

1 H.783

2 Introduced by Committee on Ways and Means

3 Date:

4 Subject: Taxation; miscellaneous tax bill

5 Statement of purpose: This bill proposes to make miscellaneous changes to
6 Vermont's tax laws.

7 An act relating to miscellaneous tax provisions

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

9 * * * General Provisions * * *

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

11 § 312. TAX EXPENDITURE REPORT

12 (a) For purposes of this section, "tax expenditure" shall mean the actual or
13 estimated loss in tax revenue resulting from any exemption, exclusion,
14 deduction, or credit applicable to the tax. With respect to personal and
15 corporate income taxes, "tax expenditure" shall also mean the actual or
16 estimated loss in tax revenue resulting from the pass-through of a federal
17 exemption, exclusion, deduction, credit, or other adjustment made in
18 determining federal taxable income.

19 (b)(1) Tax expenditure reports. Biennially, as part of the budget process,
20 beginning January 15, 2009, the department of taxes and the joint fiscal office

1 shall file with the house committees on ways and means and appropriations
2 and the senate committees on finance and appropriations a report on tax
3 expenditures in the personal and corporate income, sales and use, and meals
4 and rooms tax returns, insurance premium tax and bank franchise tax returns,
5 and education property tax grand lists and such other tax expenditures for
6 which the joint fiscal office and the tax department jointly have produced
7 revenue estimates. Legislative council shall also be available to assist with this
8 tax expenditure report.

9 (2) The report shall include, for each tax expenditure, the following
10 information:

11 ~~(1)~~(A) A description of the tax expenditure.

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

14 ~~(3)~~(C) The date of enactment of the expenditure.

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

17 (3) The report due January 15, 2011, shall also include the pass-through
18 of federal tax expenditures from personal income tax reported on Federal
19 Schedule A to Form 1040, and shall also include all exemptions, exclusions,
20 deductions, credits, or adjustments against the following state taxes:

21 (A) The diesel fuel tax imposed pursuant to chapter 27 of Title 23.

22 (B) The gasoline tax imposed pursuant to chapter 28 of Title 23.

1 (C) The motor vehicle purchase and use tax imposed pursuant to
2 chapter 219 of this title.

3 (4) The report due on January 15, 2013, shall include the information in
4 subdivision (3) of this subsection plus those tax expenditures passed through
5 from federal exemptions, exclusions, deductions, and other adjustments that
6 influence the modification of personal adjusted gross income to taxable
7 income.

8 (5) The report due on January 15, 2015, shall include the information in
9 subdivisions (3) and (4) of this subsection plus those expenditures resulting
10 from the pass through of federal exemptions, exclusions, deductions, credits,
11 and other adjustments to both personal and corporate taxable income, as
12 identified in the FY 2009 Governor's Budget Recommendation Tax
13 Expenditure Budget prepared by the Massachusetts Department of Revenue.
14 The report due on January 15, 2015, shall also include a list of additional
15 federal tax expenditures affecting Vermont taxable income that the department
16 and the joint fiscal office believe can reasonably be identified and quantified.

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

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

4 Sec. 2. 32 V.S.A. § 3201(a)(4) is amended to read:

5 (4) For the purpose of ascertaining the correctness of any return or
6 making a determination of the tax liability of any taxpayer, examine or cause
7 to be examined by any agent or representative designated by him or her for that
8 purpose, any books, papers, records, or memoranda of the taxpayer bearing
9 upon the matters required to be included in any return. The commissioner or
10 such designated officers may require the attendance of the taxpayer or of any
11 other person having knowledge in the premises, at any place in the county
12 where the taxpayer or person resides or has a place of business, or in
13 Washington County if the taxpayer is a nonresident individual, estate, trust or
14 is a corporation or business entity not having a place of business in this state,
15 and may take testimony and require proof material and may administer oaths
16 or take acknowledgment in respect of any return or other information required
17 by this title or the rules, regulations, and decisions of the commissioner. If an
18 individual, estate, trust, corporation, or other business entity fails after request
19 to provide books, records, or memoranda at either its place of business within
20 the state or Washington County, the commissioner may charge the person a
21 reasonable per diem fee and expenses for the auditor making the examination

1 out of state. The charges shall be payable within 30 days of the date billed and
2 may be collected in the manner provided for the collection of taxes in this title.

