



## **Income-Based Education Tax Study Committee**

Report Prepared Pursuant to No. 175, Section 5 of the Acts and Resolves of 2022

### **Study Committee Members**

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*Senator Ann Cummings, Co-Chair*

*Representative Scott Beck*

*Senator Christopher Pearson*

*Representative Peter Conlon*

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**December 2022**

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## Executive summary

Act 175 of 2022, an act relating to making miscellaneous changes in education law, created the Income-Based Education Tax Study Committee. The Committee met six times to study and make recommendations on the creation and implementation of an income-based education tax to replace the homestead property tax. Given the scope of its legislative charge and limited timeframe to accomplish that charge, the Committee decided not to prioritize the policy question of whether an education income tax should be adopted. The Committee decided instead to concentrate on *if* an education income tax were to be adopted, *how* should it be structured?

If an education income tax were adopted, the Committee makes the following recommendations to the General Assembly for structuring the tax. Details on each of these recommendations, and additional detailed recommendations are discussed in Section V of this report.

- An education tax should be structured with progressive, marginal tax rates and income brackets on the adjusted gross income of all Vermont taxpayers.
- The education tax rates should apply by school district and be increased or decreased according to the locally voted education spending decisions as compared to the prior year statewide average education spending.
- The current structure and timing for setting tax rates should be maintained. The General Assembly should set the education tax rates and continue to set the nonhomestead tax rates to balance the Education Fund if actual revenues or expenditures are higher or lower than forecast.
- Education tax withholding and estimated payments should be maintained in the same circumstances that personal income tax is withheld or estimated payments are due.
- The existing Renter Credit program should be maintained in its current form.
- A new nonrefundable credit for all renters against the education tax should be created and structured as a percentage of gross rent paid.
- The nonhomestead property tax structure and its administration should be maintained. The nonhomestead tax base should be expanded to apply to the portion of a homestead property that exceeds the housesite.
- The amount set aside in the Stabilization Reserve should be increased due to the possible decreased stability that an education tax based on income could introduce into the Fund compared to the homestead property tax.
- Education payments and cash flow to school districts should continue to follow the same timeline as under current law.
- Municipalities' involvement in the State property tax system should be maintained.

# I. Enabling legislation

Act 175 of 2022, an act relating to making miscellaneous changes in education law, created the Income-Based Education Tax Study Committee. Section 5 of Act 175 reads:

(a) Creation. There is created the Income-Based Education Tax Study Committee to study and make recommendations regarding the creation and implementation of an income-based education tax system to replace the homestead property tax system for education funding in this State.

(b) Membership. The Study Committee shall be composed of the following members:

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Study Committee shall study the creation and implementation of an income-based education tax system, including the following issues:

(1) restructuring the renter credit under 32 V.S.A. chapter 154 or creating a new credit or other mechanisms to ensure that Vermonters who rent a primary residence participate fairly in the education income tax system;

(2) transitioning from the current homestead property tax system to a new income-based education tax system;

(3) accurate modeling, given the differences between household income for homestead property tax purposes and adjusted gross income for income tax purposes;

(4) whether there should be a limit to the amount of income subject to a new income-based education tax;

(5) challenges or other considerations for administering a new proposed education income tax system;

(6) with regard to income as a tax base, the impact of a new proposed education income tax on the State's taxing capacity, including the impact on the General Fund; and

(7) any other relevant considerations.

(d) Assistance. The Study Committee shall have the administrative, technical, and legal assistance of the Agency of Education, the Department of Taxes, the Joint Fiscal Office, the Office of Legislative Counsel, and the Office of Legislative Operations and shall consult with the Vermont League of Cities and Towns and any other interested stakeholders.

(e) Report. On or before December 30, 2022, the Study Committee shall submit a written report to the House Committees on Education and on Ways and Means and the Senate Committees on Education and on Finance with its findings and recommendations for legislative action, which shall include proposed legislative language.

(f) Meetings.

(1) The Joint Fiscal Office shall call the first meeting of the Study Committee to occur on or before July 15, 2022.

(2) The Study Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Study Committee shall cease to exist on December 31, 2022.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

## II. Vermont's education finance system

### Overview and background

Vermont's education funding formula is both unique and complex. The State's education finance system differs from those in other states, in that it is a statewide funding formula coupled with local spending decisions and primarily local property tax administration. Each school district's education spending is determined at a local level, where school boards set budgets that must be approved by voters.

The current system is a product of multiple reforms over the years that have aimed to adjust inequities in the funding system. These reforms have included Act 60 of 1997, Act 68 of 2003, and Act 127 of 2022.

Prior to Act 60, Vermont relied on a "foundation" program to fund its education system. A foundation formula relies on a base level of revenue for each school district, and State aid is provided to districts that are unable to raise the full foundation amount on their own. Fluctuations in the State's fiscal status led to underfunding of the foundation formula, which shifted the responsibility to school districts to make up the funding through local taxation. This generally meant that property-wealthy districts benefitted from low tax rates and high per-pupil spending, while property-poor districts faced high tax rates and low per-pupil spending.

In 1997, the Vermont Supreme Court found this funding system to be unconstitutional in the *Brigham* decision.<sup>1</sup> The Court ruled that, because a town's property wealth affected its base education tax rate, the foundation formula violated the Vermont Constitution.<sup>2</sup> The Court stated that the State is responsible for providing a public education to its citizens under the Education Clause of the Vermont Constitution and for ensuring substantial equality of educational opportunity under the Common Benefits Clause of the Vermont Constitution.<sup>3</sup> The Court further clarified that the Vermont Constitution is silent on how these constitutional rights must be financed. The Constitution does not mandate any specific system of education funding. In particular, the Constitution does not require an education funding system to be based on property taxes or designed to promote local control.<sup>4</sup> The Court emphasized that the specific means of discharging the State's constitutional duty to "make educational opportunity available on substantially equal terms" is left to the discretion of the General Assembly.<sup>5</sup>

In response to the *Brigham* decision, the General Assembly passed Act 60 in 1997. This new law, and further reforms in Act 68 of 2003, adjusted the education funding formula so that a town's property wealth does not affect its base education tax rate. Act 60 is the foundation upon which the current education financing system has been built. In the current system, towns with the same per-pupil spending have the same

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<sup>1</sup> *Brigham v. State*, 166 Vt. 246 (1997).

<sup>2</sup> For a more detailed legal analysis, see, Office of Legislative Council, *Memorandum to House and Senate Committees on Education, Vermont General Assembly*, available online: <https://lifo.vermont.gov/assets/Uploads/f74892d194/WDonna-Russo-SavageBrigham-v.-State-166-Vt.-246-19972-5-2015.pdf>

<sup>3</sup> *Brigham*, ¶ 268; Vt. Cons. Ch. I, Art. 7 and Ch. II, § 68.

<sup>4</sup> *Id.*, ¶ 267.

<sup>5</sup> *Id.*, ¶ 268.

homestead equalized tax rate regardless of their property wealth.<sup>6</sup> This means that if the General Assembly reduces funds for education, all school districts, regardless of their property wealth, are affected.

As in most funding structures, Vermont's education expenditures and education funding are inherently linked. But unlike most funding structures, Vermont's education expenditures are *not* a function of how much money is raised for education; instead, the converse is true: property tax rates to fund education are a function of education expenditures. This unique system will be explained in the following section.

Given the complexities in Vermont's education funding formula, it is important to understand the structure of the system before analyzing potential changes to it. The following sections provide an overview of Vermont's education finance system through a lens of first exploring education expenditures, and then examining how these education expenditures are funded.

## Education expenditures

Vermont's education finance system is a statewide funding formula coupled with local budget decisions and local property tax administration, and therefore it must be examined on both the local level and the State level.

### On a local level

Every year, each school district in Vermont builds a budget that must be approved by local voters; these budgets will ultimately determine the amount of funding their school will receive. Some of the components within school districts' budgets are predetermined outside of the school districts' annual decisions. These predetermined sources, also known as "offsetting revenues," include State and federal categorical aid,<sup>7</sup> tuition revenues (to the school district), prior year surpluses or deficits (of the school district), and reserve funds (of the school district).

After subtracting all offsetting revenues from the locally voted education budget, the remainder of the total voted education budget is referred to as "education spending." This term describes the funds that a school district decides to spend on top of the offsetting revenues it receives.<sup>8</sup> A school district's education spending per pupil will ultimately influence its local education tax rates.

### On a statewide level

All school budgets are funded through Vermont's Education Fund. The expenditures in this statewide fund are the total aggregated costs of public education in Vermont. In general, Vermont's education expenditures can be sorted into two different categories – the statewide education payment and all other expenditures.

The education payment is the aggregated amount of all school districts' education spending. Recall that education spending is the amount that each school district decides to spend in addition to the State and federal categorical aid it will receive.

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<sup>6</sup> Equalized tax rate refers to the tax rate *prior* to the application of the common level of appraisal (CLA). After the CLA is applied, towns with the same equalized tax rates will likely have differing "actual" tax rates. Actual tax rates are rates which have been adjusted by the CLA.

<sup>7</sup> Existing examples of State categorical aid includes State-placed students, transportation, technical education, small school support, essential early education, flexible pathways, and special education aid.

<sup>8</sup> This is a simplified definition. See, 16 V.S.A. § 4001(6) [definition of "education spending"].

All other Education Fund expenditures include the State share of categorical aid, one-time appropriations, and other operating and administrative costs at the State level.

### **Recent legislative changes to Education Fund expenses**

Legislative amendments over the last five years have impacted the Education Fund by creating new funding obligations. These changes include teacher pensions, other postemployment benefits (OPEB), special education funding, universal school meals, and pupil weighting. Other reserves, studies, and reports regarding future funding options were enacted during the 2021–2022 legislative biennium, notably regarding polychlorinated biphenyls (PCBs) and career technical education (CTE). Additionally, whenever new sales tax exemptions are enacted, they decrease sales tax revenue to the Education Fund. These are called “tax expenditures,” which are actual or estimated losses in tax revenue resulting from exemptions, exclusions, deductions, credits, preferential rates, or deferrals of liability applicable to a tax.<sup>9</sup> For a more detailed list of recent, new Education Fund expenses, see Appendix A.4.

### **Education Fund**

Vermont’s Education Fund is funded through both nonproperty tax sources and property tax sources. The amount generated through the property tax is the remaining amount of funds needed to support education expenditures net of nonproperty tax sources.

### **Necessity of adjustable tax rates**

School district budgets are determined locally, which in turn determines the total sum of funds that must be raised for the Education Fund. Due to the current system’s structure, there needs to be an adjustable mechanism to respond to changing financial demands on the Education Fund. Currently, the mechanism to ensure that revenues coming into the Education Fund equal expenditures is the annual setting of the homestead yields and the nonhomestead tax rate. This mechanism is sometimes referred to as a “flexible lever.” Depending on the performance of nonproperty revenue sources and the size of appropriations out of the Education Fund, the yields and nonhomestead tax rate can be adjusted up or down to raise sufficient revenue to fund education spending decided at the local level.

### **Nonproperty tax sources**

There are multiple nonproperty tax sources that contribute to the Education Fund. These include all of the revenues from the Sales and Use Tax, one-third of the Purchase and Use Tax revenues, one quarter of the Meals and Rooms Tax revenues, revenues from the State lotteries, Medicaid reimbursement funds, and other miscellaneous revenue sources.<sup>10</sup> Together, these nonproperty tax revenue sources generally contribute less than 30% of the revenue of the Education Fund.

The remainder of the required funds are raised through property taxes. Property tax rates are set annually by the General Assembly at the level necessary to fund voter-approved school budgets and all other public education costs. More than 70% of the Education Fund is funded through property taxes. The property taxes are broken into two distinct categories, homestead and nonhomestead, each with a distinct tax rate and rate design. Approximately 39% of the Education Fund is funded by the nonhomestead property tax and 34% of it is funded by the homestead education property tax. Each type of property tax is discussed in more detail below.

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<sup>9</sup> See, 32 V.S.A. § 312.

<sup>10</sup> 16 V.S.A. § 4025.



## Nonhomestead education property taxes

Nonhomestead property taxes apply to all taxable real property that does not qualify as a “homestead.” This includes everything from commercial and industrial property to second homes and rental units. The equalized nonhomestead property tax rate is uniform across all towns (although each town is subject to its own common level of appraisal to account for differences in valuation practices). The nonhomestead property tax rate is set in statute at the rate of \$1.59 per \$100.00 of property value.<sup>11</sup> Generally, however, this statutory rate is notwithstanding each year in session law, and the General Assembly imposes a different rate for a given fiscal year. This single rate applies across the State, although the actual rate shown on a taxpayer’s property tax bill varies by town depending on the town’s common level of appraisal. For example, in fiscal year 2022, the statewide nonhomestead property tax rate before adjustment by the common level of appraisal was \$1.612 per \$100.00 of property value.<sup>12</sup>

## Calculation of homestead education property taxes

Vermont has a complex homestead property tax system that includes adjustments based on income and property value. Due to these complexities, this section will outline the calculation of district-level homestead property education tax rates.<sup>13</sup> The report will then present the household-level property tax credit for homestead owners in the next section.

Each district’s homestead property tax rate is a function of two primary factors:

- a) the education spending per equalized pupil of the district where the homestead is located, and
- b) the statewide property yield, which is the per pupil spending amount the State can support with a \$1.00 tax rate.

Together these factors are used to calculate the district level tax rate according to the following equation:

$$\text{District's homestead property tax rate} = \$1.00 * \frac{\text{Education spending} / \text{Equalized pupils}}{\text{Statewide property yield}}$$

## Education spending per equalized pupil

Homestead education property tax rates depend on district education spending per equalized pupil.<sup>14</sup>

Vermont’s education funding formula aims to address the differences in the cost of educating certain student populations through “pupil weights.” Pupil weights adjust student counts according to different student needs or circumstances. Each district reports its overall student counts, and weights are applied to certain types of students to account for the potential higher costs to school districts of educating these students. After weights are applied to adjust all school districts’ pupil counts, an equalization ratio is used to make the number of State equalized pupils match the overall statewide pupil count. These are referred to as “equalized pupils.”<sup>15</sup> The equalized pupil count will vary from district to district based on its total number of students and its share of weighted pupils in comparison to other districts.

Next, each district’s education spending is divided by its total equalized pupils. This results in the education

<sup>11</sup> 32 V.S.A. § 5402(a)(1).

<sup>12</sup> See, 2021 Acts and Resolves No. 73, Sec. 17.

<sup>13</sup> See, 32 V.S.A. ch. 135.

<sup>14</sup> Recall that education spending is the total additional funds a school district includes in its budget after accounting for its offsetting revenues.

<sup>15</sup> Act 127 of 2022 adjusted the education funding formula and current weights. Per Act 127, starting in FY 2025, there will be no equalization ratio applied to weighed pupil counts.



spending per equalized pupil, which is one of the primary factors of determining a district's homestead property education tax rate. This component of the homestead tax calculation ties the tax bills of each district's town or towns to the voter-approved per pupil spending (and are not a function of a district's property wealth).

### Statewide property yield

In addition to the education spending per equalized pupil, district homestead property tax rates are also determined by the statewide property yield, which is set annually by the General Assembly and is the same across all school districts although the actual rate shown on a taxpayer's property tax bill varies by town depending on the town's common level of appraisal. The property yield can be thought of as the per pupil amount of spending that the Education Fund can support with a uniform homestead tax rate of \$1.00 on homestead value.<sup>16</sup> In districts that spend more per pupil than the property yield, the homestead property tax is increased proportionately.

For example, in fiscal year 2022, the property yield per equalized pupil was \$11,317.00.<sup>17</sup> This means that districts with education spending per equalized pupil equal to or less than \$11,317.00 had an equalized tax rate of \$1.00. Districts that voted to spend more than \$11,317.00 per equalized pupil had an equalized tax rate higher than \$1.00.

### Calculation of the homestead property tax credit

In Vermont, approximately 70% of households' property taxes are adjusted based on their income through an adjustment referred to as a "property tax credit" or formerly known as the "income sensitivity property tax adjustment".<sup>18</sup> This property tax credit is set according to an income tax percentage based on the income yield, which is also annually determined by the General Assembly.<sup>19</sup> A district's income education tax rate has a minimum percentage of 2%, and the calculation of a district's income education tax rate is very similar to the calculation of a district's homestead property education tax rate. The equation used for calculating district rates is the following:

$$\text{District's income education tax rate} = 2\% * \frac{\text{Education Spending} / \text{Equalized Pupils}}{\text{Statewide property yield}}$$

In essence, the property tax credit represents the difference between the education property taxes paid on the housesite and the education taxes that would be owed if they were paid on income. The property tax credit is calculated from the prior year's data. This means that if the education property taxes on the housesite are greater than what the tax would have been on income, the household receives a property tax credit reflecting the difference.

