

H.295

An act relating to technical tax changes

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

* * * Administrative Provisions * * *

Sec. 1. 2012 Acts and Resolves No. 143, Sec. 63(1) is amended to read:

(1) Secs. 1 (petroleum cleanup fee), 2 (petroleum cleanup fund outreach), 8 (extraordinary relief), 14 (reporting requirements), 21 (affordable housing tax credit), 22 (downtown tax credit for disaster expenses), 23 (limitation on downtown tax credits for fiscal year 2013), 24 (low income property transfer tax exemption), ~~and 54 (dental equipment), and 62 (allocation to the emergency medical services special fund)~~ of this act shall take effect on July 1, 2012.

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

(f) Notwithstanding any other provision of law, a power of attorney appointing a representative to represent a person before the Vermont ~~department of taxes~~ Department of Taxes that otherwise conforms ~~to the requirements of the U.S. Internal Revenue Service for a valid power of attorney and declaration of representative pursuant to 25 C.F.R. § 601.503~~ shall be deemed to be legally executed and shall be of the same force and effect for purposes of representation before the department of taxes as if executed in the manner prescribed in this chapter to the provisions of this section is valid without the signature of a witness or notary.

Sec. 3. 18 V.S.A. § 908(a) is amended to read:

(a) The ~~emergency medical services special fund~~ Emergency Medical Services Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the ~~department~~ Department from the ~~general fund~~ Fire Safety Special Fund, pursuant to 32 V.S.A. Sec. 8557(a), that are designated for this special fund and public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The ~~commissioner of health~~ Commissioner of Health shall administer the ~~fund~~ Fund to the extent funds are available to support online and regional training programs, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the ~~commissioner~~ Commissioner, after consulting with the EMS ~~advisory committee~~ Advisory Committee established under section 909 of this title. Any balance at the end of the fiscal year shall be carried forward in the ~~fund~~ Fund.

Sec. 4. 32 V.S.A. § 312(d) is added to read:

(d) Every tax expenditure in the tax expenditure report required by this section shall be accompanied in statute by a statutory purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. The statutory purpose shall appear as a separate subsection or

subdivision in statute and shall bear the title “Statutory Purpose.”

Notwithstanding any other provision of law, a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is provided.

Sec. 5. TAX EXPENDITURE PURPOSES

The Joint Fiscal Committee shall draft a statutory purpose for each tax expenditure in the report required by 32 V.S.A. § 312 that explains the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. For the purpose of this report, the Committee shall have the assistance of the Department of Taxes, the Joint Fiscal Office, and the Office of Legislative Council. The Committee shall report its findings and recommendations to the Senate Committee on Finance and the House Committee on Ways and Means by January 15, 2014. The report of the Committee shall consist of a written catalogue for Vermont’s tax expenditures and draft legislation, in bill form, providing a statutory purpose for each tax expenditure. Upon receipt of the report under this section, the Senate Committee on Finance shall introduce a bill to adopt statutory purposes during the 2014 legislative session.

Sec. 6. 32 V.S.A. § 3102(1) is added to read:

(1)(1) The Commissioner of the Department of Taxes and the Chief Fiscal Officer of the Joint Fiscal Office shall enter into a memorandum of

understanding in order to provide the Joint Fiscal Office with state returns and return information necessary for the Joint Fiscal Office or its agents to perform its duties, including conducting its own statistical studies, forecasts, and fiscal analysis.

(2) The memorandum of understanding shall provide for:

(A) mechanisms to prevent the identification of individual taxpayers, including the redaction of any information that identifies a particular taxpayer;

(B) protocols for handling and transmitting returns and return information;

(C) the designation of specific employees of the Joint Fiscal Office with access to the information provided by the Department of Taxes;

(D) the incorporation of penalties for unauthorized disclosures under subsections (a) and (h) of this section.

Sec. 6a. TAX DATA

The Commissioner of Taxes and the Chief Fiscal Officer of the Joint Fiscal Officer shall enter into a memorandum of understanding under Sec. 6 of this act no later than August 1, 2013.

Sec. 7. 32 V.S.A. § 3262 is amended to read:

§ 3262. LIEN FEES; SERVICE OF PROCESS COSTS; ELECTRONIC

FILING OF LIENS

(a) Notwithstanding section 502 of this title, the ~~commissioner~~ Commissioner may charge against any collection of any liability any related lien fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title and any related service of process costs awarded to the ~~department~~ Department and paid by the ~~commissioner~~ Commissioner. Fees and costs collected under this section shall be credited to a special ~~fund~~ Fund established and managed pursuant to subchapter 5 of chapter 7 of this title, and shall be available as payment for the fees of the clerk of the municipality and the costs of service.