3 Sec. 3. 32 V.S.A. § 5404(b) is amended to read:

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

16 Sec. 4. 32 V.S.A. § 5938 is amended to read:

17 § 5938. COLLECTION ASSISTANCE FEES

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

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

3 Sec. 5. 32 V.S.A. § 5942 is added to read:

4 § 5942. OFFSET FOR TAXES OWED IN ANOTHER STATE;

5 RECIPROCITY

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

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

16 * * * Local Option Tax Administration Fee * * *

17 Sec. 6. 24 V.S.A. § 138(c) is amended to read:

18 (c) Any tax imposed under the authority of this section shall be collected
19 and administered by the department of taxes, in accordance with state law
20 governing such state tax or taxes; provided however, that a sales tax imposed
21 under this section shall be collected on each sale that is subject to the Vermont
22 sales tax using a destination basis for taxation. ~~Seventy~~ A per-return fee of

1 \$9.52 shall be assessed to compensate the department for the costs of
2 administration and collection, 70 percent of the costs of administration and
3 collection which shall be borne by the municipality, and 30 percent of which
4 shall be borne by the state to be paid from the pilot special fund. The fee shall
5 be subject to the provisions of 32 V.S.A. § 605.

6 * * * Uninhabitable Property * * *

7 Sec. 7. 24 V.S.A. § 2291 is amended to read:

8 § 2291. ENUMERATION OF POWERS

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

12 * * *

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

1 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and
2 including provisions for an administrative appeals process.

3 * * * Vermont Employment Growth Incentives * * *

4 Sec. 8. 32 V.S.A. § 5930b(d) is amended to read:

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

1 * * * Assessed Value of Land That Includes VAST Trails * * *

2 Sec. 9. 32 V.S.A. § 3607b is added to read:

3 § 3607b. SNOWMOBILE TRAILS

4 When an owner has allowed the use of his or her or its land in the statewide
5 snowmobile trail program as provided in chapter 29 of Title 23, the use shall
6 not affect the assessed value of the land.

7 * * * Use Value Appraisal Program * * *

8 Sec. 10. 32 V.S.A. § 3752(5) is amended to read:

9 (5) “Development” means, for the purposes of determining whether a
10 land use change tax is to be assessed under section 3757 of this chapter, the
11 construction of any building, road or other structure, or any mining, excavation
12 or landfill activity. “Development” also means the subdivision of a parcel of
13 land into two or more parcels, regardless of whether a change in use actually
14 occurs, where one or more of the resulting parcels contains less than 25 acres
15 each; but if subdivision is solely the result of a transfer to one or more of a
16 spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the
17 transferor, or to the surviving spouse of any of the foregoing, then
18 “development” shall not apply to any portion of the newly-created parcel or
19 parcels which qualifies for enrollment and for which, within 30 days following
20 the transfer, each transferee or transferor applies for reenrollment in the use
21 value appraisal program. “Development” also means the cutting of timber on
22 property appraised under this chapter at use value in a manner contrary to a

1 forest or conservation management plan as provided for in subsection 3755(b)
2 of this title, or contrary to the minimum acceptable standards for forest
3 management; or a change in the parcel or use of the parcel in violation of the
4 conservation management standards established by the commissioner of
5 forests, parks and recreation. The term “development” shall not include the
6 construction, reconstruction, structural alteration, relocation, or enlargement of
7 any building, road or other structure for farming, logging, forestry, or
8 conservation purposes, but shall include the subsequent commencement of a
9 use of that building, road or structure for other than farming, logging or
10 forestry purposes.

11 * * * CLA Calculation in TIF Districts * * *

12 Sec. 11. 32 V.S.A. § 5405(a) is amended to read:

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

* * * Excess Property Tax Payment * * *

Sec. 12. 32 V.S.A. § 6066a(f)(4) is amended to read:

(4) If the property tax adjustment amount as described in subsection (e) of this section exceeds the property tax, penalties, and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification of the adjustment amount by the commissioner of ~~education~~ taxes, whichever is later.

* * * Property Transfer Tax * * *

Sec. 13. 32 V.S.A. § 9605(a) is amended to read:

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

Sec. 14. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

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

* * *

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

5 * * *

6 Sec. 15. 32 V.S.A. § 9607 is amended to read:

7 § 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

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

19 Sec. 16. 32 V.S.A. § 9608(a) is amended to read:

20 (a) Except as to transfers which are exempt pursuant to subdivision
21 9603(17) of this title, no town clerk shall record, or receive for recording, any
22 deed to which has not been affixed an acknowledgment of return ~~and tax~~

1 ~~payment~~ under section 9607 of this title and a certificate in the form prescribed
2 by the land use panel of the natural resources board and the commissioner of
3 the department of taxes signed under oath by the seller or the seller's legal
4 representative, that the conveyance of the real property and any development
5 thereon by the seller is in compliance with or exempt from the provisions of
6 chapter 151 of Title 10. The certificate shall indicate whether or not the
7 conveyance creates the partition or division of land. If the conveyance creates
8 a partition or division of land, there shall be appended the current "Act 250
9 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who
10 violates this section shall be fined \$50.00 for the first such offense and \$100.00
11 for each subsequent offense. A person who purposely or knowingly falsifies
12 any statement contained in the certificate required is punishable by fine of not
13 more than \$500.00 or imprisonment for not more than one year, or both.