Not all Vermont households receive a property tax credit, primarily because of income level restrictions. In fiscal year 2022, about 70% of households received a property tax credit. Household income both determines if a household may use the credit, and, if so, the value of the home on which the credit can be used.

Household income determines the amount of housesite value that may be applied to calculate the property tax credit. Households with incomes under \$90,000 may use the property tax credit on the first \$400,000 of

<sup>16</sup> This means \$1.00 tax rate per every \$100.00 of property value. See, 32 V.S.A. § 5401(15).

<sup>17</sup> 2021 Acts and Resolves No. 73, Sec. 17.

<sup>18</sup> 32 V.S.A. ch. 154.

<sup>19</sup> 32 V.S.A. §§ 5401(16) and 6066(a)(2).

their homestead property taxes. Households with incomes over \$90,000 may use the property tax credit on the first \$225,000 of the homestead value. The following table outlines the different calculations of the property tax credit for different levels of household income.

Table 1: Calculation of Property Tax Credit by Income Level

| Household income  | Housesite value | Calculation of amount that would be paid under income                                 | Calculation of the property tax credit   |
|-------------------|-----------------|---|--|
| < \$47,000        | < \$400,000     | $income * income\ rate$   | The property tax credit is the amount paid for property taxes minus the lesser of: <ul style="list-style-type: none"> <li>The amount that would be paid under income</li> </ul> OR <ul style="list-style-type: none"> <li>The statewide education tax rate multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000</li> </ul> |
|                   | ≥ \$400,000     | $(income * income\ rate) + \left(\frac{HS\ value - \$400,000}{100}\right) * HS\ rate$ |  |
| \$47,001–\$90,000 | < \$400,000     | $income * income\ rate$   | The property tax credit is the difference between the amount paid for property taxes and the amount that would be paid under income  |
|                   | ≥ \$400,000     | $(income * income\ rate) + \left(\frac{HS\ value - \$400,000}{100}\right) * HS\ rate$ |  |
| ≥ \$90,000        | < \$225,000     | $income * income\ rate$   | The property tax credit is the difference between the amount paid for property taxes and the amount that would be paid under income  |
|                   | ≥ \$225,000     | $(income * income\ rate) + \left(\frac{HS\ value - \$225,000}{100}\right) * HS\ rate$ |  |

### Recent legislative changes increasing Education Fund revenues

Legislative amendments over the last five years have impacted the Education Fund positively by adding larger percentages of existing revenue source allocations or expanding the tax base of existing revenue sources. These have included changes to funding sources and revenue stream allocations, as well as increases to the tax bases of the revenue streams dedicated in whole or in part to the Education Fund (notably to sales and use tax following the U.S. Supreme Court decision in *Wayfair*). For a more detailed explanation of recent increases to Education Fund revenues, see Appendix A.4.

### III. Principles of a high-quality tax system

According to NCSL Tax Policy Handbook for State Legislators<sup>20</sup>, there are six key principles of a high-quality tax system. These six pillars are: sustainability and reliability, economic competitiveness, tax neutrality, accountability, fairness, and simplicity. While the principles are distinct, they are inherently linked and no tax system adheres to all the principles exactly. As a result, tradeoffs are inherent and prioritization is key. The Committee explored these principles, the intersection of the principles, and reviewed the principles in the context of an education income tax.

After reviewing the principles of a high-quality tax system and its considerations for an education income tax, **the Committee decided to prioritize answering the question of *if* an education income tax were to be adopted, *how* should it be structured? The Committee decided to leave the question *if* an education income tax should be adopted to the discretion of the General Assembly.**

Committee discussions frequently focused on the tension between the pillars of simplicity and fairness. Appendix A.5 outlines the principles of a high-quality tax system, and some key takeaways when considering the principles in the context of an education income tax.

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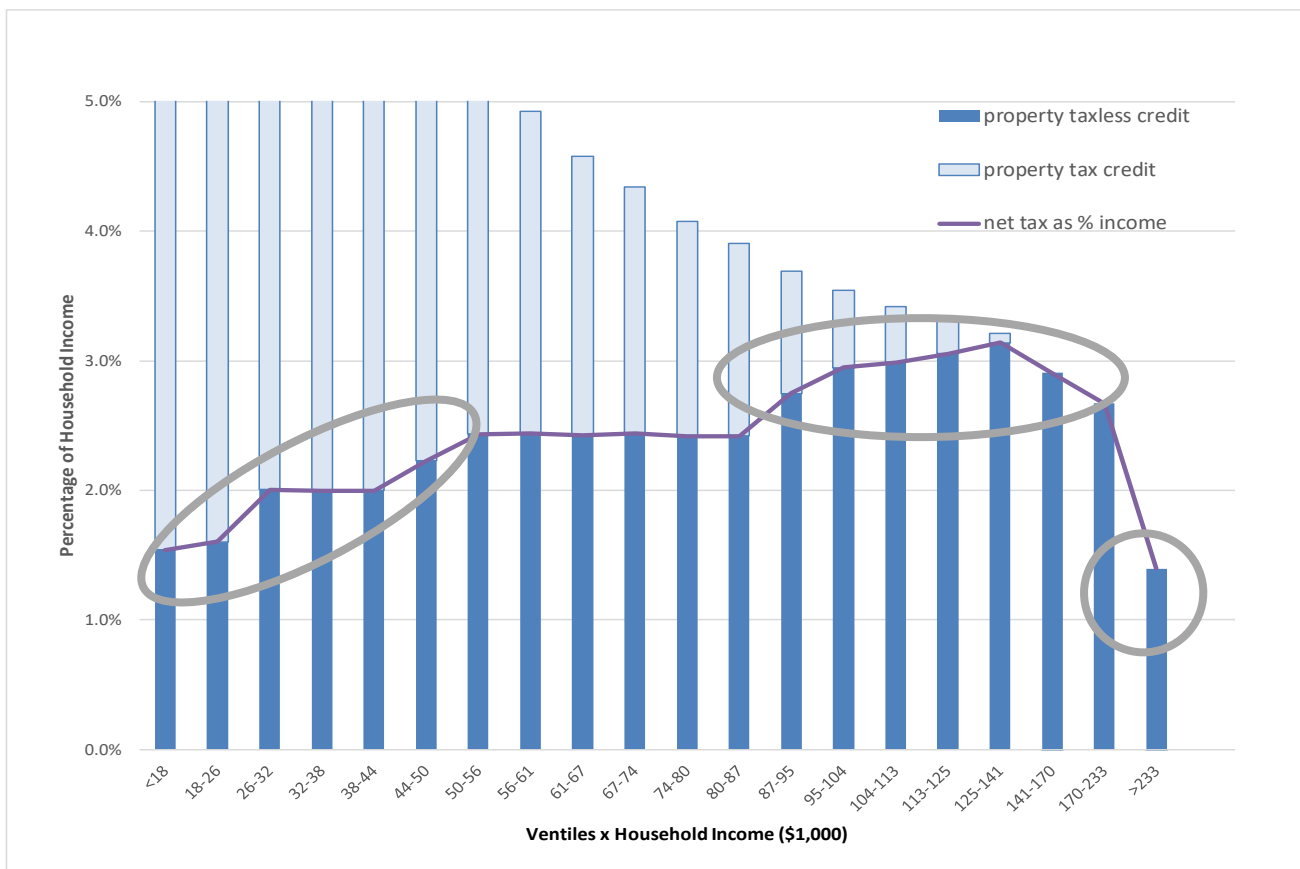
<sup>20</sup> <https://www.ncsl.org/documents/fiscal/TaxPolicyHandbook3rdEdition.pdf>

## IV. Considering adjustments to the property tax credit

The Committee explored different options for adjusting or expanding the current income sensitized property tax credit in order to achieve smoother and greater progressivity in the tax paid as a share of income. Upon reviewing the modeling and the conclusions drawn from that analysis, **the Committee recognized that adjusting the income sensitized property tax credit under current law would not achieve the desired principles of simplicity and fairness. As a result, the Committee decided to pursue other options for an education tax based on income.**

In reviewing the distribution of net education tax that is paid as a share of household income under current property tax credit law, the Committee identified three areas that it wished to adjust. These areas can be seen circled in grey in the *Figure 1* (below).

*Figure 1: Current Law Property Tax Minus Credit Paid as a Share of Household Income*  
(Based upon 2019 data, mean)



Source: Adjusting the Property Tax Credit Modeling and Considerations Presentation, Graham Campbell and Deb Brighton, October 25, 2022.

As observable in this figure, the Committee identified three areas to be adjusted:

- the cliffs and bumps for people with lower household income that qualify for the circuit breaker;
- the “hump” after household income of \$90,000; and
- the very low effective tax rate paid by taxpayers with the very high household income.

Following guidance from the Committee, JFO modeled adjustments to the property tax credit to:

- smooth the relatively high effective tax rates for taxpayers with upper middle household income;
- lift effective tax rates for taxpayers with very high household income; and
- shield taxpayers with low and middle household income from effective tax rate increases.

Analyzing the modeling results led to the following primary conclusions, which apply across multiple sets of thresholds or cutoffs for income and housesite.<sup>21</sup>

1. *“Pushing on the balloon”*: Solving one issue using the property tax credit system creates new issues elsewhere in the income distribution.
  - These issues identified by the three grey circles would require at least four distinct, major changes to the current credit.
  - Doing any single solution leads to undesirable outcomes:
    - Increasing the maximum credit to \$10,000 leads to tax increases for taxpayers with middle and upper-middle household income.
    - Increasing the tax paid for households with the highest household income raises too much money that the system cannot absorb without making other major changes.
2. *“The sledgehammer”*: It is difficult to achieve the desired effects in a targeted way using the property tax credit system.
  - Even if it were possible to “smooth the curve” across the entire distribution, the relationship between housesite value and income means that there may be as many households paying more tax as those paying less tax, even within income groups. For instance, in the modeled results, 42% of households would pay more in net property tax.<sup>22</sup>
  - A policy to make the groups with the highest income pay a State-average effective tax rate is difficult to do without a specific surcharge or minimum tax.

Ultimately, results of the modeling suggested (imperfect) progressivity can be achieved in the system through adjusting the property tax credit. However, solving one issue creates new issues elsewhere in the distribution of tax paid as a percentage income, and it is difficult to achieve the desired effects in a targeted way. Given this analysis and the Committee’s desire to simplify the property tax system, **the Committee decided not to recommend any adjustments to the property tax credit, and decided instead to consider other options for an education tax based on income.**

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<sup>21</sup> Full modeling results are available at: <https://ljo.vermont.gov/assets/Meetings/Income-Based-Education-Tax-Study-Committee/2022-10-26/8a0fb5f4c9/Adjustments-to-the-Property-Tax-Credit-Modeling-and-Considerations-Campbell-v3.pdf>

<sup>22</sup> Net property tax refers to the actual property tax paid, which is the property tax minus the property tax credit.

## V. Recommended structure for an income-based education tax

### Summary of recommendations

After deciding not to recommend adjusting the property tax credit, the Committee explored options for creating an income-based education tax. The Committee decided not to focus on the advantages and disadvantages of imposing an education income tax; rather, the Committee prioritized how an education income tax ought to be structured and administered to achieve the maximum progressivity and simplicity in the taxes used to fund education, if a tax were imposed. Based on this analysis, **the Committee recommends creating an education tax structured with progressive, marginal tax rates and income brackets on the adjusted gross income of all Vermont taxpayers. The education tax rates would apply by school district and be increased or decreased according to the locally voted education spending decisions as compared to the prior year statewide average education spending.**

### Tax rates

#### Progressive tax rates and income brackets

While the Committee was clear that an education tax should use progressive tax rates and income brackets like the personal income tax, the Committee did not set recommended rates or brackets.<sup>23</sup> With multiple outstanding decision points in the form of potential expenditures, the Committee did not determine specific rates and brackets, as these rates will hinge on future structural decisions and associated impacts. The Committee noted that any decisions to create expenditures, credits (including a new renter credit), or caps for certain taxpayers would likely increase the rates for other taxpayers.

The Committee reviewed illustrative bracket and rate structures for the education income tax. These structures are only *illustrative*, because the Committee did not form recommendations on the number of brackets, the income ranges within the brackets, the rates that apply to each bracket, or the steepness of the progressive slope. All of these factors would need to be adjusted to account for outstanding policy decisions surrounding an education income tax.

One illustrative structure the Committee examined was replacing the homestead property tax with an education tax on the Vermont income of all taxpayers in the state, without any credits or exemptions. This structure is one way to raise the equivalent of the net homestead property tax revenues (approximately \$475 million) with an education income tax. These rates and brackets were calculated using the Chainbridge tax model with guidance from the Committee to use a progressive, marginal tax rate structure. The number of brackets, AGI ranges within each bracket, and progressivity are all outstanding policy decisions and should not be interpreted as an official committee recommendation on the tax structure. This illustrative structure can be seen below in Table 2.

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<sup>23</sup> For example rates and brackets, see Option 2, p. 12 of the JFO presentation on Nov. 10, 2022.

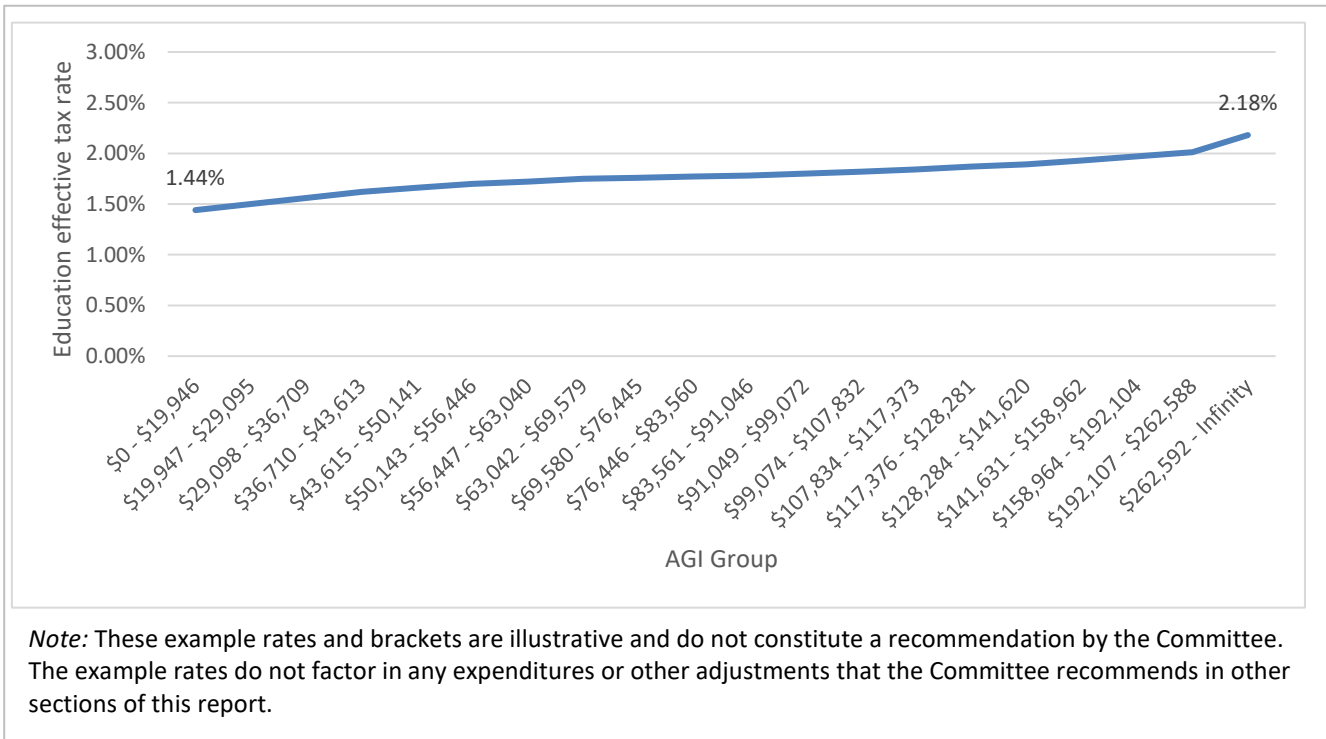
Table 2: Example structure of education income tax rates and brackets to raise \$474 million

| Married, HoH |           | Single, Separate |           | EIT Marginal Rate |
|--------------|-----------|------------------|-----------|-------------------|
| AGI From     | Up to     | AGI From         | Up to     |                   |
| \$0          | \$30,000  | \$0              | \$15,000  | 1.50%             |
| \$30,001     | \$60,000  | \$15,001         | \$30,000  | 1.75%             |
| \$60,001     | \$90,000  | \$30,001         | \$45,000  | 2.00%             |
| \$90,001     | \$225,000 | \$45,001         | \$112,500 | 2.25%             |
| \$225,001    | \$575,000 | \$112,501        | \$287,500 | 2.50%             |
| \$575,001    | Infinity  | \$287,501        | Infinity  | 2.65%             |

*Note:* These example rates and brackets are illustrative and do not constitute a recommendation by the Committee. The example rates do not factor in any expenditures or other adjustments that the Committee recommends in other sections of this report.

