

1 H.782

2 Introduced by Committee on Ways and Means

3 Date:

4 Subject: Taxation; miscellaneous tax changes for 2012

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

7 An act relating to miscellaneous tax changes for 2012

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

9 * * * Administrative Provisions * * *

10 Sec. 1. 32 V.S.A. § 5824 is amended to read:

11 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

12 The statutes of the United States relating to the federal income tax, as in
13 effect for taxable year ~~2010~~ 2011, but without regard to federal income tax
14 rates under Section 1 of the Internal Revenue Code, are hereby adopted for the
15 purpose of computing the tax liability under this chapter.

16 Sec. 2. 14 V.S.A. § 3502(f) is added to read:

17 (f) Notwithstanding any other provision of law, a power of attorney
18 appointing a representative to represent a person before the Vermont
19 department of taxes that conforms to the requirements of the United States
20 Internal Revenue Service for a valid power of attorney and declaration of

1 representative pursuant to 25 C.F.R. § 601.503 shall be deemed to be legally
2 executed and shall be of the same force and effect for purposes of
3 representation before the department of taxes as if executed in the manner
4 prescribed in this chapter.

5 Sec. 3. 32 V.S.A. § 3102(e) is amended to read:

6 (e) The commissioner may, in his or her discretion and subject to such
7 conditions and requirements as he or she may provide, including any
8 confidentiality requirements of the Internal Revenue Service, disclose a return
9 or return information:

10 * * *

11 (14) to the office of the state treasurer, only in the form of mailing
12 labels, with only the last address known to the department of taxes of any
13 person identified to the department by the treasurer by name and Social
14 Security number, for the treasurer's use in notifying owners of unclaimed
15 property; and

16 (15) to the department of liquor control provided that the information
17 is limited to information concerning the sales and use tax and meals and rooms
18 tax filing history with respect to the most recent five years of a person seeking
19 a renewal of a liquor license.

1 Sec. 4. 10 V.S.A. § 1942(b) is amended to read:

2 (b) There is assessed against every seller receiving more than \$10,000.00
3 annually for the retail sale of heating oil, kerosene, or other dyed diesel fuel
4 sold in this state and ~~not used to propel a motor vehicle,~~ delivered to a
5 residence or business a licensing fee of one cent per gallon of such heating oil,
6 kerosene, or other dyed diesel fuel. This fee shall be subject to the collection,
7 administration, and enforcement provisions of 32 V.S.A. chapter 233 ~~of Title~~
8 ~~32~~, and the fees collected under this subsection by the commissioner of taxes
9 shall be deposited into the petroleum cleanup fund established pursuant to
10 subsection 1941(a) of this title. The secretary, in consultation with the
11 petroleum cleanup fund advisory committee established pursuant to subsection
12 1941(e) of this title, shall annually report to the legislature on the balance of
13 the heating fuel account of the fund and shall make recommendations, if any,
14 for changes to the program. The secretary shall also determine the
15 unencumbered balance of the heating fuel account of the fund as of May 15 of
16 each year, and if the balance is equal to or greater than \$3,000,000.00, then the
17 licensing fee shall not be assessed in the upcoming fiscal year. The secretary
18 shall promptly notify all sellers assessing this fee of the status of the fee for the
19 upcoming fiscal year. This fee provision shall terminate April 1, 2016.

1 Sec. 5. 10 V.S.A. § 1941(b)(1)(C) is amended to read:

2 (C) an aboveground storage tank site after the first \$1,000.00 of the
3 cleanup costs have been borne by the owners or operators of tanks used for
4 commercial purposes, ~~or~~ after the first \$250.00 of the cleanup costs have been
5 borne by the owners or operators of residential ~~and farm~~ tanks, or after the first
6 \$100.00 of the cleanup costs have been borne by the owners or operators of
7 farm tanks. Disbursements under this subdivision (b)(1)(C) on any individual
8 site shall not exceed \$25,000.00. These disbursements shall be made from the
9 motor fuel account or heating fuel account, depending upon the use or contents
10 of the tank;

11 Sec. 6. PETROLEUM CLEANUP FUND OUTREACH

12 The secretary of agriculture, food and markets shall publish or broadcast, in
13 media designed to reach a farming audience, information advising Vermont
14 farmers of the existence of the petroleum cleanup fund under 10 V.S.A.
15 chapter 59 and the terms of available assistance to farmers from that fund. The
16 secretary shall publish or broadcast this information no fewer than four times
17 each year that the fund is in existence.