(b) The Commissioner may file notice of any lien arising in favor of the State due to nonpayment of taxes with the clerk of a municipality in which the property subject to lien is located in electronic format, and such lien shall have the same force and effect as a lien filed in paper form.

Sec. 8. TAX COMPLIANCE

The General Assembly finds that there is a gap between the amount of taxes paid in this State and the amount of taxes due. Therefore, the General Assembly directs the Department of Taxes to develop and pursue further strategies to close the tax gap during state fiscal year 2014. The Department of

Taxes shall redeploy resources to focus on these strategies with the goal of increasing current collections by \$1,500,000.00 in fiscal year 2014.

* * * Cigarettes and Tobacco Products * * *

Sec. 9. 32 V.S.A. § 7772(b) is amended to read:

(b) At the purchaser's request, the ~~commissioner~~ Commissioner may sell stamps to be affixed to packages of cigarettes as evidence of the payment to the tax imposed by this chapter to licensed wholesale dealers and retail dealers for payment within 10 days, at a discount of one and five-tenths percent of their face value if timely paid. In determining whether to sell stamps for payment within 10 days, the ~~commissioner~~ Commissioner shall consider the credit history of the dealer; and the filing and payment history, with respect to any tax administered by the ~~commissioner~~ Commissioner, of the dealer or any individual, corporation, partnership, or other legal entity with which the dealer is or was associated as principal, partner, officer, director, employee, agent, or incorporator. ~~No stamps may be purchased during the period June 15 through June 30 each year under the provisions of this subsection.~~

Sec. 10. 32 V.S.A. § 7817 is amended to read:

§ 7817. DETERMINATION OF TAX ON FAILURE TO FILE RETURN

(a) When the ~~commissioner~~ Commissioner discovers, by examination of the records of the taxpayer as provided in section 7816 of this title, or otherwise, that a person required to file a return under this subchapter, has filed

an incorrect or insufficient return, the ~~commissioner~~ Commissioner may, at any time within three years after the date the return was due, determine the correct amount of tax and shall give notice to the taxpayer of the amount of any deficiency in such tax, together with penalty and interest as hereinafter provided. If no return has been filed as provided by law, the tax may be assessed at any time. When, before the expiration of the period prescribed herein for assessment of an additional tax, a taxpayer has consented in writing that the period be extended, the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

* * *

Sec. 11. 32 V.S.A. § 7783 is amended to read:

§ 7783. APPEALS

Any person aggrieved because of any action or decision of the ~~commissioner~~ Commissioner under the provisions of this chapter may appeal therefrom within 30 days to the ~~superior court~~ Superior Court of the county in which such person resides. The appellant shall give security, approved by the ~~commissioner~~ Commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs. ~~Such appeals shall be preferred cases for hearing on the docket of such court. Such court may grant such relief as may~~

~~be equitable and may order the state treasurer to pay to the aggrieved taxpayer the amount of such relief, with interest at the rate of six percent per annum. If the appeal shall have been taken without probable cause, the court may tax double or triple costs as the case shall demand. Upon all such appeals which may be denied, costs may be taxed against the appellant at the discretion of the court, but no costs shall be taxed against the state.~~

* * * Use Value Program * * *

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

§ 3752. DEFINITIONS

For the purposes of this subchapter:

* * *

(10) "Owner" means the person who is the owner of record of any land or the lessee under a perpetual lease as defined in 32 V.S.A. § 3610(a) provided the term of the lease exceeds 999 years exclusive of renewals. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

* * *

Sec. 13. 32 V.S.A. § 3758 is amended to read:

§ 3758. APPEALS

(a) Whenever the ~~director~~ Director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the ~~director~~ Director to the ~~director~~ Commissioner within 30 days of the decision, and from there ~~in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation~~ to Superior Court in the county in which the property is located.

(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal in the same manner as an appeal of a grand list valuation.

(c) Whenever the ~~commissioner~~ Director denies a request for an exemption from the terms of the definition of a “farmer” as provided in subsection 3756(j) of this title, the aggrieved person may appeal the decision of the Director to the ~~commissioner~~ Commissioner within 30 days of the decision, and from there to

~~the superior court~~ Superior Court in the same manner and under the same procedures as an appeal from a decision of the board of civil authority, as set forth in subchapter 2 of chapter 131 of this title the county in which the property is located.

