VERMONT LEGISLATIVE
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Fiscal Note
May 11, 2023
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H.471 – An act relating to technical and administrative changes to Vermont's tax laws

As passed by the House of Representatives[1] and as proposed to be amended by the Senate Committee on Finance[2]

Bill Summary

This bill makes wide ranging changes to various tax laws, state economic development programs, and sets the workers' compensation rate for fiscal year 2024.

Miscellaneous Tax Changes:

- This bill links Vermont's income tax codes to the Federal income tax and estate tax statutes as written as of December 31, 2022.
- Makes miscellaneous changes, including to personal income tax, meals and rooms tax, sales and use tax, use value appraisal, property valuation, the homestead property tax credit, and property transfer tax.

SALT Deduction Cap Workaround:

- Creates a new elective, 7.6% entity-level tax on certain pass-through businesses, including partnerships and S-Corporations as a workaround for the federal State and Local Tax (SALT) deduction cap of $10,000.[3]
- Creates a corresponding 87.5% personal income tax credit for PTE tax paid, and an 87.5% credit for PTE taxes paid to other states.

Vermont Economic Growth Incentive (VEGI) and Tax Increment Financing (TIF):

- Makes various changes to Tax Increment Financing (TIF) programs.
- Extends the sunset of the Vermont Economic Growth Incentive (VEGI) program by three years, from January 1, 2024 to January 1, 2027.

Workers' Compensation

- Retains the fiscal year 2023 workers' compensation contribution rate for 2024.

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[1] https://legislature.vermont.gov/Documents/2024/Docs/BILLS/H-0471/H-0471%20As%20passed%20by%20the%20House%20Official.pdf

[2] https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Finance/Bills/H.471/Drafts,%20Amendments,%20and%20Legal%20Documents/H.471~Abby%20Shepard~%20Draft%201.7,%205-10-2023,%20Senate%20Finance%20Committee%20Amendment~5-11-2023.pdf

Fiscal Impact

The table on the following page summarizes the fiscal impact of the various provisions of the bill. The background and details section includes more in-depth discussion of the fiscal implications of certain provisions.

Sections	Brief Provision Description	Revenue or Budget Impact	Impacted Fund(s)
1-2	Annual link up of Vermont's income tax code to the Federal income tax and estate tax statute	No impact	n/a
3-4	Clarifies that Sales and Use Tax applies to alcoholic beverages sold in sealed containers for off premises consumption	No impact	n/a
5	Clarifies the process of requesting a refund of Meals and Rooms Taxes incorrectly or erroneously collected	De minimis	General Fund, Education Fund, and Clean Water Fund
6	Allows unrefunded local option taxes overcollections to be deposited in the correct State-level fund	De minimis	General Fund, Education Fund, and Clean Water Fund
6b	Extends the sales tax exemption for advanced wood boilers for one year	De minimis - existing $36,000-$60,000 sales tax expenditure	Education Fund
7	Repeals Computer Assisted Property Tax Administration Program (CAPTAP) fees	No impact-program is no longer used	n/a
8	Repeals requirement for town clerks to send a copy of their grand list to PVR	Minimal savings for town clerks	n/a – No state funds impacted
9	Allows the Commissioner of Taxes to notify property owners of their use value appraisal through a wider variety of methods	Minimal savings for the Department of Taxes	General Fund
10	Exempts land that is already exempt from property tax under the Native American tribe exemption from the land use change tax	De minimis	Education Fund
11	Expands the scope of the nonprofit exemption from the property transfer tax and creates a new exemption to transfers between related 501(c)3 nonprofits .	De minimis	Education Fund
12	Clarifies the apportionment percentage for the Child and Dependent Care tax credit for part-year residents.	De minimis	General Fund
12a	Changes phase out of Earned Income	De minimis	General Fund

	Tax Credit to be based on income rather than earned income		
12b-12c	Updates references to composite payment rate from middle to second-highest personal income tax rate	No change	n/a
12d-12f	New pass-through entity tax and corresponding 87.5% credits	Est. increased annual revenues of $1.7 million in fiscal years 2024 through 2026	General Fund
13	Extends the property tax exemption for qualified rent-restricted units every 10 years if VHFA finds that the property meets exemption requirements.	De minimis - Existing $250,000 tax expenditure	Education Fund
15	Extends the deadline for filing for a property tax credit	De minimis	Education Fund
16-24	Various changes to Vermont Bond Bank statute	No impact	n/a
25	Joint Fiscal Office Financing Public Infrastructure Improvements Report	Cost of up to $50,000 from legislative funds	General Fund – Budgetary
26	Allows TIF increment to be used for debt service payments for up to two years after the start of the debt incursion period	De minimis	Education Fund
27	Clarifies that boundaries of a TIF district cannot be changed after the approval of the district plan	De minimis	Education Fund
28	TIF districts shall not remit less than the tax due on the original taxable value of the TIF district	De minimis	Education Fund
29	City of Barre TIF district debt retention period extension from 3034 to 3039	Est. annual tax expenditure of $275,000 to $290,000 between 2034 and 2039	Education Fund
30	Town of Hartford TIF district debt retention period extension from 2034 to 2036	Est. annual tax expenditure of $650,000 in calendar year 2035 and 2036	Education Fund
31	Extends the sunset of the Vermont Economic Growth Incentive (VEGI) Program from January 1, 2024 to January 1, 2027	Extends existing annual $2.5 to $4 million tax expenditure	General Fund
32	Sets the workers' compensation contribution rate for fiscal year 2024	No change in fiscal year 2024 revenue	Workers' Compensation Administration Special Fund

Background and Details

SALT Deduction Cap Workaround

Sections 12d-12f create the new, elective Pass-Through Entity (PTE) Tax. Before 2018, the SALT deduction allowed a taxpayer itemizing deductions to deduct the full amount of certain taxes paid to state and local governments, including state income, sales, and local property taxes.

