

Report of the
Commission on Property Tax Exemptions

to

The Vermont General Assembly

January 15, 1999

Part 1. AUTHORITY AND PURPOSE

The enactment of the Equal Educational Opportunity Act of 1997, a central feature of which is the equalized education grand list, focused the attention of the Vermont General Assembly on property tax exemptions and the need to examine more closely the myriad exemptions from the property tax. Section 59 of Act 71 of the Public Acts of the 1997 (Adj. Sess.) created a Commission on Property Tax Exemptions. The charge of the Commission was to:

review all exemptions from property taxation under chapter 125 of Title 32 and any other provisions of law, including mandatory exemptions, partial exemptions, and exemptions subject to municipal vote. The Commission shall also review the construction and interpretation of such property tax exemptions by municipal and state officials and the courts of the state. The Commission shall review the equity, uniformity, costs, efficiency, purposes and public benefit of property tax exemptions, particularly within a system of state property taxation for education and municipal property taxation for municipal services.

To accomplish the task outlined above, the Commission first convened on October 9, 1998 and a chairperson was elected. The members of the Commission are:

Representative Karen Steele of Waterbury (Chair)
Senator Mark MacDonald of Williamstown
Senator William Doyle of Montpelier
Representative Richard Howrigan of Fairfield
Christine Graham of South Burlington
Thomas Scala of Brattleboro
Betty Wheeler of Middlebury
Patrick French of Randolph
Kevin Scully of Burlington
Edward Haase, Commissioner of Taxes
succeeded by Sean Campbell
William Johnson, Director of Property Valuation and
Review Division

Part 2. INFORMATION AND TESTIMONY CONSIDERED

The Commission began by examining the disparate policies supporting complete or partial exemptions from the property tax, and the problems that can arise in the implementation of exemptions.

The International Association of Assessing Officers Standard on Property Tax Policy was made available to Commission members by Property Valuation and Review. It addressed the subject of exemptions as follows:

5.3 Controls on the Incidence of Property Taxation

Legislative bodies often provide measures to shift the property tax from certain groups of taxpayers. Such measures nearly always increase the property tax on nonfavored groups and generally should be limited. Failure to understand this aspect of tax-shifting measures results in a hodgepodge of controls, the true effect of which becomes lost and may even be to shift more taxes to "favored" groups.

5.3.1 Exemptions

Property tax exemptions are subsidies to certain owners or for certain uses or property, to encourage publicly desired objectives. A key principle of property tax systems is that all property is taxable unless it is specifically exempt, and exemptions are to be narrowly construed. Some exemptions, such as those provided to government property and public schools, may be conceptually supportable, because the entities involved might otherwise increase taxes to pay property taxes. Other exemptions, such as for household goods, often are granted because assessment is deemed administratively infeasible.

Property tax exemptions generally take the form of partial or full exemptions that apply to various classes or types of property and lessen the taxes levied on these classes or types. In addition to complex and difficult to understand tax shifts, exemptions can decrease the tax bases available for local units of government. Legislative bodies should be advised to exercise caution in enacting exemptions. As a rule of thumb, no exemption should be granted unless it will be beneficial to a substantial segment of the population of the state and unless all similar properties or similarly situated taxpayers are accorded the same treatment. Any

Mary Jane Grace of the Division of Property Valuation and Review presented information on locally voted exemptions, the types of property affected, and the problems encountered by the towns and the State in interpreting and administering voted exemptions. A copy is contained in Appendix 4. Two major concerns were highlighted:

- differing interpretations of the law by towns—particularly with regard to "public, pious and charitable" exemptions granted in 32 VSA, section 3802(4); and
- the lack of reporting, or the incomplete or inconsistent reporting, of exemption information by the towns.

Benson Scotch, Chief Staff Attorney, Vermont Supreme Court, and Charles Merriman, Special Assistant Attorney General, spoke to the Commission on the history of the public use exemption and the Vermont Supreme Court's 1989 decision in American Museum of Fly Fishing v. Town of Manchester, 151 Vt. 103 (referred to herein as "Fly Fishing").

Charles Merriman outlined the problems towns are having in interpreting the "public, pious and charitable" language in light of the Fly Fishing decision. Under that decision, the test for whether a property was exempt as being in public use was changed. Prior to Fly Fishing, the property was exempt only if it fulfilled an "essential government function." The justification for the exemption was that if this essential function was not being fulfilled by this private sector entity, it would have to be fulfilled by a government agency and public funds would have to be expended to do so. Exemptions had turned on this test being met.

Fly Fishing eliminated the essential government function test and the test became:

- whether it is dedicated unconditionally to public use
- whether its primary use directly benefits an indefinite class of persons who are part of the public
- whether it confers a benefit on society as a result of the benefit conferred on the persons directly served
- whether it is owned and operated on a not for profit basis.

This decision had two major effects. It made determining whether a property qualifies under the public, pious and charitable use exemption more difficult. It also expanded the scope of the exemption to more properties. Due to the difficulty in making a determination of whether a property is exempt and the expense involved in litigating such cases, many towns have opted to enter informal

Part 3. CONSIDERATIONS OF THE COMMISSION

The Commission's charge is a large and sweeping one. It was decided that the focus of the Commission must be narrowed in order to have a viable report to the General Assembly by January 15, 1999. The legislative process which resulted in Act 60 extensively examined the locally voted agreements affecting economic development property, and exemptions to preserve and protect conservation and land use property. Those areas are not discussed in this report. The Commission focused on changes needed to:

1. update the language in existing statutes to comply with Act 60 changes;
2. modernize and improve the language in the existing statutes to make them easier to interpret and administer;
3. eliminate unnecessary or redundant sections of law or sections no longer supported by public policy;
4. improve the exemption for "public, pious and charitable" properties and offering possible improvements, with emphasis on:
 - a. ensuring equitable treatment statewide;
 - b. minimizing costly legal actions;
 - c. ensuring towns and cities are fairly compensated for municipal services provided to exempt entities;
 - d. ensuring the integrity of the equalized education grand list.

Accomplishing the first three of these four tasks will require a number of "housekeeping" type changes to various exemption statutes, but these changes would not for the most part alter the expectations of municipalities or taxpayers. For example, the exemption for whey pollution abatement authorities is unnecessary as there are no longer any such privately owned facilities in the State. Other, similar changes were discussed and adopted by the Commission. They are attached to this report as proposed legislation in Appendices 1 and 2.

Accomplishing the fourth task requires more fundamental and possibly controversial changes to Vermont law. It became abundantly clear to the Commission that the exemption which causes the most confusion and inequity is

Part 4. CONCLUSIONS AND RECOMMENDATIONS

A. Housekeeping Changes: It is necessary to update the language in existing statutes to comply with Act 60 changes, to make them easier to interpret and administer, and to eliminate unnecessary or redundant sections of law. The Commission's proposal is contained in Appendix 2.

Sec. 1. The assessment and taxation of property owned by one municipality and located in another is governed by 32 V.S.A. section 3659. This amendment makes references to electric utility property in this section consistent with language in 32 V.S.A. section 3618 and 3620, changing included property to "fixtures" from "pole fixtures."

Sec. 2. Section 3802 is the general property tax exemption statute in Title 32. This proposal will make stylistic changes in subsection (1) through (7) and (9). In subsection (8), it enlarges the personal property tax exemption for "hay and produce", no longer limiting the exemption to the amount "sufficient to winter out the stock". Subsection (10), exemption property of Civil War and Spanish American War veterans, veterans who served between 1898 and 1902, and their widows is repealed. There are no known living persons in this class. Subsection (12) providing an exemption for water pollution facilities is amended to add exemption for air pollution control facilities. This replaces the amendment in Title 10 for air pollution control facilities and that section is repealed. Subsection (13) which provides for an exemption for fallout shelters is repealed as obsolete. All subsections are renumbered accordingly.

