

1 H.766

2 Introduced by Representatives Burke of Brattleboro, Lalley of Shelburne, and  
3 Tomlinson of Winooski

4 Referred to Committee on

5 Date:

6 Subject: Taxation; local option tax; municipal revenue; gasoline; diesel fuel

7 Statement of purpose of bill as introduced: This bill proposes to create a new  
8 local option tax for municipalities to receive revenue from sales of gasoline  
9 and diesel fuel.

10 An act relating to a local option tax on gasoline and diesel sales

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 24 V.S.A. § 138 is amended to read:

13 § 138. LOCAL OPTION TAXES

14 (a) Local option taxes are authorized under this section for the purpose of  
15 affording municipalities an alternative method of raising municipal revenues.

16 Except as provided in subsection (h) of this section, and subject to certification  
17 by the Commissioner of Taxes, a local option tax shall be effective beginning  
18 on the next tax quarter following 90 days' notice to the Department of Taxes of  
19 the imposition.

10                   (5) a \$0.01 tax upon each gallon of diesel fuel sold or delivered by a  
11                   distributor.

(c)(1) Any tax Taxes imposed under the authority subdivisions (b)(1)–(3) of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes and subdivision (2) of this subsection; provided, however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. Taxes imposed under subdivisions (b)(4) and (5) of this section shall be collected and administered by the Department of Motor Vehicles in accordance with State law governing such tax. Except with respect to taxes collected on the sale of aviation jet fuel, a per-return fee of \$5.96 shall be assessed, 75 percent of which shall be borne by the

1 municipality, and 25 percent of which shall be borne by the State to be paid  
2 from the PILOT Special Fund. Notwithstanding 32 V.S.A. § 603 or any other  
3 provision of law or municipal charter to the contrary, revenue from the fee  
4 shall be used to compensate the ~~Department~~ Departments for the costs of  
5 administering and collecting the local option tax and of administering the State  
6 appraisal and litigation program established in 32 V.S.A. § 5413. The fee shall  
7 be subject to the provisions of 32 V.S.A. § 605.

8 (2) Notwithstanding any other law or municipal charter to the contrary,  
9 if the applicable Commissioner determines that local option tax was collected  
10 on a transaction in a municipality not authorized to impose local option tax  
11 under this section, the Commissioner shall either refund the erroneously  
12 collected tax pursuant to 27 V.S.A. chapter 27 or 28, or 32 V.S.A. chapter 233  
13 or 225 or, if the purchaser cannot reasonably be determined, deposit the  
14 erroneously collected tax as required for State diesel fuel and gasoline taxes  
15 pursuant to 19 V.S.A. § 11(2); State sales and use tax pursuant to 16 V.S.A.  
16 § 4025(a)(6); or State meals and rooms tax pursuant to 10 V.S.A. § 1388(a)(4),  
17 16 V.S.A. § 4025(a)(4), and 32 V.S.A. § 435(b)(7).

18 (d)(1) Except as provided in subsection (c) of this section and subdivision  
19 (2) of this subsection with respect to taxes collected on the sale of aviation jet  
20 fuel, of the taxes collected under this section, 75 percent of the taxes shall be  
21 paid on a quarterly basis to the municipality in which they were collected, after

1 reduction for the costs of administration and collection under subsection (c) of  
2 this section. Revenues received by a municipality may be expended for  
3 municipal services only, and not for education expenditures. Any remaining  
4 revenue shall be deposited into the PILOT Special Fund established by 32  
5 V.S.A. § 3709.

6 (2)(A) Of the taxes collected under this section on the sale of aviation jet  
7 fuel, on a quarterly basis, 70 percent of the taxes shall be paid to the  
8 municipality in which they were collected, and 30 percent shall be deposited in  
9 the Transportation Fund.

10 (B) All revenues referenced in subdivision (A) of this subdivision (2)  
11 shall be used exclusively for aviation purposes consistent with 49 U.S.C.  
12 § 47133 and Federal Aviation Administration regulations and policies.

13 (e) As used in this section, “municipality” means a city, town, or  
14 incorporated village.

15 (f) Nothing in this section shall affect the validity of any existing provision  
16 of law or municipal charter authorizing a municipality to impose a tax similar  
17 to the local option taxes authorized in this section.

18 (g) If the legislative body of a municipality by a majority vote recommends  
19 or by petition of ten percent of the voters of a municipality recommends, the  
20 voters of a municipality may at an annual or special meeting warned for that

1 purpose by a majority vote of those present and voting rescind any or all of the  
2 local option taxes assessed under subsection (b) of this section.

3 (h)(1) The Commissioner of Taxes may limit the number of municipalities  
4 enacting a local option tax under subsection (b) of this section to five per  
5 calendar year. For local option taxes authorized under subdivisions (b)(4) and  
6 (5) of this section, the Commissioner of Taxes shall consult with the  
7 Commissioner of Motor Vehicles before acting pursuant to this subsection.

8 (2) The Commissioner of Taxes shall certify the first five notices from  
9 municipalities it receives under subsection (a) of this section in each calendar  
10 year and those municipalities may proceed to assess a local option tax  
11 according to subsection (a) of this section.

12 (3) In the Commissioner's discretion, after receiving notice from the  
13 fifth municipality pursuant to subsection (a) of this section in a calendar year,  
14 the Commissioner of Taxes may delay certification, or reject further notices for  
15 that year, if the Commissioner determines that additional certifications would  
16 cause an undue burden on tax administration.

17 (i) As used in this section:  
18 (1) “Diesel fuel” means “fuel” as defined in 23 V.S.A. § 3002.  
19 (2) “Distributor” means “distributor” as defined in 23 V.S.A. § 3002 or  
20 3102.

1                   (3) “Gasoline motor fuel” means “gasoline or other motor fuel” as is set  
2                   forth in 23 V.S.A. § 3102, except that it shall not include aviation gasoline.

3                   Sec. 2. EFFECTIVE DATE

4                   This act shall take effect on January 1, 2027.