

No. 160. An act relating to miscellaneous tax provisions.

(H.783)

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

* * * General Provisions * * *

Sec. 1. 32 V.S.A. § 312 is amended to read:

§ 312. TAX EXPENDITURE REPORT

(a) For purposes of this section, “tax expenditure” shall mean the actual or estimated loss in tax revenue resulting from any exemption, exclusion, deduction, or credit applicable to the tax.

(b) Tax expenditure reports. Biennially, as part of the budget process, beginning January 15, 2009, the department of taxes and the joint fiscal office shall file with the house committees on ways and means and appropriations and the senate committees on finance and appropriations a report on tax expenditures in the personal and corporate income taxes, sales and use tax, and meals and rooms tax ~~returns~~, insurance premium tax, ~~and~~ bank franchise tax ~~returns~~, ~~and~~ education property tax ~~grand lists~~, diesel fuel tax, gasoline tax, motor vehicle purchase and use tax, and such other tax expenditures for which the joint fiscal office and the tax department jointly have produced revenue estimates. Legislative council shall also be available to assist with this tax expenditure report. The report shall include, for each tax expenditure, the following information:

- (1) A description of the tax expenditure.

(2) The most recent fiscal information available on the direct cost of the tax expenditure in the past two years.

(3) The date of enactment of the expenditure.

(4) A description of and estimate of the number of taxpayers directly benefiting from the expenditure provision.

(c) Based on the information contained in the tax expenditure report, the commissioner shall recommend to the general assembly that any expenditure that has cost less than \$50,000.00 or has been claimed by fewer than ten taxpayers in each of the three preceding years be repealed two years hence.

Sec. 2. FUTURE TAX EXPENDITURE REPORTS

(a) The report due January 15, 2011, shall include the pass-through of federal tax expenditures from personal income tax reported on Federal Schedule A to Form 1040.

(b) No later than January 15, 2012, the department of taxes, the joint fiscal office, and legislative council shall research other state tax expenditure reports and federal tax code to determine which federal exemptions, exclusions, deductions, and other adjustments that pass through to Vermont should be included in future tax expenditure reports. The report shall include specific recommendations with respect to further development of tax expenditure reporting.

(c) The report due on January 15, 2013, shall include the information in subsection (b) of this section plus any specific recommendation by the general assembly in response to the report presented on January 15, 2012.

(d) The report due on January 15, 2015, shall include the information required by 32 V.S.A. § 312(b) plus a list of any additional federal tax expenditures affecting Vermont taxable income that the department and the joint fiscal office believe can reasonably be identified and quantified.

(e) It is the intent of the legislature to continue reviewing tax expenditure reporting in general and the specific recommendations made pursuant to subsection (b) of this section so that future tax expenditure reports will become an increasingly useful tool in the budget process.

(f) The department of motor vehicles shall provide the department of taxes, the joint fiscal office, and legislative council the data available from the diesel fuel tax, gasoline tax, and the motor vehicle purchase and use tax.

Sec. 3. Sec. B.503 (state placed students) of H.789 of 2009, Adj. Sess., as enacted, is amended to read:

Sec. B.503 Education - state-placed students

Grants	15,700,000 <u>15,300,000</u>
Total	15,700,000 <u>15,300,000</u>
Source of funds	
Education fund	15,700,000 <u>15,300,000</u>

Total	15,700,000 <u>15,300,000</u>
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Sec. 4. 32 V.S.A. § 3201(a)(4) is amended to read:

(4) For the purpose of ascertaining the correctness of any return or making a determination of the tax liability of any taxpayer, examine or cause to be examined by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda of the taxpayer bearing upon the matters required to be included in any return. The commissioner or such designated officers may require the attendance of the taxpayer or of any other person having knowledge in the premises, at any place in the county where the taxpayer or person resides or has a place of business, or in Washington County if the taxpayer is a nonresident individual, estate, trust or is a corporation or business entity not having a place of business in this state, and may take testimony and require proof material and may administer oaths or take acknowledgment in respect of any return or other information required by this title or the rules, regulations, and decisions of the commissioner. If an individual, estate, trust, corporation, or other business entity fails after request to provide books, records, or memoranda at either its place of business within the state or Washington County, the commissioner may charge the person a reasonable per diem fee and expenses for the auditor making the examination out of state. The charges shall be payable within 30 days of the date billed and may be collected in the manner provided for the collection of taxes in this title.

Sec. 5. 32 V.S.A. § 5404(b) is amended to read:

(b) Annually, on or before August 15, the clerk of a municipality, or the supervisor of an unorganized town or gore, shall transmit to the director in an electronic or other format as prescribed by the director: education and municipal grand list data, including exemption information and grand list abstracts; tax rates; and the total amount of taxes assessed in the town or unorganized town or gore. The data transmitted shall identify each parcel by a parcel identification number assigned under a numbering system prescribed by the director. Municipalities may continue to use existing numbering systems in addition to, but not in substitution for, the parcel identification system prescribed by the director. If changes or additions to the grand list are made by the listers or other officials authorized to do so after such abstract has been so transmitted, such clerks shall forthwith certify the same to the director.

Sec. 6. 32 V.S.A. § 5938 is amended to read:

§ 5938. COLLECTION ASSISTANCE FEES

Annually the department shall ~~assess each participating claimant agency that portion of~~ determine the actual per-offset costs incurred by the department in setting off debts ~~that the number of refunds transferred to the claimant agency in accordance with subsection 5934(b) of this chapter bears to the total number of refunds transferred to claimant agencies by~~ and notwithstanding

section 502 of this title, the department may assess against a debtor a collection assistance fee equal to the per-offset cost so determined.

Sec. 7. 32 V.S.A. § 5942 is added to read:

§ 5942. OFFSET FOR TAXES OWED IN ANOTHER STATE;

RECIPROCITY

(a) Upon the request and certification of a tax officer of a claimant state to the commissioner that a taxpayer owes taxes to the claimant state and that the debt is fixed and no longer subject to appeal under the laws of that state, the commissioner may set off any refund that it owes to the taxpayer against the amount of the certified debt and pay that amount to the requesting state.

(b) The commissioner shall not set off any debt unless the laws of the requesting state allow the commissioner, in cases where the taxpayer owes taxes to this state, to certify that a tax is owed and to request a tax officer of the requesting state to set off any refund owed to the taxpayer and pay that amount to this state.

* * * Local Option Tax Administration Fee * * *

Sec. 8. 24 V.S.A. § 138(c) is amended to read:

(c) Any tax imposed under the authority of this section shall be collected and administered by the department of taxes, in accordance with state law governing such state tax or taxes; 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. ~~Seventy A~~ per-return fee of \$9.52 shall be assessed to compensate the department for the costs of administration and collection, 70 percent of the costs of administration and collection which shall be borne by the municipality, and 30 percent of which shall be borne by the state to be paid from the pilot special fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

* * * Uninhabitable Property * * *

Sec. 9. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable, to recover all expenses incident to the maintenance of the uninhabitable building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the

habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and including provisions for an administrative appeals process.

