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STATE OF VERMONT
OFFICE OF THE STATE TREASURER

TO: Diane Lanpher, Chair, House Committee on Appropriations
Joint Fiscal Office

FROM: Mike Pieciak, Vermont State Treasurer

DATE: January 3, 2023

RE: Budget Adjustment Language Requests

On December 20, 2023, I testified before the House Appropriations Committee in order to discuss Treasurer's Office initiatives for the upcoming legislative session as well as several language requests we have for the 2024 Budget Adjustment Act. Those language requests are detailed further below and I am scheduled to testify before the Committee to address these matters on Thursday, January 4, 2024. Please do not hesitate to contact my office should you have any questions.

- 1) **Vermont ABLE Medicaid Recapture Language** – Under the current statute, after the death of a Vermont ABLE beneficiary, Medicaid has the authority to recapture funds from accounts after final expenses have been paid. With the average account balance under \$9,000, these small dollar amounts prove administratively burdensome to recapture. We have also heard anecdotally from those interested in opening ABLE accounts, that the Medicaid recapture provision is a deterrent to signing up. There are two pieces of language to remedy this. The first piece of language removes the Medicaid recapture authority from the Vermont ABLE enabling statute. The second piece of language updates our Unclaimed Property statute to remove the 529A exemption.

§ 8003. Program limitations

(a) Cash contributions. The Treasurer or designee shall not accept a contribution:

(1) unless it is in cash; or

(2) except in the case of a contribution under 26 U.S.C. § 529A(c)(1)(C) (relating to a change in a designated beneficiary or program), if such contribution to an ABLE account would result in aggregate contributions from all contributors to the ABLE account for the taxable year exceeding the amount in effect under 26 U.S.C. § 2503(b) for the calendar year in which the taxable year begins.

(b) Separate accounting. The Treasurer or designee shall provide separate accounting for each designated beneficiary.

(c) *Limited investment direction.* A designated beneficiary may, directly or indirectly, direct the investment of any contributions to the Vermont ABLE Savings Program, or any earnings thereon, no more than two times in any calendar year.

(d) *No pledging of interest as security.* A person shall not use an interest in the Vermont ABLE Savings Program, or any portion thereof, as security for a loan.

(e) *Prohibition on excess contributions.* The Treasurer or designee shall adopt adequate safeguards under the Vermont ABLE Savings Program to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State pursuant to 26 U.S.C. § 529(b)(6). (Added 2015, No. 51, § C.7, eff. June 3, 2015; amended 2015, No. 97 (Adj. Sess.), § 70.)

(f) Unless otherwise required by the United States Social Security Act, 42 United States Code, Section 1396p(b), "estate" does not include an account established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

(g) The State, or any agency or instrumentality of the State, may not seek payment under the federal Internal Revenue Code, 26 United States Code, Section 529A from an account or its proceeds, that is established under the Vermont ABLE Savings Program for benefits provided to a designated beneficiary, unless otherwise required by the United States Social Security Act, 42 United States Code, Section 1396p(b).

(h) Any abandoned accounts shall be subject to 27 V.S.A. chapter 13.

27 V.S.A. § 1452(24) "Property" means tangible property described in section 1465 of this title or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality. The term:

(A) includes all income from or increments to the property;

(B) includes property referred to as or evidenced by:

(i) money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;

(ii) a credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(iii) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or

restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iv) a bond, debenture, note, or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) an amount due and payable under an annuity contract or insurance policy; and

(vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(C) does not include:

~~(i) property held in a plan described in 26 U.S.C. § 529A, as may be amended;~~

(ii) game-related digital content;

(iii) a loyalty card; or

(iiiv) a gift card.

2) **VT Saves Technical Changes** – After the passage of the VT Saves enabling legislation last year, and while we have been working to launch the program, we have identified some technical changes to the original language that will clarify/ease the administration of the program.

- Sec. 1. Amends two sections in the VT Saves enabling chapter:

In Sec. 532, proposes a technical correction in subdivisions (c)(1) and (2) to clarify that the contribution is deducted from an employee's wages and not "salary"

In Sec. 535, amends the enforcement structure to apply to employers who are failing to fully implement the program and not just to employers who fail to enroll or register their employees. We are learning from other states that some employers will enroll employees but will not ensure contributions are being deducted from paychecks.

- Sec. 2. Amends session law setting forth the Program's implementation schedule

This change allows us to maximize flexibility so we can launch the program to a great number of employees at once, with the hope of fully implementing the program more quickly. We have heard from other states and third-party administrators that it is possible to launch the program more quickly than anticipated; we also heard feedback from the Chamber that such an all-at-once launch would be less confusing for employers.

- Sec. 3. Effective Date

Sets the effective date for these changes to enactment (of the BAA)

Sec.1. 3 V.S.A. chapter 18 is amended to read:

§ 532. VT SAVES PROGRAM; ESTABLISHMENT

(c) Contributions.

(1) Unless otherwise specified by the covered employee, a covered employee shall automatically initially contribute five percent of the covered employee's ~~salary or~~ wages to the Program. A covered employee may elect to opt out of the Program at any time or contribute at any higher or lower rate, expressed as a percentage of ~~salary or~~ wages, or, as permitted by the Treasurer, expressed as a flat dollar amount, subject in all cases to the IRA contribution and eligibility limits applicable under the Internal Revenue Code at no additional charge.

(2) The Treasurer shall provide for, on a uniform basis, an annual increase of each active participant's contribution rate, by not less than one percent, but not more than eight percent, of ~~salary or~~ wages each year. Any such increases shall apply to active participants, including participants by default with an option to opt out or participants who are initiated by affirmative participant election, provided that any increase is subject to the IRA contribution and eligibility limits applicable under the Internal Revenue Code.