18 Sec. 7. Sec. 1(c) of No. 71 of the Acts of the 2011 Adj. Sess. (2012) is
19 amended to read:

20 (c) Use. ~~Residents of the state of Vermont may display an approved~~
21 ~~commemorative plate on a motor vehicle registered as a pleasure car and on~~

1 ~~motor trucks registered~~ An approved Vermont Strong commemorative plate
2 may be displayed on a motor vehicle registered in Vermont as a pleasure car or
3 on a motor truck registered in Vermont for less than 26,001 pounds (but
4 excluding vehicles registered under the International Registration Plan) by
5 covering the front registration plate with the commemorative plate any time
6 from the effective date of this act until June 30, 2014. The regular front
7 registration plate shall not be removed. The regular rear registration plate shall
8 be in place and clearly visible at all times.

9 * * * Taxpayer Advocate Provisions * * *

10 Sec. 8. 32 V.S.A. § 3205(b) is amended to read:

11 (b) The taxpayer advocate shall have the following functions and duties:

12 (1) identify subject areas where taxpayers have difficulties interacting
13 with the department of taxes;

14 (2) identify classes of taxpayers or specific business sectors who have
15 common problems related to the department of taxes;

16 (3) propose solutions, including administrative changes to practices and
17 procedures of the department of taxes;

18 (4) recommend legislative action as may be appropriate to resolve
19 problems encountered by taxpayers;

20 (5) educate taxpayers concerning their rights and responsibilities under
21 Vermont's tax laws; ~~and~~

1 (6) educate tax professionals concerning the department of taxes
2 regulations and interpretations by issuing bulletins and other written
3 materials; and

4 (7) assist individual taxpayers in resolving disputes with the department
5 of taxes.

6 Sec. 9. TAXPAYER BILL OF RIGHTS AND TAXPAYER COSTS

7 (a) By January 15, 2013, the taxpayer advocate shall propose to the senate
8 committee on finance and the house committee on ways and means a draft of a
9 taxpayer's bill of rights. The draft language shall include a description of a
10 taxpayer's existing rights and responsibilities under Vermont's tax laws and
11 shall not be designed to expand any of those rights and responsibilities.

12 (b) By January 15, 2013, the taxpayer advocate shall report to the senate
13 committee on finance and the house committee on ways and means on the
14 advisability of requiring the department of taxes to pay the reasonable
15 expenses of a taxpayer for administrative and court costs if the position of the
16 department of taxes were not substantially justified. The taxpayer advocate
17 may consider as a model the federal system of assigning costs under 26 U.S.C.
18 § 7430.

19 (c) By January 15, 2013, the taxpayer advocate shall report to the senate
20 committee on finance and the house committee on ways and means on the
21 feasibility of implementing a procedure for educational assessments. An

1 educational assessment means that the commissioner waives the entire amount
2 of the underlying liability, penalty, and interest assessed for any trust tax
3 obligation of the taxpayer, and in return, the taxpayer agrees to work with the
4 department of taxes to come into compliance with applicable tax requirements
5 as specified in writing by the commissioner. If, after one year, the
6 commissioner determines that the taxpayer has not come substantially into
7 compliance with applicable tax requirements as outlined in writing by the
8 commissioner in this subsection, he or she may reinstate the entire assessed
9 liability, plus any additional penalties and interest.

10 Sec. 10. 32 V.S.A. § 3206 is added to read:

11 § 3206. RECOMMENDATION FOR EXTRAORDINARY RELIEF

12 (a) The taxpayer advocate may make a written recommendation for
13 extraordinary relief to the commissioner under the provisions of this section.
14 A recommendation for extraordinary relief may be made only in response to a
15 request from a taxpayer and after a thorough investigation of the taxpayer's
16 circumstances by the taxpayer advocate which results in findings by the
17 taxpayer advocate that:

18 (1) Vermont tax laws apply to the taxpayer's circumstances in a way
19 that is unfair and unforeseen or that results in significant hardship; and

20 (2) the taxpayer has no available appeal rights or administrative
21 remedies to correct the issue that led to such unfair result or hardship.

1 (b) For purposes of this section, “extraordinary relief” means a remedy that
2 is within the power of the commissioner to grant under this title, a remedy that
3 compensates for the result of inaccurate classification of property as homestead
4 or nonresidential pursuant to section 5410 of this title through no fault of the
5 taxpayer, or a remedy that makes changes to a taxpayer’s property tax
6 adjustment or renter rebate claim necessary to remedy the problem identified
7 by the taxpayer advocate.

8 (c) Notwithstanding any other provision of law, if in response to the
9 taxpayer advocate’s recommendation, the commissioner determines that the
10 taxpayer should receive a refund or other monetary adjustment, the
11 commissioner shall certify that amount to the commissioner of finance and
12 management who shall issue his or her warrant in favor of the taxpayer for
13 payment by the treasurer from the appropriate fund.

