

H.442

An act relating to miscellaneous tax provisions

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Proposed Miscellaneous Tax Amendments \* \* \*

Sec. 1. INCREASING THE NUMBER OF COMPLIANCE PERSONNEL IN  
THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, two collectors, and one desk audit supervisor.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department \$935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional

funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. 2. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT  
OF LABOR

(a) In addition to any other funds appropriated to the department of labor in fiscal year 2010, there is appropriated from the general fund to the department \$308,212.00 in fiscal year 2010 for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate

the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

\* \* \* Tax Amnesty \* \* \*

### Sec. 3. TAX AMNESTY

(a) Notwithstanding any law to the contrary, the commissioner of taxes shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner may be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect if the taxpayer, prior to the expiration of the amnesty period, files proper returns for any tax types and any period for which the taxpayer has or had a filing obligation and pays the full amount of tax shown on such return together with all interest due thereon. The amnesty program shall be established for a period of six consecutive weeks to be determined by the commissioner, to expire not later than October 2, 2009.

(b) The amnesty program shall apply to a tax liability of any tax type for any periods for which the due date of the return was before January 26, 2009 but shall not apply to those penalties which the commissioner would not have the sole authority to waive, including fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes.

(c)(1) The commissioner shall maintain records of the amnesty provided under this section, including:

(A) the number of taxpayers provided with amnesty;

(B) the types of tax liability for which amnesty was provided and, for each type of liability:

(i) the amount of tax liability collected by the commissioner; and

(ii) the amount of penalties forgone by virtue of the amnesty; and

(iii) the total outstanding tax liability due to the state, for the period through June 30, 2009, after the collection of all funds under this section.

(2) The commissioner shall file a report detailing the information required by subdivision (1) of this subsection with the clerk of the house of representatives and the secretary of the senate, the joint fiscal committee, the house committee on ways and means, and the senate committee on finance not later than December 15, 2009; provided, however, that the report shall not

contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

#### Sec. 4. APPROPRIATION

In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$132,000.00 in fiscal year 2010 for the purpose of marketing the tax amnesty program provided for in Sec. 3 of this act. In order to help stimulate the local economy, the legislature asks in determining what resources or marketing firms to use, the department give priority to Vermont-based firms.

\* \* \* Sale of State-Owned Personal Property \* \* \*

#### Sec. 5. SALE OF STATE-OWNED SURPLUS PERSONAL PROPERTY

In order to raise capital and to free space in buildings owned or leased by the state, the commissioner of buildings and general services is authorized and directed to conduct a "spring cleaning" to identify and sell surplus personal property of the state. Each department and agency of the state shall, in accordance with section 1556 of Title 29, transfer all surplus personal property to the commissioner, who is authorized to sell such surplus personal property pursuant to subdivision 1556(6). Notwithstanding section 1557 of Title 29, the proceeds of such sale, net of the commissioner's administrative costs, shall be deposited into the general fund.

\* \* \* Department of Revenue \* \* \*

Sec. 6. DEPARTMENT OF TAXES; DEPARTMENT OF REVENUE;

TRANSITION

(a) In accordance with the report of the commissioner of taxes dated January 22, 2007, the department of taxes shall be converted into a department of revenue no later than June 30, 2012.

(b) To accomplish the requirement set out in subsection (a) of this section, there is hereby established a revenue transition committee to review and approve the commissioner's plan to transition the department of taxes to a department of revenue, which shall be responsible for collecting taxes, fees, levies, and other assessments as determined pursuant to subsection (c) of this section. The revenue transition committee shall be composed of the following seven members:

(1) The commissioner of finance and management or designee;

(2) The state treasurer or designee;

(3) A member of the house committee on ways and means, appointed by the speaker of the house;

(4) A member of the house committee on government operations, appointed by the speaker of the house;

(5) A member of the senate committee on finance, appointed by the committee on committees;

(6) A member of the senate committee on government operations, appointed by the committee on committees;

(7) The court administrator or designee.

(c) The commissioner shall review each state revenue source and determine whether the management of such revenue source should:

(1) remain substantially as is;

(2) be transferred to the treasurer's lockbox services contract;

(3) be transferred to the department of taxes, which shall ultimately be redesignated the department of revenue; or

(4) be transferred to another entity.

(d) The revenue transition committee shall meet as needed to review and approve the commissioner's implementation plan for the transition to a revenue department. The commissioner shall report to the revenue transition committee the findings and recommendations required pursuant to subsection (c) of this section, and the commissioner will implement any changes upon the approval of the revenue transition committee.

(e) No later than February 15 of each of the three years following the effective date of this act, the committee shall issue a report to the general assembly on its findings and containing specific recommendations concerning the implementation of the transition, efficiencies, technology, staffing issues, and recommendations with respect to subsection (c) of this section.

(f) The legislative members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided to members of standing committees under 2 V.S.A. § 406 for attendance at a meeting when the general assembly is not in session.

Sec. 7. STATUTORY REVISION

After June 30, 2012, the legislative council is directed to revise the Vermont Statutes Annotated to reflect the redesignation of the department of taxes as the department of revenue. When applicable, the term “commissioner of taxes” shall be substituted with the term “commissioner of revenue”; and when applicable, the term “department of taxes” shall be substituted with the term “department of revenue.”

\* \* \* Blue Ribbon Tax Structure Study Committee \* \* \*

Sec. 8. TAX STRUCTURE STUDY

(a) Composition of committee. There is hereby established a tax structure study committee composed of three to five members to be selected as follows:

(1) The speaker of the house, the president pro tempore of the senate, and the governor shall each appoint one member; and

(2) The three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members.

(b) The tax structure study committee shall be appointed as soon as possible after the effective date of this act. The panel shall elect a chair and vice chair from among its members.

(c) Purpose and goals. The tax structure study committee shall study the state's revenue system with the goal of determining whether the current system:

(1) Raises enough revenue to sustain spending needs now and in the future;

(2) Provides equity among the state's diverse taxpayers;

(3) Provides incentives that further the state's goals; and

(4) Enhances the state's competitiveness by attracting labor, capital, and entrepreneurs.