* * * Vermont Employment Growth Incentives * * *

Sec. 10. 32 V.S.A. § 5930b(d) is amended to read:

(d) Recapture. To the extent a business authorized to earn employment growth incentives under this section experiences a 90-percent or greater drop below application base jobs or, in the case of a business with no jobs at the time its application is approved, a 90-percent or greater drop below its cumulative job target during any the utilization year period, all authority to earn and claim incentives pursuant to this section shall be revoked, and such business shall be subject to recapture of all incentives previously claimed, ~~including together with~~ interest and penalty. Notwithstanding any other statute of limitations provisions, for purposes of recapture under this section, the department of taxes shall issue a recapture bill any time within three years ~~from the receipt date of written notification from the business of the triggering drop in payroll or employment or three years from the last day of the end of the utilization period, whichever occurs first.~~ Any amounts subject to recapture under this subsection shall retain their character as withholding and shall be subject to the provisions of section 5844 of this title, including the provision concerning personal liability.

* * * Valuation of Land with Access to Recreational Trails * * *

Sec. 11. VALUATION OF LAND WITH ACCESS TO RECREATIONAL TRAILS

The director of property valuation and review shall convene a meeting of representatives of the Vermont Association of Snow Travelers, the Vermont Assessors and Listers Association, the Town of Canaan, the Vermont League of Cities and Towns, and other interested parties to review and discuss appropriate factors in assessing the value of land that has or is in proximity to recreational trails such as the statewide snowmobile trails, and report back to the house committee on ways and means and the senate committee on finance on the results of the discussions no later than January 15, 2011.

* * * Use Value Appraisal Program * * *

Sec. 12. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road or other structure, or any mining, excavation or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the

transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly-created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title, or contrary to the minimum acceptable standards for forest management; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the commissioner of forests, parks and recreation. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road or structure for other than farming, logging or forestry purposes.

Sec. 13. CURRENT USE ADVISORY BOARD; USE VALUE

CALCULATION METHODOLOGY

The current use advisory board established pursuant to 32 V.S.A. § 3753 has provided to the general assembly a document entitled “Methodology and Criteria used in the Determination of Vermont’s Use Values for the Current

Use Program,” dated April 12, 2010. The general assembly hereby deems that the document has the force and effect of administrative rules adopted pursuant to chapter 25 of Title 3 of the Vermont Statutes Annotated, and any proposed changes to the methodology or criteria as set forth in the document shall be subject to all of the provisions of chapter 25 of Title 3.

* * * CLA Calculation in TIF Districts * * *

Sec. 14. 32 V.S.A. § 5405(a) is amended to read:

(a) Annually, on or before April 1, the commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the state; provided, however, that for purposes of equalizing grand lists pursuant to this section, the equalized education property tax grand list of a municipality that establishes a tax increment financing district shall include the fair market value of the property in the district and not the original taxable value of the property.

* * * Excess Property Tax Payment * * *

Sec. 15. 32 V.S.A. § 6066a(f)(4) is amended to read:

(4) If the property tax adjustment amount as described in subsection (e) of this section exceeds the property tax, penalties, and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes

become due and payable or 20 days after notification of the adjustment amount by the commissioner of ~~education~~ taxes, whichever is later.

* * * Property Transfer Tax * * *

Sec. 16. 32 V.S.A. § 9605(a) is amended to read:

(a) The tax imposed by this chapter shall be paid to ~~a town clerk~~ the commissioner at the time of ~~the delivery to that clerk for recording of a deed evidencing~~ a transfer of title to property subject to the tax.

Sec. 17. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

(a) A property transfer return complying with this section shall be ~~filed with~~ delivered to a town clerk at the time of ~~the payment to the clerk of an amount of property transfer tax under section 9605 of this title, or at the time of the delivery to the clerk for recording of a deed evidencing a transfer of title to property which is not subject to the tax imposed by this chapter~~ is delivered to the clerk for recording.

* * *

(d) For receiving and acknowledging a property transfer return ~~and tax payment, if any,~~ under this chapter, there shall be paid to the town clerk at the time of filing a fee ~~of \$10.00~~ as provided for in subdivision 1671(a)(6) of this title.

* * *

Sec. 18. 32 V.S.A. § 9607 is amended to read:

§ 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

Upon the receipt by a town clerk of a property transfer return and certificate, ~~complete and regular on its face, together with the tax payment, if any, called for by that return,~~ and the fee required under ~~the preceding section~~ subdivision 1671(a)(6) of this title, the clerk shall forthwith mail or otherwise deliver to the transferee of title to property with respect to which such return was filed a signed and written acknowledgment of the receipt of that return, ~~and certificate and payment.~~ A copy of that acknowledgment, or any other form of acknowledgment approved by the commissioner, shall be affixed to the deed evidencing the transfer of property with respect to which the return and certificate was filed. The acknowledgment so affixed to a deed, however, shall not disclose the amount of tax paid with respect to any return or transfer.

Sec. 19. 32 V.S.A. § 9608(a) is amended to read:

(a) Except as to transfers which are exempt pursuant to subdivision 9603(17) of this title, no town clerk shall record, or receive for recording, any deed to which ~~has not been affixed an acknowledgment of return and tax payment under section 9607 of this title~~ is not attached a properly executed transfer tax return, complete and regular on its face, and a certificate in the form prescribed by the land use panel of the natural resources board and the commissioner of the department of taxes signed under oath by the seller or the

seller's legal representative, that the conveyance of the real property and any development thereon by the seller is in compliance with or exempt from the provisions of chapter 151 of Title 10. The certificate shall indicate whether or not the conveyance creates the partition or division of land. If the conveyance creates a partition or division of land, there shall be appended the current "Act 250 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who violates this section shall be fined \$50.00 for the first such offense and \$100.00 for each subsequent offense. A person who purposely or knowingly falsifies any statement contained in the certificate required is punishable by fine of not more than \$500.00 or imprisonment for not more than one year, or both.

Sec. 20. 32 V.S.A. § 9610(a) is amended to read:

(a) Not later than 30 days after the receipt of any property transfer return ~~or payment of tax under this chapter~~, a town clerk shall file the return in the office of the town clerk and electronically forward one a copy of that the acknowledged return and the amount of tax paid with respect thereto to the commissioner; provided, however, that with respect to a return filed in paper format with the town, the commissioner shall have the discretion to allow the town to forward a paper copy of that return to the department.

* * * Clarendon Education Payment * * *

Sec. 21. CLARENDON EDUCATION PAYMENT

Notwithstanding 32 V.S.A. § 5402(c), the commissioner of education shall use the education grand list values provided by the town of Clarendon to the department of taxes on May 1, 2009, to calculate Clarendon's final fiscal year 2009 education property tax liability. Any resulting additional aid shall be credited to the Clarendon school district in fiscal year 2010 on the municipality's fiscal year 2011 education tax liability to the education fund.

* * * Property Tax Exemption for Certain Skating Rinks * * *

Sec. 22. Sec. 40 of No. 190 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR SKATING
RINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from education property taxes for fiscal years 2009 ~~and~~, 2010, and 2011 only.