14 (d) A recommendation for extraordinary relief shall be in writing, shall be
15 addressed to the commissioner, and shall include a description of the problem
16 sought to be remedied along with specific recommendations to the
17 commissioner. The taxpayer advocate’s decision to make or not make a
18 recommendation for extraordinary relief shall be final and not subject to
19 review.

20 (e) The commissioner may choose to act on the recommendation of the
21 taxpayer advocate, not act on the recommendation, or act on part of the

1 taxpayer advocate's recommendation, and the commissioner's decision shall
2 be final and not subject to any further review. Nothing in this section shall be
3 construed to limit any other power or authority granted to the commissioner in
4 this title.

5 * * * Compliance Provisions * * *

6 Sec. 11. 32 V.S.A. § 3108 is amended to read:

7 § 3108. ESTABLISHMENT OF INTEREST RATE

8 (a) Not later than December 15 of each year, the commissioner shall
9 establish a rate of interest applicable to ~~unpaid tax liabilities and tax~~
10 overpayments which shall be equal to the average prime rate charged by banks
11 during the immediately preceding 12 months commencing on October 1 of the
12 prior year, rounded upwards to the nearest ~~whole~~ quarter percent. ~~The An~~
13 annual rate thus established ~~may~~ shall be converted to a monthly rate which
14 shall be rounded upwards to the nearest tenth of a percent. Not later than
15 December 15 of each year, the commissioner shall establish annual and
16 monthly rates of interest applicable to unpaid tax liabilities, which in each
17 instance shall be equal to the annual and monthly rates established for tax
18 overpayments, plus 200 basis points. The ~~rate~~ rates established hereunder shall
19 be effective on January 1 of the immediately following year. For purposes of
20 this section, the term "prime rate charged by banks" shall mean the average

1 predominate prime rate quoted by commercial banks to large businesses as
2 determined by the board of governors of the Federal Reserve ~~System~~ Board.

3 (b) Whenever the commissioner is authorized or directed to pay interest on
4 an overpayment of any taxes, nevertheless no interest shall be paid on such
5 overpayment:

6 (1) where the commissioner finds that such overpayment was made with
7 the intention or expectation of receiving a payment of interest thereon and for
8 no other reason;

9 (2) for any period of time prior to: 45 days after the date the return other
10 than a corporate income tax return was due, including any extensions of time
11 thereto; or 45 days after the return was filed, whichever is the later date, and
12 with respect to corporate income tax returns, for any period of time prior to 90
13 days after the date the return was due or 90 days after the return was filed,
14 whichever is the later date;

15 * * *

16 Sec. 12. 7 V.S.A. § 421(c) is amended to read:

17 (c) For the purpose of ascertaining the amount of tax, on or before the tenth
18 day of each calendar month, each bottler and wholesaler shall transmit to the
19 commissioner of taxes, upon a form prepared and furnished by the
20 commissioner, a statement or return under oath or affirmation showing the
21 quantity of malt and vinous beverages sold by the bottler or wholesaler during

1 the preceding calendar month, and report any other information requested by
2 the commissioner accompanied by payment of the tax required by this section.
3 The amount of tax computed under subsection (a) of this section shall be
4 rounded to the nearest whole cent. At the same time this form is due, each
5 bottler and wholesaler also shall transmit to the commissioner in electronic
6 format a separate report showing the description, quantity, and price of malt
7 and vinous beverages sold by the bottler or wholesaler to each retail dealer as
8 defined in 7 V.S.A. § 2(18); provided, however, that the reporting
9 requirements contained in this sentence do not apply to direct sales to retail
10 dealers by manufacturers or rectifiers of vinous beverages.

11 * * * Income Tax Provisions * * *

12 Sec. 13. 32 V.S.A. § 5832(2) is amended to read:

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

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

1 (C) ~~\$250.00 for all other corporations~~ For C corporations with gross
2 receipts from \$0–\$2,000,000, the greater of the amount determined under
3 subdivision (1) of this section or \$250.00; or

4 (D) For C corporations with gross receipts from
5 \$2,000,001–\$5,000,000, the greater of the amount determined under
6 subdivision (1) of this section or \$500.00; or

7 (E) For C corporations with gross receipts greater than \$5,000,000,
8 the greater of the amount determined under subdivision (1) of this section or
9 \$750.00.

10 Sec. 14. 32 V.S.A. § 5930b(c)(9) is amended to read:

11 (9) Incentive claims must be filed annually no later than the last day of
12 April of each year of the utilization period. For a claim to be considered a
13 timely filing and eligible for an incentive payment, all forms and workbooks
14 must be complete and all underlying documentation, such as that required
15 pursuant to subsection 5842(b) of this title, must be filed with the department
16 of taxes. Incomplete claims may be considered to have been timely filed if a
17 complete claim is filed within the time prescribed by the department of taxes.
18 If a claim is not filed each year of the utilization period, any incentive
19 installment previously paid shall be recaptured in accordance with subsection
20 (d) of this section. The incentive return shall be subject to all provisions of this
21 chapter governing the filing of tax returns. No interest shall be paid by the

1 department of taxes for any reason with respect to incentives allowed under
2 this section.