14 Sec. 17. 32 V.S.A. § 9610(a) is amended to read:

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

1 is reduced by the subsidy. ~~“Rent constituting property taxes”~~ “Qualifying
2 rent” shall not include payments made under a written homesharing agreement
3 pursuant to a nonprofit homesharing program, or payments for a room in a
4 nursing home in any month for which Medicaid payments have been made on
5 behalf of the claimant to the nursing home for room charges.

6 Sec. 20. 32 V.S.A. § 6066(a) is amended to read:

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

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

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

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

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

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

18 (B) For a claimant with household income of less than \$90,000.00
19 but more than \$47,000.00;

20 (i) the statewide education tax rate, multiplied by the equalized
21 value of the housesite in the taxable year, ~~minus the applicable percentage of~~
22 ~~household income for the taxable year;~~

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

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

4 (II) the statewide education tax rate, multiplied by the
5 equalized value of the housesite in the taxable year in excess of \$425,000.00.

6 (C) For a claimant whose household income does not exceed
7 \$47,000.00, the statewide education tax rate, multiplied by the equalized value
8 of the housesite in the taxable year, minus the lesser of:

9 (i) the sum of the applicable percentage of household income for
10 the taxable year plus the statewide education tax rate, multiplied by the
11 equalized value of the housesite in the taxable year in excess of \$425,000.00;

12 or

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

15 ~~(D) A claimant whose household income does not exceed \$90,000.00~~
16 ~~shall also be entitled to an additional adjustment amount under this section of~~
17 ~~\$10.00 per acre, up to a maximum of five acres, for each additional acre of~~
18 ~~homestead property in excess of the two-acre housesite. The adjustment~~
19 ~~amount under this section shall be shown separately on the notice of property~~
20 ~~tax adjustment to the claimant.~~

21 (2) “Applicable percentage” in this section means two percent,
22 multiplied by the district spending adjustment under subdivision 5401(13) of

1 this title for the property tax year which begins in the claim year for the
2 municipality in which the homestead residence is located; but in no event shall
3 the applicable percentage be less than two percent.

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

10 If household income (rounded to then the taxpayer is entitled to
11 the nearest dollar) is: credit for the reduced property tax
12 in excess of this percent of that
13 income:

14 \$0 – 9,999.00 2.0

15 \$10,000.00 – 24,999.00 4.5

16 \$25,000.00 – 47,000.00 5.0

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

20 (5) Equalized housesite value. The equalized housesite value provided
21 for in subdivisions (1)(B)(ii)(II) and (1)(C)(i) of this subsection shall be
22 indexed each year pursuant to the FHFA Vermont House Price Index, which is

1 included in the annual consensus forecast; but in no event shall the equalized
2 housesite value decrease below \$425,000.00.

3 Sec. 21. 32 V.S.A. § 6066(b) is amended to read:

4 (b) An eligible claimant who rented the homestead on the last day of the
5 taxable year, whose household income does not exceed \$47,000.00, and who
6 submits a certificate of qualifying rent ~~constituting property taxes~~ shall be
7 entitled to a credit against the claimant's tax liability under chapter 151 of this
8 title equal to the amount by which the qualifying rent ~~constituting property~~
9 ~~taxes~~ upon the claimant's housesite exceeds a percentage of the claimant's
10 household income for the taxable year as follows:

11 If household income (rounded to then the taxpayer is entitled to
12 the nearest dollar) is: credit for qualifying rent
13 ~~constituting property tax~~ paid in
14 excess of this percent of
15 that income:

16 \$0 – 9,999.00	2.0
17 \$10,000.00 – 24,999.00	4.5
18 \$25,000.00 – 47,000.00	5.0

19 ~~In no event shall the credit exceed the amount of the rent constituting property~~
20 ~~tax.~~

* * * Landlord Certificate * * *

1
2 Sec. 22. 32 V.S.A. § 6069 is amended to read:

3 § 6069. LANDLORD CERTIFICATE

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

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

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

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

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

20 ~~(e)~~(d)(1) An owner who knowingly fails to furnish a certificate to a renter
21 as required by this section shall be liable to the commissioner for a penalty of
22 ~~\$100.00~~ \$200.00 for each failure to act. An owner shall be liable to the

1 commissioner for a penalty equal to the greater of ~~\$100.00~~ \$200.00 or the
2 excess amount reported who:

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

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

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

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

12 Sec. 23. STATUTORY REVISION

13 The legislative council is directed to revise the Vermont Statutes Annotated
14 to reflect the change from “rent constituting property taxes” to “qualifying
15 rent” in Sec. 19 of this act.