(d) Any owner who is aggrieved by a decision of the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation concerning the filing of an adverse inspection report, ~~or a~~ a denial of approval of a management plan, ~~or a~~ a certification to the ~~director~~ Director with respect to land for which a wastewater permit is issued may appeal to the ~~commissioner of the department of forests, parks and recreation~~ Commissioner of the Department of Forests, Parks and Recreation within 60 days of the filing of the adverse inspection report, the decision to deny approval, or the certification to the Director. An appeal of this decision of the ~~commissioner~~ Commissioner may be taken to the ~~superior court~~ Superior Court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in chapter 131, subchapter 2 of this title.

Sec. 14. REPEALS

The following are repealed:

- (1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits).
- (2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater permits).

* * * Estate Taxes * * *

Sec. 15. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on ~~December 31, 2011~~ December 31, 2012, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

- (1) the credit for state death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;
- (2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were \$2,750,000.00; and
- (3) the deduction for state death taxes under 26 U.S.C. § 2058 shall not apply.

Sec. 16. 32 V.S.A. § 7488(b) is amended to read:

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

together with interest at the rate per annum established pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or was due, including any extensions of time thereto or, if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date the petition or amended return was filed.

* * * Income Tax * * *

Sec. 17. 32 V.S.A. § 5811(18) is 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 obligation, 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) the amount of any deduction for a federal net operating loss; and

* * *

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

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

(i) income from United States government obligations;

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

* * *

Sec. 19. 32 V.S.A. § 5812 is amended to read:

§ 5812. INCOME TAXATION OF PARTIES TO A CIVIL UNION

This chapter shall apply to parties to a civil union or civil marriage and surviving parties to a civil union or civil marriage as if federal income tax

law recognized a civil union and civil marriage in the same manner as Vermont law.

Sec. 20. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2011~~ 2012, but without regard to federal income tax rates under ~~Section 1 of the Internal Revenue Code~~ 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 21. 32 V.S.A. § 5852(b) is amended to read:

(b) In lieu of the estimated payments provided in subsection (a) of this section, a taxpayer who pays federal estimated income tax in annualized income installments may pay for the installment period an amount equal to the ~~applicable percentage~~ 24 percent of the taxpayer's required payment for federal income tax purposes, reduced by a percentage equal to the percentage of the taxpayer's adjusted gross income for the taxable year which is not Vermont income, provided, however, that if a taxpayer's Vermont income exceeds the taxpayer's adjusted gross income, no reduction shall be made. ~~For purposes of this section, "applicable percentage" means the percentage of federal income tax liability specified in section 5822 of this title, as amended from time to time.~~

Sec. 22. 32 V.S.A. § 5859(b) and (c) are amended to read:

(b) Except as provided in subsection (c) of this section, the taxpayer shall be liable for interest at the rate per annum established from time to time by the ~~commissioner~~ Commissioner pursuant to section 3108 of this title upon the amount of any underpayment of estimated tax.

(1) For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

(A) the amount of the installment which would be required to be paid if the estimated tax were equal to ~~80~~ 90 percent of the tax shown on the return for the taxable year, or, if no return were filed ~~80~~, 90 percent of the tax for such year, over

(B) the amount, if any, of the installment paid on or before the last date prescribed for payment.

* * *

(c) No interest for underpayment of any installment or estimated tax shall be imposed if the total amount of all such payments made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lesser of:

(1) an amount equal to the tax computed at the rate applicable to the taxable year but otherwise on the basis of the facts shown on the return for, and the law applicable to, the preceding taxable year; or

(2) an amount equal to ~~80~~ 90 percent of the tax finally due for the taxable year.

Sec. 23. 32 V.S.A. § 5883 is amended to read:

§ 5883. DETERMINATION OF DEFICIENCY, REFUND, ~~PENALTY, OR~~
~~INTEREST OR ASSESSMENT~~

Upon receipt of a notice of deficiency, of denial or reduction of a refund claim, or of assessment of penalty or interest under section 3203 of this title, the taxpayer may, within 60 days after the date of mailing of the notice or assessment, petition the ~~commissioner~~ Commissioner in writing for a determination of that deficiency, refund, or assessment. The ~~commissioner~~ Commissioner shall thereafter grant a hearing upon the matter and notify the taxpayer in writing of his or her determination concerning the deficiency, ~~penalty or interest~~ refund, or assessment.