Table 2 (above) provides brackets and marginal rates that are estimated to raise approximately \$474 million. Figure 2 (below) shows these brackets and rates as the estimated effective education tax rate by AGI group to raise \$474 million.

Figure 2: New Estimated Effective Education Tax Rate by AGI Group to Raise \$474 million



**These example brackets and rates do not account for several other policy recommendations from the Committee**, specifically the new nonrefundable credit for renters or the expansion of the nonhomestead property tax base to reclassify as nonhomestead the portion of a homestead property that exceeds the dwelling and two acres (also called the “housesite”).<sup>24</sup>

Due to the substantial impact that policy decisions will have on revenues, the Committee examined different rate structures to raise the additional revenue needed to fund the fiscal impacts of these policy decisions. One of these rate structures was a preliminary estimate to capture the Committee’s recommendation for the

<sup>24</sup> These recommendations are discussed in greater detail later in the report.



new nonrefundable credit for renters and the reclassification of additional homestead property to nonhomestead property. To calculate the increased revenues necessary for these two recommendations, two primary assumptions were made:

- First, to ensure that the education income tax generated enough revenue to cover the new nonrefundable credit for renters, the modeling needed to raise an additional \$126 million. This \$126 million served as a preliminary, estimated upper bound to account for the new renter credit. This figure was based on the Department of Taxes’ modeling of the amount of revenues from the education income tax that would come from filers who could not be linked to a homestead declaration.<sup>25</sup>
- Second, the modeling assumed that reclassifying additional homestead property to nonhomestead property would increase the nonhomestead property tax by approximately \$40 million based on JFO modeling, reducing the revenue needed from the education income tax. This estimate assumes 2021 grand list values and property tax rates. Changes to grand list values, CLAs, and property tax rates would impact this estimate.

Combining these two policy decisions and their estimated fiscal impacts required the education income tax to raise an additional \$86 million. The Committee examined a second illustrative bracket that was estimated to raise these additional funds (for a total of \$560 million to be raised by the education income tax.

These rates and brackets follow the same assumptions as those presented in Table 2. They were calculated using the Chainbridge tax model with guidance from the Committee to use a progressive, marginal tax rate structure. The number of brackets, AGI ranges within each bracket, and progressivity are all outstanding policy decisions and should not be interpreted as an official committee recommendation on the tax structure. This illustrative structure can be seen below in Table 3.

**Table 3: Example structure of education income tax rates and brackets to raise \$560 million**

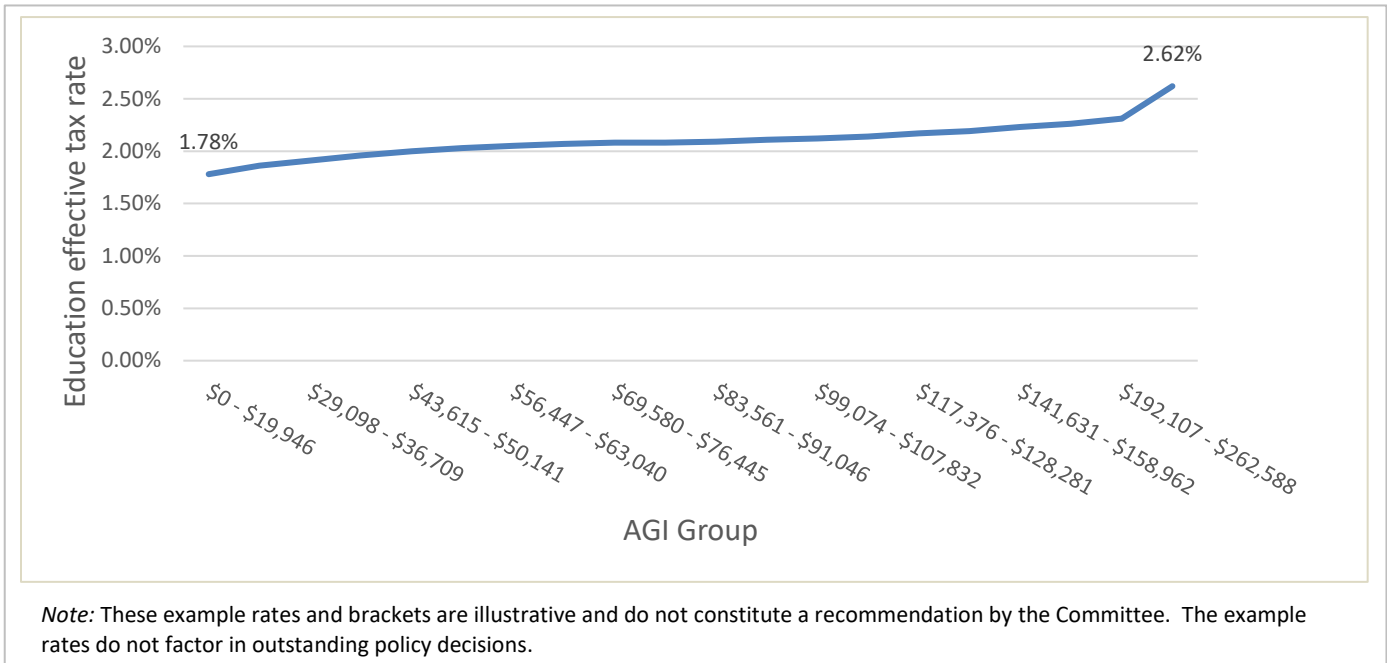
| Married, HoH |           | Single, Separate |           | EIT Marginal Rate |
|--------------|-----------|------------------|-----------|-------------------|
| AGI From     | Up to     | AGI From         | Up to     |                   |
| \$0          | \$30,000  | \$0              | \$15,000  | 1.85%             |
| \$30,001     | \$60,000  | \$15,001         | \$30,000  | 2.15%             |
| \$60,001     | \$90,000  | \$30,001         | \$45,000  | 2.25%             |
| \$90,001     | \$225,000 | \$45,001         | \$112,500 | 2.50%             |
| \$225,001    | \$575,000 | \$112,501        | \$287,500 | 3.00%             |
| \$575,001    | Infinity  | \$287,501        | Infinity  | 3.30%             |

*Note:* These example rates and brackets are illustrative and do not constitute a recommendation by the Committee. The example rates do not factor in outstanding policy decisions.

Table 3 (above) provides brackets and marginal rates that are estimated to raise approximately \$560 million. Figure 3 (below) shows these brackets and rates as the estimated effective education tax rate by AGI group to raise \$560 million.

<sup>25</sup> [The Tax Department’s analysis can be found on the Committee’s webpage at: https://ljfo.vermont.gov/assets/Meetings/Income-Based-Education-Tax-Study-Committee/2022-12-02/2a1e864183/Option-2-Tax-Revenue-by-Filer-Group-v2.pdf](https://ljfo.vermont.gov/assets/Meetings/Income-Based-Education-Tax-Study-Committee/2022-12-02/2a1e864183/Option-2-Tax-Revenue-by-Filer-Group-v2.pdf)

Figure 3: New Estimated Effective Education Tax Rate by AGI Group to Raise \$560 Million



Given the number of outstanding decision points, these brackets and rates are solely for illustrative purposes, as a means to demonstrate how an education income tax **could** be structured. The Committee **did not** adopt the specific structure of the rates or the brackets. The Committee identified the following decisions regarding rates and brackets that the General Assembly would need to contemplate should it consider an income-based education tax proposal:

- 1) the number of brackets and corresponding income thresholds,
- 2) rates associated with each bracket, and
- 3) the desired steepness of the progressive curve.

All of these policy decisions would need to be examined to account for and in conjunction with other outstanding policy decisions.

### Locally adjusted rates

The Committee recommends a tax structure that adjusts education tax rates by school district according to locally voted education spending decisions. This structure would retain existing local control over education spending. Rates would be increased or decreased by the same percentage that locally voted education spending exceeded or fell below the prior year's statewide average education spending. The definition of education spending would be the same as under current law.<sup>26</sup>

For example, *Table 4* shows some of the ratios that would have been applied if this was implemented for FY23.

<sup>26</sup> See, 16 V.S.A. § 4001(6).

Table 4: Education Spending per Equalized Pupil (ES/EP) in FY 2023 and corresponding adjustment ratios if this were implemented in FY 2024

| FY23 ES/EP | ES/EP    | % of average ES/EP | Ratio to apply to tax rate | Local spending adjusted tax rate = |
|------------|----------|--------------------|----------------------------|------------------------------------|
| Average    | \$18,524 | 100.0%             | 1.000                      | = Bracket rates * 1                |
| Minimum    | \$13,314 | 71.9%              | 0.719                      | = Bracket rates * 0.719            |
| Median     | \$18,721 | 101.1%             | 1.011                      | = Bracket rates * 1.011            |
| Maximum    | \$25,738 | 138.9%             | 1.389                      | = Bracket rates * 1.389            |
| Mode       | \$20,771 | 112.1%             | 1.121                      | = Bracket rates * 1.121            |

Table 4 above shows that in fiscal year 2023, the average education spending per equalized pupil in Vermont was \$18,524. If this structure were to be implemented for fiscal year 2024, districts with education spending per equalized pupil of \$18,524 would have no adjustment to local education income tax rates. The highest education spending per equalized pupil in fiscal year 2023 was \$25,738. This was 138.89% of average education spending per equalized pupil. If this structure were to be implemented for fiscal year 2024, districts with education spending per equalized pupil of \$25,738 would have their local education income tax rates multiplied by 138.9% to account for the education spending above the statewide average. The same calculation would apply to districts spending less than the statewide average. In lower spending towns, the tax rate would be reduced by the percent spent below the statewide average.

### Structure and timing for setting rates

The Committee recommends maintaining the current structure and timing for setting tax rates and using the education tax rates and nonhomestead rates as the mechanism to accommodate actual revenues being higher or lower than forecast. Under current law, voters determine local education spending through school district budgets. The General Assembly sets the property and income yield based on local education spending decisions. To inform the General Assembly's rate-setting process, the Commissioner of Taxes, in consultation with the Secretaries of Education and Administration and the Joint Fiscal Office, is required under statute to calculate and recommend the property and income yields needed to set the homestead property tax rate and a nonhomestead property tax rate for the following fiscal year.<sup>27</sup> The Commissioner must submit this letter annually on or before December 1, which is colloquially known as the December 1 letter. After the General Assembly sets the yields, then, on or before June 30, the Commissioner of Taxes calculates the spending-adjusted homestead tax rate for each town based on its local spending decisions.<sup>28</sup>

The Committee recommends that an education tax rate setting process follow this existing structure and timeline. The Committee further recommends that the General Assembly use its discretion to set rates in a way that accommodates actual Education Fund revenues that diverge from forecasted revenues. The December 1 letter statute would need amendment notably to set the rate for the education tax, rather than the homestead property tax, and to require the calculation of the rates to assume that the percentage change to the average nonhomestead tax bill would be equal to the percentage change to the average education tax bill.

<sup>27</sup> 32 V.S.A. § 5402b(a)(3); 16 V.S.A. § 4026.

<sup>28</sup> 32 V.S.A. § 5402(b)(1).

## Defining income

The Committee was presented with different existing legal definitions of income for different tax types.<sup>29</sup> Based on these presentations, **the Committee recommends using adjusted gross income (AGI) as the tax base for an education income tax.**

Income can be defined in many ways. Creating new definitions, notably for more than one tax on income as a tax base, creates complexity. More complexity in the tax code can cause confusion and challenges for compliance by taxpayers and enforcement by administrators. Existing definitions of income, especially for the personal income tax, already have a developed body of federal and state case law as well as extensive guidance that provide precedent and certainty. AGI is a definition that taxpayers and administrators already have experience using.

**The Committee recommends applying the tax to all Vermont taxpayers, which includes residents, part-year residents, and nonresidents.** For nonresidents' AGI, the Committee recommends adjusting nonresidents' AGI in order to tax only Vermont-source income in the same way that personal income tax achieves this balance. Vermont's personal income tax code subtracts "income exempted from State taxation under the laws of the United States" from adjusted gross income as part of the determination of taxable income.<sup>30</sup> Additionally, Vermont's personal income tax code adjusts a part-year resident or nonresident's tax liability "by a percentage equal to the portion of adjusted gross income that is not Vermont income [...]"<sup>31</sup> In other words, taxpayers who live in Vermont a portion of the year would have their education tax liability adjusted in proportion to their time as a resident of the State, in the same that that income tax liability is proportional. This approach has been upheld to comply with federal law and the U.S. Constitution, which prohibit or preempt states from taxing certain types of income, notably income derived from sources outside the state under the Due Process Clause.<sup>32</sup>

Nonresident education tax rates would not be adjusted by any local factor. In other words, because nonresidents do not reside in a local school district, their education tax rates would not be adjusted up or down depending on any local education spending decisions.

## Cap on income subject to an education income tax

As part of its legislative charge, the Committee considered whether a cap should be set on the amount of AGI subject to an education income tax. The Committee perceived both advantages and disadvantages to creating a cap, and recommends that the General Assembly further examine these impacts. On the one hand, a cap would limit the tax liability for earners with higher income, which, without a cap, would be infinite according to their AGI. On the other hand, setting a cap on the amount of taxable income would

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<sup>29</sup> See, *infra*, Appendix A.4 for the hyperlink to the Committee web page; see the meeting on September 28, 2022, where the Committee heard a presentation on definitions of income.

<sup>30</sup> 32 V.S.A. § 5823(a)(1), (b)(4), (c). See, also, 32 V.S.A. §§ 9741(1) [Vermont sales and use tax exempts "[s]ales not within the taxing power of this State under the Constitution of the United States"] and 3802(1) [Vermont education property tax law exempts "real and personal estate owned by the United States"].

<sup>31</sup> 32 V.S.A. § 5822(e); *Shaffer v. Carter*, 252 US 37 (1920); *Wheeler v. State*, 127 Vt. 361 (1969); *International Shoe Co. v. Washington*, 326 US 310 (1945).

<sup>32</sup> *Wheeler v. State*, 127 Vt. 361 (1969). Other examples of income that states are preempted from taxing are railroad retirement income, federal bonds, and any discriminatory tax treatment of federal-source income in favor of state-source income. See, 4 U.S.C. § 111(a); 45 U.S.C. § 231m(a); *M'Culloch v. Maryland*, 17 U.S. 316; *Barker v. Kansas*, 503 U.S. 594; *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803; *Weston v. City Council of Charleston*, 27 U.S. 449.

require other adjustments to generate the same amount of revenue. One such adjustment would likely be an increase in the tax rates paid by taxpayers with lower incomes.

## Administrative considerations

**The Committee recommends generally applying the administrative and assessment laws that govern the personal income tax to the education tax, including the administration of the education tax by the Vermont Department of Taxes.** This would include underpayment provisions for penalties and interest, as well as safe harbors from penalties and interest corresponding those allowed under personal income taxes.<sup>33</sup> The Committee was in favor of setting a two- or three-year grace period to suspend penalties and interest during the transition to a new tax. For overpayments and refunds, the education tax would also follow the current personal income tax law that authorizes overpayments to be used to offset tax liabilities.<sup>34</sup>

**The Committee also recommends following the same return filing requirements as under personal income tax law.** Current law requires filing by residents, part-year residents, and nonresidents who earned Vermont income, who are required to file a federal income tax return, and who either earned or received more than \$100 in Vermont income, or who earned or received gross income of more than \$1,000 as a nonresident.<sup>35</sup> The Committee did not recommend requiring taxpayers who are not required to file personal income tax returns to be required to file for the education tax. **For taxpayers who are required to file a personal income tax return, the Committee recommended including additional mandatory information on the income tax return for the reporting and collection of the education tax.** As the homestead declaration would no longer be required, the Committee envisioned the income tax return serving as the vehicle to collect residency information for the purposes of the education tax.<sup>36</sup>

## Withholding, estimated payments, and annual reconciliation

**The Committee recommends requiring education tax withholding and estimated payments in the same circumstances that personal income tax is withheld or estimated payments are due. Taxpayers would choose the amount of education tax to be withheld based on education tax withholding tables calculated as a percentage of the prior year statewide average (mean) rate, which would be indexed annually. Taxpayers whose income is not subject to withholding would make estimated payments in the same amounts and on the same schedule required for personal income tax (quarterly or annually). Taxpayers would then reconcile annually by reporting their income and computing their education tax liability at the same time as filing their personal income**

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<sup>33</sup> For estimated payments of personal income tax under current law, the underpayment penalty safe harbor to avoid is penalties or interest is if tax liability is less than \$500 or taxpayer had no tax liability in the preceding taxable year. 32 V.S.A. § 5855(b).