16 * * * Education Property Tax Rate * * *

17 Sec. 24. FISCAL YEAR 2011 EDUCATION PROPERTY TAX RATE

18 (a) For fiscal year 2011 only, the education property tax imposed under
19 32 V.S.A. § 5402(a) shall be reduced from the rate of \$1.59 and \$1.10 and
20 shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be ~~\$1.36~~ \$1.35 per
\$100.00; and

1 Sec. 26. ESTATE TAX FOR TAX YEARS 2011 AND AFTER

2 (a) The Federal Economic Growth and Tax Relief Reconciliation Act of
3 2001 (EGTRRA), which made substantial changes to federal estate tax laws, is
4 currently scheduled to sunset on December 31, 2010. At that time, the federal
5 estate tax laws will revert to the statutes in effect prior to enactment of
6 EGTRRA.

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

12 * * * Tax Treatment of Certain Capital Gains * * *

13 Sec. 27. 32 V.S.A. § 5822a is added to read:

14 § 5822a. CLOSELY HELD BUSINESS CAPITAL GAIN ELECTION

15 (a) For purposes of the income tax imposed upon individuals under this
16 chapter, a taxpayer may elect taxation of the capital gain from the transfer of a
17 controlling interest in a closely held qualifying business, in the taxable year of
18 the transfer, at the marginal tax rates that would apply if two-thirds of that gain
19 were excluded from income in that year, without regard to the exclusion
20 allowed under subsection (b) of this section. The election under this section
21 may be made only once by the taxpayer for a single qualifying transfer, and

1 shall not apply to a transfer of an interest in a farm or standing timber as
2 defined in subdivision 5811(27) of this chapter.

3 (b) A taxpayer eligible for the election under subsection (a) of this section
4 may also exclude from taxable income an amount equal to two times the
5 capital gain exemption allowed to the taxpayer under subdivision
6 5811(21)(B)(ii) of this chapter in the taxable year of the transfer.

7 (c) In this section:

8 (1) "Closely held business" means:

9 (A) a trade or business carried on as a sole proprietorship, or as a
10 partnership with 10 or fewer partners, or as a corporation with 10 or fewer
11 shareholders; or

12 (B) a trade or business which at the time of transfer is owned only by
13 the taxpayer and the taxpayer's family, including only the following: spouse,
14 siblings, children, parents, grandparents, grandchildren, and the spouse's
15 siblings, children, parents, grandparents, and grandchildren.

16 (2) "Controlling interest" means ownership of more than 50 percent of a
17 business, including attribution of ownership of the taxpayer's spouse, siblings,
18 children, parents, grandparents, grandchildren, and the spouse's siblings,
19 children, parents, grandparents, and grandchildren, held at the time of transfer
20 by the taxpayer, who shall have owned an interest in that business for at least
21 12 consecutive years preceding the year in which the transfer occurs.

1 (3) “Qualifying business” means a trade or business which, for at least
2 the 12 consecutive years preceding the year in which the transfer occurs, the
3 taxpayer can show, by evidence sufficient to the commissioner:

4 (A) has continuously been registered with the Vermont secretary of
5 state; or

6 (B) has had its business headquarters in this state.

7 (4) “Transfer” does not include an installment sale or other installment
8 disposition.

9 * * * Capital Gains from Certain Farm Sales * * *

10 Sec. 28. 32 V.S.A. § 5822b is added to read:

11 § 5822b. CERTAIN FARM SALES CAPITAL GAIN EXCLUSION

12 PERCENTAGE

13 (a) Notwithstanding subdivision 5811(21)(B)(ii)(I) of this title, for tax
14 years 2010 and 2011 only, for purposes of the income tax imposed under this
15 chapter, 60 percent of adjusted net capital gain from the sale of a farm shall be
16 excludable from income when such sale:

17 (1) grosses less than \$2,000,000.00; or

18 (2) the transferee is an immediate family member of the transferor.

19 (b) For purposes of this section:

20 (1) An immediate family member includes a spouse, siblings, children,
21 parents, grandparents, grandchildren, or a spouse’s siblings, children, parents,
22 grandparents and grandchildren.

1 status is based; and (C) any building or structure owned by a “development
2 corporation” as defined in subdivision 202(4) of Title 10 and any “local
3 development corporation” as defined in subdivision 222(4) of Title 10 V.S.A.
4 § 212(10), and used exclusively for the purposes authorized in chapter ~~11A~~ 12
5 of Title 10; provided, however, that the governmental body or agency, the
6 organization, or the development corporation has first obtained a certificate
7 from the commissioner stating that it is entitled to the exemption and the
8 vendor keeps a record of the sales price of each separate sale, the name of the
9 purchaser, the date of each separate sale, and the number of the certificate. In
10 this subdivision the words “building materials and supplies” shall include all
11 materials and supplies consumed, employed or expended in the construction,
12 reconstruction, alteration, remodeling, or repair of any building, structure, or
13 other public work as well as the materials and supplies physically incorporated
14 therein.