(d) Tax incidence study. As a first step in fulfilling its goals, the tax structure study committee shall hire one or more consultants to conduct a thorough and independent review and analysis of tax incidence in Vermont. The consultants shall report to the tax structure study committee by October 15, 2009. The consultants shall have the assistance of the department of taxes. Specifically, the report to the tax structure study committee shall provide information regarding the distribution of state and local taxes, including income taxes, sales and use taxes, and property taxes, in relation to taxpayer income and provide the tax structure study committee information on

the equity of the overall distribution. Additionally, the report shall include information on how the total state and local tax burden on Vermont households varies by income range and how the burden of each component of the overall state and local tax system is distributed across Vermont households. The report shall also include information on taxes with an initial impact on businesses, such as the corporate franchise tax and the sales tax on business purchases.

(e) Report to committee; follow-up. The tax structure study committee shall have the assistance of the department of taxes and shall meet as needed to evaluate the tax incidence study and oversee the hiring of additional consultants, as needed, to evaluate the tax incidence study required by subsection (d) of this section and provide recommendations regarding the sustainability and stability of the state's revenue system to the general assembly no later than January 15, 2010. The tax structure study committee and any independent consultants it hires shall develop proposals for changes to the state's revenue system, if any, and provide the legislature with plans for implementation of any proposed changes.

(f) In preparation for the study required by subsection (d) of this section, the department of taxes shall provide data to the consultants, which shall prepare reports on the following:

(1) Changes in personal income, arranged by decile, over the last five

years;

(2) House site and homestead value arranged by adjusted gross income (AGI) and, where available, household income;

(3) Gross and net school taxes paid, arranged by adjusted gross income and, where available, by household income.

(f) For attendance at a meeting of the tax structure study committee members shall be entitled to per diem compensation and reimbursement of expenses as allowed by state law.

#### Sec. 9. APPROPRIATION

In addition to any other funds appropriated to the department of taxes, there is appropriated from the general fund \$200,000.00 in fiscal year 2010 for the purposes outlined in Sec. 8 of this act.

\* \* \* Tax Expenditure Reporting Requirement \* \* \*

Sec. 10. 32 V.S.A. § 306 is amended to read:

#### § 306. BUDGET REPORT

(a) The governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her estimates, requests and recommendations for appropriations or other authorizations for expenditures from the state treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year.

(b) The governor shall also submit to the general assembly, not later than the third Tuesday of each session of every biennium, a tax expenditure budget which shall embody his or her estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the state treasury appropriating tax expenditures as contained in the report provided for in section 312 of this chapter. The tax expenditure budget shall be provided to the members of the house committee on ways and means and the senate committee on finance, which committees will review the tax expenditures and recommend appropriations for the tax expenditures to their respective committees on appropriations.

Sec. 11. 32 V.S.A. § 307 is amended to read:

§ 307. FORM OF BUDGET

(a) The budget shall be arranged and classified so as to show separately the following estimates and recommendations:

- (1) Expenses of state administration.
- (2) Deficiencies, overdrafts, and unexpended balances in appropriations of former years.
- (3) Bonded debt, loans and interest charges.
- (4) All requests and proposals for expenditures for new projects, new construction, additions, improvements, and other capital outlay.

(5) With respect to the tax expenditure budget required under section 306(b) of this chapter, all requests and proposals for new, amended, or continued tax expenditures as reported under section 312 of this chapter.

\* \* \*

\* \* \* Repeal of Certain Tax Credits \* \* \*

Sec. 12. REPEAL

(a) 32 V.S.A. § 5930v (providing an income tax credit for eligible venture capital investment) is repealed effective for tax years beginning on or after January 1, 2010.

(b) 32 V.S.A. § 3802(13) (exempting fallout shelters from property tax) is repealed for grand lists prepared for April 1, 2010 and after.

\* \* \* Vermont State-Sponsored Credit Card Program \* \* \*

Sec. 13. 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED CREDIT CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in a financial institution credit card program for the benefit of the residents of this state upon his or her determination that such a program is feasible and may be procured at rates and terms in the best interest of the residents of this state. In selecting a credit card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration credit card features which will enhance the promotion of the state-sponsored credit card, including

consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored credit card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating Vermont credit card holders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored credit card program.

\* \* \* Government Licenses and Employment \* \* \*

Sec. 14. 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE ~~OR~~<sub>2</sub>

GOVERNMENTAL CONTRACT, OR EMPLOYMENT

\* \* \*

(c) Every agency shall, upon request of the commissioner, furnish a list of licenses and contracts issued or renewed by such agency during the reporting period; provided, however, that the secretary of state shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the commissioner only those certificates originally issued by the secretary of state during the reporting period and not renewals of such certificates. The lists ~~should~~ shall include the name, address, ~~social security~~ Social Security or federal identification number of such licensee or provider, and such other information as the commissioner may require.

\* \* \*

(i) No agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all

taxes due as of the date such declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the state of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in such position or who returns to any position in state government as a result of a placement right or reduction in force recall right.

\* \* \* Unclaimed Property \* \* \*

Sec. 15. 32 V.S.A. § 3113a is added to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX

LIABILITIES

The commissioner may request from the office of the treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to section 1249 of Title 27. If any such owner owes taxes to the state, the commissioner, after notice to the owner, may request and the treasurer shall transfer the abandoned property of such owner to the department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy.

\* \* \* Mapping Program \* \* \*

Sec. 16. 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the ~~director shall prepare~~ center shall provide regional planning commissions, state agencies, and the general public with orthophotographic maps of the state at a scale appropriate for the production and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The ~~director~~ center shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by ~~the director~~ it of the total area of that town. Any map shall be available, without charge, for public inspection ~~both in the office of the Vermont mapping program and in the office of the~~ town clerk to whom the map was supplied.

(2) The ~~director may~~ state of Vermont shall retain the copyright of any map prepared under this section by the Vermont mapping program and the center and the Vermont mapping program shall jointly own the copyright to any map prepared on or after the effective date of this act.

(3) A person, who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.

(4) At a reasonable charge to be established by the center and the director, the ~~director~~ center shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section.