Sec. 3. Section 3803 of Title 32 currently exempts personal property "used in carrying on telephone business". The rationale for this exemption was that chapter 211 of Title 32 already imposes a tax on personal property of a person "owning or operating a telephone line or business". With the advent of fiber optic cable and its ability to carry telephone signals and cable television or other signals, some of the cable used for telephone business (exempt under 3803) is not owned by a telephone business (thus also exempt under chapter 211). The commission proposes eliminating this loophole, providing that the 3803 exemption only applies to property which is actually taxed under chapter 211.

Sec. 4. Section 3843 of Title 32 allows a town or city to enter an agreement providing for payment-in-lieu of taxes with an owner of federally-subsidized or- or moderate-income housing. The property is then carried on the grand list at the value yielded under the payment-in-

B. Public, Pious and Charitable Exemptions (Fly Fishing): The second proposal focuses primarily on the "public, pious and charitable" exemption. Under current law, public, pious and charitable property is exempt from municipal and state-wide education tax. Under this proposal:

- a. such property would remain exempt from education taxes,
- b. such property would not be automatically exempt from municipal tax. Instead, it would be exempt only if the town voted it exempt, thus allowing towns that choose to do so the opportunity to assess a tax to compensate for the cost of municipal services.
- c. a determination that property is not "public, pious or charitable" for purposes of education tax would be appealable to the State not the town.

While this proposal keeps the Fly Fishing test in tact, the commission concluded that it is not the most appropriate or desirable test for determining eligibility for the public, pious, or charitable exemption and recommends that the standing committees consider other tests, including the "essential government function" test which was the standard prior to the Fly Fishing case.

It is the Commission's belief that further testimony regarding the public policy supporting (and not supporting) the exemption of certain types of property and what test best implements those public policy decisions should be taken and considered in the standing committees which review this report and proposal to determine if a new test is needed.

The Commission recognizes that at the same time this proposal eases the burden on towns, it shifts the burden to determine eligibility under Fly Fishing to the State. The proposed legislation provides that towns may request formal rulings from the State as to whether a particular property meets the requirements of the public, pious and charitable exemption. This mechanism will promote uniformity in the application of the exemption and allows towns to avoid exempting properties from payment of education taxes which are included on the equalized education grand list by the Division of Property Valuation and Review. However, it will increase the Property Valuation and Review's work load an undetermined amount and to the degree that the Fly Fishing test was unclear in the past, it will continue to be unclear.

Several other changes are made in Proposal 2 including:

- a. increasing the veteran exemption from \$10,000 to \$20,000;
- b. eliminating the exemption for college fraternity or sorority property;
- c. changing and simplifying the exemption for college property acquired after April 1, 1941.

The foregoing report is offered to the General Assembly by the members of the Commission on Property Tax Exemptions.

/s/Karen K. Steele
Rep. Karen K. Steele, Chair

/s/ Sean Campbell
Seam Campbell, Commissioner of Taxes

/s/ William Doyle
Senator William Doyle

/s/ Patrick French
Patrick French

Christine Graham

/s/Richard Howrigan
Rep. Richard Howrigan

/s/ William Johnson
William Johnson, Director, Property Valuation

/s/ Mark A. MacDonald
Sen. Mark A. MacDonald

/s/ Thomas Scala
Thomas Scala

/s/ Kevin Scully
Kevin Scully

/s/ Betty Wheeler
Betty Wheeler

LIST OF APPENDICES

- Appendix 1 Draft Act Relating to Property Tax Exemptions, including Section-by-Section Summary of Draft
- Appendix 2 Draft Property Tax Exemption “Housekeeping” Bill, including Section-by-Section Summary of Draft
- Appendix 3 List of Witnesses Who Appeared Before the Commission
- Appendix 4 Memorandum of Mary Jane Grace, Property Valuation and Review “Locally Voted Exemptions”
- Appendix 5 Memorandum of William Russell and Emily Tartter, Legislative Counsel “Vermont property tax exemptions”

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draft

COMMISSION ON PROPERTY TAX EXEMPTIONS
DRAFT LEGISLATIVE PROPOSAL
SECTION-BY-SECTION SUMMARY
Draft 2.1 - 1/12/99

GENERAL SUMMARY

This proposal would repeal the existing chapter 125 of Title 32, which contains most of the property tax exemptions, and would replace it with a new chapter 125. The new chapter would preserve most of the current law, with four major differences:

- (1) The greatest change is in how "public, pious and charitable" property is treated. Under current law, it is exempt from municipal and statewide education taxes. Under this proposal, such property would remain exempt from education taxes, but would no longer be automatically exempt from municipal tax. Instead, a town may vote to exempt it. In addition, appeal of a determination that property is not "public, pious or charitable" for purposes of education tax would be to the State, not to the town.
- (2) The exemption for property held "by and for" a college fraternity or sorority would be eliminated. There was some testimony before the commission that there is little or no Vermont property actually owned by a college fraternity or sorority.
- (3) The \$10,000 exemption for veterans would be changed to \$20,000, with no option for the town to vote a higher exemption. This change would make the exemption uniform among towns and would ensure that the entire exemption applies to the education tax. (Under current law, the voted portion is not exempt from education tax.)
- (4) The exemption for college and university property acquired after April 1, 1941, would be changed. Under current law, a complex formula provides that such property be taxed at the listed value immediately preceding acquisition, and may not be increased, except in case of a townwide reappraisal; the town may vote to further exempt it. The new proposal is far simpler: this property is subject to municipal tax unless voted exempt by the town; it is twenty percent exempt from education tax. The new rule is an attempt to simplify the law, but it could create major differences from current taxation for some properties. First, such property would become fully taxable by the town unless voted exempt. Second, the education tax exemption at twenty percent may be a much smaller or larger exemption than the property now enjoys: under the current law, properties acquired shortly after 1941 are probably far more than twenty percent exempt, while properties acquired very recently could be far less than twenty percent exempt.

DRAFT

(dr req 99-287 – draft 2)
1/12/1999 - EBT

Page 1
(2.1)

1 Introduced by <Sponsor>

2 Referred to Committee on

3 Date:

4 Subject: Taxation; property tax; exemptions

5 Statement of purpose: This bill proposes to clarify and update property tax exemptions;
6 to repeal the automatic exemption from municipal property tax for public, pious and
7 charitable property and instead allow towns to vote such exemptions; to change certain
8 exemptions for college and university property; and to increase the veterans' property tax
9 exemption to a uniform \$20,000.00.

10 AN ACT RELATING TO PROPERTY TAX EXEMPTIONS

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

12 Sec. 1. REPEAL

13 Chapter 125 of Title 32 (property tax exemptions) is repealed.

14 Sec. 2. Chapter 125 of Title 32 is added to read:

15 CHAPTER 125. PROPERTY TAX EXEMPTIONS

16 § 3802. PROPERTY EXEMPT FROM TAXATION

17 The following property shall be exempt from all property taxation:

1 voluntarily conveyed single family, multifamily living units or farm properties or
2 forfeited property.

3 (2) Real and personal property owned by a municipality which is located within
4 that municipality and which is used for municipal purposes, including the provision of
5 utility services.

6 (3) Real and personal property owned by a post of any veterans' organization
7 chartered by act of Congress of the United States or owned by a corporation, the
8 members or stockholders of which are members of said post or its auxiliary, provided
9 said real estate is used for purposes of the post or its auxiliary or such corporation only, is
10 used as the principal meeting place of said post or its auxiliary in the exercise of its
11 functions and activities, and is not leased or rented for profit; and real and personal
12 property owned by and used for the purpose of its work by a nonprofit organization
13 chartered by act of Congress of the United States, such as a Red Cross, boy scout, girl
14 scout or boys or girls organization.