<sup>34</sup> 32 V.S.A. § 3112.

<sup>35</sup> 32 V.S.A. §§ 5861 [filing requirements] and 5823(b)(1)–(6) [sources of income for nonresidents].

<sup>36</sup> Note that, prior to Act 60 of 1997, a taxpayer was required to disclose on the taxpayer's personal income tax form the amount of real property taxes assessed by a municipality on the taxpayer's housesite (domicile dwelling and up to two acres of land surrounding the dwelling). 1995 Acts and Resolves, No. 47, Sec. 20 adding subsec. (f) to 32 V.S.A. § 5861. This requirement was repealed in 1999, during the Act 60 transition. 1999 Acts and Resolves, No. 49, Sec. 56. At that time, Vermont switched to a homestead declaration and property tax adjustment, so the housesite municipal tax was declared on a different form. Additionally, the housesite value is provided on property tax bills by the town to the taxpayer. All of this is now addressed in 32 V.S.A. chs. 135 and 154, under the housesite and homestead definitions and property tax bill information requirements.

**tax return. Reconciliation would include a computation of the taxpayer's effective education tax rate from January 1 to December 31.**

Under current personal income tax law, withholding is generally required for wage income, pensions, annuities, and other payments if the payments are subject to federal income tax withholding and the payments are made to a Vermont resident or a nonresident of Vermont for services performed in Vermont.<sup>37</sup> Vermont withholding is calculated in the same way as federal withholding by using Vermont withholding tables or wage bracket charts. A taxpayer (such as an employee) provides either a federal or both a federal and a Vermont W-4 form to the person withholding from their payment (such as an employer). The taxpayer tells the person withholding how much tax to withhold depending on the taxpayer's anticipated income tax liability. For sources of income that are not subject to withholding, Vermont law requires taxpayers to make installment payments of the taxpayer's estimated tax liability for each taxable year.<sup>38</sup> Estimated payments are generally required of nonwage earners, such as self-employed and members of passthrough entities, and must be the lesser of either 90% of the current year's tax liability or 100% of the preceding year's tax liability.<sup>39</sup> The Committee recommends following the same structure and administration as under current law.

The Committee recommended making withholding and estimated payments of the education tax mandatory for all filers except renters, who could claim exemption from withholding in anticipation of future credits that would result in de minimis or zero education tax liability. If exempt from the tax, renters would be required to self-certify on their withholding forms that they are renters and anticipate having zero education tax liability.

Furthermore, **the Committee recommended indexing the withholding rates annually prior to releasing the withholding tables or charts.** The recommended price index is the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

Calculating the final education tax rate at the time of reconciliation will be complicated by the different timing for education budget years versus income tax years. Education budgets run on a July 1 to June 30 fiscal year, which is the schedule that the Committee recommends the education tax rates follow to raise revenues in the budget year for which the rates will have been voted. Income tax years, however, which are used to calculate AGI, run on a January 1 to December 31 year. This means that the AGI tax base will be determined on a year that is halved between two different education tax rates. To avoid complexities and potential inconsistencies between taxpayers, **the Committee recommends applying the effective tax rate (the average of the two school year rates) against an entire income tax year's AGI when reconciling in April. The Committee further recommends that, by default, residents pay the locally adjusted education tax rate based on their residence as of on January 1.** This recommendation would address taxpayers who have a change of residence within Vermont between school districts during the taxable year.

Lastly, the Committee recognized that creating a new withholding system would place new requirements on employers that merit special consideration during the transition period.

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<sup>37</sup> 32 V.S.A. ch. 151, subch. 4.

<sup>38</sup> 32 V.S.A. ch. 151, subch. 5.

<sup>39</sup> 32 V.S.A. § 5851(2).



## Renters

**The Committee recommends that the current Renter Credit be maintained in its current form.**<sup>40</sup> The current Renter Credit functions as a benefit program, not a tax credit, and is not funded by the Education Fund. It is funded by the General Fund.

**The Committee recommends that a new nonrefundable credit for renters against the education tax be created. The credit would be structured as a percentage of gross rent paid.** The Committee recommended a percentage range of 10%-21% to calculate the credit, and discussed the assumption that as part of the rent paid, renters already pay the nonhomestead property tax on their dwelling.<sup>41</sup> The credit would result in revenue forgone from the Education Fund and would therefore be made up elsewhere in the tax structure. If a credit were enacted, the education tax and/or nonhomestead rates would need to be adjusted upward to make up the revenues foregone by crediting an amount of rent paid against renters' education tax owed.

The Committee recognized the potential for situations and loopholes that would merit further consideration when structuring a new renter credit to avoid unintended consequences.

## Nonhomestead property tax

**The Committee recommends generally maintaining the nonhomestead property tax structure and its administration. With regard to the nonhomestead property tax base, the Committee recommends expanding the tax base to apply it to the portion of a homestead property that exceeds the housesite. The Committee also recommends using the nonhomestead property tax rate as one mechanism to accommodate fluctuations in the Education Fund.**<sup>42</sup>

Leaving the nonhomestead property tax as a revenue stream for the Education Fund and increasing the nonhomestead tax base is one way to maintain stability in the fund. The housesite, which would be defined as the dwelling and surrounding two acres of a homestead property would be exempt from the nonhomestead property tax, but the acreage exceeding two acres would become subject to the nonhomestead property tax. Municipalities would continue to administer appraisals, grand list preparation and maintenance, billing, collection, and appeals. The Common Level of Appraisal (CLA) would still apply to the nonhomestead tax rate as a means of equalizing valuation practices across municipalities to approximate fair market value. The Committee recommends robust future legislative research and deliberation on creating new, separate categories of nonhomestead properties to be appraised and taxed differently.

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<sup>40</sup> See, *infra*, Appendix A.4 for the hyperlink to the Committee web page; see the meeting on November 10, 2022, where the Committee heard a presentation on the Renter Credit program.

<sup>41</sup> Note that prior to 2020 Acts and Resolves No. 160, the former Renter Rebate was calculated based on "allocable rent," which was 21% of the gross rent. "Gross rent" was the rent actually paid during the taxable year by the individual or other members of the household during the taxable year and did not include payments for utilities or other fees. The 21% figure has been used since 1997 Acts and Resolves No. 60, Sec. 54, which used the term "rent constituting property taxes paid." See, also, 2010 Acts and Resolves No. 160, Sec. 24, which amended the term to "allocable rent."

<sup>42</sup> Currently the default rate is set in statute at a flat rate of \$1.59/\$100 of property value. 32 V.S.A. § 5402(a)(1). This rate is generally notwithstanding and a different rate is set by the General Assembly each year in session law.



## Education Fund, education payments, and cash flow

The Committee recommends allocating all education tax revenues to the Education Fund and using the education tax rates as the adjustment mechanism in case of underperformance or unexpectedly strong performance of education tax revenues. The Committee did not recommend adding any additional revenue streams to the Education Fund. Furthermore, additional considerations regarding cash flow would need to be addressed by the General Assembly.

Additionally, the Committee recommends increasing the amount set aside in the Stabilization Reserve due to the possible decreased stability that an education tax based on income could introduce into the Fund compared to the homestead property tax.<sup>43</sup> The Committee recommends that the increased Stabilization Reserve be filled over time, and that its size be commensurate to the unanticipated fluctuations.

Before determining the necessary size of the reserve, the General Assembly would need to clarify the structure of the education tax brackets and rates, as well as the structure of the reserve. Considerations for policy makers on the use of the Stabilization Reserve include:

- When and how would funds be withdrawn from the Stabilization Reserve?
  - Would there be statutory guidelines outlining the circumstances under which funds could be withdrawn?
- How would the Stabilization Reserve be filled?
  - Would there be statutory guidelines regarding a percentage of surpluses flowing to the reserve before expended elsewhere?
- Would there be a minimum amount of required funding in the reserve?

The Committee further recommends that the education payments and cash flow to school districts continue to follow the same timeline as under current law. Under current law, payments from municipalities to school districts are netted against the payments from the State Education Fund to school districts three times per year.<sup>44</sup> Municipalities that pay the State Education Fund directly are required to pay twice per year.<sup>45</sup> Any late payments are subject to an 8% late payment penalty.<sup>46</sup>

## Repeal of homestead property tax and municipalities

### Homestead property tax and credit

The Committee recommends repealing all references to the homestead property tax and the corresponding income sensitized property tax credit. The homestead property tax and the property tax credit were identified by the Committee as the primary sources within the current education financing system that cause an unequal distribution of tax paid as a share of household income. The existing Renter Credit, which functions as a subsidy to renters with low incomes and is codified in same subchapter as homestead property tax credit, would be untouched and could continue to be funded by the General Fund.

<sup>43</sup> See, 16 V.S.A. § 4026 and 32 V.S.A. § 5402b

<sup>44</sup> 16 V.S.A. §§ 426, 4011(c), and 4028(a).

<sup>45</sup> 32 V.S.A. § 5402(c)

<sup>46</sup> 32 V.S.A. § 5409(1).

## Municipalities

Although the homestead property tax and credit would be repealed, the Committee recommends maintaining municipalities' involvement in the State property tax system. Municipalities would continue to appraise and list both homesteads and nonhomesteads on the grand list, even though the State nonhomestead property tax would not apply to all homesteads. The dwelling plus two acres (the housesite) on a homestead property would be exempt from nonhomestead property tax, but any remaining acreage would become taxable under the nonhomestead property tax.<sup>47</sup> Furthermore, the Committee recommends that municipalities continue to receive most of the existing statutory payments from the State relating to the local administration of the State property tax. The Committee is aware that there is currently significant stress on the appraisal system statewide. The existing statutory payments to municipalities include:

- per parcel fees for reappraisals, maintaining the grand list, billing, and collecting education tax;<sup>48</sup>
- delinquent tax penalties; and<sup>49</sup>
- retention allowance for timely payment of tax to school districts or directly to the State.<sup>50</sup>

However, with the repeal of the property tax credit, municipalities would no longer receive payments for billing for late property tax credit claims, because there would no longer be any administration related to property tax credit claims.<sup>51</sup>

## Municipal “circuit breaker”

The Committee recommends continuing to provide a nonrefundable credit against municipal property taxes for homeowners whose income does not exceed \$47,000. The credit should continue to be funded by the General Fund. The Committee further recommends that the credit continue to use the current definition of household income to determine income eligibility.

Currently, the municipal “super circuit breaker” property tax credit is available to homeowners whose household income is \$47,000 or less. The municipal credit is codified in the same statutory section that computes the homestead property credit and uses the same income thresholds and household income definition as the homestead property tax credit.<sup>52</sup> If all provisions relating to the homestead property tax credit were repealed, then the income information currently collected by the State to determine eligibility for the “super circuit breaker” would no longer be collected. The Committee therefore recommends that the current definition of household income be maintained for purposes of determining eligibility for the credit against municipal property tax.<sup>53</sup> The Committee noted the complexity of the existing household income definition, especially for filers required to complete lengthy forms. As a result, the Committee recommends further exploration of potential amendments to simplify the household income definition, including a definition modeled on or referencing the “income” definition used for purposes of the existing Renter Credit.<sup>54</sup>

<sup>47</sup> Note that current law requires insurance replacement value of exempt properties to be listed on the grand list. 32 V.S.A. § 4152(a)(6) and (c).

<sup>48</sup> 32 V.S.A. §§ 5405(f), 5410(k) and (h).

<sup>49</sup> 32 V.S.A. § 5410(g).

<sup>50</sup> 32 V.S.A. § 5402(c).

<sup>51</sup> 32 V.S.A. § 5402(c).

<sup>52</sup> 32 V.S.A. § 6066(a)(3) and (a)(5).

<sup>53</sup> 32 V.S.A. § 6061(4) and (5).

<sup>54</sup> 32 V.S.A. § 6061(18).

## Transition

**The Committee recommends implementing the new education tax and associated changes to replace the homestead property tax and credit at least one year after passage of any legislation.** A staggered effective date would ensure time to set up new administrative structures, notably at the Vermont Department of Taxes and on the municipal level, and to educate taxpayers about the changes. Additionally, if the General Assembly chose to make changes to the Stabilization Reserve, that would allow time to build up or prefund the reserves. The Committee recommends that any decision to set an effective date for the new structure take into account the pupil weighting changes effective starting in fiscal year 2025. Lastly, the Committee recommends that any transition period incorporate a grace period for tax compliance so that penalties and interest would be waived during the transition.

## Other impacts

Given the complexities of the current education financing system, there are likely numerous other areas of policy that would be impacted by a move to an income-based education tax. The Committee did not address all of these impacts, but strongly recommends that these areas be explored before enactment of a new education tax. These include, among other areas, Tax Increment Financing (TIF) Districts and escrow.

# Conclusion

## Recommendations

The Income-Based Education Tax Study Committee was created by Act 175 of 2022, an act relating to making miscellaneous changes in education law. The Committee studied and made recommendations on how an education income tax should be structured, if such a tax were created to replace the homestead property tax. As detailed throughout this report, the Committee makes the following recommendations to the General Assembly for structuring the tax.

- An education tax should be structured with progressive, marginal tax rates and income brackets on the adjusted gross income of all Vermont taxpayers.
- Education tax rates should apply by school district and increase or decrease according to locally voted education spending as compared to the prior year statewide average education spending.
- The current structure and timing for setting tax rates should be maintained. The General Assembly should set the education tax rates and nonhomestead tax rates to balance the Education Fund if actual revenues or expenditures are higher or lower than forecast.
- Education tax withholding and estimated payments should be maintained in the same circumstances that personal income tax is withheld or estimated payments are due.
- The existing Renter Credit program should be maintained in its current form.
- A new nonrefundable credit for all renters against the education tax should be created and structured as a percentage of gross rent paid.
- The nonhomestead property tax structure and its administration should be maintained. The nonhomestead tax base should be expanded to apply to the portion of a homestead property that exceeds the housesite.
- The amount set aside in the Stabilization Reserve should be increased due to the possible decreased stability that an education tax based on income could introduce into the Fund compared to the homestead property tax.
- Education payments and cash flow to school districts should continue to follow the same timeline as under current law.
- Municipalities' involvement in the State property tax system should be maintained.

## Outstanding policy decisions

The Committee recommends that, in structuring a new education tax, the General Assembly further consider and analyze several outstanding issues as detailed below.

- Education tax rates and income brackets. A new tax requires the General Assembly to make structural decisions. The Committee recommends a progressive, marginal tax structure. If the General Assembly enacted a new tax following these recommendations, the following will have to be set: the number of brackets, the range of income within each bracket, the rates associated with each bracket, and the desired steepness of the progressive curve.
  - Adjustable mechanisms. The Committee recommends that the General Assembly use its discretion to set rates in a way that accommodates actual Education Fund revenues that diverge from forecasted revenues.
- Cap on the amount of AGI subject to an education income tax. The Committee perceived both advantages and disadvantages to creating a cap, which should be further explored by the General Assembly.

- Administration. The Committee envisioned the income tax return as the vehicle to collect residency information for the purposes of the education tax.
- Renter credit against the new education tax. The General Assembly should further refine any credit enacted for renters.
  - The Committee recommended a percentage range of 10%-21% of gross rent paid to calculate the credit.
  - The Committee did not determine how revenues forgone to credit renters would be accounted for within the Education Fund.
  - The Committee recognized potential situations that would merit further consideration when structuring a new renter credit to avoid unintended consequences.
- Nonhomestead property classification. The Committee recommends robust future legislative research and deliberation on creating new, separate categories of nonhomestead properties to be appraised and taxed differently.
- Stabilization reserve: Before determining the necessary size of the reserve in an education system partially funded by a new education tax, the General Assembly would need to clarify the structure of the education tax brackets and rates, as well as the structure of the reserve. Considerations for the General Assembly on the use of the Stabilization Reserve include:
  - When and how would funds be withdrawn from the Stabilization Reserve?
    - Would there be statutory guidelines outlining the circumstances under which funds could be withdrawn?
  - How would the Stabilization Reserve be filled?
    - Would there be statutory guidelines regarding a percentage of surpluses flowing to the reserve before being expended elsewhere?
    - Would there be a minimum amount of required funding in the reserve?
- Transition.
  - The Committee recommends implementing the new education tax and associated changes to replace the homestead property tax and credit at least one year after passage of any legislation.
  - The Committee recommends study of the impact of the changes to pupil weighting.
  - The Committee was in favor of setting a two- or three-year grace period to suspend penalties and interest during the transition to a new tax.
- Other areas. There are likely numerous other policy areas that would be impacted by a move to an income-based education tax, which the General Assembly should further analyze.