\* \* \* Unorganized Towns and Gores and Unified Towns and Gores \* \* \*

Sec. 17. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

(b) Ad hoc board for unorganized towns and gores and unified towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:

(1) the supervisor; and

(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority, representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor.

(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority.

\* \* \* Education Property Tax Information Insert \* \* \*

Sec. 18. 32 V.S.A. § 5402(b)(1) is amended to read:

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. ~~Each~~

~~homestead property tax bill shall include a copy of the document entitled  
“About Your 20XX Taxes ‘The more you spend the more you pay’,” updated  
annually for each town by the commissioner of taxes.~~

\* \* \* Declaration of Homestead \* \* \*

Sec. 19. 32 V.S.A. § 5410 is amended to read:

§ 5410. DECLARATION OF HOMESTEAD

(a) A homestead owner shall declare ownership of a homestead for purposes of education property tax.

(b) 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 during the previous year. The declaration of homestead shall remain in effect until the earlier of:

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

(2) that time that the property ceases to qualify as a homestead.

(c) In the event that an unsigned but otherwise completed homestead declaration is filed at the same time as the declarant's signed state income tax return, the commissioner may treat such declaration as signed by the declarant.

\* \* \* Unrelated Business Income of Nonprofit Corporations \* \* \*

Sec. 20. 32 V.S.A. § 5811(3) is amended to read:

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

(A) ~~Railroad and insurance, surety and guaranty companies, mutual or otherwise that are taxed under chapter 211 of this title;~~

(B) ~~Life, fire and marine insurance companies and mutual life, fire and marine insurance companies;~~

(C) ~~Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water, mutual or cooperative telephone companies or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;~~

(D) ~~Farmers', fruit growers', or like associations organized and operated on a cooperative basis:~~

~~(i) for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and~~

~~processing expenses, on the basis of either quantity or the value of the products furnished by them;~~

~~(ii) for the purpose of purchasing supplies and equipment for the use of the members and other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; or~~

~~(iii) for the purpose of processing, preparing for market, or marketing handcraft products as defined in section 991 of Title 11 of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses;~~

~~(E) Credit unions organized under chapter 71 of Title 8 and federal credit unions;~~

~~(F)(C) Nonprofit hospital service corporations organized under chapter 123 of Title 8;~~

~~(G)(D) Nonprofit medical service corporations organized under chapter 125 of Title 8;~~

~~(H) Free public library corporations organized under chapter 3 of Title 22;~~

~~(I) Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;~~

~~(J) Sanitary corporations and corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(K) Business organizations, chambers of commerce or boards of trade and area development organizations not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(L) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;~~

~~(M) Clubs organized and operated exclusively for pleasure and recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; or~~

~~(N) Any political organization which is exempt from or does not owe any federal income taxes as provided in the federal internal revenue code.~~

Sec. 21. 32 V.S.A. § 5811(18) is amended to read:

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

\* \* \*

(D) For a corporation with federal exempt status, "Vermont net income" means all income that is subject to federal income tax, including unrelated business income under Section 511 of the Internal Revenue Code and

any income arising from debt-financed property subject to taxation under Section 514 of the Internal Revenue Code.

\* \* \* Annual Update of Links to Federal Law \* \* \*

Sec. 22. 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 ~~2007~~ 2008, 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.

\* \* \* Digital Business Entities\* \* \*

Sec. 23. LEGISLATIVE INTENT

The purpose of the following sections of this act concerning digital business entities is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. 24. 32 V.S.A. § 5811(26) is added to read:

(26) “Digital business entity” means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to

Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this state which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. 25. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) \$250.00 for all other corporations.

Sec. 26. 32 V.S.A. § 5911 is amended to read:

§ 5911. TAXATION OF AN S CORPORATION AND ITS  
SHAREHOLDERS

(a) An S corporation shall not be subject to the tax imposed by section 5832 of this title, except to the extent of income taxable to the corporation under the provisions of the Internal Revenue Code.

(b) For the purposes of section 5823 of this title, each shareholder's pro rata share of the S corporation's income attributable to Vermont and each resident shareholder's pro rata share of the S corporation's income not attributable to Vermont shall be taken into account by the shareholder in the manner provided in Section 1366 of the Code.

(c) An S corporation and its shareholders shall not be subject to the tax imposed by section 5832 of this title or to the provisions of this subchapter if the S corporation qualifies as and elects to be taxed as a digital business for the taxable year; but such corporation shall be subject to the reporting requirements of this chapter, and its shareholders shall file a report of income received from such S corporation during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. 27. 32 V.S.A. § 5921a is added to read:

§ 5921a. DIGITAL BUSINESS ENTITY ELECTION

A partnership or limited liability company and its partners or members shall not be subject to the tax imposed by section 5832 of this title or to provisions of this subchapter if the partnership or company qualifies as and elects to be taxed as a digital business entity for the taxable year; but such partnership shall be subject to the reporting requirements of this chapter, and its partners shall file a report of income received from such partnership during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. 28. 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided,

however, that an electing corporation shall report its income to the commissioner as provided in section 5862 of this chapter.

\* \* \* Trustee Process \* \* \*

Sec. 29. 32 V.S.A. § 5892 is amended to read:

§ 5892. ACTION TO COLLECT TAXES; LIMITATIONS

(a) Action may be brought by the attorney general of the state at the instance of the commissioner in the name of the state to recover the amount of the tax liability of any taxpayer, if the action is brought within six years after the date the tax liability was collectible under section 5886 of this title. The action shall be returnable in the county where the taxpayer resides or has a place of business, and if the taxpayer neither resides nor has a place of business in this state, the action shall be returnable in ~~Washington county~~ County.

(b) Notwithstanding sections 3167 and 3168 of Title 12, a motion may be brought by the attorney general of the state at the instance of the commissioner in the name of the state for issuance of trustee process at the same time as an action is brought under subsection (a) of this section, and, if judgment is granted in that action, the court may proceed immediately to hear and render a decision on the trustee process.

\* \* \* Property Tax Adjustments \* \* \*

Sec. 30. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive total adjustments under this chapter in excess of ~~\$8,000.00~~ \$10,000.00 related to any one property tax year.