15 (4) Real property owned by churches or church societies or conferences and used
16 as a church edifice, parsonage, convent, school, orphanage, home or hospital; related
17 outbuildings; land adjacent to any of these buildings kept and used as a parking lot not
18 used to produce income, a lawn, a playground or garden, or glebe lands.

19 (5) Real and personal property set apart for library uses and used by public and
20 private circulating libraries, open to the public and not used for profit.

21 (6) Real property owned or leased by school districts for educational purposes.

1 ornament; private and professional libraries; shrubs and plants located in a commercial
2 greenhouse or nursery; fowl; sheep; cattle; horses; goats; swine; bees; hay and produce
3 sufficient to winter out the stock; tractors and other machinery of a farmer, not used for
4 hire or contract purposes; real and personal farm property constructed and used for the
5 storage of manure and designed to avoid water pollution; tools and implements of a
6 mechanic or farmer; aircraft, automobiles and motor vehicles, but not including trailer
7 coaches; and motorized highway-building equipment and road-making appliances, as
8 defined in section 4(19) and (31) of Title 23, required to be registered as motor vehicles.

9 (12) Real property owned and occupied by agricultural societies so long as the
10 same are used annually for agricultural fairs.

11 (13) Real and personal property to the extent of \$20,000.00 of appraisal value,
12 except any part used for business or rental, occupied as the established residence of and
13 owned in fee simple by a veteran of any war or a veteran who has received an American
14 Expeditionary Medal, his or her spouse, widow, widower or child, or jointly by any
15 combination of them, if one or more of them are receiving disability compensation for at
16 least 50 percent disability, death compensation, dependence and indemnity compensation,
17 or pension for disability paid through any military department or the Veterans'

18 Administration if, before May 1 of each year, there is filed with the listers:

19 (A) a written application therefor; and

20 (B) a written statement from the military department or the Veterans'

21 Administration showing that the compensation or pension is being paid. Only one

1 (16) Property subject to taxation under chapter 211 of this title, except as provided
2 in section 3805(1) and (2) of this title.

3 § 3803. MUNICIPAL TAX EXEMPTIONS

4 (a) A town or municipality may at a regular or special meeting duly warned, by a
5 majority of those present and voting, elect to exempt any of the following in whole or in
6 part from the municipal services tax:

7 (1) Real and personal property owned and operated on a nonprofit basis, dedicated
8 unconditionally to public use and used for the benefit of an indefinite class of the public
9 primarily for charitable or public purposes and to confer a benefit on society, including
10 health or recreational purposes.

11 (2) Real and personal property located in the voting municipality but owned by or
12 in trust for another municipality and used for municipal purposes.

13 (3) Property owned by an orphanage, home or hospital, including a diagnostic and
14 treatment center, not used for the purpose of such institution but leased to others for
15 income or profit.

16 (4) Real property acquired by colleges and universities after April 1, 1941.

17 (5) Real property owned by a society or body of persons associated for a charitable
18 purpose, in whole or in part, including fraternal organizations, volunteer fire, and
19 ambulance or rescue companies, and used exclusively for the purposes of such society,
20 body or organization.

1 production of energy used on the premises for private, domestic or agricultural purposes,
2 no part of which may be for sale or exchange to the public. The term shall include such
3 structures as grist mills, windmills, facilities for the collection of solar energy or the
4 conversion of organic matter to methane, and all component parts thereof, including land
5 upon which the facility is located, not to exceed one-half acre.

6 (9) The first \$15,000.00 or a smaller amount of the appraised value of buildings
7 used and occupied exclusively as homes, dwelling houses or farm buildings whether for
8 sale or rent, provided such buildings have been constructed or put in the process of
9 construction during the 12 months immediately preceding the meeting or are to be
10 constructed or put in the process of construction during the 12 months immediately
11 following the meeting. The duration of such exemption shall not exceed three years, to
12 be determined by the vote. The exemption shall first be applicable against the grand list
13 of the year in which the vote is taken.

14 (10) The value of improvements made to principal dwelling units with funds
15 provided in whole or in part by a nonprofit, neighborhood or municipal housing
16 improvement program which limits eligibility to residents with incomes below the
17 median income of the state. Such programs include but are not limited to neighborhood
18 housing services, community loan funds, community land trusts, neighborhood planning
19 associations and municipal housing improvement programs.

1 § 3804. HOUSING PROJECTS FOR LOW AND MODERATE INCOME

2 OCCUPANTS

3 (a) The board of selectmen of a town, the board of aldermen or city council of a city,
4 or the supervisor of an unorganized town or gore, may enter into an agreement on behalf
5 of the municipality with a person who owns or intends to acquire or seeks to construct a
6 federally-subsidized low or moderate income housing project, for payments by such
7 person to the municipality in lieu of all taxes which would otherwise be assessed against
8 the property, where federal assistance would not be available in the absence of such an
9 agreement. An agreement entered into under this section shall be in writing and shall be
10 executed by the person owning or intending to acquire or to construct the project, and by
11 the board of selectmen or aldermen, or in the case of an unorganized town or gore by the
12 supervisor, on behalf of the municipality. Property which is subject to an agreement
13 entered into under this section shall be included in the equalized grand list of the
14 municipality under chapter 123 of Title 16 in an amount which at the tax rate in effect in
15 the municipality would, if the property were subject to taxation, yield a tax equal to the
16 amount of the payments in lieu of taxes provided for under the agreement. The amount
17 of the payments and the date or dates when the payments are to be made shall be as
18 specified in the agreement, and the term of the agreement shall not exceed 40 years, but
19 otherwise the same may contain any provisions not inconsistent with this section.

20 (b) An agreement entered into under this section shall be filed in the office of the
21 clerk of the town or city executing the same within ten days following its execution or in

1 agreement. No fewer than two copies of the agreement shall be posted at each polling
2 place during the hours of voting, and copies thereof shall be made available to voters at
3 the polls on request. It shall be sufficient to refer to the agreement in the warning by title.

4 (g) An agreement as to which a petition for permissive referendum is submitted under
5 this section shall become effective immediately upon a conclusion of the meeting unless
6 the agreement is disapproved by a majority of the qualified voters voting on the question
7 at the meeting.

8 § 3805. PROPERTY WHICH MAY NOT BE EXEMPTED

9 Nothing in this chapter shall be construed as exempting or allowing a vote to exempt
10 from property taxation the following property:

11 (1) Property of railroad corporations.

12 (2) A municipal electric light plant when located outside the town wherein the
13 municipality owning it is situated.

14 (3) Property held by the state and located in any town other than that in which the
15 institution of which it forms a part is located.

16 § 3806. EDUCATION PROPERTY TAX EXEMPTIONS

17 (a) The following property shall be exempt from education property tax:

18 (1) Real and personal property owned and operated on a nonprofit basis, dedicated
19 unconditionally to public use and used for the benefit of an indefinite class of the public
20 primarily for charitable or public purposes and to confer a benefit on society, but not
21 including health or recreational purposes.

1 3834 (factories; quarries; mines), 3836 (private homes and dwellings), 3837 (airports), or
2 3838 (hotels) or 3803(9) or (10), of Title 32 or comparable municipal charter provisions
3 after June 30, 1997 if subsequently approved by the Vermont economic progress council
4 pursuant to this subsection and section 5930a of this title. An agreement or exemption
5 may be approved by the Vermont economic progress council only if it has first been
6 approved by the municipality in which the property is located with respect to the
7 municipal tax liability of the property in that municipality. Any agreement or exemption
8 approved by the Vermont economic progress council may not affect the education tax
9 liability of the property in a greater proportion than the agreement or exemption affects
10 the municipal tax liability of the property. A municipality's approval of an agreement or
11 exemption under this subsection may be made conditional upon approval of the
12 agreement or exemption by the Vermont economic progress council. The legislative
13 body of the municipality in which the property subject to the agreement or exemption is
14 located or the business that is subject to the agreement or exemption may request the
15 Vermont economic progress council to approve an agreement or exemption pursuant to
16 section 5930a of this title. The council shall also report to the general assembly on the
17 terms of the agreement or exemption, and the effect of the agreement or exemption on the
18 education property tax grand list of the municipality and of the state. If so approved by
19 the council, an agreement or exemption shall be effective to reduce the property tax
20 liability of the municipality under this chapter beginning April 1 of the year following
21 approval.