# Appendices

## A.1. Glossary of education finance terms

### Average Daily Membership (ADM)

Average daily membership is “[...] [t]he full-time equivalent enrollment of students, as defined by the State Board by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under section 822a of this title, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the 11<sup>th</sup> day through the 30<sup>th</sup> day of the school year which is actually in session.” 16 V.S.A. § 4001(1)(A). State-placed students and pre-kindergarten students are counted differently. *See* 16 V.S.A. § 4001(1)(B) and (C).

### Common Level of Appraisal

Common level of appraisal (CLA) means the ratio of the aggregate value of local education property tax grand list to the aggregate value of the equalized education property tax grand list. The CLA is applied to property tax rates as a measure to ensure property values reflect fair market value. A town’s CLA is determined through the annual Equalization Study, which uses real estate sales data from the past three years. 32 V.S.A. § 5405. The Department of Taxes determines the tax rate actually seen on a property tax bill by dividing a town’s school district(s) tax rate by the town’s CLA. 32 V.S.A. §§ 5401(3) and 5402(b)(1).

### December 1 Letter

The December 1 letter is a statutorily required letter from the Commissioner of Taxes, prepared in consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, which calculates and recommends a property dollar equivalent yield, an income dollar equivalent yield, and a nonhomestead property tax rate for the following fiscal year. In making these calculations, the Commissioner is required to assume: (1) a homestead tax rate of \$1 per \$100 of property value; (2) an income percentage of 2%; and (3) that Education Fund stabilization reserves are maintained at 5% of prior year appropriations. 32 V.S.A. § 5402b(a)(3); 16 V.S.A. § 4026.

### District

A town school district, union school district, interstate school district, city school district, unified union district, and incorporated school district, each of which is governed by a publicly elected board. 16 V.S.A. § 11(10).

### Education Fund

The Education Fund is established under 16 V.S.A. § 4025 and receives revenue from the following sources:

- All revenue paid to the State from the statewide education tax on nonhomestead and homestead property under 32 V.S.A. chapter 135
- Revenues from State lotteries under 31 V.S.A. chapter 14 and from any multijurisdictional lottery game authorized under that chapter
- 25% of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225
- 30% of the revenues raised from the purchase and use tax imposed by 32 V.S.A. chapter 219, notwithstanding 19 V.S.A. § 11(1)
- All revenue raised from the sales and use tax imposed by 32 V.S.A. chapter 233
- Medicaid reimbursement funds pursuant to 32 V.S.A. § 2959a(f)
- Wind-powered electric generating facilities tax under 32 V.S.A. § 5402c
- Uniform capacity tax (on solar renewable energy) under 32 V.S.A. § 8701

Revenues in the Education Fund are used for the following:

- Education payments to school districts and supervisory unions under 16 V.S.A. chapter 133 and 32 V.S.A. chapter 135
- Homestead property tax credit (formerly known as the income sensitivity adjustment or homestead rebate) under 32 V.S.A. § 6066
- Teachers' pensions, normal cost only under 32 V.S.A. § 1944(c)
- Special education aid under 16 V.S.A. chapter 101 and § 4028(b)
- State-placed students under 16 V.S.A. § 4012
- Transportation aid under 16 V.S.A. § 4016
- Technical education aid under 16 V.S.A. chapter 37 and § 4028(b)
- Small schools support grants under 16 V.S.A. § 4015
- Essential early education aid under 16 V.S.A. §§ 2948 and 2956
- Flexible Pathways Initiative under 16 V.S.A. § 941
- Other uses (accounting and auditing, financial systems and reporting) 16 V.S.A. § 4025(b)(2) and (b)(5)

### Education Spending

Education spending is “the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.” 16 V.S.A. § 4001(6).

### Education Spending Adjustment

- (1) *Education income tax spending adjustment* is “[...] the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending for the school year, and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.” 32 V.S.A. § 5401(13)(B).

$$\text{(education spending + excess spending)} \quad (/) \quad \text{(income dollar yield)}$$

- (2) *Education property tax spending adjustment* is “[...] the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending for the school year, and the denominator is the property dollar equivalent yield for the school year, as defined in subdivision (15) of this section.” 32 V.S.A. § 5401(13)(A).

$$\text{(education spending + excess spending)} \quad (/) \quad \text{(property dollar yield)}$$

### Equalized Education Property Tax Grand List

Equalized education property tax grand list means “one percent of the aggregate fair market value of all nonhomestead and homestead property that is required to be listed at fair market value as certified during that year by the Director of Property Valuation and Review under section 5406 of this title, plus one percent of the aggregate value of property required to be listed at a value established under a stabilization agreement described under section 5404a of this title, plus one percent of the aggregate use value established under chapter 124 of this title of all nonhomestead property that is enrolled in the use value appraisal program.” 32 V.S.A. § 5401(6).



**Equalized Pupils**

“Equalized pupils” means the long-term weighted average daily membership multiplied by the ratio of the statewide long-term average daily membership to the statewide long-term weighted average daily membership.” 16 V.S.A. § 4001(3).

**Excess Spending**

The per-equalized-pupil amount of the district’s education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b). Excess spending is spending in excess of 121% of the statewide average district education spending per equalized pupil increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the budgets passed to date. 32 V.S.A. § 5401(12)(A).

Excess spending has many exclusions that do not count toward the calculation of spending, which are listed under 32 V.S.A. § 5401(12)(B).

The excess spending provisions have been inoperative since the start of fiscal year 2022 and will remain ineffective through the end of fiscal year 2029. See, 2021 Acts and Resolves, No. 59, Sec. 5; 2022 Acts and Resolves, No. 127, Sec. 8(a).

**Homestead**

““Homestead” means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual’s domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year or, for purposes of the renter credit under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual’s domicile.” 32 V.S.A. § 5401(7)(A).

The homestead tax rate is a base rate of \$1.00, multiplied by the education spending adjustment, per \$100.00 of equalized education property value. 32 V.S.A. § 5402(a)(2). The education spending adjustment takes into account the education spending in the particular school district.

**Household Income**

The property tax credit allowed against the current year’s homestead property tax liability is computed based on the prior year’s household income. 32 V.S.A. § 6066. Household income means modified adjusted gross income, which is federal adjusted gross income with certain additions and subtractions intended to capture the amount of income a household has available to pay property taxes. 32 V.S.A. § 6061(4) and (5). The definition of “household income” for the property tax credit is different from the definition of “income” for the renter credit. 32 V.S.A. § 6061(4), (5), and (18).

**Housesite**

““Housesite” means the dwelling and as much of the land owned by the claimant surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, up to two acres per dwelling unit; and in the case of multiple dwelling units, no more than two acres per dwelling unit up to a maximum of 10 acres per parcel.” 32 V.S.A. § 6061(11). Only the property taxes imposed on the housesite are eligible for a property tax credit.

**Income Percentage**

Income percentage is “[...] two percent, multiplied by the education income tax spending adjustment under subdivision 5401(13)(B) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located.” 32 V.S.A. § 6066(a)(2).

### Long-Term Membership

““Long-term membership” of a school district in any school year means the mean average of the district’s average daily membership, excluding full-time equivalent enrollment of State-placed students, over two school years, plus full-time equivalent enrollment of State-placed students for the most recent of the two years.” 16 V.S.A. § 4001(7).

### Nonhomestead

Nonhomestead property is everything other than homestead property, exempt property, and other statutorily named properties, particularly those subject to other taxes. Nonhomestead property includes secondary residences and commercial properties. 32 V.S.A. § 5401(10). The nonhomestead tax rate is a default statutory rate \$1.59 per \$100.00 of equalized education property value. This rate is typically subject to a notwithstanding clause, and the General Assembly sets a different, uniform statewide rate each year.

### Property Tax Credit

Prior to 2019, the property tax credit was known as the income sensitivity property tax adjustment or the homeowner rebate. *See*, 2019 Acts and Resolves No. 51, Sec. 33. The credit is available to income-eligible taxpayers who own their homestead as of April 1, were domiciled in Vermont for the full prior calendar year, are not claimed as a dependent of another taxpayer, and timely file a homestead declaration. 32 V.S.A. chapter 154.

### Tax Capacity

The ability of a group of taxpayers to pay taxes imposed on a tax base before experiencing hardship or the ability of a taxing authority to raise revenues to fund services. Also referred to as “taxable capacity” or “taxing capacity.” Tax capacity is to be distinguished from “fiscal capacity,” which is the government’s ability and willingness to meet its financial obligations as they come due on an ongoing basis.

### Weighted Long-Term Membership

““Weighted long-term membership” of a school district in any school year means the long-term membership adjusted pursuant to section 4010 of this title.” 16 V.S.A. § 4001(12). To obtain this number, student groups are broken into grade-level categories: pre-kindergarten, elementary or kindergarten, and secondary students. A long-term membership is determined for each category by using the actual average ADM over two consecutive years for each group, the latter year being the current school year. The long-term membership for each of those categories is multiplied by the statutory weights associated with each grade-level category. Those results are then added together and the final number is the weighted long-term membership. The weights are meant to reflect the additional (or lower) costs associated with educating students in each category.

### Yields

There are two yields: one for taxpayers who pay based on property value and one for those who pay based on household income and property value. The yields are the amount of spending per equalized pupil that could be supported by the statutory tax rate or income percentage and maintaining the Education Fund reserves at 5%. 32 V.S.A. § 5401(15) and (16). The yields are typically set each year by the General Assembly in session law, but if not, the prior fiscal year’s yields will apply by default. 32 V.S.A. § 5402b(b).

(1) *Income dollar equivalent yield* is “the amount of spending per equalized pupil that would result if the income percentage in subdivision 6066(a)(2) of this title were 2.0 percent, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.” 32 V.S.A. § 5401(16).

(2) *Property dollar equivalent yield* is “the amount of spending per equalized pupil that would result if the income percentage in subdivision 6066(a)(2) of this title were 2.0 percent and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.” 32 V.S.A. § 5401(15).

## A.2. Agenda topics and list of witnesses

All documents reviewed by the Committee are publicly available on the Joint Fiscal Office website on the page dedicated to the Committee. See, <https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee>

### Agenda topics

#### September 28, 2022

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-09-28>

- Welcome, Committee Organization and Meeting Dates
- Review of Enabling Legislation
- Review of Current Education Funding Formula
- Definition of Income and Options
- Tax Study Presentation
- Tax Structure Commission Recommendation
- Stakeholder Considerations
- Committee Discussion

#### October 12, 2022

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-10-12>

- Follow up from Tax Report Preliminary Presentation: Non-Taxpayers
- Principles of a High-Quality Tax System and the Education Income Tax
- Committee Discussion
- Review of Education Income Tax Structural Options
- Committee Discussion

#### October 26, 2022

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-10-26>

- General Fund: Historical Trends and Unknowns
- Education Fund: Overview of Revenue History
- Education Fund: Historical Trends and Unknowns
- Committee Discussion
- Modeling Equity
- Expanded Property Tax Credit: Modeling and Considerations
- Committee Discussion

#### November 10, 2022

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-11-10>

- Modeling and Discussion of Two EIT Options
- Renter Credit Presentations
- Committee Discussion

**December 2, 2022**

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-12-02>

- Committee Discussion of Remaining Questions on Option 2
- Additional Modeling of Impacts on Non-Property Tax Holders
- Committee Discussion
- Next Steps

**December 21, 2022**

<https://ljfo.vermont.gov/committees-and-studies/income-based-education-tax-study-committee/meetings/2022-12-21>

- Presentation of Draft Report
- Witness testimony
- Modeling Clarifications, follow-up
- Committee Discussion

## List of Witnesses

**Joint Fiscal Office**

- Julia Richter, Fiscal Analyst, Joint Fiscal Office
- Graham Campbell, Senior Fiscal Analyst, Joint Fiscal Office
- Deb Brighton, Consultant, Joint Fiscal Office
- Emily Byrne, Associate Fiscal Officer, Joint Fiscal Office
- Sarah Clark, Deputy Fiscal Officer, Joint Fiscal Office

**Office of Legislative Counsel**

- Abby Shepard, Legislative Counsel, Office of Legislative Counsel

**Department of Taxes**

- Jake Feldman, Senior Fiscal Analyst, Department of Taxes

**Stakeholders**

- Deb Brighton, Chair, Tax Structure Commission
- Jeff Fannon, Executive Director, Vermont National Education Association
- Karen Horn, Executive Director, Vermont League of Cities and Towns
- Stephanie Yu, Deputy Director, Public Assets Institute

### A.3. Potential structural options for an education income tax

The Committee explored the potential structural options for an education income tax, and evaluated three general potential structural options. These three categories are:

- A. replace the homestead property tax with education income tax rates tied to a statewide yield;
- B. add an education income tax to the Education Fund as another revenue stream, keep property taxes, and remove income sensitivity; or
- C. replace the homestead property tax with education income tax not tied to statewide yield.

The structure of these options is outlined in the following sections.

#### **Option A – Replace the homestead property tax with an education income tax tied to a statewide yield**

This option would replace the homestead property tax and income sensitivity with an education income tax that is tied to local spending decisions. This option would retain the nonhomestead property tax in its current structure, and all other aspects of the Education Fund would remain the same.

This is a very similar structure to what was recommended by the Tax Structure Commission<sup>55</sup> and was later introduced as a bill in S.212.<sup>56</sup>

#### **Option B – Add education income tax to the Education Fund as another revenue stream, keep property taxes, remove income sensitivity**

This option would add an education income tax with brackets that is not tied to local spending decisions to the Education Fund. This would be an additional revenue stream, and would be forecasted like other revenues (e.g. Sales and Use tax revenues, Meals and Rooms tax revenues, etc.).

Under this option, some form of property taxes would be retained. Homestead property taxes could remain tied to local spending decisions (or not). Revenues from the education income tax could be used to buy down only the homestead property tax, or could be used to buy down all property taxes. Income sensitivity could also be removed from homestead property taxes.

This is a very similar structure to what was presented in H.911 of 2018 as it passed the Vermont House of Representatives.<sup>57</sup>

#### **Option C – Replace the homestead property tax with an education income tax not tied to a statewide yield**

This option would replace the homestead property tax (and income sensitivity) with a progressive education income tax that is not tied to local spending decisions. This would be an additional revenue stream in the Education Fund and would be forecasted like other revenues (e.g., Sales and Use Tax revenues, Meals and Rooms Tax revenues, etc.).

This option would retain the nonhomestead property tax in its current structure, and all other aspects of the Education Fund would remain the same. Because the amount raised would likely no longer be directly tied to the amount that needs to be raised (as it currently is), an adjustment mechanism would need to be maintained to adjust for volatile revenue performance.

<sup>55</sup> Brighton, D., Trenholm S., and Kleppner, B. “Final Report of the Vermont Tax Structure Commission”. February 8, 2021. <https://lifo.vermont.gov/assets/Subjects/Final-Report/10306868b9/TSC-Final-Report-2-8-2021.pdf>

<sup>56</sup> <https://legislature.vermont.gov/Documents/2022/Docs/BILLS/S-0212/S-0212%20As%20Introduced.pdf>

<sup>57</sup> <https://legislature.vermont.gov/Documents/2018/Docs/BILLS/H-0911/H-0911%20As%20passed%20by%20the%20House%20Official.pdf>

## A.4. Recent legislative changes to the Education Fund

### Recent Education Fund Expenses

Legislative amendments over the last five years have impacted the Education Fund by creating new funding obligations. These changes include:

- Teacher pensions. The normal cost of teacher pensions was added to the statutorily allowed uses of the Education Fund.<sup>58</sup>
- Other postemployment benefits (OPEB). \$14 million was reserved for OPEB.<sup>59</sup> A year later, the normal cost was spent and was added to the statutorily allowed uses of the Education Fund.<sup>60</sup>
- Special education funding. The State special education funding model was transitioned from a reimbursement model to a census-based model.<sup>61</sup>
- Universal school meals. In fiscal year 2023, \$29 million was appropriated for the provision of universal school meals. Additionally, a study on potential future funding sources for school meals was required.<sup>62</sup>
- Pupil weighting bill. Pupil weights in Vermont’s education financing system will be adjusted or added in fiscal year 2025. Categorical aid will also be provided for school districts with more than 0 but fewer than 26 English Learning students. Moreover, JFO was tasked with multiple reports regarding education finance.<sup>63</sup>

Other reserves, studies, and reports regarding future funding options were enacted during the 2021–2022 legislative biennium. These include:

- Polychlorinated biphenyls (PCBs). \$32 million was set aside in reserves for PCB investigation, testing, assessment, remediation, and removal in schools.<sup>64</sup> Certain emergency uses are authorized, but a longer term, multi-agency plan for disbursement of funds to address PCBs in schools is due in 2023.
- Career technical education (CTE) governance and funding. The General Assembly required study and reporting on funding and governance models, and appropriated \$15 million in fiscal year 2023 to the Vermont Housing and Conservation Board to fund the CTE Construction and Rehabilitation Experiential Learning Program and Revolving Loan Fund.<sup>65</sup>
- Education facilities assessment. Two studies were required on school construction, one due in 2022 providing a school facilities inventory and an additional conditions assessment is due in 2023.<sup>66</sup>

Any time new sales tax exemptions are enacted, they decrease sales tax revenue to the Education Fund.

