Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.436 (Act 73) – An act related to miscellaneous changes to Vermont's tax laws-as passed the General Assembly.

Summary

The bill makes several adjustments to Vermont's tax code. Major revenue impact provisions include:

- It sets the fiscal year (FY) 2022 yields and nonhomestead property tax rates.
- It creates a sales tax exemption for the sale of feminine hygiene products and clarifies the residential fuel sales tax exemption to include wood pellets for use in a residence.
- Conforms Vermont's income and estate tax code to the Federal Internal Revenue Code as of March 31, 2021. This change would pass through Federal tax definitions for the Earned Income Tax Credit and Child and Dependent Care Credit as they were established in the American Rescue Plan Act (ARPA) and pick up the full Federal tax treatment of Paycheck Protection (PPP) loans.
- It clarifies that online delivery platforms are responsible for collecting Meals and Rooms tax for meals sold on their platforms.
- It exempts alcoholic beverages from Meals and Rooms tax in instances where prepared food and other beverages are also exempt, largely at non-profit events.
- Extends sunset of home health agency assessment and its allocation to the Health IT Fund to July 1, 2023.
- It adjusts tax increment financing (TIF) district statute, giving municipalities an additional year to incur debt and changing the audit schedule for the Burlington TIF districts.

Fiscal Impact

Overall, this bill is expected to reduce State revenues by $9.45 million in FY 2022 and $1,860,000 in future fiscal years. The larger reduction in State revenues in FY 2022 is due to sections 23 through 25, which link up to Federal tax statutes. Those sections pick up two federal tax provisions for only tax year 2021 (related to the Earned Income Tax Credit and Child and Dependent Care tax credit) which reduce revenue in Vermont by $7.69 million in FY 2022 but are repealed for future tax years. Table 1 below shows the overall revenue impact by Fund:

Table 1: H.436 Summary of Revenue Impacts		
	FY22	**FY23**
Overall	**-$9,450,000**	**-$1,860,000**
Of which: General Fund	-$7,741,750	-$151,750
Of which: Education Fund	-$1,703,750	-$1,703,750
Of which: Clean Water Fund	-$4,500	-$4,500

The revenue impacts by section are shown in Table 2:

Table 2: H.436 Section by Section Revenue Impacts		
Section	**FY22**	**FY23**
1: Online delivery platforms	**$50,000**	**$50,000**
Of which: General Fund	$34,500	$34,500
Of which: Education Fund	$12,500	$12,500
Of which: Clean Water Fund	$3,000	$3,000
2: Taxable alcoholic beverages	**-$125,000**	**-$125,000**
Of which: General Fund	-$86,250	-$86,250
Of which: Education Fund	-$31,250	-$31,250
Of which: Clean Water Fund	-$7,500	-$7,500
11a: Sales Tax Exemption for Feminine Hygeine Products (Education Fund)	**-$685,000**	**-$685,000**
11a: Clarification of Residential Fuel Sales Tax Exemption for Wood Pellets (Education Fund)	**-$1,000,000**	**-$1,000,000**
23 through 25: Federal Conformity Link up to March 31, 2021 (General Fund)	**-$7,690,000**	**-$100,000**
Of which: Expansion of Earned Income Tax Credit	-$6,190,000	-$100,000
Of which: Expansion of Child and Dependent Care Credit	-$1,500,000	$0

Detail/Explanation

Section 1: Online Delivery Platforms

This section clarifies the meals tax obligations for delivery services such as DoorDash, UberEats, and Caviar. This section specifies that these platforms are required to collect and remit the meals tax on the full sale price of the meal or beverage. While business models for these firms vary, in general, they either charge a service fee to the customer, or they raise the menu price of the meal and then take a portion of the sale as a fee. This language is designed to clarify that they are required to collect meals tax on not only cost of the meal itself, but also any associated fees.

This section is estimates to raise approximately $50,000 per year in total State revenues. Because the meals tax is statutorily split between the General, Education, and Clean Water Funds, the increase is divided amongst those funds, as seen in Table 2.

Sources: Industry estimates of sales and market share. JFO also surveyed each platform's website to determine whether or not they were already collecting meals tax, and whether they had a large presence in Vermont.

Section 2: Alcoholic Beverages Tax for Tax-Exempt Entities

This section clarifies statute to include alcoholic beverages sold at events of tax-exempt organizations as exempt from the 10% alcoholic beverages tax. Under current law, meals served as these events are tax exempt, with limitations. Statute was unclear as to whether these exemptions applied to alcoholic beverages as well. This section revises to statute to state that they are.

JFO estimates that these provisions will reduce overall state revenues by $125,000 per year, split between the General, Education, and Clean Water Funds.