15 * * *

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

1 and (8) and “municipality” means a city, town, unorganized town, village,
2 grant, or gore.

3 Sec. 31. 32 V.S.A. § 5870 is amended to read:

4 § 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX
5 RETURNS

6 The commissioner of taxes shall provide that individuals report use tax on
7 their state individual income tax returns. Taxpayers are required to attest to the
8 amount of their use tax liability under chapter 233 of this title for the period of
9 the tax return. Alternatively, they may elect to report an amount that is ~~0.04~~
10 0.08 percent of their Vermont adjusted gross income, as shown on a table
11 published by the commissioner of taxes; and use tax liability arising from the
12 purchase of each item with a purchase price in excess of \$1,000.00 shall be
13 added to the table amount.

14 * * * Petroleum Cleanup Fund * * *

15 Sec. 32. 10 V.S.A. § 1942 is amended to read:

16 § 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

17 (a) There is hereby established a licensing fee of one cent per gallon of
18 motor fuel sold by a distributor or dealer or used by a user in this state, which
19 will be assessed against every distributor, dealer or user as defined in
20 ~~23 V.S.A.~~ chapters 27 and 28 of Title 23, and which will be deposited into the
21 petroleum cleanup fund established pursuant to subsection 1941(a) of this title.
22 ~~After analysis of the projected unencumbered fund balance, the~~ The secretary,

1 in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel~~
2 ~~Dealers Association, Inc. may make a recommendation~~ petroleum cleanup
3 fund advisory committee established pursuant to subsection 1941(e) of this
4 title, shall annually report to the legislature as to whether or not to assess the
5 one-cent licensing fee for the upcoming year on the balance of the motor fuel
6 account of the fund and shall make recommendations, if any, for changes to the
7 program. The secretary shall also determine the unencumbered balance of the
8 motor fuel account of the fund as of May 15 of each year, and if the balance is
9 equal to or greater than \$7,000,000.00, then the licensing fee shall not be
10 assessed in the upcoming fiscal year. The secretary shall promptly notify all
11 sellers assessing this fee of the status of the fee for the upcoming fiscal year.
12 This fee will be paid in the same manner, at the same time, and subject to the
13 same restrictions or limitations as the tax on motor fuels. The fee will be
14 collected by the commissioner of motor vehicles and deposited into the
15 petroleum cleanup fund. This fee requirement shall terminate on April 1,
16 2016.

17 (b) There is assessed against every seller receiving more than \$10,000.00
18 annually for the retail sale of heating oil, kerosene, or other dyed diesel fuel
19 sold in this state and not used to propel a motor vehicle, a licensing fee of
20 ~~one-half~~ one cent per gallon of such heating oil, kerosene, or other dyed diesel
21 fuel. This fee shall be subject to the collection, administration, and
22 enforcement provisions of chapter 233 of Title 32, and the fees collected under

1 this subsection by the commissioner of taxes shall be deposited into the
2 petroleum cleanup fund established pursuant to subsection 1941(a) of this title.
3 ~~After analysis of the projected unencumbered fund balance, the~~ The secretary,
4 in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel~~
5 ~~Dealers Association, Inc. may make a recommendation~~ petroleum cleanup
6 fund advisory committee established pursuant to subsection 1941(e) of this
7 title, shall annually report to the legislature as to whether or not to assess the
8 one-cent licensing fee for the upcoming year on the balance of the heating fuel
9 account of the fund and shall make recommendations, if any, for changes to the
10 program. The secretary shall also determine the unencumbered balance of the
11 heating fuel account of the fund as of May 15 of each year, and if the balance
12 is equal to or greater than \$3,000,000.00, then the licensing fee shall not be
13 assessed in the upcoming fiscal year. The secretary shall promptly notify all
14 sellers assessing this fee of the status of the fee for the upcoming fiscal year.
15 This fee provision shall terminate April 1, 2016.

16 * * * Fuel Gross Receipts Tax * * *

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

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

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

- 1 (2) propane;
- 2 (3) natural gas;
- 3 (4) electricity;
- 4 (5) coal.

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

6 Sec. 34. STATE COLLECTION OF EDUCATION PROPERTY TAX

7 No later than 90 days after the final payment has been remitted pursuant to
8 the contract for the ETM system currently being developed, the department of
9 taxes shall solicit bids for assistance in developing a request for proposal for
10 the design and development of an electronic system for the department's
11 administration, billing, and collection of the education property tax provided
12 for in chapter 135 of Title 32 and for assistance in reviewing responses to such
13 request for proposal. The bids shall be due to the department no later than
14 May 30, 2011.

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

16 Sec. 35. FUTURE OF EDUCATION GOVERNANCE AND EDUCATION
17 FINANCE

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

21 (1) Goals. In consultation with the house committees on education and
22 on ways and means and the senate committees on education and on finance,

1 identify the five most important short-term goals and the five most important
2 long-term goals for an education system, taking into account the following:
3 student educational achievement, education governance, finance, spending
4 controls, and cost savings; and design a quantifiable nonmonetary measure of
5 whether schools provide a “substantially equal educational opportunity” for
6 student educational achievement; and report its findings by November 1, 2010.