Sec. 24. WOOD PRODUCTS MANUFACTURERS TAX CREDIT

2005 Spec. Sess. Acts and Resolves No. 2, Sec. 2, as amended by 2006 Acts and Resolves No. 212, Sec. 9 and 2008 Acts and Resolves No. 190, Sec. 29, and as further amended by 2011 Acts and Resolves No. 45, Sec. 17, is further amended to read:

Sec. 2. EFFECTIVE DATE; SUNSET

Sec. 1 of this act (wood products manufacture tax credit) shall apply to taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is repealed ~~July 1, 2013~~ January 1, 2014, and no credit under that section shall be available for any taxable year beginning on or after ~~July 1, 2013~~ January 1, 2014.

Sec. 25. [Deleted.]

* * * Property Tax and Property Tax Adjustments * * *

Sec. 26. 10 V.S.A. § 6306(b)(3) is added to read:

(3) A certification granted to a qualified agency shall first affect the April 1 grand list following the date that all information deemed necessary by the Commissioner has been provided by the qualified organization.

Sec. 27. 32 V.S.A. § 3802(11)(B)(i) is amended to read:

(i) the definitions shall apply as if federal law recognized a civil union or a civil marriage in the same manner as Vermont law;

Sec. 28. 32 V.S.A. § 3802(18) is added to read:

(18) Any parcel of land that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(A) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(B) owned by the Town of Thetford, and located in Fairlee, Vermont,
and West Fairlee, Vermont.

Sec. 29. 32 V.S.A. § 3802a is added to read:

§ 3802a. REQUIREMENT TO PROVIDE INSURANCE INFORMATION

Before April 1 of each year, owners of property exempt from taxation under subdivisions 3802(4)–(6), (9), and (12)–(15) and under subdivisions 5401(10)(D), (F), (G), and (J) of this title shall provide their local assessing officials with information regarding the insurance replacement cost of the exempt property or with a written explanation of why the property is not insured.

Sec. 30. 32 V.S.A. § 4152 is amended to read:

§ 4152. CONTENTS

(a) When completed, the grand list of a town shall be in such form as the director prescribes and shall contain such information as the director prescribes, including:

* * *

(6) For those parcels which are exempt, the insurance replacement value reported to the local assessing officials by the owner under section 3802a of this title, or what the full listed value of the property would be absent the exemption and the statutory authority for granting such exemption and, for

properties exempt pursuant to a vote, the year in which the exemption became effective and the year in which the exemption ends;

* * *

(c) When the grand list of a town describes exempt property, the grand list shall identify if the value provided is the insurance replacement cost provided under section 3802a of this title or the full listed value under subdivision (a)(6) of this section.

Sec. 31. 32 V.S.A. § 4004 is amended to read:

§ 4004. RETURN OF INVENTORIES BY INDIVIDUALS

On or before April 20, unless otherwise required, every taxable person shall procure such inventory form, make full answers to all interrogatories therein, subscribe the same, make oath thereto, and deliver or forward the same to one of the listers in the town wherein such person owns or possesses property required by law to be set to him or her in the grand list. When notice in writing to file, deliver, or forward such inventory on or before a given date is delivered by one of the listers to a person, or mailed postage prepaid to him or her at his or her last known post office address, such person, within the time therein specified, shall properly fill out such inventory and deliver or forward the same to one of the listers, notwithstanding he or she may not own or possess property subject to taxation. Persons taxable only for real estate ~~and persons~~

~~taxable only upon their polls~~ shall not be required to file such inventory unless notified so to do as herein provided.

Sec. 32. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF ~~APPRAISER~~ PROPERTY TAX HEARING OFFICER; OATH; PAY

When an appeal to the ~~director~~ Director is not withdrawn, the ~~director~~ Director shall refer the appeal in writing to a person not employed by the ~~director~~ Director, appointed by the ~~director~~ Director as an ~~appraiser~~ hearing officer. The ~~director~~ Director shall have the right to remove an ~~appraiser~~ hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the ~~director~~ Director shall appoint an ~~appraiser~~ hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as ~~appraisers~~ hearing officers shall take and subscribe the oath of the office prescribed in the ~~constitution~~ Constitution, which oath shall be filed with the ~~director~~ Director. The ~~director~~ Director shall pay each ~~appraiser~~ hearing officer a sum not to exceed \$120.00 per diem for each day wherein hearings are held, together with reasonable expenses as the ~~director~~ Director may determine. An ~~appraiser~~ hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 33. 32 V.S.A. § 4466 is amended to read:

§ 4466. CONDUCT OF APPEAL BEFORE ~~APPRAISER~~ HEARING OFFICER

Unless expressly waived by all parties to the appeal, the provisions of 3 V.S.A. chapter 25 of Title 3 shall govern all proceedings before ~~an appraiser~~ a hearing officer except where inconsistent with this subchapter. ~~An appraiser~~ A hearing officer shall promptly notify in writing the clerk of the town and all other parties to the appeal of the place within the town wherein the appeal is taken, of the place within such town and the time at which the parties shall be heard, such notice to be delivered in person or by mail, postage prepaid.

Sec. 34. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the ~~director~~ Director or the court, the ~~appraiser~~ hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The ~~appraiser~~ hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the ~~appraiser~~ hearing officer or court finds that the listed value of the property subject to appeal does

not correspond to the listed value of comparable properties within the town, the ~~appraiser hearing officer~~ or court shall set said property in the list at a corresponding value. The findings and determinations of the ~~appraiser hearing officer~~ shall be made in writing and shall be available to the appellant. If the appeal is taken to the ~~director~~ Director, the ~~appraiser hearing officer~~ shall inspect the property prior to making a determination.

Sec. 35. REPEAL

32 V.S.A. § 5165 (report of delinquent taxes to director) is repealed.

Sec. 36. REPEAL

32 V.S.A. § 5166 (report of payment to director) is repealed.

Sec. 37. REPEAL

32 V.S.A. § 5167 (reporting method of collection to director) is repealed.

Sec. 38. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

* * *

(10) "Nonresidential property" means all property except:

* * *

(B) Property which is subject to the tax on railroads imposed by subchapter 2 of chapter 211 of this title, ~~the tax on steamboat, car and transportation companies imposed by subchapter 3 of chapter 211 of this title,~~ the tax on telephone companies imposed by subchapter 6 of chapter 211 of this

title, or the tax on electric generating plants imposed by chapter 213 of this title.

* * *

Sec. 39. 32 V.S.A. § 5405(a) is amended to read:

(a) Annually, on or before April 1, the ~~commissioner~~ Commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the ~~state~~ State; provided, however, that for purposes of equalizing grand lists pursuant to this section, the equalized education property tax grand list of a municipality that establishes a tax increment financing district shall include the fair market value of the property in the district and not the original taxable value of the property and further provided that the unified towns and gores of Essex County may be treated as one municipality for the purpose of determining an equalized education property grand list and a coefficient of dispersion if the Director determines that all such entities have a uniform appraisal schedule and uniform appraisal practices.

Sec. 40. 32 V.S.A. § 6066(b) and (c) are amended to read:

(b) An eligible claimant who rented the homestead ~~on the last day of the taxable year~~, whose household income does not exceed \$47,000.00, and who submits a certificate of allocable rent shall be entitled to a credit against the claimant's tax liability under chapter 151 of this title equal to the amount by

which the allocable rent upon the claimant's housesite exceeds a percentage of the claimant's household income for the taxable year as follows:

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

In no event shall the credit exceed the amount of the allocable rent.

(c) To be eligible for a ~~property tax~~ an adjustment or credit under this chapter the claimant:

(1) must have been domiciled in this ~~state~~ State during the entire taxable year; ~~and~~

(2) may not be a person claimed as a dependent by any taxpayer under the federal Internal Revenue Code during the taxable year; and

(3) in the case of a renter, shall have rented property during the entire taxable year.

Sec. 41. 32 V.S.A. § 8701(d) is added to read:

(d) The existence of a renewable energy plant subject to tax under subsection (b) of this section shall not alter the exempt status of any underlying property under section 3802 or 5401(10)(F) of this title.

Sec. 42. STUDY COMMITTEE ON CERTAIN PROPERTY TAX

EXEMPTIONS

(a) Creation of committee. There is created a Property Tax Exemption Study Committee to study issues related to properties that fall within the public, pious, and charitable property tax exemption in 32 V.S.A. § 3802(4). The Committee shall study and make recommendations related to the definition, listing, valuation, and tax treatment of properties within this exemption.

