
51 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
52 most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has

53 a total transit ridership of not less than 15 million riders per year across all transit systems within the
54 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
55 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a
56 retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii)
57 such tax shall be effective beginning on the July 1 immediately following the calendar year in which all
58 of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human consumption
59 and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added
60 to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be
61 subject to all the provisions of this chapter and the rules and regulations published with respect thereto.
62 No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be
63 administered and collected by the Tax Commissioner in the same manner and subject to the same penalties
64 as provided for the state sales tax under § 58.1-603.

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

72 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**
73 **use 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
76 York.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

132 2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the
133 legislative branch of state government. The Council shall consist of members as follows: one member of

134 the James City County Board of Supervisors, one member of the York County Board of Supervisors; one
135 member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation,
136 one representative of the Jamestown-Yorktown Foundation, one representative of Busch Gardens
137 Williamsburg, one representative of the Jamestown Rediscovery Foundation, one representative of the
138 Williamsburg Hotel and Motel Association, and one representative of the Williamsburg Area Restaurant
139 Association. The Chair of the Greater Williamsburg Chamber of Commerce and the Chief Executive
140 Officer of the Virginia Tourism Corporation shall serve as ex officio, nonvoting members of the Council.

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

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

161 § 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)

162 **Additional state use tax in certain counties and cities.**

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

173 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
174 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et
175 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
176 imposed pursuant to both clause (ii) of subsection A and this subsection.

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

184 D. The revenue generated and collected pursuant to the tax authorized under this section, less the
185 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
186 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be
187 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue

188 generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of
189 Planning District 15, the revenue generated and collected therein shall be deposited into the fund
190 established in § 33.2-3701. For any additional planning districts that may become subject to this section,
191 funds shall be established by appropriate legislation.

192 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**
193 **date, see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

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

210 The revenue generated and collected pursuant to the tax authorized under this section, less the
211 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
212 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be
213 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
214 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any

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

217 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction**
218 **or renovation of schools.**

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

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

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

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

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

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

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

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

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

272 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**
273 **renovation of schools.**

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

280 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the
281 construction or renovation of schools are to be financed by bonds or loans, on the date by which such
282 bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools
283 are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any
284 resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than
285 20 years after the date of the resolution passed pursuant to the provisions of subsection B.

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

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

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

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

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

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

318 **§ 58.1-611.1. (Effective until date pursuant to Va. Const., Art. IV, § 13) Exemption for food**
319 **purchased for human consumption and essential personal hygiene products.**

320 A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for
321 human consumption and essential personal hygiene products shall be one and one-half percent of the gross
322 sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the

323 rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue
324 from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of §
325 58.1-638.

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

330 2. On and after January 1, 2024, and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-
331 606, no tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter,
332 on food purchased for human consumption.

333 3. On and after January 1, 2024, no tax shall be imposed under this chapter, or pursuant to any
334 authority granted under this chapter, on essential personal hygiene products and infant formula.

335 C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed
336 pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of §
337 58.1-638 based on the estimates of the population of cities and counties ages five to 19.

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

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

354 3. As used in this section, "infant formula" means the same as that term is defined in 21 U.S.C §
355 321(z), or any successor provision.

356 **§ 58.1-611.1. (Effective pursuant to Va. Const., Art. IV, § 13) Exemption for food purchased**
357 **for human consumption and essential personal hygiene products.**

358 A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for
359 human consumption and essential personal hygiene products shall be one and one-half percent of the gross
360 sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the
361 rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue
362 from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of §
363 58.1-638.

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

368 2. On and after January 1, 2024, and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-
369 606, no tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter,
370 on food purchased for human consumption.

371 3. On and after January 1, 2024, no tax shall be imposed under this chapter, or pursuant to any
372 authority granted under this chapter, on essential personal hygiene products and infant formula.

373 C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed
374 pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of §
375 58.1-638 based on the estimates of the population of cities and counties ages five to 19.

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

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

392 3. As used in this section, "infant formula" means the same as that term is defined in 21 U.S.C §
393 321(z), or any successor provision.

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