Sec. 31. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

\* \* \*

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by September 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~December 31~~ September 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

\* \* \*

(f) Property tax bills.

\* \* \*

(4) If the property tax adjustment amount as described in subsection ~~(b)~~(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 by the commissioner of education, whichever is later.

\* \* \*

\* \* \* Estate Tax \* \* \*

Sec. 32. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF  
TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be a sum equal to the amount ~~by which~~ of the credit for state death taxes allowable to a decedent's estate under Section 2011, ~~as in effect on January 1, 2001,~~ of the Internal Revenue Code, ~~hereinafter sometimes referred to as the "credit," exceeds the~~ lesser of as in effect on January 1, 2001. This base amount shall be reduced by the lesser of the following:

(1) The total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this state. The amount of this tax shall be a sum equal to the proportion of the ~~credit~~ base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this state bears to the value of the decedent's total gross estate for federal estate tax purposes.

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by Section 2001 of the Internal Revenue Service Code calculated using the applicable credit amount under Section 2010 as in effect on January 1, 2008, with no deduction under Section 2058.

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. 33. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

In all cases where ~~the federal gross estate at the time of the death of the decedent exceeds the applicable federal exclusion amount or where the estate is subject to federal estate tax~~ a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the

estate tax imposed by this chapter. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the commissioner such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. 34. 32 V.S.A. § 7445 is amended to read:

§ 7445. COPIES OF FEDERAL ESTATE TAX RETURNS TO BE FILED

It shall be the duty of the executor of every person who may die a resident of Vermont or a nonresident with real estate or tangible personal property having an actual situs in Vermont to file with the commissioner a duplicate of all federal estate tax returns which he or she is required to make to the federal authorities, or, if no federal estate tax return is required, a pro forma federal estate tax return for the estate of a decedent with a Vermont estate tax liability shall be filed with the commissioner.

Sec. 35. 32 V.S.A. § 7446 is amended to read:

§ 7446. WHEN RETURNS TO BE FILED

The estate tax return required under section 7444 of this title shall be filed ~~at the time the federal estate tax return is required to be filed under the laws of the United States, including any extensions of time for filing granted by the federal authorities~~ within nine months of the death of the decedent. Prior to expiration of the filing period, executors may apply for a six-month extension.

Sec. 36. 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, ~~2008~~ 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) ~~with~~ the credit for state death taxes shall remain as provided for under ~~Section~~ Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable credit amount shall remain as provided for under section 2010 of the Internal Revenue Code, as in effect on January 1, 2008;  
and

(3) ~~without any~~ the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

\* \* \* Tobacco Tax \* \* \*

Sec. 37a. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

\* \* \*

(13) “Moist snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of no less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

\* \* \*

(15) “Tobacco products” means ~~eigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner; but shall not include cigarettes, little cigars, roll-your-own tobacco, moist snuff, or new smokeless tobacco as defined in this section.

\* \* \*

(20) “New smokeless tobacco” means any tobacco product manufactured from, derived from, or containing tobacco that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units.

Sec. 37b. 32 V.S.A. § 7771(c) is amended to read:

(c) The tax imposed under this section shall be at the rate of ~~89.5~~ 112 mills per cigarette or little cigar and for each 0.09 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. 37c. 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 ~~on~~ is intended to be imposed only once upon the wholesale sale of any tobacco products product and shall be at the rate of ~~41~~ 92 percent of the wholesale price for all tobacco products except moist snuff, which shall be taxed at \$1.66 per ounce, or fractional part thereof, ~~and is intended to be imposed only once upon any tobacco product and new~~ smokeless tobacco, which shall be taxed at the greater of \$1.66 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 per package. 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.

Sec. 38. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

\* \* \*

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is

hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and on which cigarette stamps have been affixed before July 1, ~~2006~~ following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.60~~ \$0.24 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2006~~ following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2006~~ following enactment of this act, and thereafter shall bear interest at the rate established under section

3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

\* \* \* Electronic Filing of Property Transfer Tax \* \* \*

Sec. 39. DEVELOPMENT OF ELECTRONIC SYSTEM FOR FILING AND  
PAYING PROPERTY TRANSFER TAXES

No later than August 1, 2009, the department of taxes shall file with the joint fiscal committee an implementation plan for the electronic filing of property transfer tax returns and the electronic payment of property transfer taxes.

\* \* \*

\* \* \* Sales and Use Tax on Digital Downloads \* \* \*

Sec. 40. 32 V.S.A. § 9701(45), (46), and (47) are added to read:

(45) Transferred electronically: means obtained by the purchaser by means other than tangible storage media.

(46) Specified digital products: means digital audio-visual works, digital audio works, digital books, or ringtones that are transferred electronically.

(A) Digital audio-visual works: means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) Digital audio works: means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones;

(C) Digital books: means works that are generally recognized in the ordinary and usual sense as “books.”

(D) Ringtones: means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(47) End user: means any person other than a person who received by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

\* \* \*

Sec. 41. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this state. The tax shall be paid at the rate of six percent of the sales

price charged for, but in no case shall any one transaction be taxed under more than one of, the following:

\* \* \*

(8) Specified digital products transferred electronically to an end user.

Sec. 41a. 32 V.S.A. § 9772 is amended to read:

§ 9772. AMOUNT OF TAX TO BE COLLECTED

(a) For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the vendor shall ~~use either the calculation in subdivision (1) of this subsection or the formula in subdivision (2). The tax required to be remitted shall be the rate specified in section 9771 of this title multiplied by the total sales price of all the taxable transactions; provided, however, the tax required to be remitted shall be no more than the amount required to be collected. The vendor shall be entitled to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter.~~

~~(1) The multiply the total sales price of all the transaction multiplied transactions taxable by the rate specified in section 9771 of this title carried to the third decimal place and rounded up to the nearest whole cent if the third decimal point is greater than four and rounded down to the nearest whole cent~~

if the third decimal point is four or less. The tax may be computed on either the total invoice amount or on each taxable item.