3 Sec. 15. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is
4 amended to read:

5 (c) Beginning April 1, 2009, the economic incentive review board is
6 authorized to grant payroll-based growth incentives pursuant to the Vermont
7 employment growth incentive program established by Sec. 9 of this act.

8 Unless extended by act of the General Assembly, as of ~~January 1, 2012~~ July 1,
9 2017, no new Vermont employment growth incentive (VEGI) awards under
10 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to
11 ~~January 1, 2012~~ July 1, 2017 may remain in effect until used.

12 Sec. 16. 32 V.S.A. § 5930b(e) is amended to read:

13 (e) Reporting. By ~~May 1, 2008~~ and by ~~May 1~~ September 1 each year
14 ~~thereafter~~, the council and the department of taxes shall file a joint report on
15 the employment growth incentives authorized by this section with the chairs of
16 the house committee on ways and means, the house committee on commerce
17 and economic development, the senate committee on finance, the senate
18 committee on economic development, housing and general affairs, the house
19 and senate committees on appropriations, and the joint fiscal committee of the
20 general assembly and provide notice of the report to the members of those
21 committees. The joint report shall contain the total ~~authorized award~~ amount

1 of incentives ~~granted~~ authorized during the preceding year; ~~amounts actually~~
2 ~~earned and paid from inception of the program to the date of the report,~~
3 ~~including the date and amount of the award, the expected calendar year or~~
4 ~~years in which the award will be exercised, whether the award is currently~~
5 ~~available, the date the award will expire, and the amount and date of all~~
6 ~~incentives exercised~~ and, with respect to each recipient, the date and amount of
7 authorization, the calendar year or years in which the authorization is expected
8 to be exercised, whether the authorization is active, and the date the
9 authorization will expire. The joint report shall also include ~~information on~~
10 ~~recipient performance in the year in which the incentives were applied,~~
11 ~~including the number of applications for the incentive, the number of approved~~
12 ~~applicants who complied with all their requirements for the incentive, the~~
13 following aggregate information: total number of claims and total incentive
14 payments made in the current and prior claim years, the balance of credits not
15 yet allocated, the aggregate number of qualifying new jobs created, the
16 aggregate and qualifying payroll of those jobs and the identity of businesses
17 whose applications were approved, and qualifying new capital investments.
18 The council and department shall use measures to protect proprietary financial
19 information, such as reporting information in an aggregate form. Data and
20 information in the joint report ~~made available to the public~~ shall be presented
21 in a searchable format.

1 Sec. 17. 32 V.S.A. § 5930bb(d) is added to read:

2 (d) Notwithstanding any other provision of this subchapter, qualified
3 applicants may apply to the state board at any time prior to June 30, 2013 to
4 obtain a tax credit not otherwise available under subsections 5930cc(a)–(c) of
5 this title, of 10 percent of qualified expenditures resulting from damage caused
6 by a federally declared disaster in Vermont in 2011. The credit shall only be
7 claimed against the taxpayer’s state individual income tax under section 5822
8 of this title. To the extent that any allocated tax credit exceeds the taxpayer’s
9 tax liability for the first tax year in which the qualified project is completed,
10 the taxpayer shall receive a refund equal to the unused portion of the tax credit.
11 If within two years after the date of the credit allocation no claim for a tax
12 credit or refund has been filed, the tax credit allocation shall be rescinded and
13 recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of
14 tax credits available under this subsection shall not be less than \$500,000.00
15 and not more than \$700,000.00, and shall not be subject to the limitations
16 contained in section 5930ee(2) of this subchapter.

17 Sec. 18. CREDIT LIMIT FOR FISCAL YEAR 2013

18 Notwithstanding any other provision of law, for fiscal year 2013 only, the
19 limitation provided in 32 V.S.A. § 5930ee(1) shall be \$2,200,000.00 instead of
20 \$1,700,000.00.

1 * * * Property Tax Adjustment and Renter Rebate Provisions * * *

2 Sec. 19. RENTER REBATE CLAIM

3 The office of legislative council is authorized to change references to
4 “renter credit claim” in 32 V.S.A. chapter 154 to read “renter rebate claim.”

5 Sec. 20. Sec. 51(b) of No. 160 of the Acts of the 2009 Adj. Sess. (2010) is
6 amended to read:

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

10 ~~(1) 32 V.S.A. § 6061(5)(E) (requiring adjustment for interest and~~
11 ~~dividend income for purposes of calculating modified adjusted gross income).~~

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

14 32 V.S.A. § 6061(5)(E) (requiring adjustment for interest and dividend
15 income for purposes of calculating modified adjusted gross income) is repealed
16 for claims filed on and after January 1, 2013.