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**PROPERTY TAX EXEMPTION "HOUSEKEEPING" BILL
SECTION-BY-SECTION SUMMARY**

Sec. 1. This section in Title 32 allows towns to tax real property within the town which is owned by another town. The section specifies that "electric utility poles, lines and pole fixtures" owned by the town are taxable at appraisal value. The bill would change "pole fixtures" to "fixtures", to be consistent with sections 3618 (definition of "business personal property" does not include certain "poles, lines and fixtures") and 3620 (tax value of electric utility "poles, lines and fixtures") of Title 32.

Sec. 2. Section 3802 is the general property tax exemption statute in Title 32. The bill would make stylistic changes in subsections (1) through (7) and (9). In subsection (8), it enlarges the personal property tax exemption for "hay and produce", no longer limiting the exemption to the amount "sufficient to winter out the stock". Subsection (10), exempting property of Civil War and Spanish American War veterans, or veterans who served between 1898 and 1902 (or their widows) is repealed, since there are apparently no living persons in this class. Subsection (12), which provides an exemption for water pollution facilities, is amended to add an exemption for air pollution facilities; this air pollution exemption is then repealed in Title 10. The subsection (13) exemption for fallout shelters is repealed as obsolete. All subsections are renumbered accordingly.

Sec. 3. Section 3803 currently exempts personal property "used in carrying on telephone business". The rationale for this exemption was that chapter 211 of Title 32 already imposes a tax on personal property of a person "owning or operating a telephone line or business". With the advent of fiber optic cable and its ability to carry telephone signals and cable television or other signals, some of the cable used for telephone business (exempt under 3803) is not owned by a telephone business (thus also exempt under chapter 211). The bill would eliminate this loophole, providing that the 3803 exemption only applies to property which is actually taxed under chapter 211.

Sec. 4. Section 3843 allows a town to enter into an agreement for payment in lieu of taxes with an owner of federally-subsidized low- or moderate-income housing. The property is then carried on the grand list at the value that would yield the PILOT amount. The bill would remove a reference in this section to the State Aid chapter of Title 16, which was repealed by Act 60.

1 Introduced by Representatives Steele of Waterbury and Howrigan of Fairfield
2 Referred to Committee on
3 Date:
4 Subject: Taxation; property tax; exemptions
5 Statement of purpose: This bill proposes to update and clarify property tax
6 exemption laws.

7 AN ACT RELATING TO MISCELLANEOUS PROPERTY TAX
8 EXEMPTION AMENDMENTS

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

10 Sec. 1. 32 V.S.A. § 3659 is amended to read:

11 § 3659. MUNICIPAL LANDS

12 Land and buildings of a municipal corporation, whether acquired by
13 purchase or condemnation and situated outside of its territorial limits shall be
14 taxed by the municipality in which such land is situated. Said land shall be
15 set to such municipal corporation in the grand list of town or city in which
16 such real estate is located at the value fixed in the appraisal next preceding
17 the date of acquisition of such property and taxed on such valuation. The
18 value fixed on such property at each appraisal thereafter shall be the same per
19 acre as the value fixed on similar property in the town or city. Improvements

1 not leased or rented for profit; and real and personal property owned by and
2 used for the purpose of its work by a nonprofit organization chartered by act of
3 the Congress of the United States, such as a Red Cross, boy scout, girl scout,
4 boy or girl organization.

5 (3) Personal estate owned by inhabitants of this state situated and taxed
6 in another state; .

7 (4) Real and personal estate granted, sequestered or used for public,
8 pious or charitable uses; real property owned by churches or church societies
9 or conferences and used as parsonages and personal property therein used by
10 ministers engaged in full time work in the care of the churches of their
11 fellowship within the state; real and personal estate set apart for library uses
12 and used by the public and private circulating libraries, open to the public and
13 not used for profit; lands leased by ~~towns or town~~ school districts for
14 educational purposes; and lands owned or leased by colleges, academies or
15 other public schools or leased by towns for the support of the gospel; and lands
16 and buildings owned and used by towns for the support of the poor therein; but
17 private buildings on such lands shall be set in the list to the owners thereof, and
18 shall not be exempt. The exemption of lands owned or leased by colleges,
19 academies or other public schools, shall not apply to lands or buildings rented
20 for general commercial purposes, nor to farming or timber lands owned or

1 (8) Household furniture and equipment of every person not regularly
2 used as income producing property; household provisions; personal wearing
3 apparel and ornament; private and professional libraries; shrubs and plants
4 located in a commercial greenhouse or nursery; fowl; sheep; cattle; horses;
5 goats; swine; bees; hay and produce ~~sufficient to winter out the stock~~; tractors
6 and other machinery of a farmer, not used for hire or contract purposes; real
7 and personal farm property constructed and used for the storage of manure and
8 designed to avoid water pollution; tools and implements of a mechanic or
9 farmer; aircraft, automobiles and motor vehicles, but not including trailer
10 coaches; and motorized highway-building equipment and road-making
11 appliances as defined in section 4(19) and (31) of Title 23 required to be
12 registered as motor vehicles.

13 (9) Grounds and property owned and occupied by agricultural societies
14 so long as the same are used annually for agricultural fairs; .

15 ~~(10) Real property owned by an honorably discharged person who~~
16 ~~served in the army or navy of the United States in the Civil and~~
17 ~~Spanish American Wars, or in the army, navy or marine corps of the United~~
18 ~~States between April 21, 1898, and July 4, 1902, or by his widow, if she is~~
19 ~~entitled to a pension under the federal laws, whether such property is owned by~~
20 ~~or deceded to such soldier or sailor, such soldier or sailor and wife, or such~~
21 ~~widow, to the extent of a dwelling house used as a home, shall be exempt from~~

1 section 101(4)(A) shall not apply. An unremarried widow or widower of a
2 previously qualified veteran shall be entitled to the exemption provided in this
3 subdivision whether or not he or she is receiving government compensation or
4 pension. By majority vote of those present and voting at an annual or special
5 meeting warned for the purpose, a town may increase the veterans' exemption
6 under this subsection to up to \$20,000.00 of appraisal value. Any increase in
7 exemption shall take effect for the taxable year in which it was voted, and shall
8 remain in effect for future taxable years until amended or repealed by a similar
9 vote.

10 ~~(12)~~ (11) Real and personal property exclusively installed and operated
11 for the abatement of pollution of the waters of the state of Vermont or waters
12 within the purview of the New England Interstate Water Pollution Control
13 Compact in accordance with engineering principles approved by the Vermont
14 water resources board, and air pollution treatment facilities approved by the air
15 pollution control agency established in chapter 23 of Title 10. This type of
16 property shall be exempt as long as its operation meets with the approval of the
17 secretary of the agency of natural resources; .

18 ~~(13) Fallout shelters built at any time in compliance with then existing~~
19 ~~standards of the department of defense, office of civil defense, as long as the~~
20 ~~same are kept or used only for protection from radioactive fallout;~~

21 (14) [Repealed.]

1 agreement on behalf of the municipality with a person who owns or intends to
2 acquire or seeks to construct a federally subsidized, low or moderate income
3 housing project, for payments by such person to the municipality in lieu of all
4 taxes which would otherwise be assessed against the property, where federal
5 assistance would not be available in the absence of such an agreement. An
6 agreement entered into under this section shall be in writing and shall be
7 executed by the person owning or intending to acquire or to construct the
8 project, and by the board of selectmen or aldermen, or in the case of an
9 unorganized town or gore by the supervisor, on behalf of the municipality.

