

H.738

An act relating to technical and administrative changes to Vermont's tax laws

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 15, 10 V.S.A. § 4255(c)(7), in its entirety and inserting in lieu thereof:

Sec. 15. 10 V.S.A. § 4255(c)(7) is amended to read:

(7) A certified citizen of a Native American Indian tribe that has been recognized by the State pursuant to 1 V.S.A. chapter 23 may receive ~~a free permanent fishing license or, if the person qualifies for a hunting license, a free permanent combination hunting and fishing license~~ free of charge one or all of the permanent fishing, hunting, or trapping licenses set forth in subdivisions (1)(A)–(D) of this subsection if qualified for the license and upon submission of a current and valid tribal identification card.

Second: By striking out Sec. 17, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Legislative Expense Reimbursement * * *

Sec. 17. 32 V.S.A. § 1052(b) is amended to read:

(b) During any session of the General Assembly, each member is entitled to receive expenses as follows:

(1) Mileage reimbursement. ~~An allowance~~ Reimbursement equal to the cost of ~~one round trip each day between Montpelier and the member's home~~ actual mileage traveled for each day of session in which the member ~~did not~~ rent lodging in Montpelier or the vicinity. ~~If a member rents lodging in Montpelier or the vicinity for an entire week of session, the member is entitled to an allowance for the cost of one round trip for that week~~ travels between Montpelier and the member's home or from Montpelier or from the member's home to another site on officially sanctioned legislative business. ~~The allowance~~ Reimbursement of actual mileage traveled under this subdivision shall be at the rate per mile determined by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session.

* * *

(4) ~~Intent. It is the intent of the General Assembly that only a member who is away from home and remains in Montpelier or the vicinity on the night preceding or following the day in which that member's chamber met shall receive reimbursement for expenses as provided in subdivision (1) of this subsection.~~ [Repealed.]

* * * 529 Plans; Student Loan Repayment; VHEIP Income Tax Credit * * *

Sec. 18. 32 V.S.A. § 5825a(b) is amended to read:

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a

higher education investment plan account, up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) is used for a qualifying expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); ~~or~~

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72; or

(4) is used for qualified higher education expense loan repayment pursuant to 26 U.S.C. § 529(c)(9), provided the loan being repaid was used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6).

* * * Communications Union Districts * * *

Sec. 19. 30 V.S.A. § 8086(c)(3) is amended to read:

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets ~~to the State~~ if a grantee materially fails to comply with the terms and conditions of a grant;

Sec. 20. 30 V.S.A. § 8086(h) is added to read:

(h)(1) The Board shall require a communications union district that borrows funds for the purpose of financing a broadband project to immediately provide written notice to the Board in the event the communications union district becomes aware that it is at risk of defaulting on the payment of principal or interest on a loan when due. The Board, in turn, shall promptly provide written notice to the General Assembly, or to the Joint Fiscal Committee if the General Assembly is not in session, of such risk of default and shall include in its notification a description of any potential ramifications of the default under the terms and conditions of the applicable loan.

(2) If a communications union district defaults on the payment of principal or interest on a loan secured by grant-funded network assets, such assets may not be transferred or sold for a period of 180 calendar days commencing on the day the loan became past due. To the extent reasonably practicable, it is the intent of the General Assembly that publicly owned network assets remain publicly owned assets.

* * * Crime Insurance Coverage; Municipal Officer or Employee * * *

Sec. 21. 24 V.S.A. §§ 832 and 833 are amended to read:

§ 832. BONDS; REQUIREMENTS

Before the school directors, constable, road commissioner, collector of taxes, treasurer, assistant treasurer when appointed by the selectboard, clerk,

and any other officer or employee of the town who has authority to receive or disburse town funds enter upon the duties of their offices, the selectboard shall require each to have crime insurance coverage or give a bond conditioned for the faithful performance of his or her duties: the school directors, to the town school district; the other named officers, to the town. The treasurer, assistant treasurer when appointed by the selectboard, and collector shall also be required to have crime insurance coverage or give a bond to the town school district for like purpose. All such crime insurance coverage or bonds shall be in sufficient sums and with sufficient sureties as prescribed and approved by the selectboard. If the selectboard at any time considers the crime insurance coverage or a bond of any such officer or employee to be insufficient, it may require, by written order, the officer or employee to give an additional bond in such sum as it deems necessary. If an officer or employee, so required, neglects for ten days after such request to give such original or additional bond, his or her office shall be vacant. A bond or crime insurance coverage furnished pursuant to the provisions of this section shall not be valid if signed by any other officer of the same municipality as surety thereon.

§ 833. APPROVAL; RECORD; EVIDENCE

On the approval of crime insurance coverage or a bond required by section 832 of this title, the selectboard of a town shall file the same in the office of the town clerk to be recorded by such clerk in a book kept for that purpose.

Copies thereof duly certified by such clerk shall be evidence in court as if the original were produced.