(b) Membership. The Property Tax Exemption Study Committee shall be composed of seven members. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party, and the Speaker of the House shall appoint two members of the House, not from the same political party. The Chair and Vice Chair of the Committee shall be legislative members selected by all members of the Committee. Three members of the Committee shall be as follows:

(1) the Director of the Division of Property Valuation and Review;

(2) one member from Vermont's League of Cities and Towns, chosen by its board of directors; and

(3) one member of the Vermont Assessors and Listers Association, chosen by its board of directors.

(c) Powers and duties.

(1) The Committee shall study the definition, listing practices, valuation, and tax treatment of properties within the public, pious, and charitable exemption, including the following:

(A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;

(B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;

(C) methods of providing a valuation for properties within this exemption; and

(D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.

(2) For purposes of its study of these issues, the Committee shall have the assistance of the Joint Fiscal Office, the Office of Legislative Council, and the Department of Taxes.

(d) Report. By January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.

(e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.

(f) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

Sec. 43. 2008 Acts and Resolves No. 190, Sec. 40, as amended by 2010 Acts and Resolves No. 160, Sec. 22, as amended by 2011 Acts and Resolves No. 45, Sec. 13f, is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR

~~SKATING RINKS~~ SKATING RINKS USED FOR PUBLIC
SCHOOLS

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

from 50 percent of the education property taxes for fiscal ~~year 2012~~ years 2013 and 2014 only.

* * * Property Transfer Tax * * *

Sec. 44. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

(a) A property transfer return complying with this section shall be delivered to a town clerk at the time a deed evidencing a transfer of title to property is delivered to the clerk for recording.

(b) The property transfer return required by this section shall be in such form and with such signatures as the ~~commissioner, by regulation,~~ Commissioner shall prescribe, ~~and shall be signed, under oath or affirmation,~~ by each of the parties or their legal representatives, to the transfer of title to property with respect to which the return is filed. If the return is filed with respect to a transfer which is claimed to be exempt from the tax imposed by this chapter, the return shall set forth the basis for such exemption. If the return is filed with respect to a transfer subject to such tax, the return shall truly disclose the value of the property transferred, together with such other information as the ~~commissioner~~ Commissioner may reasonably require for the proper administration of this chapter. The return shall include notice that the property may be subject to regulations governing potable water supplies and wastewater systems under 10 V.S.A. chapter 64 and to building, zoning, and

subdivision regulations; and that the parties have an obligation under law to investigate and disclose his or her knowledge regarding flood regulation, if any, affecting the property.

~~(c) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources and the commissioner of taxes jointly shall prescribe and shall be signed under oath or affirmation by each of the parties or their legal representatives. The certificate shall indicate:~~

~~(1) whether the transfer is in compliance with or is exempt from regulations governing potable water supplies and wastewater systems under chapter 64 of Title 10; and~~

~~(2) that the seller has advised the purchaser that local and state building regulations, zoning regulations, subdivision regulations, and potable water supply and wastewater system requirements pertaining to the property may significantly limit the use of the property.~~

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

~~(e) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources shall prescribe and shall be signed under oath or affirmation by each~~

~~of the parties or their legal representatives. The certificate shall indicate that each party has investigated and disclosed all of his or her knowledge relating to the flood regulations, if any, affecting the property.~~

~~(f)~~(d) The property transfer tax return shall not be required of properties qualified for the exemption stated in subdivision 9603(17) of this title. A public utility shall notify the listers of a municipality of the grantors, grantees, consideration, date of execution, and location of the easement when it files for recording a deed transferring a utility line easement that does not require a transfer tax return.

~~(g)~~(e) The ~~commissioner of taxes~~ Commissioner of Taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151.

* * * Sales and Use Tax * * *

Sec. 45. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(2) Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood, blood plasma, insulin, and medical oxygen, used in diagnosis or treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities; provided however, that toothbrushes, floss, and similar items of nominal value given by dentists and hygienists to patients during treatment are supplies used in treatment to alleviate human suffering or to correct, in whole or part, human physical disabilities and are exempt under this subdivision.

* * *

Sec. 46. 32 V.S.A. § 9744(a)(2) is amended to read:

§ 9744. PROPERTY EXEMPT FROM USE TAX

(a) The following uses of property are not subject to the compensating use tax imposed under this chapter:

(1) Property used by the purchaser in this ~~state~~ State prior to June 1, 1969.

(2) Property purchased and used outside of the State by the user while a nonresident of this ~~state~~ State, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the ~~state~~ State.