10 Property which is subject to an agreement entered into under this section shall
11 be included in the equalized grand list of the municipality ~~under chapter 123 of~~
12 ~~Title 16~~ in an amount which at the tax rate in effect in the municipality would,
13 if the property were subject to taxation, yield a tax equal to the amount of the
14 payments in lieu of taxes provided for under the agreement. The amount of the
15 payments and the date or dates when the payments are to be made shall be as
16 specified in the agreement, and the term of the agreement shall not exceed 40
17 years, but otherwise the same may contain any provisions not inconsistent with
18 this section.

19 **Sec. 5. REPEALS**

20 The following are repealed:

Witnesses

In addition to Legislative Council and Tax Department staff, several witnesses were called to give testimony before the Commission and input was requested from town officials and others on various topics. The Commission would like to thank the following individuals for appearing before the Commission to testify and answer questions:

Sybil McShane, State Librarian

Dana Dean, Assessor, City of Burlington

Lorna Edmundson, President, Association of Vermont Independent Colleges

Larry Gilbert, Director of Communications, Vt. Association of Hospitals and Health Systems

Norman Wright, President, Vermont Assoc. of Hospitals and Health Systems



STATE OF VERMONT
DEPARTMENT OF TAXES
109 STATE STREET
MONTPELIER, VERMONT 05609-1401

MEMORANDUM

To: Commission on Property Tax Exemptions

From: Mary Jane Grace,  Admin. Asst., PVR

Date: October 9, 1998

Subject: Locally Voted Exemptions

Municipalities retain the option to fully or partially exempt certain property from the grand list. Act 60 allows certain of these agreements to be funded statewide, rather than fully by the town in which the property is located, as was the case prior to Act 60. For instance, the cost of exemptions on property of volunteer fire, ambulance and rescue companies that is voted exempt locally is now paid for on a statewide basis without any further action on the part of the town. Statewide funding can also be requested in the case of contracts or exemptions relating to some economic development or housing agreements. The attached chart shows the types of property which may be subject to local agreements, the statutory authority, and which such exemptions or contracts may be funded statewide.

How much property is voted exempt locally?

In the equalization studies conducted on the 1995 grand list, Property Valuation and Review added about \$50 million to the equalized grand list to account for these exemptions. That did not include any value for fire/ambulance/rescue property, nor for locally voted exemptions on alternate energy sources. The 1997 study resulted in an add back of almost \$48 million.

Stabilization agreements accounted for a considerably larger add back. In 1995 it was \$128 million; in 1997 \$161 million. PVR did not add any value back for contracts relating to farm/forest land, or alternate energy generating facilities.

The figures for 1998 are not complete, but it is expected they will not vary considerably from the previous years. There will be very little value added back for the 1998 equalization study, however. Act 60 provided for statewide funding of agreements which were entered into prior to June 30, 1997.

Owner	Property Use	Statute Title/Section	MAY LOSS IN EDUCATION TAXES BE FUNDED STATEWIDE?	To Be Funded Statewide Approval Needed From *
Vol Fire, Ambu, Rescue	station house, etc.	32/3840	Yes	None
Fraternal Org.	meeting place	32/3840	No - Must Set Local Agreement Rate	
Person	farm/forest/open land	24/2741	No - Must Set Local Agreement Rate	
Person	alternate energy generating plant	24/2741	No - Must Set Local Agreement Rate	
Person	subsidized housing	32/3843	Yes - If not received, must set local agreement rate	VEPC or HCA
Person	commercial/industrial	24/2741	Yes - If not received, must set local agreement rate	VEPC
Organization	health/recreational	32/3832(7)	No - Must Set Local Agreement Rate	
Person	economic development	32/3834-3838	Yes - If not received, must set local agreement rate	VEPC
Person	alternate energy sources	32/3845	No - Must Set Local Agreement Rate	
College, univ, frat	any real property	32/3831	No - Must Set Local Agreement Rate	
Qualified Veteran	home	32/3802(1)**	No - Must Set Local Agreement Rate	
Person	farming	32/3607a	No - Must Set Local Agreement Rate	
Municipal Corp	property held in trust for municipal corporation	32/3832(1)	No - Must Set Local Agreement Rate	
Home/Hospital	property leased to another for profit	32/3832(6)	No - Must Set Local Agreement Rate	
Person	improvements to low income housing	32/3847	Yes - If not received, must set local agreement rate	VEPC or HCA

EEGL is Equalized Education Grand List
 VEPC is Vermont Economic Progress Council
 HCA is Vermont Department of Housing and Community Affairs

*Municipalities may fund through local agreement rate without approval from VEPC or HCA. Approval needed from VEPC or HCA only if statewide funding of agreement is sought.

** Refers to amount that may be voted in addition to the initial \$10,000 automatic exemption.

1998 LOCALLY VOTED EXEMPTIONS BY TOWN - PRELIMINARY DATA

Town/City	Approved	C/E	Owner	Type	Cal	VSA	Section	Full Value	Value Taxed	Difference
Bristol	**/**/**	E	BRISTOL POST #19	R	1	32	3802	\$0	\$0	\$0
Bristol	**/**/**	E	BRISTOL REC CLUB	R	4	32	3802	\$0	\$0	\$0
Bristol	**/**/**	E	BRISTOLPOST #19	R	1	32	3802	\$0	\$0	\$0
Bristol	**/**/**	E	KINGSLAND BAY	D	1	32	3802	\$0	\$0	\$0
Brookline	03/01/97	E	PUTNEY MTN ASSOC	R	13			\$18,900	\$0	\$18,900
Burke	01/01/97	E	BURKE MT CLUBHOUSE	R	13	32	3840	\$150,800	\$0	\$150,800
Cabot	**/**/**	E	GREEN MTN MASONS	C	0			\$70,500	\$0	\$70,500
Calais	03/01/96	E	ADAMANT COMMUNITY CLUB	R	15	32	3832	\$40,000	\$0	\$40,000
Calais	03/01/96	E	CALAIS RECREATION ASSOC.	R	15	32	3832	\$0	\$0	\$0
Calais	03/01/96	E	NATURE CONSERVANCY	R	14	32	3832	\$36,200	\$0	\$36,200
Calais	03/01/96	E	MAPLE VALLEY COMM CLUB	R	15	32	3832	\$56,400	\$0	\$56,400
Cambridge	**/**/**	E	WARNER MASONIC LODGE	C	0	32	3840	\$102,800	\$0	\$102,800
Cambridge	**/**/**	E	Green Mt Aerie #3210	R	0	32	3840	\$127,400	\$0	\$127,400
Cambridge	**/**/**	E	Smuggler's Notch Fish & Game Club	R	0	32	3840	\$35,500	\$0	\$35,500
Cavendish	02/28/94	E	CAVENDISH GRANGE H275	C	14	32	3840	\$59,000	\$0	\$59,000
Cavendish	05/08/95	E	BLACK RIVER HEALTH CTR INC	H	14			\$204,000	\$0	\$204,000
Chester	03/04/96	E	CHESTER ROD & GUN CLUB	R	14	32	3832	\$170,100	\$0	\$170,100
Chester	03/03/98	E	CHESTER-ANDOVER FAMILY CE	R	7	32	3840	\$110,900	\$0	\$110,900
Chester	03/04/96	E	GREEN MTN SOFTBALL INC	R	15	32	3832	\$85,100	\$0	\$85,100
Chester	03/03/98	E	GASSETTS GRANGE	C	7	32	3840	\$118,700	\$0	\$118,700
Chester	03/03/98	E	1ST CAROLINA, COMMUNICA	TV	0	32	3849	\$291,500	\$0	\$291,500
Chester	03/04/96	E	OLIVE BRANCH LODGE 64,A	C	7	32	3840	\$156,300	\$0	\$156,300
Chester	**/**/**	E	AMERICAN LEGION POST 67	C	7	32	3802	\$167,500	\$64,200	\$103,300
Chester	03/03/98	E	ELLSWORTH, ESTHER STEVENS	D	7	32	3840	\$969,200	\$520,200	\$449,000
Chester	**/**/**	E	CHESTER HISTORICAL SOCIETY	M	0	32	3802	\$63,300	\$0	\$63,300
Clarendon	**/**/**	E	CLARENDON, FIRE ASSOC	X	14			\$23,500	\$0	\$23,500
Colchester	03/03/98	E	COLCHESTER CENTER VOL. FIRE CØ	CØ	13	32	3840	\$0	\$0	\$0
Colchester	01/28/97	E	HOLY CROSS SENIOR HOUSING CORIH	CØ	8	32	3843	\$0	\$0	\$0
Colchester	03/03/98	E	COLCHESTER CENTER VOL. FIRE CØ	CØ	13	32	3840	\$0	\$0	\$0
Colchester	03/03/98	E	COLCHESTER CENTER VOL. FIRE CØ	CØ	13	32	3840	\$0	\$0	\$0