Sec. 22. 24 V.S.A. § 835 is amended to read:

§ 835. PAYMENT OF PREMIUMS

Bonds or crime insurance coverage required of officers of a municipality shall be paid for by the municipality requiring the same.

Sec. 23. 24 V.S.A. § 1234 is amended to read:

§ 1234. OATH; BOND

Before entering upon ~~his or her~~ a manager's duties, ~~such a~~ manager shall be sworn to the faithful performance of ~~his or her~~ the manager's duties and shall have crime insurance coverage or give a bond to the town in ~~such~~ the amount and with ~~such~~ the sureties as the selectboard may require.

Sec. 24. 24 V.S.A. § 1306 is amended to read:

§ 1306. OATHS AND BONDS OF OFFICERS

The clerk, treasurer, and collector of such corporation shall be sworn. The treasurer and collector shall have crime insurance coverage or give a bond to the corporation in such sum and with such sureties as are prescribed and approved by the trustees, conditioned for the faithful performance of their duties.

Sec. 25. 24 V.S.A. § 2433 is amended to read:

§ 2433. BONDS; ACTIONS

The trustees shall have crime insurance coverage or give bonds to the satisfaction of the selectboard, conditioned for the faithful performance of their duties. In the name of the town, they may prosecute and defend a suit or action for the recovery or protection of the estate entrusted to their care.

* * * City of Montpelier; Tax Increment Financing District * * *

Sec. 26. MONTPELIER TIF DISTRICT; ORIGINAL TAXABLE VALUE

(a) Notwithstanding any other provision of law, and upon approval by the Vermont Economic Progress Council as provided in subsection (b) of this section, the City of Montpelier may reset its original taxable value, as defined in 24 V.S.A. § 1891(5), to the grand list values as of April 1, 2023, provided that the reset:

(1) maintains the same parcels as the City's certified original taxable value;

(2) does not change the creation date of the district; and

(3) does not extend the City's period to incur indebtedness beyond March 31, 2030.

(b) The reset of the original taxable value in the City of Montpelier's tax increment financing district shall only become final upon approval by the Vermont Economic Progress Council of the City's application for a five-year

extension of the deadline to incur its first debt. Notwithstanding any other provision of law, the City may apply to the Vermont Economic Progress Council for an extension of the period to incur its first debt not later than 90 days after the final April 1, 2023 grand list is filed with the city clerk. The City's extension application shall include an updated tax increment financing plan that incorporates the proposed reset original taxable value.

* * * Sales and Use Tax Exemption; Manufacturing Machinery
and Equipment * * *

Sec. 27. 32 V.S.A. § 9741(14) is amended to read:

(14)(A) Tangible personal property that becomes an ingredient or component part of, or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for sale;

(B) machinery Machinery and equipment for use or consumption directly and exclusively, except for isolated or occasional uses, used in or consumed as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility engaged in the manufacture of tangible personal property for sale, or in the manufacture of other machinery or equipment, parts, or supplies for use in the manufacturing process; and devices used to monitor manufacturing machinery and equipment or the product during the manufacturing process. Machinery and equipment used in administrative, managerial, sales, or other nonproduction activities, or used

~~prior to the first production operation or subsequent to the initial packaging of a product, shall not be exempt from tax, unless such uses are merely isolated or occasional or unless the machinery used for initial packaging is also used for secondary packaging as part of an integrated process. Machinery and equipment shall not include buildings and structural components thereof. As used in this subdivision, it shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. For the purposes of this subsection~~
subdivision (14), “manufacture” includes extraction of mineral deposits, the entire printing and bookmaking process, and the entire publication process.

(C) As used in this subdivision (14):

(i) “Integrated production operation” means an integrated series of operations at a manufacturing or processing plant or facility to process, transform, or convert tangible personal property by physical, chemical, or other means into a different form, composition, or character from that in which it originally existed. Integrated production operations begin when raw material is first changed physically, chemically, or otherwise in form, composition, or character, including being removed from storage or introduced for this manipulation, and end when the product is placed in initial packaging and shall include production line operations, including initial packaging operations, and waste, pollution, and environmental control operations.

(ii) “Manufacturing or processing business” means a business that utilizes an integrated production operation to manufacture, process, fabricate, or finish items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. “Manufacturing or processing business” does not include nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook, or prepare food products in the regular course of their retail trade; the assembling of product by retailers for sale; grocery stores, meat lockers, and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade; contractors who alter, service, repair, or improve real property; and retail businesses that clean, service, or refurbish and repair tangible personal property for its owner. The examples provided in this subdivision (ii) shall not be construed as exclusive.

(iii) “Manufacturing or processing plant or facility” means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. A business may operate one or more manufacturing or processing plants or facilities at

different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail.

(iv) “Primary” or “primarily” means more than 50 percent of the time.

(v) “Production line” means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs.