These are called “tax expenditures,” which are actual or estimated losses in tax revenue resulting from exemptions, exclusions, deductions, credits, preferential rates, or deferrals of liability applicable to a tax.<sup>67</sup>

For illustration, but not purporting to provide an exhaustive list, below are some recent legislative changes to the sales tax that have reduced revenues to the Education Fund:

<sup>58</sup> 2017 Acts and Resolves, No. 85, Sec. E.500.2; 16 V.S.A. § 4025(b)(4).

<sup>59</sup> 2021 Acts and Resolves, No. 74, Sec. C.101.

<sup>60</sup> 2022 Acts and Resolves, No. 114, Secs. 25 and 28; 16 V.S.A. § 4025(b)(4).

<sup>61</sup> 2018 Acts and Resolves, No. 173.

<sup>62</sup> 2022 Acts and Resolves, No. 151, Sec. 5.

<sup>63</sup> 2022 Acts and Resolves, No. 127.

<sup>64</sup> 2022 Acts and Resolves, No. 178, Secs. 2-3.

<sup>65</sup> 2022 Acts and Resolves, No. 127, Sec. 17; 2022 Acts and Resolves, No. 183, Sec. 16.

<sup>66</sup> 2021 Acts and Resolves, No. 72; Sec. 3; 2022 Acts and Resolves, No. 166, Sec. 9.

<sup>67</sup> See, 32 V.S.A. § 312.



- “Cloud” tax exemption.<sup>68</sup>
- Menstrual products exemption.<sup>69</sup>
- Wood pellets added to residential energy exemption.<sup>70</sup>
- Cannabis and small cannabis cultivators.<sup>71</sup>

## Recent Increases to Education Fund Revenues

Legislative amendments over the last five years have impacted the Education Fund positively by adding larger percentages of existing revenue source allocations or expanding the tax base of existing revenue sources.

### Revenue Allocations

At the time the General Fund transfer to the Education Fund was repealed in 2018, the General Assembly simultaneously increased the percentage of the Sales and Use Tax revenue allocation to the Education Fund so that all sales tax revenues were dedicated entirely to the Education Fund.<sup>72</sup> Previously, 64% of sales tax revenues were allocated to the General Fund and only 36% were allocated to the Education Fund. The allocation of Meals and Rooms Tax revenues was also amended in 2018 so that rather than being dedicated entirely to the General Fund, Meals and Rooms Tax revenues were split between the General Fund and the Education Fund, allocating the current 25% to the Education Fund.<sup>73</sup>

### Tax Revenue Increases

#### Sales and Use Tax: *Wayfair*, Remote Sellers, and Marketplace Facilitators

In 1992, the U.S. Supreme Court in the *Quill* case limited states’ ability to require all sellers to collect sales tax on sales made in the state.<sup>74</sup> The Court in *Quill* found that for a state’s sales tax collection law to be constitutionally valid under the Commerce Clause, only sellers with a physical presence in the state could be required to collect sales tax.<sup>75</sup> With the advent of the Internet and the resulting increase in online sales as a proportion of all sales, sales and use tax revenues paid to states decreased and remote sellers were able to make sales into states without charging or collecting sales and use tax. In 2018, the U.S. Supreme Court decided the *Wayfair* case, which overruled the physical presence requirement from *Quill* and looked instead at whether the state collection statute at issue met the “substantial nexus” requirement under the Commerce Clause.<sup>76</sup> The Court found that particular statute to be constitutional, which laid the groundwork for state legislatures across the country to expand their collection requirements to remote sellers. Prior to the *Wayfair* decision, Vermont had foreseen a national development like the *Wayfair* case, and in 2016 enacted a remote

<sup>68</sup> 2015 Acts and Resolves, No. 51, Sec. G.8.

<sup>69</sup> 2021 Acts and Resolves, No. 73, Secs. 11-11a; 2022 Acts and Resolves No. 179, Secs. 27a-27b; 32 V.S.A. § 9741(56).

<sup>70</sup> 2021 Acts and Resolves, No. 73, Sec. 11a; 2021 Acts and Resolves, No. 54, Sec. 21; 32 V.S.A. § 9741(26).

<sup>71</sup> 2020 Acts and Resolves No. 164, Sec. 16; 2022 Acts and Resolves No. 158, Sec. 2; 32 V.S.A. § 9741(3), (25), (50), and (55).

<sup>72</sup> 2018 Acts and Resolves (Spec. Sess.), No. 11, Sec. H.8; 16 V.S.A. § 4025(a)(4); 32 V.S.A. § 435(b)(7).

<sup>73</sup> *Id.*, Secs. H.8 and H.9. Note that since 2019, 6% of Meals and Rooms Tax revenues have been allocated to the Clean Water Fund, and the General Fund allocation was reduced to 69%. See, 2019 Acts and Resolves No. 76, Sec. 3a; 10 V.S.A. § 1388(a)(4). The Education Fund continues to receive 25% of Meals and Rooms Tax revenues.

<sup>74</sup> *Quill v. North Dakota*, 504 U.S. 298 (1992); see, also, *Nat’l Bellas Hess, Inc. v. Dep’t of Revenue of Ill.*, 386 U.S. 753 (1967).

<sup>75</sup> *Id.*

<sup>76</sup> *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080 (2018).



seller collection requirement that only took effect when certain conditions were met, including the U.S. Supreme Court striking down the physical presence requirement in *Quill*. The *Wayfair* decision triggered Vermont's remote seller collection requirement to start in mid-2018.<sup>77</sup>

In the legislative session following the *Wayfair* decision, further adjustments were made to the collection requirements imposed on sellers. Vermont enacted a marketplace facilitator law to require online platforms (marketplaces) that facilitate sellers' retail sales of tangible personal property, taxable services, or digital goods to collect Vermont sales tax under the same conditions as remote sellers.<sup>78</sup>

### **Meals and Rooms Tax: Online Travel Agents and Taxable Meal Facilitators**

During the 2019 and 2021 legislative sessions, Vermont expanded the meals and rooms tax collection requirements to include online travel agents (booking agents) and to make charges by those agents for booking rooms taxable transactions.<sup>79</sup> Additionally, meal delivery service and other meal facilitator charges for online ordering were made taxable under the meals tax.<sup>80</sup>

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<sup>77</sup> 2016 Acts and Resolves, No. 134, Secs. 27 and 41(5); 32 V.S.A. § 9701(9)(F).

<sup>78</sup> 2019 Acts and Resolves, No. 46, Secs. 3 and 4; 32 V.S.A. § 9701(9)(J).

<sup>79</sup> 2019 Acts and Resolves No. 71, Sec. 7; 32 V.S.A. § 9202(4), (8), (20).

<sup>80</sup> 2021 Acts and Resolves, No. 73, Sec. 1; 32 V.S.A. § 9202(4), (10), (21).

## A.5. Principles of a high-quality tax system

According to NCSL Tax Policy Handbook for State Legislators, there are six key principles of a high-quality tax system. These six pillars are: sustainability and reliability, economic competitiveness, tax neutrality, accountability, fairness, and simplicity.

### Sustainability and Reliability

This principle refers to the maintenance of a reliable, sustainable, and diverse revenue stream. A few considerations regarding this principle and an education income tax include:

- Income taxes are less predictable than property taxes.
- Replacing the property tax with an income tax would likely increase volatility in the Education Fund.
- Balance is important in a revenue stream, mainly for volatility and reliability. Replacing the property tax with an income tax would shift the balance of state revenues to rely on income taxes more substantially.

### Fairness

Fairness refers to equality in taxes paid across similar ability to pay and circumstances. Fairness is generally evaluated through two different measures of equity: horizontal equity, and vertical equity. Horizontal equity refers to equity in which taxpayers with similar economic circumstances have similar tax burdens. Vertical equity, also known as progressivity, refers to how the distribution of tax burdens varies among taxpayers with different economic circumstances.

When considering this principle in the context of an education income tax, the Committee discussed the following considerations:

- Evaluations of fairness in a tax system should not look at one tax in isolation.
- How should fairness be evaluated? What is the Committee's desired combined tax incidence?

### Simplicity

Simplicity refers to a tax system that is easy for a taxpayer to understand and comply with, and one that is easy to administer. Decisions about simplifying the tax code to achieve specific goals are often made at the expense of fairness. The Committee considered the principle of simplicity in the context of the education income tax. Committee discussions explored the principle of simplicity as applied to taxpayers' decision making when voting on school budgets and transparency regarding the impact of voting decisions on tax rates. These considerations included:

- With respect to taxpayer understanding, any tax system tied to local-voted school budgets and statewide yields creates complexities regardless of the financing system.
- Ease of administration for an education income tax varies drastically depending upon design.

### Economic Competitiveness

The principle of economic competitiveness refers to a tax system that is responsive to interstate and international economic competition. Specifically, it refers to the provision of a level playing field devoid of unnecessarily high rates and compliance burdens and the discouragement of tax liability-shopping and

interstate migration. Considerations of this principle in the context of an education income tax include:

- Under current law, Vermont does not have the highest income taxes in the country, nor in New England.
- Vermont has comparatively high property taxes. Generally, Northeastern states have higher property taxes.
- It is easier for individuals to move/adjust their income without major disruption to their lives, while tax shopping is more difficult with property taxes.
- An income tax system may be more responsive to a changing world.

## **Tax Neutrality**

Tax neutrality describes a tax system that tries to minimize the unintended consequences. Unintended consequences may include encouraging or discouraging the consumption or production of goods in services, changing the allocation of resources, or impacting business decisions. Tax neutrality in the context of an education income tax leads to the following considerations:

- Income tax likely drives more individual behavior changes than property tax.
- Income tax might make people less sensitive to school spending decisions.
- Incentives may vary in terms of housing mismatches when comparing property tax credits based on income or education income taxes.

## **Accountability**

The principle of accountability states a tax system should include taxes that are explicit, minimize credits and exemptions, and limit the amount of tax flow through. A few considerations regarding this principle and an education income tax include:

- Carve-outs in the current system are minimal.
- The income tax code contains more exemptions for individuals



|    |  |                                      |
|----|--|--------------------------------------|
| 1  | <u>Over \$XX,000.00 but</u>  | <u>\$XX.00 plus X.0%</u>             |
| 2  | <u>not over \$XX,000.00</u>  | <u>of the amount of adjusted</u>     |
| 3  |  | <u>gross income over \$XX,000.00</u> |
| 4  | <u>(2) Heads of household:</u>   |                                      |
| 5  | <u>If adjusted gross income is:</u>  | <u>The tax is:</u>                   |
| 6  | <u>Not over \$XX,000.00</u>  | <u>X.0% of adjusted</u>              |
| 7  |  | <u>gross income</u>                  |
| 8  | <u>Over \$XX,000.00 but</u>  | <u>\$XX.00 plus X.0% of</u>          |
| 9  | <u>not over \$XX,000.00</u>  | <u>the amount of adjusted</u>        |
| 10 |  | <u>gross income over \$XX,000.00</u> |
| 11 | <u>Over \$XX,000.00 but</u>  | <u>\$XX.00 plus X.0%</u>             |
| 12 | <u>not over \$XX,000.00</u>  | <u>of the amount of adjusted</u>     |
| 13 |  | <u>gross income over \$XX,000.00</u> |
| 14 | <u>(3) Unmarried individuals, other than surviving spouses or heads of</u> |                                      |
| 15 | <u>household:</u>  |                                      |
| 16 | <u>If adjusted gross income is:</u>  | <u>The tax is:</u>                   |
| 17 | <u>Not over \$XX,000.00</u>  | <u>X.0% of adjusted</u>              |
| 18 |  | <u>gross income</u>                  |
| 19 | <u>Over \$XX,000.00 but</u>  | <u>\$XX.00 plus X.0% of</u>          |
| 20 | <u>not over \$XX,000.00</u>  | <u>the amount of adjusted</u>        |
| 21 |  | <u>gross income over \$XX,000.00</u> |
| 22 | <u>Over \$XX,000.00 but</u>  | <u>\$XX.00 plus X.0%</u>             |
| 23 | <u>not over \$XX,000.00</u>  | <u>of the amount of adjusted</u>     |

1 gross income over \$XX,000.00.

2 (4) Married individuals filing separate returns:

3 If adjusted gross income is:

The tax is:

4 Not over \$XX,000.00

X.0% of adjusted

5

gross income

6 Over \$XX,000.00 but

\$XX.00 plus X.0% of

7

not over \$XX,000.00

the amount of adjusted

8

gross income over \$XX,000.00

9 Over \$XX,000.00 but

\$XX.00 plus X.0%

10

not over \$XX,000.00

of the amount of adjusted

11

gross income over \$XX,000.00.

12 (b) The amounts of adjusted gross income shown in the tables in this

13 section shall be adjusted annually for inflation by the Commissioner of Taxes

14 pursuant to subdivision 5822(b)(2) of this chapter.

15 (c)(1) The rates shown in the tables in this section shall be adjusted for

16 each school district by dividing the school district's per-equalized-pupil

17 education spending, as defined in 16 V.S.A. § 4001(6), by the prior year's

18 statewide average per-equalized-pupil education spending and multiplying the

19 result by the rates under this section.

20 (2) The final rate for each school district determined under this

21 subsection shall apply to the Vermont income, as defined in section 5963 of

22 this title, of a resident or part-year resident for the entire taxable year. As used

1 in this subdivision, the “final rate” for each school district means the average  
2 of the district’s rates in effect between January 1 and December 31.

3 (3) A resident or part-year resident individual shall pay the rate adjusted  
4 under this subsection for the individual’s school district of residence on  
5 January 1 of the taxable year or, in the case of a part-year resident individual  
6 whose residence begins on a day other than January 1, the school district where  
7 the individual resides on the first day of residence in this State. The rate  
8 adjustments under this subsection shall not apply to a nonresident individual.

9 (d) The tax liability determined under subsections (a) through (c) of this  
10 section shall be reduced by a percentage equal to the portion of adjusted gross  
11 income that is not Vermont income; provided, however, that if a taxpayer’s  
12 Vermont income exceeds the taxpayer’s adjusted gross income, no reduction  
13 shall be made and provided further that if a taxpayer has zero or negative  
14 Vermont income and the taxpayer’s Vermont income computed without regard  
15 to the reductions in section 5963 of this subchapter does not equal or exceed  
16 the taxpayer’s adjusted gross income, no tax shall be due under this section.

17 (e) The education income tax under this subchapter shall be assessed and  
18 administered in the same manner as the personal income tax under this chapter.

19 (f) As used in this section, “married individuals,” “surviving spouse,”  
20 “head of household,” and “unmarried individual” have the same meaning as  
21 under the Internal Revenue Code.



1    § 5963. VERMONT INCOME OF INDIVIDUALS

2       (a) As used in this subchapter, for any taxable year, the Vermont income of  
3    a resident individual is the adjusted gross income of the individual for that  
4    taxable year, less income exempted from State taxation under the laws of the  
5    United States.

6       (b)(1) As used in this subchapter, for any taxable year, the Vermont income  
7    of a nonresident individual is the sum of the following items of income to the  
8    extent they are required to be included in the adjusted gross income of the  
9    individual:

10           (A) rents and royalties derived from the ownership of property  
11    located within this State;

12           (B) gains from the sale or exchange of property located within this  
13    State;

14           (C) wages, salaries, commissions, or other income received with  
15    respect to services performed within this State;

16           (D) income, other than income exempted from State taxation under  
17    the laws of the United States, derived from every business, trade, occupation,  
18    or profession to the extent that the business, trade, occupation, or profession is  
19    carried on within this State, including any compensation received:

20                   (i) under an agreement not to compete with a business operating in  
21    Vermont;

22                   (ii) for goodwill associated with the sale of a Vermont business; or

1           (iii) for services to be performed under a contract associated with  
2 the sale of a Vermont business, unless it is shown that the compensation for  
3 services does not constitute income from the sale of the business;

4           (E) income that was previously deferred under a nonqualified  
5 deferred compensation plan and that would have previously been included in  
6 the taxpayer's Vermont income if it had not been deferred and income derived  
7 from such previously deferred income; and

8           (F) proceeds from any Vermont State Lottery, tri-state lottery, or  
9 multijurisdictional lottery ticket paid to a person who purchased the ticket in  
10 Vermont, including payments received from a third party for the transfer of the  
11 rights to future proceeds related to the ticket, and the Commissioner may  
12 require withholding of any taxes due to the State under this subdivision (b)(1)  
13 from payments of lottery proceeds.