Sources: Department of Taxes, IRS 990 forms of major nonprofits in the state.[1]

Section 11a: Feminine Hygiene Products Sales Tax Exemption

JFO estimates that this section will reduce sales and use tax revenues by $685,000 in FY2022. These reduced revenues will occur in the Education Fund.

This revenue reduction is expected to remain relatively flat in future fiscal years. Vermont's aging demographics are expected to put downward pressure on the future demand for these products.

Sources: The following sources were used to make this estimate:
- Fiscal estimates from other states for similar bills, including California, New York, Illinois, Florida, and Nevada.
- United State Census Bureau population estimates for the female population in Vermont.
- Industry estimates for the U.S. market for feminine hygiene products.

Section 11a: Residential Fuels Sales Tax Exemption for Wood Pellets

This section of the bill clarifies that wood pellets sold at the retail level for residential use be exempt from the sales tax. All other types of fuel sold for heating residences are currently exempt from the sales tax.

[1] Available at ProPublica's Nonprofit Explorer database: https://projects.propublica.org/nonprofits/

JFO estimates that this will reduce sales tax revenues by $1 million per year. This will impact the Education Fund.
Sources: The following sources were used to make this estimate:

- Vermont Department of Forests, Parks & Recreation report, "Vermont Residential Fuel Assessment for the 2018-2019 Heating Season[2]"
- Energy Co-Op of Vermont prices for wood pellets[3]
- "Wood Heating In Vermont: A Baseline Assessment for 2016" report prepared for the Vermont Department of Public Service Clean Energy Development Fund by Biomass Energy Resource Center at VEIC.[4]

Section 17: Education Property Tax Yields and Nonhomestead Rates

Attached is a copy of the Education Fund Outlook prepared by JFO reflecting the yields proposed in the bill, as well as the new sales tax exemption for feminine hygiene products and wood pellets clarification.

Sections 23 through 25: Federal Internal Revenue Code Link Up

Vermont's tax code contains numerous links to the Federal Internal Revenue Code (IRC). Each year, statute "links up" to the IRC as of a certain date. These sections set that date to the IRC as it was on March 31, 2021.

This links Vermont's tax code to all Federal tax code changes made prior to that date, including those passed in the American Rescue Plan Act of March 2021 (ARPA), the Consolidated Appropriations Act of December 2020 (HR 133) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act of March 2020.

Major Federal tax provisions that this link up ties Vermont's tax code to include[5]:

- The expansion of the Earned Income Tax Credit (EITC) for tax year 2021 passed in ARPA. Vermont has a separate EITC that is equal to 36% of the Federal EITC.
- The expansion of the Child and Dependent Care tax credit (CDCC) for tax year 2021 passed in ARPA. Vermont has a separate CDCC that is equal to 24% of the Federal credit and is nonrefundable. For certain low-income taxpayers, the credit is 50% refundable.
- The full tax-free treatment of Paycheck Protection Program (PPP) loans and deductions passed in both the CARES Act and HR 133.

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[2] https://fpr.vermont.gov/sites/fpr/files/Forest_and_Forestry/Wood_Biomass_Energy/Library/2019%20VT%20Residential%20Fuel%20Assessment%20Report%20FINAL.pdf
[3] https://www.ecvt.net/service/our-wood-pellets
[4] https://publicservice.vermont.gov/sites/dps/files/documents/Renewable_Energy/CEDF/Reports/AWH%20Baseline%20Report%20FINAL.pdf
[5] A full review of those changes can be found here: https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Finance/Taxes/PPP%20Taxation/W~Graham%20Campbell~Federal%20Link%20Up~5-6-2021.pdf

Conforming to the Federal IRC as of March 31, 2021 is expected to reduce State General Fund revenues by $7.69 million in FY 2022 and $100,000 in FY 2023. This reduction in revenue is related to the link up the EITC and CDCC expansions. Those expansions were for tax year 2021 only.

Linking up to the Federal treatment of PPP loans was accounted for in the January 2021 Consensus Revenue Forecast, and therefore, does not reduce forecast available revenues to the State.

Section 29: Tax Increment Financing (TIF) districts

This section of the bill extends the period to incur debt for existing TIF districts by an additional year, on top of the one-year extension that was granted in Act 175 of 2020. Under current law, a municipality has up to five (or ten if approved by the Vermont Economic Progress Council) to incur debt for its TIF district. In response to the COVID-19 pandemic, some municipalities have been unable to incur debt. This extension allows those municipalities to borrow funds up to the 12^{th} year after creation.

This is not expected to have an impact on State revenues because the retention period for tax increment is not changed in the bill. However, a shorter borrowing and building window prolongs the period in which a district generates little to no tax increment, meaning fewer years to retain tax increment for repaying debt. If these extensions place pressure on municipalities to repay debt because of the shorter time frame to retain increment, it could generate a fiscal impact on the State.