* * * Property Tax Adjustment and Renter Rebate * * *

* * * Definition of Modified Adjusted Gross Income for * * *

Sec. 23. 32 V.S.A. § 6061(5) is amended to read:

(5) “Modified adjusted gross income” means “federal adjusted gross income”:

(A) before the deduction of any trade or business loss, loss from a partnership, loss from a small business or “subchapter S” corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain;

(B) with the addition of the following, to the extent not included in adjusted gross income: alimony, support money other than gifts, gifts received by the household in excess of a total of \$6,500.00 in cash or cash-equivalents, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, the portion of Roth IRA distributions representing investment earnings and not included in adjusted gross income, railroad retirement benefits, payments received under the federal Social Security Act, ~~and~~ all benefits under Veterans’ Acts, ~~and~~ federal pension

and annuity benefits not included in adjusted gross income; nontaxable interest received from the state or federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the commissioner may require; ~~and~~

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or disabled adult child; or payments made by the state pursuant to chapters 49 and 55 of Title 33 for foster care, or payments made by the state or an agency designated in ~~section 18 V.S.A. § 8907 of Title 18~~ section 18 V.S.A. § 8907 of Title 18 for adult foster care or to a family for the support of an eligible person with a developmental disability. If

the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in ~~section 33 V.S.A. § 6321 of Title 33~~) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a certificate in a form satisfactory to the commissioner be submitted which supports the claim; and

(D) with the addition of an asset adjustment of 1 × the sum of interest and dividend income included in household income above \$10,000.00, regardless of whether that dividend or interest income is included in federal adjusted gross income.

* * * Definitions of Modified Adjusted Gross Income for * * *

Sec. 24. 32 V.S.A. § 6061(4), (5), and (7) are amended to read:

(4) "Household income" means modified adjusted gross income, but not less than zero, received in a calendar year by:

* * *

(5) "Modified adjusted gross income" means "federal adjusted gross income":

* * *

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or disabled adult child; or payments made by the state pursuant to chapters 49 and 55 of Title 33 for foster care, or payments made by the state or an agency designated in 18 V.S.A. § 8907 for adult foster care or to a family for the support of an eligible person with a developmental disability. If the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in 33 V.S.A. § 6321) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a

certificate in a form satisfactory to the commissioner be submitted which supports the claim; ~~and~~

(D) without the inclusion of adjustments to total income except certain business expenses of reservists, one-half of self-employment tax paid, alimony paid, and deductions for tuition and fees; and

(E) with the addition of an asset adjustment of $1 \times$ the sum of interest and dividend income included in household income above \$10,000.00, regardless of whether that dividend or interest income is included in federal adjusted gross income.

(7) ~~“Rent constituting property taxes”~~ “Allocable rent” means for any housesite and for any taxable year, ~~at the claimant’s option, (A) 21 percent of the gross rent or (B) that portion of the gross rent which equals the property tax assessed for payment in the calendar year allocable to the claimant’s rental unit for the period rented by the claimant.~~ “Gross rent” means the rent actually paid during the taxable year by the individual or other members of the household solely for the right of occupancy of the housesite during the taxable year. ~~If a claimant’s rent is government subsidized, the property tax allocable to the claimant’s rental unit shall be reduced in the same proportion as the rent is reduced by the subsidy.~~ ~~“Rent constituting property taxes”~~ “Allocable rent” shall not include payments made under a written homesharing agreement pursuant to a nonprofit homesharing program, or payments for a room in a

nursing home in any month for which Medicaid payments have been made on behalf of the claimant to the nursing home for room charges.

Sec. 25. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of \$90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than \$90,000.00 but more than \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, ~~minus the applicable percentage of household income for the taxable year~~ minus (if less) the sum of:

(i) the applicable percentage of household income for the taxable year; plus

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$500,000.00.

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the sum of the applicable percentage of household income for the taxable year plus the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$500,000.00;

or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

~~(D) A claimant whose household income does not exceed \$90,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.~~

(2) “Applicable percentage” in this section means two percent, multiplied by the district spending adjustment under subdivision 5401(13) of this title for the property tax year which begins in the claim year for the

municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than two percent.

(3) a claimant whose household income does not exceed \$47,000.00 shall also be entitled to an additional adjustment amount equal to the amount by which the property taxes for the municipal fiscal year which began in the taxable year upon the claimant's housesite, reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection, exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in excess of this percent of that income:
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\$0 – 9,999.00	2.0
\$10,000.00 – 24,999.00	4.5
\$25,000.00 – 47,000.00	5.0

(4) Credit limitation. In no event shall the credit provided for in subdivision (3) of this subsection exceed the amount of the reduced property tax.

Sec. 26. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

~~(a)~~ Upon written request by a tenant before January 1, the owner of the rental unit shall provide to that tenant, by January 31, a certificate of rent constituting property tax for the preceding calendar year, which shall include a certificate of property tax allocable to the rental unit indicating the proportion of total property tax on that unit or parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.

~~(b)~~(a) By January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to each claimant who owned a portion of the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.

~~(c)~~(b) The owner of each rental property consisting of more than ~~four~~ one rented homestead shall, not later than January 31 of each year, furnish a certificate of rent to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the

certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address. ~~An owner is not required to furnish a certificate under this section to a tenant who, at the time he or she entered into the rental agreement, or any later date, signed a waiver of the right to receive the certificate. The waiver shall not be a part of any written lease, but shall be a separate document. The tenant may revoke the written waiver at any time by providing the owner with written notice of the revocation. An owner shall not demand or require a tenant to sign a waiver as a condition of entering into or continuing a rental agreement. An owner shall not charge a higher rent, change any other condition of a rental agreement, or terminate a rental agreement because a tenant has failed or refused to sign a waiver or has revoked a waiver previously signed.~~

~~(d)~~(c) A certificate under this section shall be in a form prescribed by the commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the commissioner determines is appropriate.

~~(e)~~(d)(1) An owner who knowingly fails to furnish a certificate to a renter as required by this section shall be liable to the commissioner for a penalty of

~~\$100.00~~ \$200.00 for each failure to act. An owner shall be liable to the commissioner for a penalty equal to the greater of ~~\$100.00~~ \$200.00 or the excess amount reported who:

~~(1)(A)~~ (A) willfully furnishes a certificate that reports total ~~rent constituting property taxes~~ allocable rent in excess of the actual amount paid; or

~~(2)(B)~~ (B) reports a total amount of ~~rent constituting property taxes~~ allocable rent that exceeds by ten percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

~~(f)~~(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

Sec. 27. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the change in this act from “rent constituting property taxes” to “allocable rent.”

* * * Education Property Tax Rate * * *

Sec. 28. FISCAL YEAR 2011 EDUCATION PROPERTY TAX RATE

(a) For fiscal year 2011 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.35 per \$100.00;

and

(2) the tax rate for homestead property shall be \$0.86 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2011 only, “applicable percentage” in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.8 percent multiplied by the fiscal year 2011 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.8 percent.

Sec. 29. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2008~~ 2009, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Transferability of Downtown and Village Tax Credits * * *

Sec. 30. 32 V.S.A. § 5930dd(f) is added to read:

(f) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of an insurance credit certificate that an insurance company may accept in return for cash and for use in reducing its tax

liability under subchapter 7 of chapter 211 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years. The amount of the insurance credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting an insurance credit certificate shall provide to the state board a copy of any returns on which any portion of the allocated credit under this section was claimed.