14           (2) As used in this subchapter, for any taxable year, the Vermont income  
15 of a nonresident individual shall not include any income from the activities  
16 listed in this subdivision or the income of a nonresident through an entity, such  
17 as a partnership, limited liability company, or trust, provided that the entity's  
18 activities in this State are limited to activities that, without more, would not  
19 constitute nexus, plus any or all of the following activities necessary to create  
20 or maintain a World Wide Web page or Internet site for the nonresident or  
21 entity:

1           (A) ownership of data or programming code in this State, or use of  
2 that data or programming code by a person other than the nonresident or entity  
3 or by a person not in this State;

4           (B) ownership of, or receipt of services from, computer servers in  
5 this State; and

6           (C) receipt of computer processing or web hosting services from a  
7 computer service provider or web hosting service in this State.

8           (c) As used in this subchapter, for any taxable year, the Vermont income of  
9 a part-year resident individual or trust is the sum of:

10           (1) all items of income constituting Vermont income for the purpose of  
11 subsection (a) of this section that are earned or received during the period of  
12 the taxpayer's residency in this State in the taxable year; and

13           (2) all items of income constituting Vermont income for the purposes of  
14 subdivision (b)(1) of this section that are earned or received during the period  
15 of the taxpayer's nonresidency in this State in the taxable year.

16 § 5964. EDUCATION INCOME TAX; RENTER CREDIT

17           (a) A resident individual or part-year resident individual shall be entitled to  
18 a nonrefundable credit against the tax imposed by section 5962 of this title for  
19 the taxable year. The total credit per taxable year shall be XX percent<sup>2</sup> of  
20 gross rent paid by the renter during the taxable year, multiplied by the  
21 percentage that the individual's income that is earned or received during the

---

<sup>2</sup> The Committee recommended a range of 10–21% of gross rent paid.

1 period of the individual's residency in this State bears to the individual's total  
2 income.

3 (b) As used in this section, "gross rent" means the rent and related charges  
4 paid by the individual for the right to occupy the individual's primary dwelling  
5 as the individual's domicile in this State during the taxable year.

6 \* \* \* Withholding, Estimated Payments, and Returns \* \* \*

7 Sec. 2. 32 V.S.A. § 5841 is amended to read:

8 § 5841. REQUIREMENT AND RATE OF WITHHOLDING

9 (a) Every person who is required under the laws of the United States to  
10 withhold federal income tax from payments that are also subject to Vermont  
11 income tax or education income tax shall deduct and withhold during the  
12 calendar year from the payments made by such person ~~such~~ the amount of tax  
13 as the Commissioner shall prescribe. Every person who makes payments of  
14 income with respect to services performed for such person that were previously  
15 deferred under a nonqualified deferred compensation plan shall deduct and  
16 withhold during the calendar year from the payments made by such person six  
17 percent of any payment (including any withheld tax) of such previously  
18 deferred income and of income derived from such previously deferred income.  
19 The Commissioner may authorize any person to deduct and withhold Vermont  
20 income tax and education income tax from any other payments that are subject  
21 to the ~~tax~~ taxes imposed by this chapter. Notwithstanding the foregoing, banks  
22 (as defined in 8 V.S.A. § 909a(a)) shall not be required to withhold Vermont

1 income tax or education income tax from payments that are subject to federal  
2 back-up withholding.

3 (b) The Commissioner shall establish ~~such~~ withholding tables, schedules,  
4 or formulae as will result in the withholding of ~~such~~ amounts from the  
5 payments made by any person during any taxable year; as shall closely  
6 approximate the income tax liabilities of the recipients of those payments with  
7 respect to those payments for that year under this chapter, including any  
8 liability for the education income tax under section 5962 of this title.

9 \* \* \*

10 (d) The Commissioner shall base the withholding requirements for the  
11 education income tax under section 5962 of this title on the federal adjusted  
12 gross income of recipients from the prior year and the statewide average rates  
13 from the prior year, provided the rate shall be adjusted annually for inflation  
14 using the National Income and Product Accounts (NIPA) Implicit Price  
15 Deflator for State and Local Government Consumption Expenditures and  
16 Gross Investment as reported by the U.S. Department of Commerce, Bureau of  
17 Economic Analysis.

18 Sec. 3. 32 V.S.A. § 5851(1) is amended to read:

19 (1) "Tax" means, for any taxpayer and for any taxable year, the income  
20 tax liability of the taxpayer for that taxable year under section 5822 or 5962 of  
21 this title, reduced by any allowable credits against such tax.

1 Sec. 4. 32 V.S.A. § 5852(a) is amended to read:

2 (a) Every individual, estate, and trust subject to taxation under section 5822  
3 of this title (other than a person receiving at least two-thirds of ~~his or her~~ the  
4 person's income from farming or fishing as defined under the laws of the  
5 United States) or section 5962 of this title shall make installment payments of  
6 the taxpayer's estimated tax liability for each taxable year. The amount of  
7 each payment shall be 25 percent of the required annual payment. For any  
8 taxable year, payments shall be made on or before April 15, June 15, and  
9 September 15 of the taxable year and January 15 of the following taxable year.  
10 In applying this section to a taxable year beginning on any date other than  
11 January 1, there shall be substituted, for the months specified in this section,  
12 the months that correspond thereto.

13 Sec. 5. 32 V.S.A. § 5861 is amended to read:

14 § 5861. RETURNS BY INDIVIDUALS, TRUSTS, AND ESTATES

15 (a) Every individual, trust, or estate subject to taxation for any taxable year  
16 under section 5822 or 5962 of this title shall file a Vermont personal income  
17 tax return for that taxable year if that person is required to file a United States  
18 income tax return for that year and:

19 (1) earned or received more than \$100.00 of Vermont income, ~~or~~;

20 (2) earned or received more than \$1,000.00 in gross income from the  
21 sources listed in subdivisions 5823(b)(1) through (6) or subsections 5962(b)  
22 and (c) of this title, whether or not a resident, in that year; ~~or~~

23 (3) has a tax liability under this chapter for that year.

1 \* \* \*

2 (e) The Commissioner ~~may~~ shall require information on a Vermont  
3 personal income tax return that is sufficient to identify the school district, as  
4 defined in 16 V.S.A. § 11(a)(10), in which the taxpayer resides and whether  
5 the taxpayer's residence is a rental dwelling in this State. The Commissioner  
6 may consider a return incomplete if the information required under this  
7 subsection is not provided and shall cause the return to be completed.

8 \* \* \*

9 Sec. 6. 32 V.S.A. § 5820 is amended to read:

10 § 5820. PURPOSE

11 (a) This chapter is intended to conform the Vermont personal ~~and~~  
12 corporate, and education income taxes with the U.S. Internal Revenue Code,  
13 except as otherwise expressly provided, in order to simplify the taxpayer's  
14 filing of returns, reduce the taxpayer's accounting burdens, and facilitate the  
15 collection and administration of these taxes.

16 (b) It is intended that, for any taxable year, individuals, estates, and trusts  
17 shall be taxed upon only their Vermont income for that year, but that the rate at  
18 which the Vermont income of any taxpayer is taxed under this chapter shall  
19 reflect the taxpayer's ability to pay as measured by ~~his or her~~ the taxpayer's  
20 adjusted gross income for the taxable year.





1

\* \* \*

2

(13)(A) ~~“Education property tax spending adjustment” means the~~

3

~~greater of one or a fraction in which the numerator is the district’s per pupil~~

4

~~education spending plus excess spending for the school year, and the~~

5

~~denominator is the property dollar equivalent yield for the school year, as~~

6

~~defined in subdivision (15) of this section.~~

7

(B) ~~“Education income tax spending adjustment” means the greater of~~

8

~~one or a fraction in which the numerator is the district’s per pupil education~~

9

~~spending plus excess spending for the school year, and the denominator is the~~

10

~~income dollar equivalent yield for the school year, as defined in subdivision~~

11

~~(16) of this section. [Repealed.]~~

12

\* \* \*

13

(15) ~~“Property dollar equivalent yield” means the amount of per pupil~~

14

~~education spending that would result if the homestead tax rate were \$1.00 per~~

15

~~\$100.00 of equalized education property value and the statutory reserves under~~

16

~~16 V.S.A. § 4026 and section 5402b of this title were maintained. [Repealed.]~~

17

(16) ~~“Income dollar equivalent yield” means the amount of per pupil~~

18

~~education spending that would result if the income percentage in subdivision~~

19

~~6066(a)(2) of this title were 2.0 percent and the statutory reserves under 16~~

20

~~V.S.A. § 4026 and section 5402b of this title were maintained. [Repealed.]~~

1 Sec. 8. 32 V.S.A. § 5402 is amended to read:

2 § 5402. NONHOMESTEAD EDUCATION PROPERTY TAX LIABILITY

3 (a) A statewide education tax is imposed on all nonhomestead ~~and~~  
4 ~~homestead property at the following rates:~~

5 (1) ~~The tax rate for nonhomestead property shall be at the rate of \$1.59~~  
6 ~~per \$100.00 of equalized education property value.~~

7 (2) ~~The tax rate for homestead property shall be \$1.00 multiplied by the~~  
8 ~~education property tax spending adjustment for the municipality per \$100.00 of~~  
9 ~~equalized education property value as most recently determined under section~~  
10 ~~5405 of this title. The homestead property tax rate for each municipality that is~~  
11 ~~a member of a union or unified union school district shall be calculated as~~  
12 ~~required under subsection (e) of this section.~~

13 (b) The statewide nonhomestead education tax shall be calculated as  
14 follows:

15 (1) The Commissioner of Taxes shall determine for each municipality  
16 the nonhomestead education tax ~~rates~~ rate under subsection (a) of this section,  
17 divided by the municipality's most recent common level of appraisal. The  
18 legislative body in each municipality shall then bill each property taxpayer at  
19 the ~~homestead or~~ nonhomestead rate determined by the Commissioner under  
20 this subdivision, multiplied by the nonhomestead education property tax grand  
21 list value of the property, ~~properly classified as homestead or nonhomestead~~  
22 ~~property and without regard to any other tax classification of the property.~~

23 Statewide nonhomestead education property tax bills shall show the tax due

1 and the calculation of the rate determined under subsection (a) of this section,  
2 divided by the municipality's most recent common level of appraisal,  
3 multiplied by the current grand list value of the property to be taxed.  
4 Statewide nonhomestead education property tax bills shall also include  
5 language provided by the Commissioner pursuant to subsection 5405(g) of this  
6 title.

7 (2) Taxes assessed under this section shall be assessed and collected in  
8 the same manner as taxes assessed under chapter 133 of this title with no tax  
9 classification other than as homestead or nonhomestead property; provided,  
10 however, that the tax levied under this chapter shall be billed to each taxpayer  
11 by the municipality in a manner that clearly indicates the tax is separate from  
12 any other tax assessed and collected under chapter 133, including an  
13 itemization of the separate taxes due. The bill may be on a single sheet of  
14 paper with the statewide education tax and other taxes presented separately and  
15 side by side.

16 ~~(3) If a district has not voted a budget by June 30, an interim homestead~~  
17 ~~education tax shall be imposed at the base rate determined under subdivision~~  
18 ~~(a)(2) of this section, divided by the municipality's most recent common level~~  
19 ~~of appraisal, but without regard to any spending adjustment under subdivision~~  
20 ~~5401(13) of this title. Within 30 days after a budget is adopted and the deadline~~  
21 ~~for reconsideration has passed, the Commissioner shall determine the~~  
22 ~~municipality's homestead tax rate as required under subdivision (1) of this~~  
23 ~~subsection. [Repealed.]~~

1 (c)(1) The treasurer of each municipality shall by December 1 of the year in  
2 which the tax is levied and on June 1 of the following year pay to the State  
3 Treasurer for deposit in the Education Fund one-half of the municipality's  
4 statewide nonhomestead tax ~~and one-half of the municipality's homestead~~  
5 ~~education tax~~, as determined under subdivision (b)(1) of this section.

6 (2) The Secretary of Education shall determine each municipality's net  
7 nonhomestead education tax payment ~~and its net homestead education tax~~  
8 ~~payment~~ to the State based on grand list information received by the Secretary  
9 not later than the March 15 prior to the June 1 net payment. Payment shall be  
10 accompanied by a return prescribed by the Secretary of Education. Each  
11 municipality may retain 0.225 of one percent of the total education tax  
12 collected, only upon timely remittance of net payment to the State Treasurer or  
13 to the applicable school district or districts. Each municipality may also retain  
14 \$15.00 for each late property tax credit claim filed after April 15 and before  
15 September 2, as notified by the Department of Taxes, for the cost of issuing a  
16 new property tax bill.

17 (d) [Repealed.]

18 (e) ~~The Commissioner of Taxes shall determine a homestead education tax~~  
19 ~~rate for each municipality that is a member of a union or unified union school~~  
20 ~~district as follows:~~

21 (1) ~~For a municipality that is a member of a unified union school~~  
22 ~~district, use the base rate determined under subdivision (a)(2) of this section~~

1 and a spending adjustment under subdivision 5401(13) of this title based upon  
2 the per pupil education spending of the unified union.

3 (2) For a municipality that is a member of a union school district:

4 (A) Determine the municipal district homestead tax rate using the  
5 base rate determined under subdivision (a)(2) of this section and a spending  
6 adjustment under subdivision 5401(13) of this title based on the per pupil  
7 education spending in the municipality who attends a school other than the  
8 union school.

9 (B) Determine the union district homestead tax rate using the base  
10 rate determined under subdivision (a)(2) of this section and a spending  
11 adjustment under subdivision 5401(13) of this title based on the per pupil  
12 education spending of the union school district.

13 (C) Determine a combined homestead tax rate by calculating the  
14 weighted average of the rates determined under subdivisions (A) and (B) of  
15 this subdivision (2), with weighting based upon the ratio of union school long-  
16 term membership, as defined in 16 V.S.A. § 4001(7), from the member  
17 municipality to total long term membership of the member municipality; and  
18 the ratio of long term membership attending a school other than the union  
19 school to total long term membership of the member municipality. Total long-  
20 term membership of the member municipality is based on the number of pupils  
21 who are legal residents of the municipality and attending school at public  
22 expense. If necessary, the Commissioner may adopt a rule to clarify and  
23 facilitate implementation of this subsection (c). [Repealed.]

1 Sec. 9. 32 V.S.A. § 5402b is amended to read:

2 § 5402b. ~~STATEWIDE EDUCATION TAX YIELDS RATES;~~

3 RECOMMENDATION OF THE COMMISSIONER

4 (a) Annually, ~~no~~ not later than December 1, the Commissioner of Taxes,  
5 after consultation with the Secretary of Education, the Secretary of  
6 Administration, and the Joint Fiscal Office, shall calculate and recommend a  
7 ~~property dollar equivalent yield, an income dollar equivalent yield, the~~  
8 education income tax rates and a nonhomestead property tax rate for the  
9 following fiscal year. In making these calculations, the Commissioner shall  
10 assume:

11 (1) ~~the homestead base tax rate in subdivision 5402(a)(2) of this title is~~  
12 ~~\$1.00 per \$100.00 of equalized education property value;~~

13 (2) ~~the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;~~

14 (3) ~~the statutory reserves under 16 V.S.A. § 4026 and this section were~~  
15 ~~maintained at five~~ X<sup>3</sup> percent; and

16 (4)(2) ~~the percentage change in the average education tax bill applied to~~  
17 ~~nonhomestead property and the percentage change in the average education~~  
18 income tax bill of homestead property and the percentage change in the  
19 average education tax bill for taxpayers who claim a credit under subsection  
20 6066(a) of this title are equal.

---

<sup>3</sup> Although the Committee did not recommend a new percentage at which to maintain the stabilization reserve, the Committee recommended increasing this percentage to accommodate any possible increase in volatility of revenue to the Education Fund that could result from an income-based education tax.