1998 LOCALLY VOTED EXEMPTIONS BY TOWN - PRELIMINARY DATA

Town/City	Approved	C/E	Owner	Type	Cal	VSA	Section	Full Value	Value Taxed	Difference
Ferrisburg	**/**/**	E	ROKEBY MUSEUM	M	15	32	3802	\$29,900	\$0	\$29,900
Glover	04/01/97	E	Gwendolynne Maynard	N	2	32	3836	\$180,400	\$165,400	\$15,000
Granville	**/**/**	E	Moss Glen Grange	C	7			\$29,900	\$0	\$29,900
Groton	**/**/**	E	DON & KATHLEEN CRUM	V	2	32	3802	\$93,500	\$73,500	\$20,000
Groton	**/**/**	E	EVELYN RICKER	V	2	32	3802	\$114,700	\$94,700	\$20,000
Groton	**/**/**	E	BEATRICE EMERSON	V	1	32	3802	\$30,200	\$10,200	\$20,000
Groton	**/**/**	E	BETTY ROWELL	V	1	32	3802	\$41,100	\$21,100	\$20,000
Halifax	03/01/94	E	GUIDING STAR	C	0			\$61,100	\$0	\$61,100
Harland	03/01/94	E	THE NATURE CONSERVANCY	R	15			\$51,500	\$0	\$51,500
Huntington	03/07/89	E	HUNTINGTON HISTORICAL SOCIETY	M	13			\$0	\$0	\$0
Irashburg	**/**/**	E	MASONIC LODGE	C	0			\$0	\$0	\$0
Isle LaMotte	03/01/97	E	ST ANNS SHRINE	D	0			\$234,684	\$0	\$234,684
Jamaica	**/**/**	E	JAMAICA VOL FIRE ASSOC	X	0			\$241,500	\$0	\$241,500
Jamaica	**/**/**	E	MASONIC LODGE	C	13			\$131,500	\$0	\$131,500
Jay	03/01/88	E	JAY VOL FIRE DEPT	X	15			\$172,500	\$0	\$172,500
Jericho	03/03/92	E	WOINOOSKI VALLEY PARK DISTRICT	R	13			\$27,500	\$0	\$27,500
Jericho	02/28/98	E	JERICHO HISTORICAL SOC.	M	1			\$235,000	\$0	\$235,000
Jericho	02/28/98	E	MASONIC HALL	C	7			\$65,000	\$0	\$65,000
Londonderry	**/**/**	E	Phoenix Fire Co.	X	0			\$33,800	\$0	\$33,800
Londonderry	**/**/**	E	Londonderry Vol. Rescue Sq.	X	0			\$127,100	\$0	\$127,100
Londonderry	**/**/**	E	Champion Fire Company	X	0			\$34,700	\$0	\$34,700
Londonderry	04/01/98	E	Londonderry Hist. Society	M	0			\$65,900	\$0	\$65,900
Londonderry	04/01/95	E	West River Anchor (Masons)	C	0			\$38,900	\$0	\$38,900
Ludlow	03/03/97	E	United Church of Ludlow	D	0	32	3832	\$10,800	\$0	\$10,800
Lyndon	**/**/**	E	Lyndon Institute	?	1	32	3802	\$51,600	\$46,400	\$5,200
Lyndon	**/**/**	E	Lyndon Institute	?	0	32	3802	\$95,500	\$92,700	\$2,800
Lyndon	**/**/**	E	Lyndon Area Senior Action	D	0	32	3802	\$63,800	\$0	\$63,800
Manchester	03/04/91	E	Sarah Larson Day School	D	7	32	3840	\$158,300	\$0	\$158,300
Manchester	03/03/69	E	Manchester Rod & Gun Club	R	7	32	3832	\$150,000	\$0	\$150,000
Manchester	02/27/93	E	Battenkill FOE Aerie	R	7	32	3840	\$160,000	\$0	\$160,000

1998 LOCALLY VOTED EXEMPTIONS BY TOWN - PRELIMINARY DATA

Town/City	Approved	C/E	Owner	Type	Cat	VSA	Section	Full Value	Value Taxed	Difference
Mount Holly	03/01/94	E	Community Historical Society	M	0	32	3840	\$45,000	\$0	\$45,000
Newbury	**/**/**	E	Newbury historical Society	M	0			\$34,800	\$0	\$34,800
Newbury	**/**/**	E	Newbury Womens Club	C	0			\$93,500	\$0	\$93,500
North Hero	03/19/96	E	North Hero Hist. Soc.	M	5	32	3840	\$117,600	\$0	\$117,600
Northfield	03/06/90	E	Senior Center	D	7	32	3840	\$129,000	\$0	\$129,000
Northfield	03/02/96	E	Carpenter Masonic Bldg	C	15	32	3840	\$215,900	\$129,540	\$86,360
Northfield	03/02/96	E	Northfield Historical Soc	M	7	32	3840	\$100,000	\$0	\$100,000
Norwich	**/**/**	E	Norwich Fire Dist	X	14			\$785,800	\$486,700	\$299,100
Norwich	**/**/**	E	University Grange Inc #34	C	13			\$129,800	\$0	\$129,800
Norwich	**/**/**	E	Root Dist Game Club	R	1			\$66,900	\$0	\$66,900
Norwich	**/**/**	E	Montshire Museum of Science	D	7			\$1,924,300	\$0	\$1,924,300
Norwich	**/**/**	E	Beaver Meadow Chapal assoc	D	1			\$19,800	\$0	\$19,800
Norwich	**/**/**	E	Norwich Hist. Soc.	M	1			\$135,500	\$40,650	\$94,850
Norwich	**/**/**	E	Day Care Center Inc	D	7			\$286,300	\$0	\$286,300
Orleans	03/04/97	E	LAFOE, BRIAN C & YOUNG, JUDITH AN	AN	1	32	3836	\$118,900	\$103,900	\$15,000
Pawlet	**/**/**	E	WEST PAWLET UNITED CHURCH	D	13			\$150,000	\$0	\$150,000
Pawlet	**/**/**	E	METTOWEE VALLEY	C	13			\$50,000	\$0	\$50,000
Pawlet	**/**/**	E	ST FRANCIS CABRINI CHURCH	D	13			\$180,000	\$0	\$180,000
Pawlet	**/**/**	E	PAWLET COMMUNITY CHURCH	D	15			\$200,000	\$0	\$200,000
Pawlet	**/**/**	E	PAWLET COMMUNITY CHURCH	D	13			\$89,150	\$89,150	\$0
Pawlet	**/**/**	E	WEST PAWLET FISH & GAME	R	13			\$35,000	\$0	\$35,000
Pawlet	**/**/**	E	MORNING FLOWER LODGE #71	C	13			\$35,000	\$0	\$35,000
Pawlet	**/**/**	E	PAWLET TOWN OF	?	13			\$35,000	\$0	\$35,000
Pawlet	**/**/**	E	PAWLET FIRE DEPT	X	13			\$0	\$0	\$0
Pawlet	**/**/**	E	PAWLET HISTORICAL SOCIETY	M	13			\$9,500	\$0	\$9,500
Pawlet	**/**/**	E	PAWLET TOWN OF	?	13			\$150,750	\$0	\$150,750
Pawlet	**/**/**	E	PAWLET TOWN OF	?	13			\$100,500	\$0	\$100,500
Pawlet	**/**/**	E	PAWLET TOWN OF	?	13			\$57,600	\$0	\$57,600
Pawlet	**/**/**	E	WEST PAWLET FISH & GAME	R	13			\$26,000	\$0	\$26,000
Pawlet	**/**/**	E	PAWLET TOWN OF	?	13			\$114,700	\$0	\$114,700