Sec. 31. 32 V.S.A. § 5930ff is amended to read:

§ 5930ff. RECAPTURE

If, within five years after completion of the qualified project, either of the following events occurs, the applicant shall be liable for a recapture penalty in an amount equal to the total tax credit claimed plus an amount equal to any value received from a bank for a bank or insurance credit certificate; and any credit allocated but unclaimed shall be disallowed to the applicant:

* * *

* * * Estate Tax * * *

Sec. 32. 32 V.S.A. § 7488(b) is amended to read:

(b) If the commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state, with respect to the current and all preceding taxable

years, under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established pursuant to section 3108 of this title. That interest shall be computed from 45 days after the date the petition or amended return was filed ~~or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made, whichever is the later date.~~

* * * Estate Tax for 2011 and After * * *

Sec. 33a. 32 V.S.A. § 7442a(c) is amended to read:

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by ~~Section 26 U.S.C. § 2001 of the Internal Revenue Service Code~~ calculated ~~using as if the applicable credit exclusion amount under Section 26 U.S.C. § 2010 as in effect on January 1, 2008, were \$2,750,000.00, and~~ with no deduction under ~~Section 26 U.S.C. § 2058.~~

Sec. 33b. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on January 1, 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) the credit for state death taxes shall remain as provided for under ~~Sections~~ 26 U.S.C. §§ 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable ~~credit~~ exclusion amount ~~shall remain as provided for~~ under ~~Section~~ 26 U.S.C. § 2010 of the Internal Revenue Code as in effect on January 1, 2008 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were \$2,750,000.00; and

(3) the deduction for state death taxes under ~~Section~~ 26 U.S.C. § 2058 of the Internal Revenue Code shall not apply.

Sec. 33c. ESTATE TAX FOR TAX YEARS 2012 AND AFTER

(a) The Federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), which made substantial changes to federal estate tax laws, is currently scheduled to sunset on December 31, 2010. At that time, the federal estate tax laws will revert to the statutes in effect prior to enactment of EGTRRA.

(b) After EGTRRA sunsets, it is the intent of the general assembly to make the necessary amendments to chapter 190 of Title 32 so that Vermont estates will be subject to the estate tax laws in effect prior to 2002, which imposed a tax equal to the amount of the federal credit against state estate taxes (the “sponge” tax).

(c) It is the intent of the general assembly to make the necessary amendments to chapter 190 of Title 32 so that, for estates of decedents dying in 2012 or after, the amount of applicable credit otherwise available under 26 U.S.C. § 2010 is, for purposes of chapter 190, one of the following:

(1) if the federal applicable exclusion amount is \$2 million or less, then for purposes of chapter 190, the applicable credit shall be calculated for a federal exclusion amount of \$2 million; and

(2) if the federal applicable exclusion amount is more than \$2 million but not more than \$3.5 million, then for purposes of chapter 190, the applicable credit to be applied shall be equal to the federal credit amount; and

(3) if the federal applicable exclusion amount is more than \$3.5 million, then for purposes of chapter 190, the applicable credit shall be calculated for a federal exclusion amount of \$3.5 million.

* * * Tobacco Tax Provisions * * *

Sec. 34. 32 V.S.A. § 7702(21) is added to read:

(21) “Cigar” means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section or is a little cigar within the meaning of subdivision (6) of this section).

Sec. 35. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

(a) A tax is imposed on all cigarettes, little cigars, and roll-your-own tobacco held in this state by any person for sale, unless such products shall be:

(1) in the possession of a licensed wholesale dealer;

(2) in the course of transit and consigned to a licensed wholesale dealer or retail dealer; or

(3) in the possession of a retail dealer who has held the products for 24 hours or less.

(b) Payment of the tax on cigarettes under this ~~subsection~~ section shall be evidenced by the affixing of stamps to the packages containing the cigarettes. Where practicable, the commissioner may also require that stamps be affixed to packages containing little cigars or roll-your-own tobacco. Any cigarette, little cigar, or roll-your-own tobacco on which the tax imposed by this ~~subsection~~ section has been paid, such payment being evidenced by the affixing of such stamp or such evidence as the commissioner may require, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction the taxation of which by this state is prohibited by the constitution of the United States. The amount of taxes advanced and paid by a licensed wholesale dealer or a retail

dealer as herein provided shall be added to and collected as part of the retail sale price on the cigarettes, little cigars, or roll-your-own tobacco.

~~(b)~~(c) A tax is also imposed on all cigarettes, little cigars, and roll-your-own tobacco possessed in this state by any person for any purpose other than sale, as follows:

(1) This tax shall not apply to:

(A) products bearing a stamp affixed pursuant to this chapter; or

(B) products bearing a tax stamp affixed pursuant to the laws of another jurisdiction with a tax rate equal to or greater than the rate set forth in subsection (c) of this section; or

(C) products purchased outside the state by an individual in quantities of 400 or fewer cigarettes, little cigars, and ~~0.09~~ 0.0325 ounce units of roll-your-own tobacco, and brought into the state for that individual's own use or consumption. Products that are ordered from a source outside the state and delivered into this state are not "purchased outside the state" within the meaning of this subsection.

(2) There is allowed a credit against the tax under this subsection for cigarette, little cigars, or roll-your-own tobacco tax paid to another jurisdiction and evidenced by tax stamps affixed to the subject products pursuant to the laws of that jurisdiction.

(3) A person taxable under this ~~subsection~~ section shall, within 30 days of first possessing the products in this state, file a return with the commissioner, showing the quantity of products brought into the state. The return must be made in the form and manner prescribed by the commissioner and be accompanied by remittance of the tax due.

~~(e)~~(d) The tax imposed under this section shall be at the rate of 112 mills per cigarette or little cigar and for each ~~0.09~~ 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 36. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax is intended to be imposed only once

upon the wholesale sale of any tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$1.66~~ \$1.87 per ounce, or fractional part thereof, ~~and~~ new smokeless tobacco, which shall be taxed at the greater of ~~\$1.66~~ \$1.87 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$1.99~~ \$2.24 per package, and cigars with a wholesale price greater than \$1.08, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$1.08 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

* * * Sales and Use Tax * * *

Sec. 37. 32 V.S.A. § 5870 is amended to read:

§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX
RETURNS

The commissioner of taxes shall provide that individuals report use tax on their state individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability under chapter 233 of this title for the period of the tax return. Alternatively, they may elect to report an amount that is ~~0.04~~ 0.08 percent of their Vermont adjusted gross income, as shown on a table published by the commissioner of taxes; and use tax liability arising from the purchase of each item with a purchase price in excess of \$1,000.00 shall be added to the table amount.

Sec. 38. 32 V.S.A. § 9701(11) is amended to read:

(11) Place of ~~amusement~~ entertainment: means any place where any facilities for entertainment, recreation, amusement or sports are provided.

Sec. 39. STATUTORY REVISION

The legislative council is directed to revise Title 32 of the Vermont Statutes Annotated to reflect the change in this act of the term “place of amusement” to “place of entertainment.” This change in terminology is not a substantive change to the underlying meaning of the term.

Sec. 40a. ABATEMENT

All taxes, interest, and penalties assessed after January 1, 2010, based upon the provisions of 32 V.S.A. § 9743(3)(B) upon any organization qualified for exempt status under the provisions of 26 U.S.C. § 501(c)(3) or upon any agricultural organization qualified for exempt status under 26 U.S.C. § 501(c)(5) and related to a performance which occurred after September 30, 2006, and before January 1, 2010, and for which the organization did not collect sales tax on charges for admission, are hereby abated.