17 Sec. 21. 32 V.S.A. § 6061(5)(D) is amended to read:

18 (D) without the inclusion of adjustments to total income except
19 certain business expenses of reservists, one-half of self-employment tax paid,
20 alimony paid, deductions for tuition and fees, ~~and~~ health insurance costs of
21 self-employed individuals, and health savings account payments; and

1 Sec. 22. 32 V.S.A. § 6068(a) is amended to read:

2 (a) A tax adjustment claim or request for allocation of an income tax refund
3 to homestead property tax payment shall be filed with the commissioner on or
4 before the due date for filing the Vermont income tax return, without
5 extension, and shall describe the school district in which the homestead
6 property is located and shall particularly describe the homestead property for
7 which the adjustment or allocation is sought, including the school parcel
8 account number prescribed in subsection 5404(b) of this title. A renter rebate
9 claim shall be filed with the commissioner on or before the due date for filing
10 the Vermont income tax return, without extension.

11 Sec. 23. 32 V.S.A. § 6066a is amended to read:

12 § 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

13 (a) Annually, the commissioner shall determine the property tax adjustment
14 amount under section 6066 of this title, related to a homestead owned by the
15 claimant. The commissioner shall notify the municipality in which the
16 housesite is located of the amount of the property tax adjustment for the
17 claimant for homestead property tax liabilities, on July 1 for ~~timely filed~~
18 timely filed claims and on ~~September 15~~ November 1 for late claims filed by
19 ~~September 1~~ October 15. The tax adjustment of a claimant who was assessed
20 property tax by a town which revised the dates of its fiscal year, however, is
21 the excess of the property tax which was assessed in the last 12 months of the

1 revised fiscal year, over the adjusted property tax of the claimant for the
2 revised fiscal year as determined under section 6066 of this title, related to a
3 homestead owned by the claimant.

4 * * *

5 (c) The commissioner shall notify the municipality of any claim and refund
6 amounts unresolved by ~~September 15~~ November 1 at the time of final
7 resolution, including adjudication if any; provided, however, that towns will
8 not be notified of any additional adjustment amounts after ~~September 15~~
9 November 1 of the claim year, and such amounts shall be paid to the claimant
10 by the commissioner.

11 * * *

12 (f) Property tax bills.

13 (1) For amounts stated in the notice to towns on July 1, municipalities
14 shall include on the homestead property tax bill notice to the taxpayer of the
15 total amount allocated to payment of homestead education property tax
16 liabilities and notice of the balance due. Municipalities shall apply the amount
17 allocated under this chapter to current-year property taxes in equal amounts to
18 each of the taxpayers' property tax installments that include education taxes.

19 (2) For property tax adjustment amounts for which municipalities
20 receive notice on or after ~~September 15~~ November 1, municipalities shall issue
21 a new homestead property tax bill with notice to the taxpayer of the total

1 amount allocated to payment of homestead property tax liabilities and notice of
2 the balance due.

3 * * *

4 (g) Annually, on August 1 and on ~~September 15~~ November 1, the
5 commissioner of taxes shall pay to each municipality the amount of property
6 tax adjustment of which the municipality was notified on July 1 for the
7 August 1 transfer, or ~~September 15~~ November 1 for the ~~September 15~~
8 November 1 transfer, related to municipal property tax on homesteads within
9 that municipality, as determined by the commissioner of taxes.

10 Sec. 24. 32 V.S.A. § 6068(b) and (c) are amended to read:

11 (b) Late-filing penalties. If the claimant fails to file a timely claim, the
12 amount of the property tax adjustment under this chapter shall be reduced by
13 \$15.00, but not below \$0.00, which shall be paid to the municipality for the
14 cost of issuing an adjusted homestead property tax bill. No benefit shall be
15 allowed in the calendar year unless the claim is filed with the commissioner on
16 or before ~~September 1~~ October 15.

17 (c) No request for allocation of an income tax refund or for a renter rebate
18 claim may be made after ~~September 1~~ October 15.

1 Sec. 25. 32 V.S.A. § 6074 is amended to read:

2 § 6074. AMENDMENT OF CERTAIN CLAIMS

3 At any time within three years after the date for filing claims under
4 subsection 6068(a) of this chapter, a claimant who filed a claim by
5 ~~September 1~~ October 15 may file to amend that claim to correct the amount of
6 household income reported on that claim.