§ 535. PENALTIES

(a) Failure to ~~enroll~~ comply. If a covered employer fails to be in ~~enroll a covered employee compliance with this chapter~~ without reasonable cause, the covered employer is subject to a penalty for each covered employee for each calendar year or portion of a calendar year during which the covered employee was not enrolled in the Program or had not opted out of participation in the Program. The amount of any penalty imposed on a covered employer for the failure to enroll a covered

employee without reasonable cause is determined as follows:

(b) Waivers. The Treasurer is authorized to establish a rule waiving the penalty for a covered employer ~~for any failure to enroll a covered employee that fails to be in compliance with this chapter~~ for which it is established that the covered employer did not know that the failure existed and exercised reasonable diligence to meet the requirements of this chapter, provided that:

Sec. 2. 2023 Acts and Resolves No. 43, Sec. 2 is amended to read:

(a) Subject to an appropriation from the General Assembly, the State

Treasurer shall implement the VT Saves Program (Program), established in

3 V.S.A. chapter 18, ~~as follows:~~ in stages as determined by the Treasurer, which may include phasing in the Program based on the size of employers, or other factors. The Program shall be implemented so that all covered employees will begin participation and make contributions by July 1, 2026.

~~(1) Beginning on July 1, 2025, all covered employers with 25 or more covered employees shall offer the Program to all covered employees.~~

~~(2) Beginning on January 1, 2026, all covered employers with 15 to 24 covered employees shall offer the Program to all covered employees.~~

~~(3) Beginning on July 1, 2026, all covered employers with five to 14 covered employees shall offer the Program to all covered employees.~~

(b) As used in this section, “covered employer” and “covered employee” have the same meanings as in 3 V.S.A. § 531.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon enactment.

- 3) **Unclaimed Property Clarification** – This proposed change to the Unclaimed Property statute will eliminate any requirement on the part of the State to hold cryptocurrency. The proposed changes require holders to liquidate any cryptocurrency and convert it to United States currency prior to escheatment to Vermont’s Unclaimed Property program.

Sec. 1452. 27 V.S.A. chapter 18 is amended to read:

CHAPTER 18: Unclaimed Property

§1452(32) “Virtual currency” means a digital representation of value used as a medium of exchange, unit of account, or store of value that does not have legal tender status recognized by the United States. The term does not include:

(A) the software or protocols governing the transfer of the digital representation of value;

(B) game-related digital content; or

(C) a loyalty card.

If property reported to the administrator is virtual currency, the holder shall liquidate the virtual currency and remit the proceeds to the administrator. The liquidation shall occur anytime within 30 days prior to the remittance. The owner of the property shall not have recourse against the holder or the administrator to recover any gain in value that occurs after the liquidation of the virtual currency for property properly reported as set forth in this chapter.

4) Municipal Equipment Loan Fund – The Municipal Equipment Loan Fund was created for the purpose of providing loans on favorable terms to municipalities for the purchase of construction, fire, emergency or heavy equipment vehicles. The proposed change below is an inflationary adjustment for the maximum loan amount. We are not seeking any additional appropriations to this fund.

5) *Sec. 1602. 29 V.S.A. chapter 61 is amended to read:*

6) *CHAPTER 61: Municipal Equipment Loan Fund*

7) *§ 1602. Application; loans; conditions*

8) *(a) Upon application of a municipality or two or more municipalities applying jointly, the State Treasurer may loan money from the Fund to that municipality or municipalities for the purchase of equipment. Purchases of equipment eligible for loans from the Fund shall have a useful life of at least five years and a purchase price of at least \$20,000.00 but shall not be eligible for loans in excess of ~~\$1~~50,000.00 from this Fund.*

9) *(b) The Treasurer is authorized to establish terms and conditions, including repayment schedules of up to five years for loans from the Fund to ensure repayment of loans to the Fund. Before a municipality may receive a loan from the Fund, it shall give to the Treasurer security for the repayment of the funds. The security shall be in such form and amount as the Treasurer may determine and may include a lien on the equipment financed by the loan.*

10) *(c) The rates of interest shall be as established by this section to assist municipalities in purchasing equipment upon terms more favorable than in the commercial market. Such rates shall be no more than two percent per annum for a loan to a single municipality, and loans shall bear no interest charge if made to two or more municipalities purchasing equipment jointly.*

11)(d) In any fiscal year, new loans from the Municipal Equipment Fund shall not exceed an aggregate of \$1,500,000.00. The Treasurer shall put forth recommendations to the General Assembly on maximum loan amount every five years, commencing January 15, 2028, based on requests received and loans granted pursuant to this chapter.

- 5) **Emergency Personnel Survivors Benefit Fund** – Survivors of emergency personnel who die while in the line of duty or from an occupation-related illness may apply for a monetary benefit from this special fund. The proposed change below requests an inflationary adjustment to this benefit amount. No additional appropriation is requested for the fund at this time.

Sec. 3173. 20 V.S.A. chapter 181 is amended to read:

§ 3173. Monetary benefit

(a) The survivors of emergency personnel who dies while in the line of duty or from an occupation-related illness may apply for a payment of \$580,000.00 from the State.

(b) The State Treasurer shall disburse from the Special Fund established in section 3175 of this title the monetary benefit described in subsection (a) of this section and shall adopt necessary procedures for the disbursement of such funds.

- 6) **Vermont State Teachers' Retirement System (VSTRS) Cost of Living Adjustment (COLA)** – Please see the attached memorandum from the Treasurer's Office dated, January 3rd, 2023, and entitled "Actuarial Cost Update: Retired Teacher Cost-of-Living Adjustment Methodology," for further explanation on this point. Annotated proposed language will be included in a Word Document sent via email.