* * *

Sec. 47. 32 V.S.A. § 9781(c) is amended to read:

(c) If the ~~commissioner~~ Commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the ~~state~~ State, with respect to the current and all preceding taxable periods, under any provision of this title, the ~~commissioner~~ Commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established from time to time by the ~~commissioner~~ Commissioner pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made or, whichever is the later date if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date of such amended return or request was filed.

* * * Health Care Provisions * * *

* * * Health Insurance Claims Tax * * *

Sec. 48. 32 V.S.A. chapter 243 is added to read:

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

(1) “Health insurance” means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, any dental service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid or any other state health care assistance program in which claims are financed in whole or in part through a federal program unless authorized by federal law and approved by the General Assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

(2) "Health insurer" means any person who offers, issues, renews, or administers a health insurance policy, contract, or other health benefit plan in this State and includes third party administrators or pharmacy benefit managers who provide administrative services only for a health benefit plan offering coverage in this State. The term does not include a third party administrator or pharmacy benefit manager to the extent that a health insurer has paid the fee which would otherwise be imposed in connection with health care claims administered by the third party administrator or pharmacy benefit manager.

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to 0.999 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited as follows:

(1) 0.199 of one percent of all health insurance claims into the Health IT-Fund established in section 10301 of this title; and

(2) 0.8 of one percent of all health insurance claims into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.

(c) The annual cost to obtain Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) data, pursuant to 18 V.S.A. § 9410, for use by the Department of Taxes shall be paid from the Vermont Health IT-Fund and the State Health Care Resources Fund in the same proportion as revenues are deposited into those Funds.

(d) It is the intent of the General Assembly that all health insurers shall contribute equitably through the tax imposed in subsection (a) of this section. In the event that the tax is found not to be enforceable as applied to third party administrators or other entities, the tax owed by all other health insurers shall remain at the existing level and the General Assembly shall consider alternative funding mechanisms that would be enforceable as to all health insurers.

§ 10403. ADMINISTRATION OF TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) All of the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the Commissioner of the withholding tax and the income tax, shall apply to the tax imposed by this chapter. In addition, the provisions of chapter 103 of this title, including those relating to the imposition of interest and penalty for failure to

pay the tax as provided in section 10402 of this title, shall apply to the tax imposed by this chapter.

§ 10404. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

(a) Within 60 days after the mailing of a notice of deficiency, denial or reduction of a refund claim, or assessment of penalty or interest, a health insurer may petition the Commissioner in writing for a determination of that deficiency, refund, or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the health insurer in writing of his or her determination concerning the deficiency, penalty, or interest. This is the exclusive remedy of a health insurer with respect to these matters.

(b) Any hearing granted by the Commissioner under this section shall be subject to and governed by 3 V.S.A. chapter 25.

(c) Any aggrieved health insurer may, within 30 days after a determination by the Commissioner concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, appeal that determination to the Washington Superior Court or to the Superior Court for the county in which the health insurer has a place of business.

Sec. 49. 32 V.S.A. § 3102(e) is amended to read:

(e) The ~~commissioner~~ Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide,

including any confidentiality requirements of the Internal Revenue Service,
disclose a return or return information:

* * *

(14) to the ~~office of the state treasurer~~ Office of the State Treasurer, only
in the form of mailing labels, with only the last address known to the
~~department of taxes~~ Department of Taxes of any person identified to the
~~department~~ Department by the ~~treasurer~~ Treasurer by name and Social Security
number, for the ~~treasurer's~~ Treasurer's use in notifying owners of unclaimed
property; ~~and~~

(15) to the ~~department of liquor control~~ Department of Liquor Control,
provided that the information is limited to information concerning the sales and
use tax and meals and rooms tax filing history with respect to the most recent
five years of a person seeking a liquor license or a renewal of a liquor
license; ~~and~~

(16) to the Commissioner of Financial Regulation and the
Commissioner of Vermont Health Access, if such return or return information
relates to obligations of health insurers under chapter 243 of this title.

Sec. 50. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) revenue from the ~~reinvestment fee~~ health care claims tax imposed on health insurers pursuant to ~~8 V.S.A. § 4089k~~ subdivision 10402(b)(1) of this title.

* * *

Sec. 51. 2008 Acts and Resolves No. 192, Sec. 9.001(g) is amended to read:

(g) Sec. 7.005 of this act shall sunset July 1, ~~2015~~ 2013.