(D) For the purposes of this subdivision (14), machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used during the integrated production operation:

(i) to transport, convey, handle, or store the property undergoing manufacturing or processing at any point from the beginning of the production line until it is placed into initial packaging;

(ii) to act upon, effect, promote, or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(iii) to guide, control, or direct the movement of property undergoing manufacturing or processing;

(iv) to test or measure materials, the property undergoing manufacturing or processing, or the finished product during the manufacturer’s integrated production operations;

(v) to plan, manage, control, or record the receipt and flow of property while undergoing manufacturing or processing;

(vi) to lubricate, control the operating of, or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(vii) to transmit or transport electricity, gas, water, steam, or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(viii) to package the property being manufactured or processed in any container or wrapping in which such property is normally sold or transported, even if the machinery operates after the point of initial packaging;

(ix) to cool, heat, filter, refine, or otherwise treat water, steam, acid, oil, solvents, or other substances that are used in production operations;

(x) to provide and control an environment required to maintain certain levels of air quality, humidity, or temperature in special and limited areas of the plant or facility where such regulation of temperature or humidity is part of and essential to the production process;

(xi) to treat, transport, or store waste or other byproducts of production operations at the plant or facility and to clean manufacturing machinery and equipment;

(xii) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation; or

(xiii) to inspect or conduct quality control on the product, even if the inspection or quality control machinery operates after the point of initial packaging.

(E) “Machinery and equipment used as an integral or essential part of an integrated production operation” does not mean:

(i) machinery and equipment used for nonproduction purposes, including machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(ii) machinery, equipment, and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(iii) transportation, transmission, and distribution equipment not primarily used in a production, warehousing, or material handling operation at the plant or facility, including the means of conveyance of natural gas,

electricity, oil, or water, and related equipment, located outside the plant or facility;

(iv) office machines and equipment, including computers and related peripheral equipment, not used directly and primarily to control or measure the manufacturing process;

(v) furniture and other furnishings;

(vi) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(vii) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical;

(viii) machinery and equipment used for general plant heating, cooling, and lighting; or

(ix) motor vehicles that are registered for operation on public highways.

(F) Subdivisions (D) and (E) of this subdivision (14) shall not be construed as exclusive lists of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purposes

at other times, the primary use of the machinery or equipment shall determine the qualification of the machinery or equipment for the exemption.

* * * Sales and Use Tax Exemption; Menstrual Products * * *

Sec. 27a. 32 V.S.A. § 9706(oo) is amended to read:

(oo) The statutory purpose of the exemption for ~~feminine hygiene~~ menstrual products in subdivision 9741(56) of this title is to limit the cost of goods that are necessary for the health and welfare of Vermonters.

Sec. 27b. 32 V.S.A. § 9741(56) is amended to read:

(56) ~~Feminine hygiene~~ Menstrual products. As used in this subdivision, “~~feminine hygiene~~ menstrual products” means tampons, panty liners, menstrual cups, ~~sanitary~~ menstrual napkins, and other similar tangible personal property designed for ~~feminine hygiene~~ use in connection with the human menstrual cycle but does not include “grooming and hygiene products” as defined in this chapter.

* * * Effective Dates * * *

Sec. 28. EFFECTIVE DATES

(a) This section and Secs. 27a and 27b (sales and use tax exemption; menstrual products) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 1–3 (enhanced life estates; property transfer tax), 4 and 5 (underpayment penalties; deadlines), and 18 (529 plans; student loan repayment; VHEIP income tax credit) shall take effect

retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022.

(c) Notwithstanding 1 V.S.A. § 214, Secs. 6 and 7 (annual link to federal statutes) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2021.

(d) Secs. 8 (32 V.S.A. § 5862b; Children’s Trust Foundation checkoff) and 11 (transition; Children’s Trust Fund; FY 2023 transfers) shall take effect on July 1, 2022.

(e) Secs. 9 (33 V.S.A. § 3303(b); Children’s Trust Fund administration) and 10 (repeals; Children’s Trust Fund) shall take effect on December 31, 2022.

(f) Notwithstanding 1 V.S.A. § 214, Secs. 12 and 13 (reporting federal audits and adjustments; partnerships) shall take effect retroactively on January 1, 2022 and shall apply to any adjustments to a taxpayer’s federal taxable income with a final determination date occurring on and after July 1, 2022.

(g) Notwithstanding 1 V.S.A. § 214, Sec. 14 (taxation of land underlying solar plant or energy storage facility) shall take effect retroactively on July 1, 2021.

(h) Secs. 15 and 16 (fishing, hunting, and trapping licenses) shall take effect on January 1, 2023.

(i) Sec. 17 (legislative expense reimbursement) shall take effect on January 1, 2023.

(j) Secs. 19 and 20 (communications union districts), 21–25 (crime insurance coverage; municipal officer or employee), 26 (City of Montpelier; tax increment financing district), and 27 (sales and use tax exemption) shall take effect on July 1, 2022.