Vermont Legislative Joint Fiscal Office

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<u>UPDATED</u> FISCAL NOTE

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H.954 An act relating to miscellaneous tax provisions – As Passed the Senate, and further amended by the House Committee on Ways and Means

<u>Summary of Fiscal Impacts:</u>

This bill is expected to have a positive revenue impact on the Education Fund of $1.925 million in Fiscal Year (FY) 2021 and $6.825 million in FY 2022.

<u>Details of Sections with Fiscal Impacts</u>

Sec. 6 of the bill relating to increasing the property tax hearing officer per diem would result in a negligible, but indeterminate, negative impact on State resources. Section 19 of the bill relating to the distributions of 529 plans for apprenticeship programs and upon death and disability is projected to have minimal fiscal impact ($30,000 or less).

Sec. 8 The JFO estimate of the revenue loss in FY 2021 due to the changes in the safe harbor levels for the use tax is $775,000. However, this change may improve prospects for stemming revenue declines in future years. The reduced safe harbor amounts may increase its usage or at least stem the decline in usage. Because this change affects the Sales and Use Tax, this decrease in revenues will only impact Education Fund.

The legislative proposal is to reduce the use tax table to the lessor of 0.05% of AGI, or $150, beginning in tax year 2020. In this version of the bill, taxpayers with Adjusted Gross Income (AGI) below $20,000 would not be required to pay Use Tax unless the purchase is greater than $1,000. This reduction, in part is designed to reflect the increase sales tax collections from online vendors. The current schedule is 0.1% of AGI with a maximum payment of $500. The new maximum payment changes and rate change correlates with out of state purchases of $2,500 rather than $8,333 under the current law.

The new revenue estimate is based on tax year 2019 revenues which are projected to be moderately less than tax year 2018 collections, see Table 1. Based on information received to date, and current filing trends, the Tax Department estimates that use tax revenues will decrease from $3.36M in tax year 2018 to $2.16M in tax year 2019. It is likely that the decrease in year over year use tax revenue is a result of behavioral changes in response to increased online collections.

In tax year 2019, use tax paid table-based filers is estimated to be $1.64M. With the proposed use tax table reductions – table-based use tax revenue is estimated to decrease by 50% resulting in projected revenues of $819,000. With some additional fall off likely, we further estimate that the potential revenue loss is $740,000 (90% of projected 2019 table-based revenues). Finally, once we exclude those with AGI below $20,000, which typically only represent around 3.5% of Use Tax collections, we arrive at a revenue loss of $775,000.

The decrease in use tax revenue is generally offset by an increase in sales tax revenue generated from increased collection from online vendors. The increasing revenue is more significant than the use tax, as compliance occurs at the point of sale rather than the 9% to 12% compliance with use tax.

Table 1: Tax Year 2018 and Estimated Tax Year 2019 Use Tax Revenue

	2018 Returns	**2018 Revenue Collected**	**2019 Revenue Estimates**	***2019 Paid to Date***	***# of Returns to Date***
Non table	18,087	$1,223,360	$521,935	*$415,218*	*7,383*
Table	27,820	$2,138,479	$1,638,065	*$1,303,140*	*18,921*
Zero	337,374	-	-	-	*278,722*
Grand Total	383,281	$3,361,839	$2,160,000	$1,718,358	*305,026*
Compliance	12%		*9% Estimated*		

Information provided by the Vermont Dept of Taxes

Sec. 10D: This section of the bill repeals the 2015 session law sales tax exemption for prewritten software accessed remotely.

Sales of prepackaged computer software to consumers and businesses was a $261 billion industry in the United States in 2018 according the Bureau of Economic Analysis. The industry has experienced significant growth over the past several years and is projected to grow further. According to estimates from Gartner, a management consulting firm, between 20% and 30% of this software is accessed remotely via the internet.[1]

The impact of the COVID-19 pandemic has had an uncertain impact on this area of software. While it is true that much more activity is being completed online, the impact of the pandemic-induced recession might lead to firms purchasing less software.[2] In addition to this, much of the remote software being used as a result of the pandemic (videoconferencing software, for instance), is either already taxable in Vermont or would be unaffected by this change (increased use of online payment platforms, for instance).

As this section of the bill is effective January 1, 2021, we estimate this section of the bill will raise $2.7 million in FY 2021, $7.6 million in FY 2022 and growing up to $9.5 million by FY 2024. This new revenue would benefit the State's Education Fund.

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[1] "Gartner forecasts worldwide public cloud revenue to grow 17.3 percent in 2019." https://economictimes.indiatimes.com/tech/software/gartner-forecasts-worldwide-public-cloud-revenue-to-grow-17-3-percent-in-2019/articleshow/65796242.cms

[2] https://www.morningstar.com/articles/976637/covid-19-fear-creates-rare-opportunity-for-software-investors

Sec. 29: This section of the bill is largely related to making alterations to the states Tax Increment Financing (TIF) program. Section 29 extends the debt incursion limit for one year for seven TIF districts around the state in light of the COVID-19 pandemic and the difficulty municipalities are having incurring debt and completing projects.

In Vermont's TIF statute, a municipality has 5 years to incur their first debt for projects and up to 10 years to incur debt. Section 29 extends that 10-year limit by one year for 7 districts: Bennington, Montpelier, Barre, Burlington Downtown, Burlington Waterfront, St. Albans, and South Burlington. **JFO does not expect an immediate revenue impact on the Education Fund due to this extension, at least in the short term.** This is because the period to retain tax increment has not been extended.

In the long term, there may be a potential fiscal impact if the one-year delay for debt incurrence leads to a delay in projects being constructed. If projects are delayed, it shortens the amount of time a municipality has to collect tax increment. Less available tax increment could put pressure on a municipality to repay its TIF debt.