<del>Amount of Sale</del>	<del>Amount of Tax</del>
<del>\$0.01-0.10</del>	<del>No Tax</del>
<del>0.11-0.16</del>	<del>\$.01</del>
<del>0.17-0.33</del>	<del>.02</del>
<del>0.34-0.50</del>	<del>.03</del>
<del>0.51-0.66</del>	<del>.04</del>
<del>0.67-0.83</del>	<del>.05</del>
<del>0.84-1.00</del>	<del>.06</del>

~~In addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the following formula:~~

<del>\$ 0.01-0.16</del>	<del>\$-.01</del>
<del>0.17-0.33</del>	<del>.02</del>
<del>0.34-0.50</del>	<del>.03</del>
<del>0.51-0.66</del>	<del>.04</del>
<del>0.67-0.83</del>	<del>.05</del>
<del>0.84-0.99</del>	<del>.06</del>

\* \* \*

Sec. 42. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this state, except as otherwise exempted under this chapter:

\* \* \*

(2) Of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business; ~~and~~

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; and

(4) Specified digital products transferred electronically to an end user.

\* \* \* Sales Tax on Clothing Costing \$110.00 or More \* \* \*

Sec. 42a. 32 V.S.A. § 9741(45) is amended to read:

(45) ~~Clothing~~ Each article of clothing with a purchase price of \$110.00 or less; but clothing shall not include clothing accessories or equipment, protective equipment, or sport or recreational equipment.

\* \* \* Returns Upon Business Closing \* \* \*

Sec. 43. 32 V.S.A. § 9775 is amended to read:

§ 9775. RETURNS

(a) Except as otherwise provided in this section, every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) \$500.00 or less, pay the tax imposed by this chapter in one annual payment on or before the 25th day of January of each year. Every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$500.00 but less than \$2,500.00, pay the tax imposed by this chapter in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June,

September, and December of each year. In all other cases, except as provided in ~~subsection~~ subsections (e) and (g) of this section, the tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. Payment by electronic funds transfer does not affect the requirement to file returns. The return of a vendor of tangible personal property shall show such information as the commissioner may require.

\* \* \*

(g) A person required to report sales and use tax annually who cancels his, her, or its sales and use tax account shall file a final return not later than 60 days after such cancellation.

\* \* \* Land Gains Tax \* \* \*

Sec. 44. 32 V.S.A. § 10009(b) is amended to read:

(b) All the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the commissioner of the withholding tax and the income tax, and of chapter 103, including those relating to interest and penalty charges, shall apply to the tax imposed by this chapter.

\* \* \* Education Property Tax Rates \* \* \*

Sec. 45. FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATE

REDUCTION

(a) For fiscal year 2010 only, the education property tax imposed under subsection 5402(a) of Title 32 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 \$1.34 per \$100.00;

and

(2) the tax rate for homestead property shall be \$0.85 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized property value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2010 only, “applicable percentage” in subdivision 6066(a)(2) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

\* \* \* VHFA: Moral Obligation for Pledged Equity Funds \* \* \*

Sec. 46. FINDINGS AND INTENT

Moral obligation of the state is used by municipal bond insurers, such as the Vermont Housing and Finance Agency (VHFA), as a discretionary capitalization obligation. By expanding VHFA’s ability to pledge the state’s

existing commitment of moral obligation without increasing the amount of the state's existing potential obligation, the general assembly can provide VHFA with another tool to increase confidence and attract new financial partners so that the agency can continue its housing programs for low- and moderate-income Vermonters, even in these challenging economic times.

Sec. 47. 10 V.S.A. § 631(f) is amended to read:

(f) The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, ~~which shall thereupon be cancelled,~~ at a price ~~not exceeding:~~ as shall be determined in the economic best interests of the agency.

~~(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or~~

~~(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.~~

Sec. 48. REPEAL

10 V.S.A. § 632 (authorizing the Vermont housing and finance agency to establish reserve funds) is repealed.

Sec. 49. 10 V.S.A. § 632a is added to read:

§ 632a. RESERVE AND PLEDGED EQUITY FUNDS

(a) The agency may create and establish one or more special funds, herein referred to as “debt service reserve funds” or “pledged equity funds.”

(b) The agency shall pay into each debt service reserve fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing their issuance; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any debt service reserve fund created and established under this section except as hereinafter provided shall be used, as required, solely for the payment of the principal of the bonds, notes, or other debt instruments secured in whole or in part by such fund or of the payments with respect to the bonds, notes, or other debt instruments specified in any resolution of the agency as a sinking fund payment, the purchase or redemption of the bonds, the payment of interest on the bonds, notes, or other debt instruments, or the payment of any redemption premium required to be paid

when the bonds, notes, or other debt instruments are redeemed prior to maturity, or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the agency's behalf; provided, however, that the moneys or financial instruments in any such debt reserve fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the agency for such fund as provided in this section except for the purpose of paying, when due, with respect to bonds secured in whole or in part by such fund, the principal, interest, redemption premiums, and sinking fund payments and of reimbursing, when due, the issuer of any credit enhancement for any such payments made by it, for the payment of which other moneys of the agency are not available. Any income or interest earned by or increment to any debt service reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(c) The agency shall pay into each pledged equity fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any pledged equity fund created and established under this section except as provided in this section shall be used, as required, solely to provide pledged equity or over-collateralization of any trust estate of the agency to the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement obtained by the agency; provided, however, that the moneys or financial instruments in any pledged such equity fund shall not be drawn upon or withdrawn from such fund at any time in such amounts as would reduce the amount of such funds to less than the pledged equity requirement established by resolution of the agency for such fund as provided in this section except for the purposes set forth in and in accordance with the governing resolution. Any income or interest earned by or increment to, any pledged equity fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such pledged equity fund below the requirement for such fund. Anything in this subdivision to the contrary notwithstanding, upon the

defeasance of the bonds, notes, or other debt instruments with respect to which the pledged equity requirement was established, the agency may transfer amounts in such fund to another fund or account of the agency proportionately to the amount of such defeasance; provided that the agency shall repay to the state any amount appropriated by the state pursuant to subsection (f) of this section.