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

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

20 (b) Advisory panel. In order to facilitate its study of these education
21 systems, the commission may appoint an advisory panel of individuals who
22 have a familiarity with education assessment, education governance, or

1 education finance and have a demonstrated commitment to supporting a
2 high-quality and efficient public education system with high outcomes and
3 have demonstrated an understanding of both the state and local aspects of
4 public education in Vermont. The advisory panel may include professionals in
5 education and in taxation; representatives of municipal government, of the
6 education community, of taxpayers, or of other interests; civic-minded
7 Vermonters; or others as the commission may determine, but shall not include
8 current members of the general assembly. The commission may delegate
9 fact-finding and other supporting tasks to the advisory panel and may request
10 the panel to participate in any meetings or hearings of the commission; and the
11 panel may itself convene meetings, including public hearings.

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

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

Sec. 36. 32 V.S.A. § 9741(13) is amended to read:

(13) Sales of food, food stamps, purchases made with food stamps, food products and beverages sold for human consumption off the premises where sold; provided, however, dietary supplements are not exempt.

* * *

Sec. 36. 32 V.S.A. 9701(48) is added to read:

(48) Prescription: means a direction in the form of an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed health care professional.

Sec. 37. 32 V.S.A. § 9741(13) is amended to read:

(13) Sales of food, food stamps, purchases made with food stamps, food products and beverages sold for human consumption off the premises where sold; provided, however, dietary supplements are not exempt unless purchased pursuant to a prescription.

Sec. 38. 32 V.S.A. § 5811(18) and (21) are amended to read:

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

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; ~~and~~

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from state and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; and

(III) one-third of the amount of any domestic production activity deduction under 26 U.S.C. § 199; and

* * *

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

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; ~~and~~

(iii) *the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and*

(iv) one-third of any domestic production activity deduction under 26 U.S.C. § 199; and

* * *

Sec. 39. 32 V.S.A. § 5811(18) and (21) are amended to read:

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

(A) *the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:*

(i) *increased by:*

(I) *the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and*

(II) *to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from state and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; and*

~~(III) one-third of the amount of any domestic production activity deduction under 26 U.S.C. § 199; and~~

* * *

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

(A) *Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):*

(i) *interest income from non-Vermont state and local obligations;*

(ii) *dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and*

(iii) *the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in*

no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

~~(iv) one third of any domestic production activity deduction under 26 U.S.C. § 199; and~~

Sec. 40. PRODUCTION ACTIVITY DEDUCTION

The federal production activity deduction changes provided for in Sec. 37 of this act require taxpayers to add back as income three percent of the total nine percent federal deduction amount for taxable years beginning on and after January 1, 2010, and before January 1, 2012. It is the judgment of the general assembly that this temporary add-back is necessary in these difficult economic times and that the full deduction of nine percent should be available, as provided for in Sec. 38 of this act, for tax years beginning on and after January 1, 2012.

Sec. 41. 32 V.S.A. chapter 151, subchapter 11M is added to read:

Subchapter 11M. Machinery and Equipment Investment Tax Credit

§ 5930II. MACHINERY AND EQUIPMENT TAX CREDIT

(a) Definitions.

(1) “Full-time job” has the same meaning as defined in subdivision 5930b(a)(9) of this title.

(2) “Investment period” means the period commencing January 1, 2010, and ending December 31, 2013.

(3) “Qualified capital expenditures” means expenditures properly chargeable to a capital account by a qualified taxpayer during the investment period, totaling at least \$20 million for machinery and equipment to be located and used in Vermont for creating, producing, or processing tangible personal property for sale.

(4) “Qualified taxpayer” means a taxpayer that:

(A) is an existing business on the effective date of this act with an aggregate average annual employment, including all employees of its related business units combined or consolidated for Vermont income tax purposes, during the investment period of no fewer than 200 full-time jobs in Vermont;

(B) is a taxable corporation under Subchapter C of the Internal Revenue Code;

(C) is a business whose operations at the time of application to the Vermont economic progress council are located in a Rural Economic Area Partnership (REAP) zone designated by the United States Department of

Agriculture Rural Development Authority, engaged primarily in the creation, production, or processing of tangible personal property for sale; and

(D) proposes to make qualified capital expenditures in a Vermont REAP zone and such expenditures will contribute substantially to the REAP zone's economy.

(5) "Qualified taxpayer's Vermont income tax liability" means the corporate income tax otherwise due on the qualified taxpayer's Vermont net income after reduction for any Vermont net operating loss as provided for under section 5382 of this title. For a qualified taxpayer that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group, its Vermont net income includes the allocable share of the combined net income of the group.