Preliminary Education Fund Outlook for FY2022

	(millions of dollars)	FY2021 Current	FY2022 House as passed	FY2022 Senate as passed	FY2022 May 20, 2021 HWM Amendment
a	Average Homestead Property Tax Rate	$1.538	$1.523	$1.538	$1.523
b	Average Tax Rate on Household Income	2.50%	2.50%	2.50%	2.50%
c	Uniform Non-Homestead Property Tax Rate	$1.628	$1.612	$1.628	$1.612
d	Property Yield Per Equalized Pupil	$10,998	$11,317	$11,202	$11,317
e	Income Yield Per Equalized Pupil	$13,535	$13,770	$13,770	$13,770
f	Equalized Pupil Count	87,304	86,944	86,944	86,944
g	Statewide Education Spending Growth	3.9%	1.3%	1.3%	1.3%
h	Statewide Education Grand List Growth	2.7%	3.0%	3.0%	3.0%
Sources					
1a	Homestead Education Property Tax	638.6	650.7	655.9	650.7
1b	S.13 - Moratorium on Excess Spending	-	(1.4)	-	(1.4)
1c	Property Tax Credit	(171.5)	(183.0)	(183.0)	(183.0)
2	Non-Homestead Education Property Tax	732.6	747.7	755.3	747.7
3a	Sales & Use Tax	488.4	507.9	507.9	507.9
3b	H.437 - Machinery & Equipment Exemption	-	(0.9)	-	-
3c	H.436 - Menstrual Products Exemption	-	(0.7)	(0.7)	(0.7)
3d	H.436 - Wood Pellets Exemption	-	(1.0)	(1.0)	(1.0)
4	Purchase & Use Tax - one-third of total	40.1	41.7	41.7	41.7
5	Meals & Rooms Tax - one-quarter of total	31.6	41.6	41.6	41.6
6	Lottery Transfer	29.3	30.9	30.9	30.9
7	Medicaid Transfer	10.0	10.0	10.0	10.0
8	Other Sources (wind & solar, LUCT, fund interest)	2.3	2.2	2.2	2.2
9	**Total Sources**	**1,801.5**	**1,845.8**	**1,860.9**	**1,846.7**
Appropriations					
10a	Education Payment**	1,489.5	1,502.0	1,502.0	1,502.0
10b	Repurposed CRF Reimbursement	(8.7)	-	-	-
11	Special Education Aid	223.7	229.0	229.0	229.0
12	State-Placed Students	18.0	17.0	17.0	17.0
13	Transportation Aid	20.5	20.5	20.5	20.5
14	Technical Education Aid	14.8	15.5	15.5	15.5
15	Small School Support	8.2	8.1	8.1	8.1
16	Essential Early Education Aid	7.0	7.1	7.1	7.1
17	Flexible Pathways	8.3	8.2	8.2	8.2
18a	Teachers' Pensions (normal cost only)	6.9	37.6	37.6	37.6
18b	H.439 - Other Post Employment Benefits (normal cost only)	-	-	13.8	-
19	S.100 - Universal School Breakfasts	-	-	8.0	-
20	Other Uses (accounting & auditing, financial systems)	3.4	3.4	3.4	3.4
21	**Total Uses**	**1,791.6**	**1,848.3**	**1,870.1**	**1,848.3**
Allocation of Revenue Surplus/(Deficit)					
22	Revenue Surplus/(Deficit)	9.9	(2.6)	(9.3)	(1.7)
23	Prior-Year Reversions	(14.0)	-	-	-
24	Transfer to/(from) Stabilization Reserve	5.2	1.6	1.6	1.6
25	Transfer to/(from) Additional Reserve	-	-	-	14.0
26	Transfer to/(from) Unreserved/Unallocated	18.6	(4.2)	(10.9)	(17.3)
Stabilization Reserve					
27	Prior-Year Stabilization Reserve	33.0	38.2	38.2	38.2
28	Current-Year Stabilization Reserve	38.2	39.8	39.8	39.8
29	Percent of Prior-Year Net Appropriations	*5.0%*	*5.0%*	*5.0%*	*5.0%*
30	Reserve Target	38.2	39.8	39.8	39.8
Additional Reserve					
31	H.439 - Additional Reserve for OPEB	-	-	-	14.0
Available Funds					
32	Prior-Year Unreserved/Unallocated	0.0	18.6	18.6	18.6
33	Current-Year Unreserved/Unallocated	18.6	14.4	7.7	1.3

*** Based on school budgets submitted to the Agency of Education as of March 9, 2021.*

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