7 Sec. 26. HOUSEHOLD INCOME STUDY

8 The department of taxes shall analyze and make recommendations for
9 improving the equitable administration and accurate reporting of who is in a
10 household for the purpose of calculating household income under 32 V.S.A.
11 chapter 154. Specifically, the department of taxes shall identify any issues
12 related to including people beyond the claimant and the claimant's spouse in
13 the definition of a household. The department of taxes shall also identify any
14 impact to the property tax adjustment and renter rebate claim processes from
15 restricting the definition of "household" to only the claimant and the claimant's
16 spouse. The department of taxes shall also analyze and make
17 recommendations on the exclusion from household income of payments for
18 retirement savings accounts for self-employed individuals. The department of
19 taxes shall report its findings and recommendation to the senate committee on
20 finance and the house committee on ways and means no later than January 15,
21 2013.

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

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

8 (3) Hardcopy or nondigital format orthophotographic imagery created
9 under this section shall be available for public review at the state archives.

10 Sec. 28. 32 V.S.A. chapter 133, subchapter 5 is amended to read:

11 Subchapter 5. Assessment and Collection in

12 ~~Unified~~ Unorganized Towns and Gores

13 * * *

14 Sec. 29. 32 V.S.A. § 4301 is amended to read:

15 § 4301. BASIS FOR COUNTY TAXES

16 (a) The equalized municipal property tax grand lists for each town,
17 unorganized town and gore, and the unified towns and gores of Essex County
18 shall be the basis of taxation for county purposes.

19 (b) Annually, on or before January 1, the director shall provide to each
20 county treasurer the equalized municipal property tax grand list for each town,
21 unorganized town, and gore, and the unified towns and gores of Essex County

1 within the county. "Equalized municipal property tax grand list" in this section
2 shall mean the equalized education property tax grand list as defined in chapter
3 135 of this title plus inventory, machinery and equipment subject to municipal
4 tax in that municipality at its grand list value.

5 Sec. 30. 27A V.S.A. § 1-105 is amended to read:

6 § 1-105. SEPARATE TITLES AND TAXATION

7 (a) In a condominium or planned community:

8 (1) if there is any unit owner other than a declarant, each unit that has
9 been created, together with its interest in the common elements, constitutes for
10 all purposes a separate parcel of real estate;

11 (2) if there is any unit owner other than a declarant, each unit shall be
12 separately taxed and assessed, and no separate tax or assessment may be
13 rendered against any common elements for which a declarant has reserved no
14 development rights; provided, however, that if a portion of the common
15 elements is located in a town other than the town in which the unit is located,
16 the town in which the common elements are located may designate that portion
17 of the common elements within its boundaries as a parcel for property tax
18 assessment purposes and may tax the unit owner for the reasonable value
19 thereof.

20 * * *

1 Sec. 31. 32 V.S.A. § 5401(13) is amended to read:

2 (13) “District spending adjustment” means the greater of: one or a
3 fraction in which the numerator is the district’s education spending plus excess
4 spending, per equalized pupil, for the school year; and the denominator is the
5 base education amount for the school year, as defined in 16 V.S.A. § 4001.
6 For a district that pays tuition to a public school or an approved independent
7 school, or both, for all of its resident students in any year, and which has
8 decided by a majority vote of its school board to opt into this provision, the
9 district spending adjustment shall be the average of the district spending
10 adjustment calculated under this subdivision for the previous year and for the
11 current year. Any district opting for a two-year average under this subdivision
12 may not opt out of such treatment, and the averaging shall continue until the
13 district no longer qualifies for such treatment.

14 * * * Current Use Provisions * * *

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

16 (5) “Development” means, for the purposes of determining whether a
17 land use change tax is to be assessed under section 3757 of this chapter, the
18 construction of any building, road or other structure, or any mining, excavation
19 or landfill activity. “Development” also means the subdivision of a parcel of
20 land into two or more parcels, regardless of whether a change in use actually
21 occurs, where one or more of the resulting parcels contains less than 25 acres

1 each; but if subdivision is solely the result of a transfer to one or more of a
2 spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the
3 transferor, or to the surviving spouse of any of the foregoing, then
4 “development” shall not apply to any portion of the ~~newly-created~~ newly
5 created parcel or parcels which qualifies for enrollment and for which, within
6 30 days following the transfer, each transferee or transferor applies for
7 reenrollment in the use value appraisal program. “Development” also means
8 the cutting of timber on property appraised under this chapter at use value in a
9 manner contrary to a forest or conservation management plan as provided for
10 in subsection 3755(b) of this title during the remaining term of the plan, or
11 contrary to the minimum acceptable standards for forest management if the
12 plan has expired; or a change in the parcel or use of the parcel in violation of
13 the conservation management standards established by the commissioner of
14 forests, parks and recreation. The term “development” shall not include the
15 construction, reconstruction, structural alteration, relocation, or enlargement of
16 any building, road, or other structure for farming, logging, forestry, or
17 conservation purposes, but shall include the subsequent commencement of a
18 use of that building, road or structure for other than farming, logging, or
19 forestry purposes.