Sec. 40b. NONPROFIT ORGANIZATION AMUSEMENT TAX FROM
JANUARY 1, 2010, TO APRIL 1, 2011

Any performance produced or presented by an organization qualified for exempt status under the provisions of 26 U.S.C. § 501(c)(3), or an agricultural organization qualified for exempt status under 26 U.S.C. § 501(c)(5), regardless of whether the performance is considered to be jointly produced or presented, and which occurs after December 31, 2009, and before April 1, 2011, or which arises out of a written contract offer, or contract entered into, after December 31, 2009, and before June 1, 2010, shall be exempt from sales tax on amusements.

Sec. 41. 32 V.S.A. § 9743 is amended to read:

§ 9743. ORGANIZATIONS NOT COVERED

Any sale, service, or ~~amusement~~ admission to a place of entertainment charged by or to any of the following or any use by any of the following are not subject to the sales and use taxes imposed under this chapter:

(1) The state of Vermont, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when it is the purchaser, user or consumer, or when it is a vendor of services or property of a kind not ordinarily sold by private persons, or when it charges for admission to any ~~amusement~~ entertainment; except that a ~~performance jointly produced or presented by it and another person shall not be exempt from amusement tax unless it meets the joint production requirements imposed on a qualified organization under subdivision (3)(B) of this section and sales of~~ alcoholic beverages shall not be exempt from sales tax.

* * *

(3) Organizations which qualify for exempt status under the provisions of ~~Section~~ 26 U.S.C. § 501(c)(3) of the ~~United States Internal Revenue Code~~ and agricultural organizations, qualified for exempt status under ~~Section~~ 26 U.S.C. § 501(c)(5), when presenting agricultural fairs, field days or festivals, as amended, shall be exempt as follows:

(A) The organization first shall have obtained a certificate from the commissioner stating that it is entitled to the exemption. The commissioner shall issue a certificate to any organization which has received federal certification of Section 501(c)(3) status and may issue a certificate to any other qualified organization.

(B) ~~Amusement charges~~ Charges for admission to a place of entertainment by, and sales to or uses by such organizations shall be exempt from the tax under this chapter; ~~except performances jointly produced or presented by a qualified organization and another person shall not be exempt from amusement tax under this section unless the organization bears the entire risk of loss of the production; the other person does not share in the profits of, and is not a party to any contracts with the performers related to, the production; and the organization is solely responsible for collection of all receipts and payment of all expenses associated with the production and accounts for the receipts and expenses on its books and records.~~

(C) Sales other than ~~amusement~~ entertainment charges by qualified Section 501(c)(3) organizations shall be exempt if the organization's gross sales of tangible personal property and services which would be subject to tax under this chapter but for this subdivision, in the prior year, did not exceed \$20,000.00.

(D) Sales of fresh cut flowers only, by a qualified Section 501(c)(3) organization, during a single annual sales event not to exceed seven days, shall be exempt.

(4) Sales of building materials and supplies to be used in the construction, reconstruction, alteration, remodeling or repair of: (A) any building structure, or other public works owned by or held in trust for the benefit of any governmental body or agency mentioned in subdivisions (1) and (2) of this section and used exclusively for public purposes; (B) any building or structure owned by or held in trust for the benefit of any organization described in subdivision (3) and used exclusively for the purposes upon which its exempt status is based; and (C) any building or structure owned by a ~~“development corporation” as defined in subdivision 202(4) of Title 10 and any “local development corporation” as defined in subdivision 222(4) of Title 10~~ V.S.A. § 212(10), and used exclusively for the purposes authorized in chapter ~~HA~~ 12 of Title 10; provided, however, that the governmental body or agency, the organization, or the development corporation has first obtained a certificate from the commissioner stating that it is entitled to the exemption and the vendor keeps a record of the sales price of each separate sale, the name of the purchaser, the date of each separate sale, and the number of the certificate. In this subdivision the words “building materials and supplies” shall include all materials and supplies consumed, employed or expended in the construction,

reconstruction, alteration, remodeling, or repair of any building, structure, or other public work as well as the materials and supplies physically incorporated therein.

(5) Organizations which qualify for exempt status under the provisions of ~~Section~~ 26 U.S.C. § 501(c)(4)-(13) and (19), and political organizations as defined in ~~Section~~ 26 U.S.C. § 527(e), ~~of the United States Internal Revenue Code~~, as the same may be amended or redesignated, other than organizations which qualify for exempt status under the provisions of ~~Section~~ 26 U.S.C. § 501(c)(4) ~~of the United States Internal Revenue Code~~ whose bylaws provide for the contribution of their net income to organizations which qualify for exempt status under the provisions of ~~Section~~ 26 U.S.C. § 501(c)(3) ~~of the United States Internal Revenue Code~~, shall not be exempt from taxation of the sale or use of tangible personal property as defined in section 9701 of this title, but shall be exempt from the sales and use tax upon ~~amusement~~ entertainment charges as defined in section 9701, in the case of not more than four special events (not including usual or continuing activities of the organization) held in any calendar year, and which, in the aggregate, are not held on more than four days in such year, and which are open to the general public. In case the organization holds more than four such special events a year, or such events are held on more than four days in a year, the organization may elect the events or the days to which the exemption provided by this subsection shall apply, by

giving prior notice to the commissioner. This subdivision shall not apply to agricultural organizations governed by subdivision (3) of this section.

(6) A school or municipality; provided, however, that a vendor who is required to register with the commissioner pursuant to section 9707 of this title who receives a share of the proceeds from the sale of property at a school or municipal premises shall collect and remit tax on the total sale price of such sales regardless of who is the direct recipient of the payment. For the purposes of this subdivision, “school” means a school as defined in 16 V.S.A. § 11(7) and (8) and “municipality” means a city, town, unorganized town, village, grant, or gore.

(7) An exemption under subdivisions (3) and (5) of this section shall not be available for entertainment charges for admission to a live performance by an organization whose gross sales of entertainment charges by or on behalf of an organization for admission to live performances in the prior calendar year exceeded \$50,000.00.

* * * Petroleum Cleanup Fund * * *

Sec. 42. 10 V.S.A. § 1941(b)(1)(A) is amended to read:

(A) an underground storage tank defined as a category one tank after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with

capacities equal to or less than 1,100 gallons used for farms or residential purposes. Disbursements on any site shall not exceed ~~\$990,000.00~~ \$1,240,000.00. These disbursements shall be made from the motor fuel account;

Sec. 43. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this state, which will be assessed against every distributor, dealer or user as defined in ~~23 V.S.A.~~ chapters 27 and 28 of Title 23, and which will be deposited into the petroleum cleanup fund established pursuant to subsection 1941(a) of this title. ~~After analysis of the projected unencumbered fund balance, the~~ The secretary, in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc.~~ may make a recommendation petroleum cleanup fund advisory committee established pursuant to subsection 1941(e) of this title, shall annually report to the legislature ~~as to whether or not to assess the one cent licensing fee for the upcoming year~~ on the balance of the motor fuel account of the fund and shall make recommendations, if any, for changes to the program. The secretary shall also determine the unencumbered balance of the motor fuel account of the fund as of May 15 of each year, and if the balance is equal to or greater than \$7,000,000.00, then the licensing fee shall not be

assessed in the upcoming fiscal year. The secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year.

