

Journal of the House

Wednesday, March 30, 2022

At three o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Joan Javier Duval, Unitarian Church, Montpelier.

Message from the Senate No. 41

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on the twenty-fifth day of March, 2022, he approved and signed a bill originating in the Senate of the following title:

S. 4. An act relating to procedures involving firearms.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 48. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part passed Senate bills of the following titles:

S. 220. An act relating to State-paid deputy sheriffs.

S. 234. An act relating to changes to Act 250.

S. 287. An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

In the passage of which the concurrence of the House is requested.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time, and referred as follows:

S. 220

Senate bill, entitled

An act relating to State-paid deputy sheriffs
To the Committee on Government Operations.

S. 234

Senate bill, entitled
An act relating to changes to Act 250
To the Committee on Natural Resources, Fish, and Wildlife.

S. 287

Senate bill, entitled
An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight
To the Committee on Ways and Means.

Joint Resolution Adopted in Concurrence

J.R.S. 48

By Senator Balint,

J.R.S. 48. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 1, 2022, it be to meet again no later than Tuesday, April 5, 2022.

Was taken up, read, and adopted in concurrence.

**Senate Proposal of Amendment to House Proposal of Amendment
Not Concurred in;
Committee of Conference Requested and Appointed**

S. 53

The Senate concurred in the House proposal of amendment with further amendment thereto on Senate bill, entitled

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax

The Senate concurred in the House proposal of amendment with the following proposal of amendment thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Corporate Income Tax * * *

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude ~~overseas business organizations or~~ foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) ~~“Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia. [Repealed.]~~

* * *

Sec. 2. 32 V.S.A. § 5833(a)(3)(A) is amended to read:

(A) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; ~~or~~

(ii) ~~the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and~~

(I) ~~the purchaser is the U.S. government; or~~

(II) ~~the corporation is not taxable in the State in which the purchaser takes possession.~~

Sec. 3. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation that is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group

return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

Sec. 4. TRANSITION FROM JOYCE TO FINNIGAN METHOD

For taxable years beginning on and after January 1, 2023, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

Sec. 5. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the Joyce to the Finnigan approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance on or before January 15, 2024 on the Department's proposed rules and any recommendations for legislation with respect to unitary combined reporting.

* * * Personal Income Tax; Retirement Income Exemptions * * *

Sec. 6. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iv) the portion of certain retirement income and federally taxable benefits received under the federal Social Security Act that is required to be

excluded under section 5830e of this chapter; ~~and~~

* * *

(vi) U.S. military survivor benefit income received by the surviving spouse of a deceased service member; and

* * *

Sec. 7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(w) The statutory purpose of the partial exemption of certain retirement income and federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from certain retirement income and Social Security benefits.

* * *

(y) The statutory purpose of the exemption for U.S. military survivor benefit income in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters.

Sec. 8. 32 V.S.A. § 5830e is amended to read:

§ 5830e. RETIREMENT INCOME; SOCIAL SECURITY INCOME

(a) Social Security income. The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

* * *

(b) Civil Service Retirement System income. The portion of income received from the Civil Service Retirement System excluded from taxable income under subdivision 5811(21)(B)(iv) shall be subject to the limitations under subsection (e) of this section and shall be determined as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or surviving spouse:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$45,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$45,000.00 but less than \$55,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to

be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$55,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$60,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$60,000.00 but less than \$70,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$70,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(c) Other contributory retirement systems; earnings not covered by Social Security. Other retirement income, except U.S. military retirement income pursuant to subsection (d) of this section, received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section, provided that:

(1) the income is received from a contributory annuity, pension, endowment, or retirement system of:

(A) the U.S. government or a political subdivision or instrumentality of the U.S. government;

(B) this State or a political subdivision or instrumentality of this State; or

(C) another state or a political subdivision or instrumentality of another state; and

(2) the contributory system from which the income is received was based on earnings that were not covered by the Social Security Act.

(d) U.S. military retirement income. U.S. military retirement income received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section.