(b) Certification.

(1) A qualified taxpayer may apply to the Vermont economic progress council for a machinery and equipment investment tax credit certification for all qualified capital expenditures in the investment period on a form prescribed by the council for this purpose.

(2) The council shall issue a certification upon determining that the applicant meets the requirements set forth in subsection (a) of this section.

(c) Amount of credit. Except as limited by subsections (e) and (f) of this section, a qualified taxpayer shall be entitled to claim against its Vermont income tax a credit in an amount equal to ten percent of the total qualified capital expenditures.

(d) Availability of credit.

(1) The credit earned under this section with respect to qualified capital expenditures shall be available to reduce the qualified taxpayer's Vermont income tax liability for its tax year beginning on or after January 1, 2012, or, if later, the first tax year within which the qualified taxpayer's aggregate qualified capital expenditures exceed \$20,000,000.00. A taxpayer claiming a credit under this subchapter shall submit with the first return on which a credit is claimed a copy of the qualified taxpayer's certification from the Vermont economic progress council.

(2) The credit may be used in the year earned or carried forward to reduce the qualified taxpayer's Vermont income tax liability in succeeding tax years ending on or before December 31, 2023.

(e) Limitations.

(1) The credit earned under this section, either alone or in combination with any other credit allowed by this chapter, may not be applied to reduce the qualified taxpayer's Vermont income tax liability in any one year by more than

80 percent, and in no event shall the credit reduce the taxpayer's income tax liability below any minimum tax imposed by this chapter.

(2) The total amount of credit authorized under this section shall be \$4,000,000.00 and in no event shall the credit in any one tax year exceed \$1,000,000.00. The credit shall be available on a first-come first-served basis by certification of the Vermont economic progress council pursuant to subsection (b) of this section.

(f) Recapture.

(1) A qualified taxpayer who has earned credit under this section with respect to its qualified capital expenditures shall notify the Vermont economic progress council in writing within 60 days if the taxpayer's trade or business is substantially curtailed in any calendar year prior to December 31, 2019.

(2) A qualified taxpayer's business shall be considered to be substantially curtailed when the average number of the taxpayer's full-time jobs in Vermont for any calendar year prior to December 31, 2019, is less than 80 percent of the highest average number of its full-time jobs in Vermont for any calendar year in the investment period. A business shall not be considered to be substantially curtailed when the assets of the business have been sold but the business continues to be located in Vermont provided that the employment test of this subdivision is met.

(3) In the event that a qualified taxpayer has substantially curtailed its trade or business, then:

(A) the credit certification for such tax year and all succeeding tax years of the taxpayer shall be terminated;

(B) any credit previously earned and carried forward shall be disallowed; and

(C) any credit which has been previously used by the taxpayer to reduce its Vermont income tax liability shall be subject to recapture in accordance with the following table:

<u>Years between the close of the tax year when credit was earned and year when business was substantially curtailed:</u>	<u>Percent of credits to be repaid (%):</u>
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<u>2 or less</u>	<u>100</u>
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<u>More than 2, up to 4</u>	<u>50</u>
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<u>More than 4, up to 6</u>	<u>25</u>
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<u>More than 6</u>	<u>0</u>
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(4) The recapture shall be reported on the income tax return of the taxpayer who claimed the credit for the tax year in which the taxpayer's trade or business was substantially curtailed, or the commissioner may assess the recapture in accordance with the assessment and appeal provisions provided for in subchapter 8 of this chapter.

Sec. 42. REPEAL

Subchapter 11M of chapter 151 of Title 32 is repealed July 1, 2023, and no credit under that section shall be available for any taxable year beginning after June 30, 2023; provided, however, that if no qualified capital expenditures are made during the investment period, both terms as defined in 32 V.S.A. § 5930ll(a) of this act, the subchapter shall be repealed effective January 1, 2014.

Sec. 43. HOMESTEAD PROPERTY TAX REFUND

(a) Any taxpayer who, in 2009 only, failed to file a homestead declaration by the statutory deadline may, prior to June 1, 2010, apply to the commissioner of taxes for a refund of amounts of property tax overpaid as a result of the misclassification of homestead or nonresidential property due to such failure; provided, however, that the taxpayer shall have the burden of proving to the commissioner that one of the following substantially contributed to such failure:

(1) The taxpayer suffered from a serious medical illness or disability lasting at least from April 1, 2009, through September 1, 2009; or

(2) The taxpayer was given inaccurate information by an official of the taxpayer's municipality regarding the taxpayer's homestead status.

(b) Upon such an adequate showing of proof, the taxpayer shall be entitled to a refund, without interest, which the commissioner shall make from the education fund. The commissioner's determination as to the adequacy of the taxpayer's proof required in subdivision (a)(1) or (2) of this section shall be final.