Sec. 52. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) ~~revenue from the health care claims tax imposed on health insurers pursuant to subdivision 10402(b)(1) of this title.~~ [Deleted.]

* * *

Sec. 53. 32 V.S.A. § 10402 is amended to read:

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to ~~0.999~~ 0.8 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited as follows:

~~(1) 0.199 of one percent of all health insurance claims into the Health IT Fund established in section 10301 of this title; and~~

~~(2) 0.8 of one percent of all health insurance claims into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.~~

* * *

Sec. 54. REPEAL

8 V.S.A. § 40891 (health care claims assessment) is repealed on July 1, 2013.

Sec. 55. 33 V.S.A. § 1955a(a) is amended to read:

(a) Beginning October 1, 2011, each home health agency's assessment shall be 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act; provided, however, that each home health agency's annual assessment shall be limited to no more than six percent of its annual net patient revenue. The amount of the tax shall be determined by the ~~commissioner~~ Commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before ~~December 1~~ May 1 of each year to the ~~department~~

Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

* * * Fuel Taxes * * *

Sec. 56. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

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

- (1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;
- (2) propane;
- (3) natural gas;
- (4) electricity;
- (5) coal.

* * *

* * * Spirituous Liquor * * *

Sec. 57. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor~~

~~control board~~ Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the ~~previous~~ current year:

(1) if the gross revenue of the seller is ~~\$100,000.00~~ \$150,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~\$100,000.00~~ \$150,000.00 and ~~\$200,000.00~~ \$250,000.00, the rate of tax is ~~\$15,000.00~~ \$7,500.00 plus 15 percent of gross revenues over ~~\$100,000.00~~ \$150,000.00;

(3) if the gross revenue of the seller is over ~~\$200,000.00~~ \$250,000.00, the rate of tax is 25 percent.

* * * Department of Financial Regulation * * *

Sec. 58. 8 V.S.A. § 15(c) is amended to read:

(c) The ~~commissioner~~ Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the ~~commissioner~~ Commissioner deems necessary to permit the ~~department~~ Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the ~~commissioner~~ Commissioner under this title, Title 9, or 18 V.S.A. chapter 221 of Title 18. ~~The commissioner may waive the requirements of 32 V.S.A. § 3113(b) as the commissioner deems necessary to permit the department to participate in any national licensing or registration~~

~~systems with respect to any person or entity not residing in this state and subject to the jurisdiction of the commissioner under this title, Title 9, or chapter 221 of Title 18.~~

Sec. 59. 32 V.S.A. § 3113(b) is amended to read:

(b) No agency of the ~~state~~ State shall grant, issue, or renew any license or other authority to conduct a trade or business (including a license to practice a profession) to, or enter into, extend, or renew any contract for the provision of goods, services, or real estate space with, any person unless such person shall first sign a written declaration under the pains and penalties of perjury, that the person is in good standing with respect to or in full compliance with a plan to pay, any and all taxes due as of the date such declaration is made, except that the Commissioner may waive this requirement as the Commissioner deems appropriate to facilitate the Department of Financial Regulation's participation in any national licensing or registration systems for persons required to be licensed or registered by the Commissioner of Financial Regulation under Title 8, Title 9, or 18 V.S.A. chapter 221.

* * * Effective Dates * * *

Sec. 60. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Secs. 4 (tax expenditures), 30 (insurance values), and 31 (grand list) shall take effect on July 1, 2014.

(2) Sec. 13 (Use Value Program appeals) shall take effect with respect to appeals taken after the passage of this act.

(3) Sec. 15 (estate tax link to Internal Revenue Code) of this act shall apply to decedents dying on or after January 1, 2012.

(4) Sec. 20 (link to Internal Revenue Code) of this act shall apply to taxable years beginning on and after January 1, 2012.

(5) Sec. 28 (water access exemption) shall take effect on January 1, 2014.

(6) Secs. 32 through 34 (state appraiser name change), 55 (home health agencies), 56 (fuel gross receipts tax), and 57 (spirituous liquor) shall take effect on July 1, 2013.

(7) Sec. 39 (unified assessment districts) shall take effect for the study of the 2013 grand list.

(8) Sec. 44 (eliminating signature requirement on property transfer tax returns) shall take effect for returns filed in municipal offices on and after July 1, 2013.

(9) Sec. 47 (interest calculation on sales tax refunds) shall take effect for refund petitions filed after the date of passage of this act.

(10) Secs. 48–51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims sunset) shall take effect on July 1, 2017.