(e) A taxpayer of this State who is eligible during the taxable year for the Social Security income exclusion under subsection (a) of this section and any of the exclusions under subsections (b)–(d) of this section shall elect either one of the exclusions for which the taxpayer is eligible under subsections (b)–(d) of this section or the Social Security income exclusion under subsection (a) of this section, but not both, for the taxable year.

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

Sec. 9. 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. 10. 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. 11. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1–5 (corporate income tax) shall take effect on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(2) Notwithstanding 1 V.S.A. § 214, Secs. 6–8 (retirement income exemptions) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022.

And that after passage the title of the bill be amended to read:

An act relating to changes to Vermont’s corporate income tax, personal income tax, and sales and use tax.

Pending the question, Shall the House concur in the Senate proposal of amendment to the House proposal of amendment?, **Rep. Ancel of Calais** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Ancel of Calais
Rep. Kornheiser of Brattleboro
Rep. Beck of St. Johnsbury

**Senate Proposal of Amendment Concurred in;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Delivered to the Governor Forthwith**

H. 722

The Senate proposed to the House to amend House bill, entitled

An act relating to final reapportionment of the House of Representatives

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

First: In Sec. 2, 17 V.S.A. § 1893b, in CHITTENDEN-24, following “then southerly along the eastern side of Sandhill Road to the intersection of River Road; then westerly along the” by striking out “northern” and inserting in lieu thereof southern

Second: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof Secs. 3–4 to read as follows:

Sec. 3. 17 V.S.A. § 1881 is amended to read:

§ 1881. NUMBER TO BE ELECTED

Senatorial districts and the number of Senators to be elected from each are as follows:

(1) Addison Senatorial District, composed of the towns of Addison, Bridport, Bristol, Buel's Gore, Cornwall, Ferrisburgh, Goshen, Granville, Hancock, Huntington, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Rochester, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, Weybridge, and Whiting..... two;

(2) Bennington Senatorial District, composed of the towns of Arlington, Bennington, Dorset, Glastenbury, Landgrove, Londonderry, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Somerset, Stamford, Stratton, Sunderland, Wilmington, Winhall, and Woodford..... two;

(3) Caledonia Senatorial District, composed of the towns of Barnet, ~~Bradford, Burke,~~ Danville, Fairlee, Groton, Hardwick, Kirby, ~~Lyndon, Newark, Newbury, Orange,~~ Peacham, Ryegate, St. Johnsbury, ~~Sheffield,~~ Stannard, ~~Sutton, Topsham,~~ Walden, Waterford, ~~West Fairlee,~~ and Wheelock..... ~~two~~ one;

(4) ~~Chittenden~~ Chittenden-Central Senatorial District, composed of towns of Bolton, Burlington, Charlotte, Essex, Hinesburg, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Underhill, Westford, Williston, and Winooski the city of Winooski, that portion of the town of Essex not included in Chittenden-North Senatorial District, that portion of the town of Colchester not included in Grand Isle Senatorial District, and that portion of the city of Burlington encompassed within a boundary beginning at the point where the eastern boundary line of the city of Burlington intersects with the South Burlington Recreation Path; then westerly along the northern side of the boundary between the South Burlington Recreation Path and the Burlington Country Club to where the South Burlington Recreation Path turns north; then continuing westerly along the northern side of the property boundary of the Burlington Country Club to the property boundary line between 544 South Prospect Street and 500 South Prospect Street; then westerly along the northern side of the property line between 544 South Prospect Street and 500 Prospect Street to where it intersects with South Prospect Street; then northerly along the eastern side of the centerline of South Prospect Street to the intersection of Cliff Street; then westerly along the northern side of the centerline of Cliff Street to the intersection of U.S. Route 7; then briefly northerly along the eastern side of the centerline of U.S. Route 7 to the intersection of Spruce Street; then westerly along the northern side of the centerline of Spruce Street to the intersection of South Union Street; then northerly along the eastern side of the centerline of South Union Street to the intersection of Adams Street; then westerly along the northern side of the centerline of Adams Street to the intersection of South Winooski Avenue; then northerly along the eastern side of the centerline of South