(d) The debt service reserve and pledged equity requirements for any fund established under this section shall be established by resolution of the agency prior to the issuance of any bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or prior to entering into any credit enhancement agreement and shall be the amount determined by the agency to be reasonably required in light of the facts and circumstances of the particular debt issue or credit enhancement; provided that the maximum amount of the state's commitment with respect to any pledged equity fund shall be determined by the agency at or prior to entering into any credit enhancement agreement related to such pledged equity fund. The agency shall not at any time issue bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or enter into any credit enhancement agreement that requires establishment of a pledged equity fund created and established under this section unless:

(1) the agency at the time of such issuance or execution shall deposit in such fund from the proceeds of such bonds, notes, or other debt instruments or from other sources an amount which, together with the amount then in such fund, will not be less than the requirement established for such fund at that time;

(2) the agency has made a determination at the time of the authorization of the issuance of such bonds, notes, or other debt instruments or at the time of entering into such credit enhancement agreement that the agency will derive revenues or other income from the mortgage loans that secure such bonds, notes, or other debt instruments or that relate to any credit enhancement agreement sufficient to provide, together with all other available revenues and income of the agency other than any amounts appropriated by the state pursuant to this section for the payment or purchase of such bonds, notes, and other debt instruments and reimbursement to the issuer of any credit enhancement the payment of any expected deposits into any pledged equity fund established with respect to such credit enhancement, and the payment of all costs and expenses incurred by the agency with respect to the program or purpose for which such bonds, notes, or other debt instruments are issued; and

(3) the state treasurer or his or her designee has provided written approval to the agency that the agency may issue such bonds, notes, or other debt instruments and enter into any related credit enhancement agreement.

(e) In computing the amount of the debt service reserve or pledged equity funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as that term is defined by resolution of the agency, if purchased at other than par.

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the

agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered

into by the agency in contravention of the Constitution of the United States.  
Notwithstanding anything in this section to the contrary, the state's obligation  
with respect to funding any pledged equity fund shall be limited to its  
maximum commitment, as determined by the agency pursuant to subsection  
(d) of this section, and the state shall have no other obligation to replenish or  
maintain any pledged equity fund.

Sec. 50. SAVINGS CLAUSE

Nothing in Sec. 49 of this act shall be construed to impair the obligation of  
any preexisting contract or contracts entered into by the agency or by the state.

\* \* \* Tax on Spirituous Liquor \* \* \*

Sec. 51. 7. V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of spirituous liquor as defined in section 2 of this title other than fortified wine, sold by or through the liquor control board in accordance with the provisions of this title. A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of fortified wine so sold.

Sec. 52. [Deleted]

Sec. 53. [Deleted]

\* \* \* Capital Gains Tax Exemption \* \* \*

Sec. 54. 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; and

(ii) the first \$5,000.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code ~~40 percent of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code,~~ but the total amount of decrease under this subdivision (ii) shall not exceed 40 percent of federal taxable income.

Sec. 54a. SUNSET

The following sections of this bill shall expire on June 30, 2012:

(1) Sec. 37b (increase in tax on cigarettes);

(2) Sec. 37c (increase in tax on other tobacco products from 41 percent to 92 percent); but the other provisions of this section, relating to the tax on moist snuff and new smokeless tobacco, shall not expire;

(3) Sec. 42a (sales and use tax on clothing costing more than \$110.00);

(4) Sec. 51 (increase in tax on spirituous liquor); and

(5) Sec. 54 (gross receipts tax on satellite television programming providers).

\* \* \* Reduction of Income Tax Rates \* \* \*

Sec. 55. REDUCTION OF PERSONAL INCOME TAX RATES

For taxable year 2009 and subsequent taxable years, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

<u>For taxable income which, without</u> <u>this amendment, would be subject</u> <u>to tax at the following rate:</u>	<u>That taxable income</u> <u>shall instead be taxed</u> <u>at the following rate:</u>
<u>3.60%</u>	<u>3.50%</u>
<u>7.20%</u>	<u>7.10%</u>
<u>8.50%</u>	<u>8.25%</u>
<u>9.00%</u>	<u>8.75%</u>
<u>9.50%</u>	<u>8.95%</u>

\* \* \* Satellite Television Tax \* \* \*

Sec. 56. 32 V.S.A. chapter 242 is added to read:

CHAPTER 242. TAX ON SATELLITE TELEVISION PROGRAMMING

Subchapter 1. General Provisions

§ 10401. DEFINITIONS

Unless otherwise provided, the following terms when used in this chapter have the following definitions:

(1) “Distributor” means any person engaged in the business of making satellite programming available for purchase by subscribers.

(2) “Satellite programming” means radio and television audio and video programming services distributed or broadcast by satellite directly to the subscriber’s receiving equipment.

§ 10402. GENERAL POWERS OF THE COMMISSIONER

In addition to other powers granted in this chapter, the commissioner may:

(1) Prescribe methods for determining the amount of gross receipts subject to tax.

(2) Require any person required to pay the tax imposed under this chapter to keep detailed records of all receipts received, charged, or accrued, including those claimed to be nontaxable, and of other facts relevant in determining the amount of tax due and to furnish that information upon request to the commissioner.

§ 10403. LIABILITY FOR TAX

Every distributor required by this chapter to pay the tax imposed by this chapter shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title; and if the distributor is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to collect the tax and transmit it to the commissioner as required in this chapter.

§ 10404. RECORDS TO BE KEPT

Every person required to collect any tax imposed by this chapter shall keep records of its gross receipts and of the tax payable thereon in such form as the commissioner may by regulation require. The records shall be available for inspection and examination at any time upon demand by the commissioner or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner may consent to their destruction within that period or may require that they be kept longer.

Subchapter 2. Exemptions

§ 10441. TRANSACTIONS NOT COVERED

This chapter shall not cover the following transactions:

(1) Transactions that are not within the taxing power of this state under the Constitution of the United States.

(2) The provision of satellite programming to a person for resale in the ordinary course of business.

Subchapter 3. Imposition, Rate, and Payment of Tax

§ 10471. IMPOSITION OF TAX

Except as otherwise provided in this chapter, there is imposed a tax on the provision of satellite programming to a subscriber located in this state. The tax shall be paid by the distributor at the rate of five percent of all gross receipts derived by the distributor from the provision of satellite programming to the subscribers within this state.