1998 LOCALLY VOTED EXEMPTIONS BY TOWN - PRELIMINARY DATA

Town/City	Approved C/E	Owner	Type	Cat	VSA	Section	Full Value	Value Taxed	Difference
Shelburne	03/04/97 E	Mountain Cable	TV	0	32	3849	\$574,600	\$344,800	\$229,800
Shelburne	03/04/97 E	Nature Conservancy	R	15	32	3840	\$10,000	\$0	\$10,000
Shelburne	03/04/97 E	Nature Conservancy	R	15	32	3840	\$10,000	\$0	\$10,000
Sheldon	**/**/** E	American Legion	R	7	32	3832	\$16,800	\$0	\$16,800
Shoreham	03/04/96 E	Mason's Hall	C	0	32	3840	\$0	\$0	\$0
Springfield	04/01/92 E	Lincoln St Inc	D	1	32	3840	\$67,400	\$0	\$67,400
Springfield	04/01/92 E	Lincoln St Inc	D	2	32	3840	\$103,100	\$0	\$103,100
Springfield	**/**/** E	Springfield VFW Inc	C	7	32	3840	\$281,500	\$0	\$281,500
Springfield	**/**/** E	Art & Historical Society	M	13	32	3840	\$197,600	\$0	\$197,600
Springfield	04/01/95 E	Springfield Family Center Inc.	D	1	32	3840	\$68,500	\$0	\$68,500
Springfield	04/01/93 E	Lincoln St Inc	D	1	32	3840	\$89,000	\$0	\$89,000
Stowe	03/04/97 E	MYSTIC LODGE #56	C	7	32	3840	\$104,100	\$69,500	\$34,600
Sunderland	03/04/68 E	CAMP ONDAWA	R	0	32	3802	\$0	\$0	\$0
Thetford	03/03/94 E	Thetford Ctr. Comm. Assoc	R	0	32	3840	\$86,900	\$84,570	\$2,330
Thetford	03/03/95 E	Camp Billings Inc.	R	0	32	3840	\$645,800	\$124,020	\$521,780
Thetford	02/28/94 E	Parish Players	D	0	32	3840	\$66,300	\$59,312	\$6,988
Thetford	02/28/94 E	Thetford Historical Society	M	0	32	3840	\$58,000	\$53,341	\$4,659
Thetford	03/03/95 E	Rices Mills Comm. Assn I	D	0	32	3840	\$42,900	\$41,502	\$1,398
Townshend	09/08/97 E	Grace Cottage Hospital	H	7			\$375,800	\$165,352	\$210,448
Tunbridge	03/07/95 E	TUNBRIDGE VOLUNTEER FIRE	X	7			\$150,687	\$0	\$150,687
Tunbridge	03/04/97 E	TUNBRIDGE GRANGE #384	C	13			\$33,528	\$0	\$33,528
Vergennes	03/03/98 E	VERGENNES ODD FELLOWS	C	7	32	3840	\$96,400	\$0	\$96,400
Vergennes	03/03/98 E	VERGENNES AREA RESCUE SQUAD	X	7	32	3840	\$0	\$0	\$0
Vershire	**/**/** E	MOUNTAIN SCHOOL OF MILTON ACAD	ACAD	0			\$155,900	\$0	\$155,900
Vershire	**/**/** E	MOUNTAIN SCHOOL OF MILTON ACAD	ACAD	0			\$1,198,000	\$0	\$1,198,000
Waitsfield	03/05/96 E	Waitsfield Cable	TV	0	32	3849	\$209,200	\$69,700	\$139,500
Waitsfield	03/05/96 E	Waitsfields Couple Club	C	15	32	3840	\$45,000	\$0	\$45,000
Wallingford	03/15/97 E	MASONIC TEMPLE	C	7	32	3840	\$119,900	\$0	\$119,900
Wallingford	03/15/98 E	WALLIGNFORD ROTARY BLDG	C	13	32	3840	\$105,300	\$0	\$105,300
Wallingford	03/15/98 E	MAPLE VALLEY GRANGE	C	7	32	3840	\$76,100	\$0	\$76,100

1998 LOCALLY VOTED EXEMPTIONS BY TOWN - PRELIMINARY DATA

Town/City	Approved	C/E	Owner	Type	Cal VSA	Section	Full Value	Value Taxed	Difference	
Weston	**/**/**	E	Weston Community Club,FA	R	0	32	3802	\$110,000	\$0	\$110,000
Weston	**/**/**	E	Wilder Memorial Library	?	0	32	3802	\$58,950	\$0	\$58,950
Weston	**/**/**	E	Farrar Park	R	0	32	3832	\$36,200	\$0	\$36,200
Weston	**/**/**	E	Old Parish Church	D	0	32	3832	\$126,600	\$0	\$126,600
Weston	**/**/**	E	Weston Community Club, OL	R	0	32	3802	\$70,000	\$0	\$70,000
Weston	**/**/**	E	State Of Vermont Agency	?	0	32	3832	\$315,400	\$0	\$315,400
Weston	**/**/**	E	Weston Town Office Munic	?	0	32	3802	\$96,300	\$0	\$96,300
Weston	**/**/**	E	Weston Community Club	R	0	32	3802	\$25,000	\$0	\$25,000
Weston	**/**/**	E	Forefathers Cemetary	?	0	32	3832	\$25,000	\$0	\$25,000
Weston	**/**/**	E	Maple Grove Cemetary	?	0	32	3832	\$100,000	\$0	\$100,000
Weston	03/07/95	E	Parsonage, Old Parish CH	D	0	32	3832	\$74,400	\$0	\$74,400
Weston	**/**/**	E	Island Cemetary	?	0	32	3832	\$40,000	\$0	\$40,000
Weston	**/**/**	E	The Little School	D	0	32	3802	\$227,700	\$0	\$227,700
Weston	**/**/**	E	Benedictine Foundation	D	10	32	3832	\$300,000	\$0	\$300,000
Williston	07/01/94	E	Weston Rod & Gun Club	R	0	32	3832	\$60,000	\$0	\$60,000
Williston	03/03/98	E	Whitney Hill Homeslead	D	10	32	3842	\$880,000	\$582,524	\$297,476
Williston	03/03/98	E	Hook, Norman	N	1	32	3836	\$126,500	\$111,500	\$15,000
Williston	03/03/98	E	Blank R Eugene	N	2	32	3836	\$65,900	\$50,900	\$15,000
Williston	03/03/98	E	Phelps Court Lrd. Part	N	1	32	3836	\$119,600	\$104,600	\$15,000
Williston	03/05/96	E	Fusca III Vincent & Mary	N	1	32	3836	\$116,400	\$101,400	\$15,000
Williston	03/04/97	E	Jarvis A	N	2	32	3836	\$61,200	\$46,200	\$15,000
Williston	03/05/96	E	Vivian David	N	1	32	3836	\$49,400	\$34,400	\$15,000
Williston	03/03/98	E	Monteith,D & D	N	4	32	3836	\$62,200	\$47,200	\$15,000
Williston	03/03/98	E	Allmayer H & K	N	2	32	3836	\$111,900	\$96,900	\$15,000
Williston	03/03/98	E	Rice Michael	N	2	32	3836	\$82,100	\$67,100	\$15,000
Williston	03/04/97	E	Erskine Seditic III & K	N	4	32	3836	\$32,300	\$17,300	\$15,000
Williston	03/03/98	E	Piper, E & A	N	2	32	3836	\$99,900	\$84,900	\$15,000
Williston	03/03/98	E	Robideau Wanda	N	1	32	3836	\$64,100	\$49,100	\$15,000
Williston	03/05/96	E	Martauik J & B	N	1	32	3836	\$101,000	\$86,000	\$15,000
Williston	03/05/96	E	Redick, G & k	N	12	32	3836	\$342,000	\$327,000	\$15,000