Winooski Avenue to the intersection of Maple Street; then westerly along the northern side of the centerline of Maple Street to the end of Maple Street; then continuing on a line due west across Lake Champlain to the boundary of the city of South Burlington in Lake Champlain; then northerly along the city line of South Burlington in Lake Champlain and continuing along the city line of South Burlington as it follows the eastern shore of Lake Champlain to the boundary of the town of Colchester; then northerly and then southeasterly along the town line of Colchester to the boundary of the city of Winooski; then southeasterly along the city line of Winooski to the boundary of the city of South Burlington; then southwesterly along the city line of South Burlington to the point of beginning..... six three;

(5) Chittenden-North Senatorial District, composed of towns of Fairfax, Milton, Westford, and that portion of the town of Essex encompassed within a boundary beginning at the point where the western boundary line of the town of Essex intersects with VT Route 2A; then southerly along the eastern side of the centerline of VT Route 2A to the intersection of Gentes Road; then briefly easterly along the northern side of the centerline of Gentes Road to where it intersects with the railroad tracks before Lamore Road; then southerly along the eastern side of the railroad tracks to where they intersect with VT Route 289; then southeasterly along the northeastern side of the centerline of VT Route 289 to the intersection of Upper Main Street; then northeasterly along the northwestern side of the centerline of Upper Main Street to the intersection of Center Road; then easterly along the northern side of the centerline of Center Road to the intersection of Jericho Road; then southeasterly along the northeastern side of the centerline of Jericho Road to the intersection of Allen Martin Drive; then southwesterly along the southeastern side of the centerline of Allen Martin Road to the intersection of Sandhill Road; then southerly along the eastern side of Sandhill Road to the intersection of River Road; then westerly along the southern side of the centerline of River Road to where it intersects with Alder Brook; then southerly along the eastern side of Alder Brook to the boundary of the town of Williston; then easterly along the town line of Williston to the boundary of the town of Jericho; then northeasterly along the town line of Jericho to the boundary of the town of Westford; then westerly along the town line of Westford to the boundary of the town of Colchester; then southerly along the town line of Colchester to the point of beginning..... one;

(6) Chittenden-Southeast Senatorial District, composed of towns of Bolton, Charlotte, Hinesburg, Jericho, Richmond, Shelburne, South Burlington, St. George, Underhill, Williston, and that portion of the city of Burlington not included in Chittenden-Central Senatorial District..... three;

(7) ~~Essex-Orleans~~ Essex Senatorial District, composed of the towns of ~~Albany, Averill, Avery's Gore, Barton, Bloomfield, Brighton, Brownington, Brunswick, Canaan, Charleston, Concord, Coventry, Craftsbury, Derby, East Haven, Ferdinand, Glover, Granby, Greensboro, Guildhall, Holland, Irasburg, Jay, Kirby, Lemington, Lewis, Lowell, Lunenburg, Lyndon, Maidstone, Montgomery, Morgan, Newport City, Newport Town, Norton, Richford, Troy, Victory, Warner's Grant, and Westfield, Westmore, and Wolecott.....~~ two one;

(6)(8) Franklin Senatorial District, composed of the towns of Alburgh, Bakersfield, Berkshire, Enosburgh, ~~Fairfax~~, Fairfield, Fletcher, Franklin, Georgia, Highgate, Richford, St. Albans City, St. Albans Town, Sheldon, and Swanton..... two;