1 Sec. 33. 32 V.S.A. § 3753(b) is amended to read:

2 (b) The membership of the board shall consist of:

3 (1) The following persons or their designees:

4 * * *

5 (E) ~~Dean of the college of natural resources, agriculture and life~~
6 ~~sciences of the University of Vermont. [Deleted.]~~

7 * * *

8 Sec. 34. 32 V.S.A. § 3755(b) is amended to read:

9 (b) Managed ~~forest land~~ forestland shall be eligible for use value appraisal
10 under this subchapter only if:

11 (1) the land is subject to a forest management plan, or subject to a
12 conservation management plan in the case of lands certified under 10 V.S.A.
13 § 6306(b), which:

14 (A) is signed by the owner of a ~~tract~~ the parcel;

15 (B) ~~which~~ complies with subdivision 3752(9) of this title;

16 (C) is filed with and approved by the department of forests, parks and
17 recreation; and

18 (D) ~~by October 1, which~~ provides for continued conservation
19 management or forest crop production on the ~~tract~~ parcel for ~~at least~~ ten years.
20 ~~During a period of use value appraisal under this subchapter, a conservation or~~
21 ~~forest management plan for at least ten years, including the 12-month period~~

1 ~~beginning April 1 of the year for which use value appraisal is sought, signed by~~
2 ~~the owner, shall be on file with the department in such a manner and in such~~
3 ~~form as is prescribed by the department. Upon the~~ An initial forest
4 management plan or conservation management plan must be filed with the
5 department of forests, parks and recreation no later than October 1 and shall be
6 effective for a ten-year period beginning the following April 1. Prior to
7 expiration of a ~~ten-year~~ ten-year plan and no later than April 1 of the year in
8 which the plan expires, the owner shall file a new conservation or forest
9 management plan for at least the next succeeding ten years to remain in the
10 program.

11 * * *

12 * * * Sales and Use Tax Provisions * * *

13 Sec. 35. 32 V.S.A. § 9741(48) is amended to read:

14 (48) Sales of tangible personal property sold by an auctioneer licensed
15 under 26 V.S.A. chapter 89 of Title 26, including any buyer's premium
16 charged by the auctioneer, that are conducted on the premises of the owner of
17 the property, provided that no other person's property is sold on the auction
18 premises and provided that the property was obtained by the owner, through
19 purchase or otherwise, for his or her own use.

1 * * * Electrical energy generating tax provisions * * *

2 Sec. 38. 32 V.S.A. § 5402a(a) is amended to read:

3 (a) There is assessed for the fiscal year July through June upon any
4 operating electric generating plant subject to the tax under chapter 213 of this
5 title, an education property tax in accordance with the following table:

6 If megawatt hour production is:	tax is:
7 Less than 2,300,000 megawatt hours	\$1.465 <u>\$4.465</u> million
8 2,300,000 to 3,800,000 megawatt hours	\$1.465 <u>\$4.465</u> million
9	plus \$0.29 per megawatt
10	hour over 2,300,000
11 3,800,001 to 4,200,000 megawatt hours	\$1.9 <u>\$4.9</u> million
12 Over 4,200,000 megawatt hours	\$1.9 <u>\$4.9</u> million plus
13	\$0.29 per megawatt hour
14	over 4,200,000

15 Sec. 39. 32 V.S.A. § 8661(a) is amended to read:

16 (a)(1) There is hereby assessed each year upon electric generating plants
17 constructed in the state subsequent to July 1, 1965, and having a ~~name-plate~~
18 nameplate generating capacity of 200,000 kilowatts, or more, a state tax in
19 accordance with the following table:

20 If megawatt hour production is:	tax is:
21 Less than 2,300,000 megawatt hours	\$2.0 <u>\$5.0</u> million

1	2,300,000 to 3,800,000 megawatt hours	\$2.0 <u>\$5.0</u> million plus \$0.40 per
2		megawatt hour over 2,300,000
3	3,800,001 to 4,200,000 megawatt hours	\$2.6 <u>\$5.6</u> million
4	Over 4,200,000 megawatt hours	\$2.6 <u>\$5.6</u> million plus \$0.40 per
5		megawatt hour over 4,200,000

6 (2) For purposes of this section, “megawatt hour production” means the
7 average of net production for sale in the three most recent preceding calendar
8 years. The tax imposed by this section shall be paid to the commissioner in
9 equal quarterly installments on or before the 25th day of March, June,
10 September, and December by the person or corporation then owning or
11 operating such electric generating plant.