This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the commissioner of motor vehicles and deposited into the petroleum cleanup fund. This fee requirement shall terminate on April 1, 2016.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this state and not used to propel a motor vehicle, a licensing fee of ~~one-half~~ one cent per gallon of such heating oil, kerosene, or other dyed diesel fuel. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund established pursuant to subsection 1941(a) of this title. ~~After analysis of the projected unencumbered fund balance, the~~ The secretary, in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. may make a recommendation~~ petroleum cleanup fund advisory committee established pursuant to subsection 1941(e) of this title, shall annually report to the legislature as to whether or not to assess the ~~one-cent licensing fee for the upcoming year~~ on the balance of the heating fuel

account of the fund and shall make recommendations, if any, for changes to the program. The secretary shall also determine the unencumbered balance of the heating fuel account of the fund as of May 15 of each year, and if the balance is equal to or greater than \$3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year.

This fee provision shall terminate April 1, 2016.

* * * Fuel Gross Receipts Tax * * *

Sec. 44. 33 V.S.A. § 2503(a) is amended to read:

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

(1) heating oil, kerosene, and other dyed diesel fuel ~~not used to propel a motor vehicle~~ delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

* * * State Collection of Education Property Tax * * *

Sec. 45. STATE COLLECTION OF EDUCATION PROPERTY TAX

No later than July 15, 2011, the department of taxes shall provide the joint fiscal committee with a feasibility report on developing an electronic system for the department's administration, billing, and collection of the education property tax provided for in chapter 135 of Title 32.

* * * Blue Ribbon Tax Structure Commission – Education Finance * * *

Sec. 46. FUTURE OF EDUCATION GOVERNANCE AND EDUCATION
FINANCE

(a) The blue ribbon tax structure commission created in Sec. H.56 of No. 1 of the Acts of the Special Session of 2009 shall, with the aid of public hearings and other public involvement:

(1) Goals. In consultation with the house committees on education and on ways and means and the senate committees on education and on finance, identify the five most important short-term goals and the five most important long-term goals for an education system, taking into account the following: student educational achievement, education governance, finance, spending controls, and cost savings; and design a quantifiable nonmonetary measure of whether schools provide a “substantially equal educational opportunity” for student educational achievement; and report its findings by April 1, 2011.

(2) Evaluation. Evaluate Vermont's current education governance, finance, and spending control systems in light of the goals established in subdivision (1) of this subsection, the current education governance model, and the proposed changes to education governance made by the general assembly and determine the elements of the current systems which achieve these goals well and should be maintained and those elements which do not achieve these goals well and should be modified or eliminated and report its findings by June 1, 2011.

(3) Proposals. Develop new systems of education finance, spending controls, and cost savings guided by but not limited to the goals established in subdivision (1) of this subsection and the elements identified in subdivision (2) of this subsection to be maintained, modified, or eliminated and report its proposals by September 15, 2011.

(b) Advisory panel. In order to facilitate its study of these education systems, the commission may appoint an advisory panel of individuals who have a familiarity with education assessment, education governance, or education finance and have a demonstrated commitment to supporting a high-quality and efficient public education system with high outcomes and have demonstrated an understanding of both the state and local aspects of public education in Vermont. The advisory panel may include professionals in education and in taxation; representatives of municipal government, of the

education community, of taxpayers, or of other interests; civic-minded Vermonters; or others as the commission may determine, but shall not include current members of the general assembly. The commission may delegate fact-finding and other supporting tasks to the advisory panel and may request the panel to participate in any meetings or hearings of the commission; and the panel may itself convene meetings, including public hearings.

(c) Reports. All reports required in this section shall be submitted to the house committees on education and on ways and means and to the senate committees on education and on finance and to the house clerk and the senate secretary.

(d) The house committees on education and on ways and means and the senate committees on education and on finance may meet in October, November, and December 2011 to consider and propose legislation based upon the reports of the commission under this section for the 2012 session.

(e) To advance the purpose for which it was formed and any education-related purpose with which it is charged during the 2009–2010 biennium, the commission shall also examine and propose an appropriate balance between education funding from education property taxes and education funding from the general fund and other source and analyze and recommend alternative means of maintaining the balance. In fiscal year 2011, the balance will be 68.2 percent of education funding from education property

tax revenues and 31.8 percent of education funding from the general fund and other education funding sources. In comparison, in fiscal year 2005, that balance was 60.8 percent and 39.2 percent, respectively. The committee shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before September 15, 2011.

* * * One-Time Homestead Declaration * * *

Sec. 47. 32 V.S.A. § 5410(b) and (g) are amended to read:

(b)(1) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made for property that was acquired by the declarant or was made the declarant's homestead after April 1 of the previous year. The declaration of homestead shall remain in effect until the earlier of:

(A) the transfer of title of all or any portion of the homestead; or

(B) that time that the property or any portion of the property ceases to qualify as a homestead.

(2) Within 30 days of the transfer of title of all or any portion of the homestead, or upon any portion of the property ceasing to be a homestead, the

declarant shall provide notice to the commissioner on a form to be prescribed by the commissioner.

* * *

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, or fails to file a notice of transfer or change in qualification pursuant to subdivisions (b)(1)(A) and (B) of this section, the commissioner shall notify the municipality and the municipality shall issue a corrected tax bill that includes a penalty in an amount equal to three percent of the education tax on the property if the municipality's nonresidential tax rate is higher than the municipality's homestead tax rate for the tax year to which the declaration or failure pertains, or in any other case shall assess the taxpayer a penalty in an amount equal to eight percent of the education tax on the property. ~~The municipality shall also assess the taxpayer a penalty in an amount equal to one percent of the education tax on the property; or if~~ If the commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission

shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

* * * Vermont Veterans' Fund * * *

Sec. 48. 20 V.S.A. § 1548 is added to read:

§ 1548. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont veterans' fund. This fund shall be administered by the state treasurer and shall be paid out in grants on the recommendations of a nine-member committee comprised of:

(1) The adjutant general or designee;

(2) The Vermont veterans home administrator or designee;

(3) The commissioner of the department of labor or designee;

(4) The secretary of the agency of human resources or designee;

(5) The director of the White River Junction VA medical center or designee;

(6) The director of the White River Junction VA benefits office, or designee; and

(7) Three members of the governor's veterans' council to be appointed by that council.

(b) The purpose of this fund shall be to provide grants or other support to individuals and organizations:

- (1) For the long-term care of veterans.
- (2) To aid homeless veterans.
- (3) For transportation services for veterans.
- (4) To fund veterans' service programs.
- (5) To recognize veterans.

(c) The Vermont veterans' fund shall consist of revenues paid into it from the Vermont veterans' fund checkoff established in 32 V.S.A. § 5862e and from any other source.

(d) For purposes of this section, "veteran" means a resident of Vermont who served on active duty in the United States armed forces or the Vermont national guard or Vermont air national guard and who received an honorable discharge.

Sec. 49. 32 V.S.A. § 5862e is added to read:

§ 5862e. VERMONT VETERANS' FUND CHECKOFF

(a) Returns filed by individuals shall include, on a form prescribed by the commissioner of taxes, an opportunity for the taxpayer to designate funds to the Vermont veterans' fund.