The Tax Cuts and Jobs Act made sweeping changes to the federal Internal Revenue Code, effective tax year 2018. Among the changes was the "SALT Cap," which limited the SALT deduction on personal income taxes to $10,000. The SALT Cap provision effectively increased the federal tax liability of taxpayers in states with high state-level tax liabilities since they previously had the largest SALT deductions. However, it is important to note that the bill also included numerous other provisions that resulted in large aggregate tax decreases that more than offset the SALT cap's effect for many taxpayers.

The SALT Cap provision prompted states with higher state and local taxes to create workarounds. In 2019, Connecticut became the first state to introduce a PTE tax in response to the cap. As of March 2023, 32 states and New York City have a PTE tax.[4]

Estimate of State Revenues

The amount of State revenues that could result from the PTE tax depends on the relationship between the rate of the PTE tax and the corresponding credit on a shareholder's personal income tax.[5] Given the relatively small amount of State revenues gained from each taxpayer that may elect for the PTE tax and credit, and the small number of taxpayers who would benefit from this construct, JFO estimates an additional $1.7 million in annual General Fund revenue in fiscal years 2024 through 2026 would be generated by the PTE tax as proposed.

This estimate depends on the number of pass-through businesses that elect to pay the new PTE tax. While taxpayers with large amounts of pass-through income would generally save money on their federal taxes if they elect the PTE tax, it may not be advantageous for all pass-through businesses. If fewer taxpayers elect to take the PTE tax due to the specifics of their tax situation or the structure of the PTE tax and corresponding credit, the revenue received by the State will decrease accordingly.

Estimate of Total Federal Benefits

JFO estimates that a PTE tax would reduce federal tax liabilities for taxpayers who are owners or shareholders of pass-through entities that elect to pay the PTE tax by $10 to $20 million annually.[6] Because most pass-through net income is earned by taxpayers with higher income, more than 70% of the estimated federal liability reduction would accrue to taxpayers with an average gross income above $500,000.

Tax Increment Financing

Section 26 would add debt service interest payments to the list of improvements that are considered allowable uses for property tax increment. This provision allows TIF districts to fund interest payments on borrowed funds for a period of two years before increment is available. The potential cost of allowing TIF districts to fund interest payments in the first two years after debt incursion comes from the counterfactual of the extra increment that could have been generated over the 20-year retention period if debt had been used for concrete improvements rather than debt service.

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[4] https://us.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/56175896-pte-map.pdf

[5] To better understand the mechanics of this relationship, one could think of the 87.5% credit as a 12.5% tax since the State would retain 12.5% of the PTE tax paid. Since that 12.5% is always higher than the marginal rates of the personal income tax system, the PTE tax would generate a relatively small amount of revenue from each pass-through business that elects the tax.

[6] https://ljfo.vermont.gov/assets/Subjects/Issue-Briefs-Relating-to-RevenueTax/da7a1411e3/GENERAL-363854-v1-SALT_Cap_Workaround_Issue_Brief.pdf

Only two TIF districts have not passed the two-year threshold in their debt incursion period to qualify for this provision: Bennington and Killington. (Note that extensions to debt incursion and increment retention periods in Sections 29 and 30 apply to the Barre and Hartford TIF districts). JFO has previously estimated a *de minimis* cost to the Education Fund for similar debt-to-debt financing in TIF districts and estimates a similar potential cost if the Bennington and Killington TIF districts also use debt-to-debt financing within the first two years of their debt incursion period. However, if other newly created districts incur debt to cover interest payments in the future, the cost to the Education Fund could increase.

Sections 29 and 30

Section 29 allows the City of Barre to extend the increment retention period of their TIF district from 2034 to 2039. JFO estimates that the total cost of this extension to the Education Fund will be between approximately $275,000 and $290,000 per year between 2034 and 2039 and $1.5 million in total.

Section 30 allows the Town of Hartford to extend the increment retention period of their TIF district from 2034 to 2036. JFO estimates that the extension will cost approximately $650,000 per year in 2035 and 2036, and $1.3 million in total.

Forecasting costs to the Education Fund this far in advance is challenging and these estimates reflect the costs if projects in the TIF district are completed on schedule. Costs could be lower if increment generating projects or improvements in the TIF districts are delayed and the amount of increment generated in the near term is less than expected. Other factors could also influence these estimates, including changes in grand list values and changes to property tax rates If property values or tax rates increase, the costs of these increment retention period extensions will increase; conversely, decreases in either of these variables would decrease the cost of the extensions to the Education Fund.