12 Sec. 40. REGIONAL ECONOMIC DEVELOPMENT FUND

13 There is hereby created a special fund to serve as a regional economic
14 development fund for the area serviced by the Brattleboro Development Credit
15 Corporation. Each year, the department of taxes shall calculate one-half of the
16 revenues received as a result of the increase in the tax rate on electrical
17 generating plants in 32 V.S.A. § 8661 made in Sec. 39 of this act, and deposit
18 that amount in the fund established under this section. It is the intent that
19 disbursements will be made from the fund for planning and economic
20 transition activities related to the closure of any electrical generating plant in
21 the region with a nameplate generating capacity of 200,000 kilowatts or more.

1 Sec. 41. CLEAN ENERGY DEVELOPMENT FUND

2 Each year, the department of taxes shall calculate one-half of the revenues
3 received as a result of the increase in the tax rate on electrical generating plants
4 in 32 V.S.A. § 8661 made in Sec. 39 of this act, and deposit that amount in the
5 clean energy development fund established under 30 V.S.A. § 8015.

6 * * * Meals and rooms tax provisions * * *

7 Sec. 42. 32 V.S.A. § 9202(3) is amended to read:

8 (3) "Hotel" means an establishment which holds itself out to the public
9 by offering sleeping accommodations for a consideration, whether or not the
10 major portion of its operating receipts is derived therefrom and whether or not
11 the sleeping accommodations are offered to the public by the owner or
12 proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the
13 agent of any of the foregoing. The term includes ~~but is not limited to~~, inns,
14 motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes,
15 rooming houses, furnished-room houses, boarding houses, and private clubs, as
16 well as any building or structure or part thereof to the extent to which any such
17 building or structure or part thereof in fact is held out to the public by offering
18 sleeping accommodations for a consideration. The term shall not include the
19 following:

20 (A) a hospital, licensed under 18 V.S.A. chapter 43 ~~of Title 18~~, or a
21 ~~sanatorium, convalescent home, nursing home, or a home for the aged~~

1 residential care home, assisted living residence, home for the terminally ill,
2 therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71,
3 or independent living facility;

4 * * *

5 Sec. 43. 32 V.S.A. § 9202(10)(D)(ii)(IV) is amended to read:

6 (IV) prepared by the employees or volunteers thereof and
7 served in any hospital licensed under 18 V.S.A. chapter 43 of Title 18; or
8 sanitorium, convalescent home, prepared by the employees, contractors other
9 than caterers, or volunteers of a nursing home or home for the aged, residential
10 care home, assisted living residence, home for the terminally ill, therapeutic
11 community residence as defined pursuant to 33 V.S.A. chapter 71, or
12 independent living facility;

13 Sec. 44. 32 V.S.A. § 9202(18) is added to read:

14 (18) “Independent living facility” means a congregate living
15 environment, however named, for profit or otherwise, that meets the
16 definitions of housing complexes for older persons as enumerated in 9 V.S.A.
17 § 4503(b) and (c), or housing programs designed to meet the needs of
18 individuals with a handicap or disability as defined in 9 V.S.A. § 4501(2)
19 and (3).

1 Sec. 45. EFFECTIVE DATES

2 This act shall take effect upon passage, except:

3 (1) Sec. 1 (link to Internal Revenue Code) of this act shall apply to
4 taxable years beginning on and after January 1, 2011.

5 (2) Secs. 4 (conforming petroleum cleanup fee base to fuel gross
6 receipts tax base), 5 (petroleum cleanup fund deductible for farm tanks), 6
7 (petroleum cleanup fund outreach), 7 (case authority), 8 (taxpayer advocate
8 studies), 10 (extraordinary relief), 17 (downtown tax credit for disaster
9 expenses), and 18 (limitation on downtown tax credits for fiscal year 2013) of
10 this act shall take effect on July 1, 2012.

11 (3) Sec. 13 (increasing minimum tax on certain C corporations) of this
12 act shall apply to taxable years beginning on and after January 1, 2012.

13 (4) Secs. 21 (health savings accounts) and 23, 24, and 25 (moving final
14 date for filing renter rebate or property tax adjustment claims) of this act shall
15 take effect on January 1, 2013 and apply to property tax adjustments and renter
16 rebate claims for 2013 and after.

17 (5) Sec. 35 (auction sale exemption) of this act is effective retroactively
18 to May 24, 2011.

19 (6) Sec. 38 (electrical generating property tax) shall take effect on
20 July 1, 2013 and apply to payments made after that date.

1 (7) Sec. 39 (electrical generating tax) shall take effect on July 1, 2012
2 and apply to payments made after that date.

3 (8) Secs. 42 (rooms tax definitions), 43 (meals tax definitions), and
4 44 (definition of independent living facility) shall take effect on passage and
5 apply retroactively to January 1, 2012.