MEMORANDUM

To: Commission on Property Tax Exemptions

From: William Russell, Chief Legislative Counsel
Emily Tartter, Legislative Counsel

Date: Friday, October 9, 1998

Subject: Vermont property tax exemptions

Section 59 of Act 71 of the Acts of 1998 creates a Commission on Property Tax Exemptions to review the "equity, uniformity, costs, efficiency, purposes and public benefit of property tax exemptions" in Vermont. The Commission is directed to report its findings and recommendations to the General Assembly by January 15, 1999.

This memorandum provides a brief summary of the major types of property tax exemptions.

Property Tax Exemptions

Most property tax exemptions are found in Title 32 (the State tax statutes) in chapter 123 ("How, Where and to Whom Property is Taxed") and chapter 125 ("Exemptions"). Some exemptions are not included among the tax statutes, and are found instead in the title which covers the subject matter of the property at issue. For example, exemptions for pollution control property and for conservation land are found in Title 10 (Conservation and Development); exemptions for State Colleges and Vermont Student Assistance Corporation property are found in Title 16 (Education); and exemptions for consolidated water districts and sewage disposal systems are found in Title 24 (Municipal Corporations). The packet of information mailed to Commission members on September 28, 1998, contains a printout of property tax exemption statutes ("Vermont Statutes That Pertain to Property Tax Exemptions"). Attached to this memorandum is a summary of the exemptions in Chapter 125 of Title 32.

Types of exemption

Vermont's property tax exemptions can be classified under four main types. First, **government property** is exempted, mainly in the interest of economic efficiency. Second, **conservation and land-use preservation** are favored with partial or complete exemption. Third, certain **business development** is encouraged by partial or complete exemption, often by vote of the town. Fourth, **public, pious or charitable use** is

Current use valuation

Chapter 124 of Title 32 creates the Use Value Appraisal program. Owners of agricultural or forest land may enroll the property in the State program. Grand list value of enrolled farm buildings is 30 percent of fair market value; grand list value of enrolled land is the "use value", which is set every year by the current use advisory board. For 1998, farmland is \$254 per acre; forest land is \$96 per acre. The penalty for change of use is 20 percent of the fair market value of the changed (developed, subdivided, used contrary to forest management plan) portion. The state has a lien against the land for the use change tax; the owner has no personal liability for the penalty.

Since enrolled property is listed at use value, towns lose municipal property tax they would otherwise have had. The State annually reimburses the towns for this loss.³

Municipal stabilization contracts

Section 3846 of Title 32 authorizes towns to enter a tax stabilization contract with the owner of a parcel of at least 25 acres which is actively farmed or under active forest management. The penalty for change of use in breach of the contract is the past three years' tax savings. The town has an automatic lien against the land for the use change penalty amount.

There are a few additional sections in Title 32 (e.g., 3607, 3607a, 4969, 4985) which are to some extent redundant with section 3846 and perhaps could be incorporated into it.

Section 2741 of Title 24 also authorizes towns to enter a tax stabilization contract with the owner of any parcel of farm or forest land or open land.

Title 10 exemptions

Chapter 155 of Title 10 ("Acquisition of Interests in Land by Public Agencies") was created to "encourage and assist the maintenance of the present uses of Vermont's agricultural, forest, and other undeveloped land and to prevent the accelerated residential and commercial development thereof...." It mandates taxation based on the actual use of property which has been acquired by a qualified land conservation organization. If conservation land is acquired by the State or a town, it is treated as government-owned land (i.e., State land is exempt; town land is exempt if a public purpose can be shown; there is a public purpose here in that the land is acquired to further the stated objectives of Chapter 155).

³ Use value appraisal does not create a loss to the town on the education tax side, since the education tax liability is based on the grand list - i.e., current use - value.

The Vermont Supreme Court has considerably broadened the "public use" doctrine, in the case of American Museum of Fly Fishing, Inc. v. Town of Manchester, 151 Vt. 103 (1989). The court, interpreting broad statutory language, held that the "essential government function" test was too narrow, and instead, that property would qualify as tax-exempt public use property if (1) it is dedicated unconditionally to public use; (2) it primarily benefits an indefinite class of persons and benefits society at large; and (3) is owned and operated on a nonprofit basis.

Most of the statutes dealing with public, pious and charitable exemptions are found in sections 3802, 3831 and 3832 of Title 32. A brief summary of these sections is included in the attached summary of the chapter 125 exemptions.

A brief summary of property tax exemptions in Chapter 125 of Title 32

§ 3802 exempts property:

- (1) owned by Vermont or US**
- (2) owned by a post of any veterans' organization if used for post purposes including meetings and not leased for profit; or
owned by a nonprofit organization chartered by act of Congress, such as the Red Cross, Boy Scouts or Girl Scouts**
- (3) personal property owned by Vermont resident and taxed in another state**
- (4) used for public, pious or charitable uses
owned by a church and used as a parsonage
used as a public or private library, open to public and not for profit
leased by town or school district for educational purposes
owned or leased by colleges
academies or public schools; BUT not if rented for commercial purposes
leased by towns for support of the gospel
owned and used by towns for support of the poor**
- (5) a fraternity or society house, its furnishings and adjacent land, held by and for college fraternities and societies, unless held for investment purposes**
- (6) owned and occupied by YMCA or YWCA for their purposes**
- (7) owned or held by a cemetery association; or used for cemetery purposes**
- (8) household furnishings not regularly used as income-producing; various agricultural personal property; various vehicles**
- (9) fair grounds and other property owned and occupied by agricultural societies and used at least annually for an agricultural fair**
- (10) owned by certain war veterans serving before July 4, 1902, or their widows**
- (11) up to first \$10,000 of appraised value of the residence owned by disabled veteran or family member; town may vote to increase exemption up to \$20,000**
- (12) water pollution abatement property approved by ANR secretary**
- (13) fallout shelters**

The foregoing report is offered to the General Assembly by the members of the Commission on Property Tax Exemptions.

/s/Karen K. Steele .
Rep. Karen K. Steele, Chair

/s/ Sean Campbell .
Sean Campbell, Commissioner of Taxes

/s/ William Doyle .
Senator William Doyle

/s/ Patrick French .
Patrick French

/s/ Christine Graham .
Christine Graham

/s/Richard Howrigan .
Rep. Richard Howrigan

/s/ William Johnson .
William Johnson, Director, Property Valuation

/s/ Mark A. MacDonald .
Sen. Mark A. MacDonald

/s/ Thomas Scala .
Thomas Scala

/s/ Kevin Scully .
Kevin Scully

/s/ Betty Wheeler .
Betty Wheeler