(7)(9) Grand Isle Senatorial District, composed of the towns of ~~Colchester~~, Grand Isle, Isle La Motte, North Hero, ~~and~~ South Hero, and that portion of the town of Colchester encompassed within a boundary beginning at the point where the southern boundary line of Colchester and the northern boundary of the city of Winooski intersects with U.S. Route 7; then northerly along the western side of the centerline of U.S. Route 7 to the intersection of Hercules Drive; then easterly along the northern side of the centerline of Hercules Drive; then continue southerly along the eastern side of the centerline of Hercules Drive to the intersection of Vermont National Guard Road; then southeasterly along the northeastern side of the centerline of Vermont National Guard Road to the intersection of Hegeman Avenue; then northeasterly along the northwestern side of the centerline of Hegeman Avenue to the intersection of Barnes Avenue; then briefly northwesterly along the southwestern side of the centerline of Barnes Avenue to the intersection of Troy Avenue; then northeasterly along the northwestern side of the centerline of Troy Avenue to where it joins Hegeman Avenue; then briefly southeasterly along the northeastern side of the centerline of Hegeman Avenue to the intersection of Vermont Avenue; then briefly easterly along the northern side of the centerline of Vermont Avenue to where it intersects with the boundary of the town of Essex; then northeasterly along the town line of Essex to the boundary of the town of Milton; then northwesterly along the town line of Milton to the boundary of the town of South Hero; then southwestly along the town line of South Hero to the state border of New York; then southerly along the state border of New York to the boundary of the city of South Burlington in Lake Champlain; then easterly along the city line of South Burlington to the boundary of the city of Burlington; then easterly along the city line of Burlington to the boundary of the city of Winooski; then northeasterly along the city line of Winooski; then continue along the city line of Winooski to the point of beginning..... one;

(8)(10) Lamoille Senatorial District, composed of the towns of Belvidere, Cambridge, Eden, Elmore, Fletcher, Hyde Park, Johnson, Morrystown, ~~Stowe~~, and Waterville, and Wolcott..... one;

(9)(11) Orange Senatorial District, composed of the towns of ~~Braintree~~, Bradford, Brookfield, Chelsea, Corinth, Fairlee, Randolph, Strafford, ~~Thetford~~, Topsham, Tunbridge, Vershire, Washington, West Fairlee, and Williamstown..... one;

(12) Orleans Senatorial District, composed of the towns of Albany, Barton, Brownington, Burke, Charleston, Coventry, Craftsbury, Glover, Greensboro, Irasburg, Jay, Lowell, Montgomery, Newport Town, Newark, Sheffield, Sutton, Troy, Westfield, and Westmore..... one;

(40)(13) Rutland Senatorial District, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, Mt. Holly, Mt. Tabor, Pawlet, ~~Pittsfield~~, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven, and West Rutland..... three;

(41)(14) Washington Senatorial District, composed of the towns of Barre City, Barre Town, Berlin, Braintree, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Orange, Plainfield, Roxbury, Stowe, Waitsfield, Warren, Waterbury, Woodbury, and Worcester..... three;

(42)(15) Windham Senatorial District, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~, ~~Stratton~~, Townshend, Vernon, Wardsboro, Westminister, Whitingham, and Windham..... two;

(43)(16) Windsor Senatorial District, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, ~~Londonderry~~, Ludlow, ~~Mt. Holly~~, Norwich, Pittsfield, Plymouth, Pomfret, Reading, ~~Rochester~~, Royalton, Sharon, Springfield, Stockbridge, Thetford, Weathersfield, Weston, West Windsor, Windsor, and Woodstock..... three.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage and shall apply to representative and senatorial districts for the 2022 election cycle and thereafter.

And that after passage the title of the bill be amended to read:

An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate.

Proposal of amendment was considered and concurred in.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Action on Resolution Postponed

H.R. 23

House resolution, entitled,

House resolution amending the Rules and Orders of the House of Representatives related to the prevention of sexual harassment

Was taken up and, on motion of **Rep. Burke of Brattleboro**, action on the resolution was postponed until March 31, 2022.

Message from the Senate No. 42

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 148. An act relating to environmental justice in Vermont.

S. 195. An act relating to the certification of mental health peer support specialists.

S. 239. An act relating to enrollment in Medicare supplemental insurance policies.

In the passage of which the concurrence of the House is requested.

Adjournment

At three o'clock and thirty-one minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at three o'clock in the afternoon.