(b) Amounts designated under subsection (a) of this section shall be deducted from refund due to, or overpayment made by, the designating taxpayer. All amounts so designated and deducted shall be deposited in an account by the commissioner of taxes for payment to the Vermont veterans'

fund. If at any time after the payment of amounts so designated to the account it is determined that the taxpayer was not entitled to all or any part of the amount so designated, the commissioner may assess, and the account shall then pay to the commissioner, the amount received, together with interest at the rate prescribed by section 3108 of this title, from the date the payment was made until the date of repayment.

(c) The commissioner of taxes shall explain to taxpayers the purpose of the account and how to contribute to it. The commissioner shall provide notice in the instructions for the state individual income tax return as to how to obtain a copy of the annual income and expense report of the Vermont veterans' fund.

(d) If amounts paid with respect to a return are insufficient to cover both the amount owed on the return under this chapter and the amount designated as a contribution to the Vermont veterans' fund, the payment shall first be applied to the amount owed on the return under this chapter and the balance, if any, shall be deposited in the fund.

(e) Nothing in this section shall be construed to require the commissioner to collect any amount designated as a contribution to the Vermont veterans' fund.

Sec. 50. 32 V.S.A. § 5402b(c) is added to read:

(c) The commissioner shall include in the recommendation specific information on the total amount of annual education property tax adjustments,

the percentage of Vermont households that are provided an education property tax adjustment or renter rebate based on household income, and the dollar limitations that are used for each of the computations under this chapter. Based on the foregoing information, the commissioner shall make a recommendation regarding the dollar limitations provided for in statute and whether such limitations should be increased or decreased in order to maintain the same percentage level of households from the previous fiscal year that are eligible for an education property tax adjustment or renter rebate based on household income.

Sec. 51. REPEAL

(a) The following tax expenditures are repealed for tax years beginning on and after January 1, 2013:

(1) 32 V.S.A. § 5823(a)(6) (support payments for developmentally disabled persons); and

(2) 32 V.S.A. § 5826 (income from commercial film production credit).

(b) The following sections of Title 32 relating to homestead education property tax income sensitivity adjustments are repealed for claims filed on and after January 1, 2013:

(1) 32 V.S.A. § 6061(5)(E) (requiring adjustment for interest and dividend income for purposes of calculating modified adjusted gross income).

(2) The amendments in this act to 32 V.S.A. § 6066(a) regarding the equalized value of a housesite in excess of \$500,000.00.

(c) The following statutes regarding the Vermont campaign finance checkoff are repealed as follows:

(1) 32 V.S.A. § 5862c (providing for a checkoff on Vermont income tax returns for the Vermont campaign fund) is repealed effective for taxable years beginning on and after January 1, 2010.

(2) 17 V.S.A. § 2856(b)(5) (providing that revenues from the income tax return checkoff shall be deposited in the Vermont campaign fund) is repealed effective January 1, 2011.

(d) 32 V.S.A. § 5402b(c) (requiring additional education property tax information from the commissioner) is repealed effective April 15, 2011.

(e) No. M-4 of 1981 of the Acts of 1981 (relating to the agreement between Rutland City and Clarendon) is repealed effective upon passage of this act.

Sec. 52. USE OF TAX EXPENDITURE SAVINGS

Sec. 51(a)(1) of this act repeals the exemption from taxable income of certain amounts paid by the state to a taxpayer caring for a person with a developmental disability. It is the intent of the general assembly that the estimated \$5,000.00 in additional revenue to the state that is raised by this repeal be appropriated to the department on disabilities, aging, and independent living within the agency of human services.

* * * Repeal of Film Income Tax Provisions * * *

Sec. 53. 32 V.S.A. § 5823(b) is amended to read:

(b) For any taxable year, the Vermont income of a nonresident individual, estate or trust is the sum of the following items of income to the extent they are required to be included in the adjusted gross income of the individual or the gross income of an estate or trust for that taxable year:

- (1) Rents and royalties derived from the ownership of property located within this state.
- (2) Gains from the sale or exchange of property located within this state.
- (3) Wages, salaries, commissions or other income (excluding military pay for full-time active duty with the armed services and also excluding funds received through the federal armed forces educational loan repayment program under 10 U.S.C. chapters 109 and 1609; and also excluding the first \$2,000.00 of military pay for unit training in the state to National Guard and United States Reserve personnel for whom the adjutant general or reserve component commander certifies that the taxpayer completed all unit training of his or her unit during the calendar year, and who has a federal adjusted gross income of less than \$50,000.00) received with respect to services performed within this state; ~~and also excluding income received for a dramatic performance in a commercial film production to the extent such income would be excluded from personal income taxation in the state of residence.~~

(4) Income (other than income exempted from state taxation under the laws of the United States) derived from every business, trade, occupation or profession to the extent that the business, trade, occupation or profession is carried on within this state including any compensation received

(A) under an agreement not to compete with a business operating in Vermont;

(B) for goodwill associated with the sale of a Vermont business; or

(C) for services to be performed under a contract associated with the sale of a Vermont business, unless it is shown that the compensation for services does not constitute income from the sale of the business; ~~but excluding income received for a dramatic performance in a commercial film production to the extent such income would be excluded from personal income taxation in the state of residence.~~

* * *

* * * Downtown and Village Center Program – Winooski * * *

Sec. 54. VERMONT DOWNTOWN DEVELOPMENT BOARD

The authorization of the Vermont downtown development board to certify for reallocation to municipalities sales tax revenues under 32 V.S.A. § 9819 and award tax credits under subchapter 11J of chapter 151 of Title 32 is amended for fiscal year 2011 so that the limitations provided in 32 V.S.A. § 5930ee shall apply against a total amount of \$2,300,000 for the authorization

of sales tax reallocation and against a total amount of \$1,700,000 for the authorization of tax credits. Where a municipality in fiscal year 2011 is awarded both reallocation of sales tax revenues and tax credits, the limitations provided in 32 V.S.A. § 5930ee shall apply against a total annual authorization amount of \$2,300,000.

Sec. 55. START-UP BUSINESS COMPETITION

(a) There is hereby created a start-up business competition committee that will develop a competition to encourage entrepreneurs to incorporate start-up growth businesses in Vermont. The members of the committee shall be:

(1) The commissioner of the department of economic, housing and community development, or designee;

(2) The president of the Vermont Technology Council or designee.

(3) A member of the faculty or the BYOBiz program of Champlain College appointed by its president.

(4) A member of the faculty of Johnson State College appointed by its president.

(5) A member of the faculty or Middlebury Solutions Group of Middlebury College appointed by its president.

(6) A member of the faculty of Norwich University appointed by its president.

(7) A member of the faculty of the University of Vermont appointed by its president.

(8) The president of the Vermont Center for Emerging Technologies or designee.

(b) The commissioner of the department of economic, housing and community development shall chair the committee and shall call its first meeting no later than August 15, 2010. The committee shall develop a business start-up business competition and report its activities to the house committees on ways and means and on commerce and economic development and to the senate committees on finance and on economic development, housing and general affairs no later than January 15, 2011. The report shall address the following issues in detail:

(1) The specific industries, if any, targeted by the competition.

(2) The types of awards available for participants.

(3) The specific format for entering the competition.

(4) The membership of the judging body overseeing the competition.

(5) The specific criteria used to judge entries in the competition.

(c) The committee shall seek private sponsorships to offset the costs of the competition and to provide for awards for participants.

Sec. 56. ADAMANT FLOOD SUPPORT

The commissioner of finance and management shall disburse \$5,000.00 from the fund established pursuant to 17 V.S.A. § 2856 to the East Montpelier fire department to be used to assist any individuals who were displaced by the flood in the Village of Adamant on May 3–4, 2010.