§ 10472. RETURNS

(a) Except as otherwise provided in this section, every distributor subject to taxation under section 10471 of this title shall file a return with the commissioner stating the gross receipts derived by the distributor during each calendar quarter on or before the 25th day of the calendar month following such calendar quarter.

(b) The commissioner may permit or require returns to be made covering other periods and upon such dates as he or she may specify. In addition, the commissioner may require payments of tax liability at the intervals and based upon the classifications as he or she may designate. In prescribing the other

periods to be covered by the return or intervals or classifications for payment of tax liability, the commissioner may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the commissioner and shall contain such information as he or she may deem necessary for the proper administration of this chapter. The commissioner may require returns and amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(d) Upon the failure of a taxpayer to file any return required under this chapter within 20 days of the date of a notice to the taxpayer under subsection (c) of this section, the commissioner may petition a judge of the superior court in the county wherein the taxpayer has a place of business or, if the taxpayer has no place of business in this state, the commissioner may petition the Washington superior court, and upon the petition of the commissioner and a hearing, the judge shall issue a citation requiring the taxpayer and, if the taxpayer is a corporation, any principal officer of such corporation to file a proper return in accordance with this chapter upon pain of contempt. The order of notice upon the petition shall be returnable not later than 20 days after the filing of the petition. The petition shall be heard and determined on the return day or on a day thereafter as the court shall fix, having regard to the

speediest possible determination of the case consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. The commissioner's authority to petition under this subsection is in addition to the commissioner's authority under subsection 10475(a) of this chapter to compute the tax liability of a taxpayer who fails to file a required return or files an incorrect or insufficient return.

§ 10473. PAYMENT OF TAX

Every person required to file a return under this chapter shall, at the time of filing the return, pay to the commissioner the tax imposed by this chapter. The commissioner may require payment by electronic funds transfer from any taxpayer who is required by federal tax law to pay any federal tax in that manner or from any taxpayer who has submitted to the tax department two or more protested or otherwise uncollectible checks with regard to any state tax payment in the prior two years. All the taxes for the period for which a return is required to be filed or for such lesser interval as shall have been designated by the commissioner shall be due and payable to the commissioner on the date limited for the filing of the return for that period or on the date limited for such lesser interval as the commissioner has designated, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of gross receipts or the taxes due thereon.

§ 10474. DETERMINATION OF TAX OR PENALTY

(a) If a return required by this chapter is not filed or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the commissioner from any information available. Notice of the determination shall be given to the person liable for the payment of the tax. The determination shall finally and irrevocably fix the tax within 60 days after giving notice of the determination unless the person against whom it is assessed shall apply in writing to the commissioner for a hearing or unless the commissioner of his or her own motion shall redetermine the tax. After the hearing the commissioner shall give notice of his or her determination to the person against whom the tax is assessed.

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner, if he or she believes the collection from a taxpayer of any deficiency, penalty, or interest to be in jeopardy, may demand in writing that the taxpayer pay the deficiency, penalty, or interest forthwith. The demand may be made concurrently with or after the notice of deficiency or the assessment of penalty or interest given to the taxpayer under subsection (a) of this section. The amount of deficiency, penalty, or interest shall be collectible by the commissioner on the date of the demand unless the taxpayer files with the commissioner a bond in an amount equal to the deficiency, penalty, or

interest sought to be collected as security for such amount as finally may be determined.

§ 10476. REFUNDS

(a) As provided in this section, the commissioner shall refund or credit any tax, penalty, or interest erroneously, illegally, or unconstitutionally paid if application to the commissioner for the refund shall be made within three years from the date the return was required to be filed; provided that the application is made within three years of the payment. The commissioner may, in lieu of any refund, allow credit on payments due from the applicant.

(b) A person shall not be entitled to a revision, refund, or credit under this section of a tax, interest, or penalty which had been determined to be due pursuant to the provisions of section 10474 of this title where he or she has had a hearing or an opportunity for a hearing as provided in that section or has failed to avail himself or herself of the remedies therein provided. No refund or credit shall be made of a tax, interest, or penalty paid after a determination by the commissioner made under section 10474 unless it is found that the determination was erroneous, illegal, or unconstitutional or otherwise improper pursuant to law, in which event refund or credit shall be made of the tax, interest, or penalty found to have been overpaid.

(c) 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 periods 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 from time to time by the commissioner pursuant to section 3108 of this title. That interest shall be computed from 45 days after the date the 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.

#### Subchapter 4. Enforcement and Penalties

##### § 10511. PROCEEDINGS TO RECOVER TAX

(a) Whenever any person required to pay a tax under this chapter shall fail to pay any tax, penalty, or interest imposed by this chapter, the attorney general shall, upon the request of the commissioner, enforce the payment thereof on behalf of the state in any court of the state or of any other state of the United States.

(b) As an additional or alternate remedy, the commissioner may issue a warrant, directed to the sheriff of any county commanding him or her to levy upon and sell the real and personal property of any person liable for the tax, which may be found within his or her county, for the payment of the amount thereof with any penalties and interest and the cost of executing the warrant

and to return the warrant to the commissioner and to pay to him or her the money collected by virtue thereof within 60 days after the receipt of the warrant. The sheriff shall within five days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon the clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties, and interest for which the warrant is issued and the date on which the copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and, for services in executing the warrant, he or she shall be entitled to the same fees which he or she may collect in the same manner. If a warrant is returned not satisfied in full, the commissioner may from time to time issue new warrants and shall also have the same remedies to enforce the amount due as if the state had recovered judgment therefor and execution had been returned unsatisfied.

§ 10512. ACTIONS FOR COLLECTION OF TAX

Action may be brought by the attorney general at the instance of the commissioner in the name of the state to recover the amount of taxes, penalties, and interest due from a distributor, provided such action is brought

within six years after the same are due. Such action shall be returnable in the county where the distributor has a place of business or, if the distributor has no place of business in this state, the action shall be returnable to Washington County. The limitation of six years in this section shall not apply to a suit to collect taxes, penalties, interest, and costs when the distributor filed a fraudulent return or failed to file a return when due.