Sec. 44. USE OF EDUCATION FUNDS

In addition to the uses of education funds set forth in 16 V.S.A. § 4025(b), the commissioner of taxes is authorized for the period of June 1, 2010, through August 30, 2010, only, to use education funds to refund without interest, any overpayment of education property taxes received by the education fund and due to a taxpayer upon successful petition to the commissioner made pursuant to section (a) of Sec. 42 of this act.

Sec. 45. APPROPRIATION

There is appropriated in fiscal year 2011 from the education fund to the commissioner of taxes the sum of \$75,000.00 for pro rata payment of refunds

related to 2009 property taxes and allowed under Secs. 42 and 43 of this act. The pro rata calculation under this section shall be on the basis of the amount of the taxpayer's refund as a portion of the total qualifying refund claims related to 2009 property taxes, but no pro rata portion distributed to a taxpayer shall exceed the actual refund amount due to the taxpayer. Any amount not distributed to taxpayers under this section shall revert to the education fund.

Sec. 46. 32 V.S.A. § 5410(b) and (g) are amended to read:

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

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

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

(2) Within 30 days of the transfer of title of all or any portion of the homestead, or upon any portion of the property ceasing to be a homestead, the declarant shall provide notice to the commissioner on a form to be prescribed by the commissioner.

* * *

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

payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

Sec. 47. 20 V.S.A. § 1606 is added to read:

§ 1606. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont veterans' fund. This fund shall be administered by the state treasurer and shall be paid out in grants on the recommendations of a five-member committee of the governor's veterans' advisory council. The governor's veterans' advisory council shall choose the membership of the committee from among its members. The purpose of this fund shall be to provide grants or other support to individuals and organizations:

(1) For the long-term care of veterans.

(2) To aid homeless veterans.

(3) For transportation services for veterans.

(4) To fund veterans' service programs.

(5) For activities recognizing veterans, including creating monuments and memorials.

(6) Offer bonuses, scholarships, and other financial opportunities, as provided by the council.

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

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

Sec. 48. 32 V.S.A. § 5862e is added to read:

§ 5862e. VERMONT VETERANS' FUND CHECKOFF

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

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

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

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

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

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

~~Sec. 49~~ ~~Sec. 36~~. EFFECTIVE DATES

1 This act shall take effect upon passage, except:

2 (1) Sec. 2 (collection assistance fees) shall apply to fees assessed on or
3 after July 1, 2010.

4 (2) Sec. 6 (local option tax administration fee) shall apply to all returns
5 filed with the department on or after July 1, 2010.

6 (3) Sec. 8 (Vermont economic growth incentive recapture) shall take
7 effect retroactively on January 1, 2010.

8 (4) Sec. 9 (assessed value of land that includes VAST trails) shall apply
9 to grand lists lodged on or after April 1, 2011.

10 (5) Secs. 13–17 (property transfer tax) shall apply to transfers occurring
11 on or after January 1, 2011.

1 (6) Secs. 19, 21, and 22 (renter rebate and landlord certificates) shall
2 apply to property tax adjustments for claims made in 2011 and after.

3 (7) Sec. 20 (property tax adjustments) shall apply to property tax
4 adjustments for claims made in 2010 and after.

5 (8) Sec. 25 (estate tax petition for refund) shall apply to decedents dying
6 after December 31, 2009.

7 (9) Sec. 27 (capital gain election for transfer of a closely held business)
8 shall apply to transfers in taxable years 2011 and after; provided, however, that
9 this provision shall only become effective upon the sunset of the provision in
10 32 V.S.A. § 5811(21)(B)(ii)(I) and (II) that allows for special treatment of
11 adjusted net capital gains for taxpayers aged 70 and over, which sunset
12 currently is scheduled for January 1, 2011.

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

15 (11) Sec. 31 (compensating use tax percentage) shall apply to taxable
16 years beginning on and after January 1, 2010.

17 (12) Sec. 32 (petroleum cleanup fund) shall take effect on July 1, 2010.

18 (13) Sec. 33 (fuel gross receipts tax) shall apply to sales of fuels on or
19 after July 1, 2010.

(14) Sec. 36 (dietary supplements) shall take effect on July 1, 2010.

(15) Sec. 37 (add-back of one-third of production activity deduction)
shall apply to tax years beginning on and after January 1, 2010, and before
January 1, 2012.

(16) Sec. 38 (full flow-through of production activity deduction) shall apply to tax years beginning on and after January 1, 2012.

(17) Sec. 40 (machinery and equipment investment tax credit) shall apply to taxable years beginning on and after January 1, 2012.

(18) Sec. 46 (homestead declaration) shall apply to homestead declarations filed for property tax year 2010 and after.

(19) Sec. 48 (income tax return checkoff for Vermont veterans' fund) shall apply to income tax returns for taxable years 2010 and after.