Sec. 57. CITY OF RUTLAND; WATER AND SEWER RECONNECTION FEES

Notwithstanding the maximum allowable water and sewer reconnection fees set forth in 24 V.S.A. § 5151(b) and in the uniform notice form set forth in 24 V.S.A. § 5144, the City of Rutland may charge reconnection fees for normal hours not to exceed \$50.00 and for overtime not to exceed \$100.00.

* * * Hydroelectric Generating Plants * * *

Sec. 58. FINDINGS

The general assembly finds that:

(1) Valuations of hydroelectric generating plants based on short-term experience have often proven to be volatile due to the volatility of wholesale power markets.

(2) The value of these plants is a significant fraction of the grand lists of many Vermont towns, and it is therefore important that the value be credible.

(3) Currently, most of these plants are valued using a formula based on only one year's output and revenue, which can result in volatility in tax revenues from one year to the next.

(4) Analyses with long-term market projections are commonly used to establish a value that would be put on a plant by a willing buyer and willing seller; the use of such an analysis was affirmed by the Vermont supreme court in 2004.

(5) A reappraisal of hydroelectric stations on the Connecticut and Deerfield Rivers is being conducted by the department of taxes; the values reached in that reappraisal may be tested in the courts for years to come.

(6) There is a need to stabilize the values of hydroelectric generators while credible methodologies are devised and tested.

(7) Since some plants still have values that were set many years ago or set by agreement, there is also a need to allow towns that can justify increases in value to do so, provided such increases remain subject to appeal by the taxpayer.

Sec. 59. VALUATION OF HYDROELECTRIC GENERATING FACILITIES

For purposes of the education and municipal property tax grand lists and notwithstanding any other statute, the grand list value of hydroelectric facilities as of April 1, 2010, and continuing through January 1, 2012, shall be no lower

than the grand list value as of April 1, 2009, and the equalized value of these facilities shall be the equalized value as determined by the director of property valuation and review on or before January 1, 2010; provided, however, that this section shall not amend or modify existing agreements between municipalities and owners of hydroelectric facilities in effect on September 1, 2009, nor shall it prohibit tax stabilization or other agreements between municipalities and owners of hydroelectric generating facilities entered into after September 1, 2009, which do not reduce the grand list value of the hydroelectric facility below the April 1, 2009, valuation; and provided, further, that the grand list value may be changed if the municipality in which the facility is located completes a revaluation of all taxable real estate after April 1, 2009. For purposes of this section, "hydroelectric facilities" means the works used directly for the production of power and the facilities used to transmit the power to the grid, and the lands under or directly associated with those works and facilities. The department of taxes, in conjunction with the department of public service and representatives of Vermont municipalities, shall study the feasibility of implementing an appraisal method that uses three-to-five-year rolling appraisal values on hydroelectric facilities and report to the house committee on ways and means and the senate committee on finance no later than January 15, 2011, with their findings.

* * * Treatment of Certain Capital Gains * * *

Sec. 60. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

* * *

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

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code: either the first \$5,000.00 of adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

~~(I) for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (27) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (B)(ii)(I) shall not exceed 40 percent of federal taxable income;~~

~~(II) for all other capital gain income, the first \$5,000.00 of adjusted net capital gain income;~~

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision

(21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of state and local income tax deductions not taken against Vermont income tax.

* * * Amendment to Budget Bill * * *

Sec. 61. Sec. E.100.4 of H. 789 of 2009, Adj. Session, as enacted, is amended to read:

(a) Due to the current and continuing fiscal stress that will impact the Vermont fiscal year 2011 state budget, and the unique interplay between the underlying state budget and the Challenges for Change reductions which have been delegated to the administration, it may become necessary to take further significant measures to achieve savings in order to ensure a balanced budget in the general fund. If, after all savings required by the 2010 Challenges for Change legislation in Act 68 and H. 792 as enacted, have been identified by the secretary of administration, the secretary of administration determines that

in order to ensure a balanced fiscal year 2011 budget it is also necessary, when the general assembly is not in session, to eliminate, by reduction in force, or positions identified for elimination after the date of enactment of this act, or both, more than one percent of the entire state workforce in fiscal year 2011, with the one percent measured cumulatively from ~~July 1, 2010~~ the date of enactment of this act, the secretary shall first submit a plan which complies with the standards outlined in subdivisions (1) through (6) of this section to the joint fiscal committee for its consideration. For the purposes of this section, “entire state workforce” means all full-time, permanent, classified, and exempt state employees.

* * *

* * * Effective Dates * * *

Sec. 62. EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. 6 (collection assistance fees) shall apply to fees assessed on or after July 1, 2010.

(2) Sec. 8 (local option tax administration fee) shall apply to all returns filed with the department on or after July 1, 2010.

(3) Sec. 10 (Vermont economic growth incentive recapture) shall take effect retroactively on January 1, 2010.

(4) Secs. 16–20 (property transfer tax) shall apply to transfers occurring on or after January 1, 2011.

(5) Secs. 23 and 25 (definition of modified adjusted gross income to include additional interest and dividends; computation of adjustment) shall apply to homestead property tax adjustments claims made in 2010 and after and shall apply to renter rebate claims made in 2011 and after.

(6) Secs. 24 and 26 (definitions of household income, modified adjusted gross income to include certain federal adjustments, and allocable rent; landlord certificate) shall apply to property tax adjustment and renter rebate claims made in 2011 and after.

(7) Sec. 29 (link to Internal Revenue Code) shall apply to taxable years beginning on and after January 1, 2009.

(8) Secs. 30 and 31 of this act (downtown insurance credit certificates) shall take effect upon passage and shall apply to tax years beginning on or after January 1, 2010.

(9) Sec. 32 (estate tax petition for refund) shall apply to decedents dying after December 31, 2009.

(10) Secs. 33a and 33b (estate tax) shall apply to decedents dying after December 31, 2010.

(10) Secs. 34–36 (tobacco taxes) shall take effect on July 1, 2010.

(11) Sec. 37 (income tax instruction booklet) shall apply to taxable years beginning on and after January 1, 2010.

(12) Secs. 38 and 39 (changing the term “amusement” to “entertainment”) and in Sec. 41, the lead-in paragraph and subdivisions (1), (3), (5), and (7) of 32 V.S.A. § 9743 (entertainment sales and use tax) shall take effect on April 1, 2011, and shall apply to charges for admission to a place of entertainment on or after April 1, 2011.

(13) Sec. 42 (increasing the per-site disbursement cap for the petroleum cleanup fund) shall apply to any remediation currently in progress and all future remediation.

(14) Sec. 43 (petroleum cleanup fund) shall take effect on July 1, 2010.

(15) Sec. 44 (fuel gross receipts tax) shall apply to sales of fuels on or after July 1, 2010.

(16) Sec. 49 (income tax return checkoff for Vermont veterans’ fund) shall apply to income tax returns for taxable years 2010 and after.

(17) Sec. 53 (repeal of exclusion of certain income received for a dramatic performance in a commercial film production) shall apply to taxable years beginning on and after January 1, 2013.

(18) Sec. 60 of this act (capital gains) shall apply to taxable years 2011 and after.

Approved: June 4, 2010