§ 10513. PRESUMPTIONS AND BURDEN OF PROOF

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all gross receipts from the provision of satellite programming are subject to tax until the contrary is established, and the burden of proving that any receipt or amusement charge is not taxable hereunder shall be upon the person required to collect tax.

(b) The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied under this chapter shall be presumptive evidence thereof.

§ 10514. CRIMINAL PENALTIES

(a) Failure to file; failure to remit. Any person who knowingly fails to file a return or fails to remit a tax required under this subchapter shall be imprisoned not more than three years or fined not more than \$10,000.00 or both.

(b) Any person who knowingly makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than \$1,000.00 or both. Any person who with intent to evade a tax liability makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall, if the amount of tax evaded is in excess of \$500.00, be imprisoned not more than three years or fined not more than \$10,000.00 or both.

§ 10515. NOTICE AND LIMITATIONS OF TIME

(a) Any notice under this chapter may be given by mailing it to the person for whom it is intended in a postpaid envelope addressed to that person at the address given in the last return filed by him or her under this chapter or in any application made by him or her or, if no return has been filed or application made, then to any address obtainable. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it is addressed. Any period of time which is determined under this chapter by the giving of notice shall commence to run from the date of mailing of the notice.

(b) The provisions of law relating to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the state or the commissioner to levy, appraise, assess, determine, or enforce the collection of any tax or penalty under this chapter. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no

assessment of additional tax shall be made after the expiration of more than three years from the later of the date of the filing of a return or the date a return is due; provided, however, that when no return has been filed as provided by law, the tax may be assessed at any time and further provided that where tax collected under this chapter has been underreported by 20 percent or more, such tax may be assessed at any time before the expiration of six years from the date of the filing of the return.

(c) When, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that the period be extended, the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. If a taxpayer has consented in writing to the extension of the period for assessment, the period for filing an application for credit or refund pursuant to section 10476 of this title shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the consent to extend the time for assessment of additional tax.

#### § 10516. REVIEW OF COMMISSIONER'S DECISION

(a) Any aggrieved taxpayer may, within 30 days after any decision, order, finding, assessment, or action of the commissioner made under this chapter, appeal to the superior court. The appellant shall give security, approved by the

commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs, as set forth in subsection (c) of this section.

(b) The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a decision of the commissioner determining the liability of the taxpayer for the taxes imposed.

(c) Notwithstanding any restrictions on the assessment and collection of deficiencies, the commissioner may assess a deficiency after the expiration of the period specified in subsection (a) of this section, notwithstanding that a notice of appeal regarding the deficiency has been filed by the taxpayer unless the taxpayer, prior to the time the notice of appeal is filed, has paid the deficiency, has deposited with the commissioner the amount of the deficiency, or has filed with the commissioner a bond, which may be a jeopardy bond, in the amount of the portion of the deficiency including interest and other amounts in respect of which review is sought and all costs and charges which may accrue against the taxpayer in the prosecution of the proceeding, including costs of all appeals, and with surety approved by the county court conditioned upon the payment of the deficiency including interest and other amounts as finally determined and all costs and charges. If, as a result of a waiver of the restrictions on the assessment and collection of a deficiency, any part of the amount determined by the commissioner is paid after the filing of the appeal bond, the bond shall, at the request of the taxpayer, be proportionately reduced.

§ 10517. LIENS

If any person required to pay a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Vermont upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner of taxes and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. Such lien shall have the same force and effect as the lien for taxes under chapter 151 of this title as provided in section 5895 of this title, and notice of such lien shall be recorded as is provided in that section. Certificates of release of such lien shall also be given by the commissioner as in the case of the aforesaid tax liens.

\* \* \* Limitation on Use Value Property Tax Reduction \* \* \*

Sec. 57. 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the per-acre fair market value of the total enrolled acres in any one parcel exceeds \$4,000.00, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner

under chapter 154 of this title; and the payment to any municipality under section 3760 of this chapter shall be adjusted accordingly.

Sec. 57a. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal years 2010 and 2011, the following two properties shall be exempt from education property tax under chapter 135 of Title 32: Buildings and land owned and occupied by a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, one of which is designated by the Springfield Hospital and the other designated by the North Country Hospital, to promote exercise and healthy lifestyles for the community and to serve citizens of all income levels in this mission. This exemption shall apply notwithstanding the provisions of subdivision 3832(7) of Title 32.

Sec. 58. EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. 17 (establishing an ad hoc board of civil authority for unorganized towns and gores and unified towns and gores) shall apply to appeals filed on or after July 1, 2009.

(2) Sec. 18 (repealing tax information insert) shall apply to homestead property tax bills mailed in 2009 and after.

(3) Sec. 19 (homestead declaration) shall apply to homestead declarations filed for tax year 2008 and after.

(4) Secs. 20 and 21 (taxation of unrelated business income of nonprofit corporations) shall take effect for taxable years beginning on and after January 1, 2010.

(5) Sec. 22 (update of link to federal income tax laws) shall apply to taxable years beginning on and after January 1, 2008.

(6) Secs. 24–28a (digital business entities) shall take effect on January 1, 2010.

(7) Sec. 30 (income sensitivity adjustment limit) shall apply to income sensitivity adjustments made in 2009 and after.

(8) Sec. 31 (deadline for notice from department to towns regarding adjustment amounts) shall apply to homestead declarations filed in 2009 and after.

(9) Secs. 32–36 (estate taxes) shall apply to estates of individuals dying on or after January 1, 2009.

(10) Secs. 37–38 (tobacco tax) shall take effect July 1, 2009.

(11) Secs. 40–42 (sales and use tax on digital downloads) shall take effect on July 1, 2009.

(12) Sec. 43 (cancellation of sales and use tax account) shall take effect with respect to cancellations on or after July 1, 2009.

(13) Sec. 51 (tax on spirituous liquor) shall take effect on July 1, 2009.

(14) [Deleted]

(15) Sec. 54 (capital gains exemption) shall take effect for taxable years beginning on or after January 1, 2009.

(16) Sec. 56 (satellite television tax) shall take effect on July 1, 2009.

(17) Sec. 57 (limitation on use value property tax reduction) shall apply to property tax bills issued in calendar 2010 and thereafter.