1 (b) ~~For each fiscal year, the property dollar equivalent yield and the income~~  
2 ~~dollar equivalent yield shall be the same as in the prior fiscal year, unless set~~  
3 ~~otherwise by the General Assembly. [Repealed.]~~

4 \* \* \*

5 Sec. 10. 32 V.S.A. § 5404 is amended to read:

6 § 5404. DETERMINATION OF EDUCATION PROPERTY TAX GRAND  
7 LIST

8 (a)(1) Municipalities shall determine the education property tax grand list  
9 by calculating one percent of the listed value of nonhomestead ~~and homestead~~  
10 real property as provided in this section. The listed value of all nonhomestead  
11 ~~and homestead~~ real property in a municipality shall be its fair market value, its  
12 value established under a stabilization agreement described in section 5404a of  
13 this title, or the use value of property enrolled in a Use Value Program under  
14 chapter 124 of this title.

15 (2) If a homestead is located on a parcel of greater than two acres, the  
16 entire parcel shall be appraised at fair market value; ~~the housesite homestead~~  
17 shall then be appraised as if it were situated on a separate parcel, and the value  
18 of the ~~housesite homestead~~ shall be subtracted from the value of the total  
19 parcel to determine the value of the remainder of the parcel, which shall be  
20 subject to the nonhomestead tax imposed under this chapter. Pursuant to  
21 subdivision 4152(a)(9) of this title, a homestead shall be appraised and listed at  
22 what the full fair market value of the property would be absent the exemption  
23 from nonhomestead tax.

1 \* \* \*

2 Sec. 11. 32 V.S.A. § 5405 is amended to read:

3 § 5405. DETERMINATION OF EQUALIZED EDUCATION PROPERTY

4 TAX GRAND LIST AND COEFFICIENT OF DISPERSION

5 \* \* \*

6 (c) In determining the fair market value of property that is required to be  
7 listed at fair market value, the Commissioner shall take into consideration  
8 those factors required by section 3481 of this title. The Commissioner shall  
9 value property as of April 1 preceding the determination ~~and shall take account~~  
10 ~~of all homestead declaration information available before October 1 each year.~~

11 \* \* \*

12 (g) The Commissioner shall provide to municipalities for the front of  
13 property tax bills the ~~district homestead property tax rate before equalization,~~  
14 ~~the nonresidential nonhomestead tax rate before equalization,~~ and the  
15 calculation process that creates the ~~equalized homestead and nonhomestead tax~~  
16 ~~rates~~ rate. The Commissioner shall further provide to municipalities for the  
17 back of property tax bills an explanation of the common level of appraisal,  
18 including its origin and purpose.

19 Sec. 12. 32 V.S.A. § 5406(c) is amended to read:

20 (c) If the Director of Property Valuation and Review certifies that a  
21 municipality has completed a townwide reappraisal, the common level of  
22 appraisal for that municipality shall be equal to its new grand list value divided

1 by its most recent equalized grand list value, for purposes of determining the  
2 nonhomestead education property tax ~~rates~~ rate.

3 Sec. 13. 32 V.S.A. § 5409 is amended to read:

4 § 5409. DUTIES OF MUNICIPALITIES AND ADMINISTRATION

5 The following shall apply with regard to the statewide nonhomestead  
6 education property tax imposed under this chapter:

7 \* \* \*

8 (2) If by August 1 a municipality has failed to issue notices of  
9 assessment of the statewide nonhomestead education property tax, or if the  
10 municipality fails for more than 90 days after the due date for any installment  
11 payment to enforce the tax in the municipality, then the Commissioner of  
12 Taxes shall either issue notices of assessment or collect the tax, or both, or  
13 bring appropriate court action to require the municipal officials to issue notices  
14 and collect the tax, as the Commissioner deems necessary.

15 (3) In any case of administration under subdivision (2) of this section by  
16 the Commissioner of Taxes of education property tax:

17 \* \* \*

18 (C) The Commissioner may abate in whole or in part the statewide  
19 nonhomestead education ~~taxes~~ property tax of a taxpayer who has been granted  
20 an abatement of municipal taxes under 24 V.S.A. § 1535.

21 (4) [Repealed.]

22 (5) In case of insufficient property tax payment by a taxpayer to a  
23 municipality, payments shall be allocated first to municipal property tax and

1 next to statewide nonhomestead education property tax. In case of insufficient  
2 payment by a taxpayer to the Department of Taxes, payments shall be allocated  
3 first to liabilities other than the nonhomestead education ~~taxes~~ property tax and  
4 next to the nonhomestead education property tax.

5 (6) ~~In case of overpayment by a taxpayer who has an income tax~~  
6 ~~liability under chapter 151 of this title and a homestead property tax liability, a~~  
7 ~~refund of the overpayment, after accounting for any benefit amount allowed~~  
8 ~~under chapter 154 of this title, shall be deemed to be a refund of income tax for~~  
9 ~~purposes of debt setoff under chapter 151, subchapter 12 of this title.~~

10 [Repealed.]

11 (7) Notwithstanding section 435 of this title, the Commissioner shall  
12 deposit the revenue from ~~taxes~~ the nonhomestead education property tax  
13 imposed under this chapter in the ~~education fund~~ Education Fund.

14 (8) A municipality's liability to the State for ~~education taxes~~ the  
15 nonhomestead property tax shall not be reduced by any early payment property  
16 tax discount or similar discount offered by the municipality.

17 \* \* \* Repeals \* \* \*

18 Sec. 14. REPEALS; HOMESTEAD PROPERTY TAX AND CREDIT

19 The following are repealed:

20 (1) 32 V.S.A. § 3108(b)(4) (interest on overpayments to homestead tax  
21 liabilities);

22 (2) 32 V.S.A. § 3800(g) (statutory purpose for veterans' homestead  
23 property exemptions);

1           (3) 32 V.S.A. § 3802(11) (veterans' homestead property exemptions);

2   and

3           (4) 32 V.S.A. § 5410 (property tax credit; homestead declaration).

4   Sec. 15. 32 V.S.A. § 4111(e) is amended to read:

5       (e) When the listers return the grand list book to the town clerk, they shall  
6   notify by first-class mail, on which postage has been prepaid and that has been  
7   addressed to their last known address, all affected persons listed as property  
8   owners in the grand list book of any change in the appraised value of such  
9   property or any change in the allocation of value to the homestead as defined  
10   under subdivision 5401(7) of this title ~~or the housesite as defined under~~  
11   ~~subdivision 6061(11) of this title~~, and also notify them of the amount of such  
12   change and of the time and place fixed in the public notice hereinafter provided  
13   for, when persons aggrieved may be heard. No notice shall be required for a  
14   change solely to reflect a new use value set by the Current Use Advisory Board  
15   or the adjustment of that value by the common level of appraisal. Notices shall  
16   be mailed at least 14 days before the time fixed for hearing. Such personal  
17   notices shall be given in all towns and cities within the State, anything in the  
18   charter of any city to the contrary notwithstanding. At the same time, the  
19   listers shall post notices in the town clerk's office and in at least four other  
20   public places in the town or, in the case of a city, in such other manner and  
21   places as the city charter shall provide, setting forth that they have completed  
22   and filed such book as an abstract and the time and place of the meeting for  
23   hearing grievances and making corrections. Unless the personal notices

1 required hereby were sent by registered or certified mail, or unless an official  
2 certificate of mailing of the same was obtained from the post office, in the case  
3 of any controversy subsequently arising, it shall be presumed that the personal  
4 notices were not mailed as required.

5 Sec. 16. 32 V.S.A § 4152(a) is amended to read:

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

9 \* \* \*

10 (9) ~~Separate columns~~ A separate column that will show what the listed  
11 ~~valuations~~ full fair market value of homesteads, as defined in subdivision  
12 5401(7) of this title ~~and housesites as defined under subdivision 6061(11) of~~  
13 ~~this title,~~ would be absent the exemption from nonhomestead property tax.

14 Sec. 17. 32 V.S.A. § 4261 is amended to read:

15 § 4261. CORRECTING OMISSION FROM GRAND LIST

16 When real or personal estate is omitted from the grand list by mistake or an  
17 obvious error is found, the listers, with the approval of the selectboard, on or  
18 before December 31, may supply such omissions or correct such errors and  
19 make a certificate thereon of the fact; ~~provided, however, the listers may make~~  
20 ~~a correction resulting from the filing or rescission of a homestead declaration~~  
21 ~~without approval of the selectboard.~~

1 Sec. 18. 32 V.S.A. § 5400(c) is amended to read:

2 (c) The statutory purpose of the exemption for qualified housing in  
3 subdivision 5404a(a)(6) of this title is to ensure that taxes on this rent-  
4 restricted housing provided to Vermonters of low and moderate income ~~are~~  
5 ~~more equivalent to property taxed using the State homestead rate and to adjust~~  
6 the costs of investment in rent-restricted housing to reflect more accurately the  
7 revenue potential of such property.

8 \* \* \* Municipal Property Tax Credit \* \* \*

9 Sec. 19. 32 V.S.A. chapter 154 is redesignated to read:

10 CHAPTER 154. ~~HOMESTEAD~~ MUNICIPAL PROPERTY TAX CREDIT  
11 AND RENTER CREDIT

12 Sec. 20. 32 V.S.A. § 6061 is amended to read:

13 § 6061. DEFINITIONS

14 As used in this chapter ~~unless the context requires otherwise:~~

15 (1) “~~Property~~ Municipal property tax credit” means a credit of the prior  
16 tax year’s ~~statewide or municipal property tax liability or a homestead owner~~  
17 ~~credit~~, as authorized under section 6066 of this title, ~~as the context requires.~~

18 \* \* \*

19 (6) “~~Property~~ Municipal property tax” means the amount of ad valorem  
20 taxes, exclusive of special assessments, interest, penalties, and charges for  
21 service, assessed by a municipality on real property in this State used as the  
22 claimant’s housesite, or that would have been assessed if the homestead had  
23 been properly declared at the time of assessment.

1

\* \* \*

2

(11) ~~“Housesite” means that portion of a homestead, as defined under subdivision 5401(7) of this title but not under subdivision 5401(7)(G) of this title, that includes as much of the land owned by the claimant surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit, and, in the case of multiple dwelling units, not more than two acres per dwelling unit up to a maximum of 10 acres per parcel. [Repealed.]~~

9

\* \* \*

10

(13) “Homestead” means a homestead as defined under subdivision 5401(7) of this title, but not under subdivision 5401(7)(G) of this title, and declared ~~on or before October 15~~ in accordance with section 5410 6065 of this title.

14

(14) ~~“Statewide education tax rate” means the homestead education property tax rate multiplied by the municipality’s education spending adjustment under subdivision 5402(a)(2) of this title and used to calculate taxes assessed in the municipal fiscal year that began in the taxable year. [Repealed.]~~

18

(15) “Adjusted property tax” means the amount of ~~education and~~ municipal property taxes on the homestead parcel after reduction for any municipal property tax credit under section 6066a of this chapter.

21

(16) “Unadjusted property tax” means the amount of ~~education and~~ municipal property taxes on the homestead parcel before any reduction for a municipal property tax credit under section 6066a of this chapter.







1 Sec. 22. 32 V.S.A. § 6063 is amended to read:

2 § 6063. CLAIM AS PERSONAL; CREDIT AMOUNT AT TIME OF

3 TRANSFER

4 (a) The right to file a claim under this chapter is personal to the claimant  
5 and shall not survive ~~his or her~~ the claimant's death, but the right may be  
6 exercised on behalf of a claimant by ~~his or her~~ the claimant's legal guardian or  
7 attorney-in-fact. When a claimant dies after having filed a timely claim, the  
8 municipal property tax credit amount shall be credited to the ~~homestead~~  
9 property tax liability of the claimant's estate as provided in section 6066a of  
10 this title.

11 (b) In case of sale or transfer of a residence, any municipal property tax  
12 credit amounts related to that residence shall be allocated to the seller at  
13 closing unless the parties otherwise agree.

14 Sec. 23. 32 V.S.A. § 6064 is amended to read:

15 § 6064. CLAIM APPLIED AGAINST OUTSTANDING LIABILITIES

16 The amount of any municipal property tax credit resulting under this  
17 chapter may be applied by the Commissioner, beginning July 1 of the calendar  
18 year in which the claim is filed, against any State tax liability outstanding  
19 against the claimant.

20 Sec. 24. 32 V.S.A. § 6065 is amended to read:

21 § 6065. FORMS; TABLES; NOTICES

22 (a) A homestead owner shall declare ownership of a homestead for  
23 purposes of the municipal property tax credit. The Commissioner shall adopt

1 rules governing the eligibility requirements for declaring a homestead. In  
2 administering this chapter, the Commissioner shall provide suitable claim  
3 forms with tables of allowable claims, instructions, and worksheets for  
4 claiming a ~~homestead~~ municipal property tax credit.

5 (b) Prior to June 1, the Commissioner shall also prepare and supply to each  
6 town in the State notices describing the ~~homestead~~ municipal property tax  
7 credit, for inclusion in property tax bills. A town shall include such notice in  
8 each tax bill and notice of delinquent taxes that it mails to taxpayers who own  
9 in that town a homestead as defined in subdivision 5401(7) of this title.

10 (c) Notwithstanding the provisions of subsection (b) of this section, towns  
11 that use envelopes or mailers not able to accommodate notices describing the  
12 ~~homestead~~ municipal tax credit may distribute such notices in an alternative  
13 manner.

14 Sec. 25. 32 V.S.A. § 6066 is amended to read:

15 § 6066. COMPUTATION OF MUNICIPAL PROPERTY TAX CREDIT

16 AND RENTER CREDIT

17 (a) ~~An eligible~~ A claimant whose household income does not exceed  
18 \$47,000.00 and who owned the homestead on April 1 of the year in which the  
19 claim is filed shall be entitled to a credit for the prior year's ~~homestead~~  
20 municipal property tax liability ~~amount determined as follows:~~ in an amount  
21 for the upcoming fiscal year that is equal to the amount by which the municipal  
22 property taxes for the municipal fiscal year that began in the taxable year upon  
23 the claimant's housesite exceeds a percentage of the claimant's household

1 income for the taxable year, provided that in no event shall the credit under this  
2 subsection exceed the amount of the reduced property tax. The amount of the  
3 credit under this subsection shall be determined as follows:

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

5 ~~(i) the statewide education tax rate, multiplied by the equalized-~~  
6 ~~value of the housesite in the taxable year;~~

7 ~~(ii) minus (if less) the sum of:~~

8 ~~(I) the income percentage of household income for the taxable-~~  
9 ~~year; plus~~

10 ~~(II) the statewide education tax rate, multiplied by the equalized-~~  
11 ~~value of the housesite in the taxable year in excess of \$225,000.00.~~

12 ~~(B) For a claimant with household income of less than \$90,000.00 but~~  
13 ~~more than \$47,000.00, the statewide education tax rate, multiplied by the~~  
14 ~~equalized value of the housesite in the taxable year, minus (if less) the sum of:~~

15 ~~(i) the income percentage of household income for the taxable-~~  
16 ~~year; plus~~

17 ~~(ii) the statewide education tax rate, multiplied by the equalized-~~  
18 ~~value of the housesite in the taxable year in excess of \$400,000.00.~~

19 ~~(C) For a claimant whose household income does not exceed-~~  
20 ~~\$47,000.00, the statewide education tax rate, multiplied by the equalized value-~~  
21 ~~of the housesite in the taxable year, minus the lesser of:~~

1                   (i) the sum of the income percentage of household income for the  
 2 taxable year plus the statewide education tax rate, multiplied by the equalized  
 3 value of the housesite in the taxable year in excess of \$400,000.00; or

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

6           (2) “Income percentage” in this section means two percent, multiplied by  
 7 the education income tax spending adjustment under subdivision 5401(13)(B)  
 8 of this title for the property tax year that begins in the claim year for the  
 9 municipality in which the homestead residence is located.

10           (3) A claimant whose household income does not exceed \$47,000.00  
 11 shall also be entitled to an additional credit amount from the claimant’s  
 12 municipal taxes for the upcoming fiscal year that is equal to the amount by  
 13 which the municipal property taxes for the municipal fiscal year that began in  
 14 the taxable year upon the claimant’s housesite exceeds a percentage of the  
 15 claimant’s household income for the taxable year as follows:

|    |                              |  |
|----|------------------------------|--|
| 16 | If household income (rounded | then the taxpayer is entitled to       |
| 17 | to the nearest dollar) is:   | credit for the reduced property tax in |
| 18 |                              | excess of this percent of that income  |
| 19 | \$0.00 — 9,999.00            | 1.50                                   |
| 20 | \$10,000.00 — 47,000.00      | 3.00                                   |

21           (4) A claimant whose household income does not exceed \$47,000.00  
 22 shall also be entitled to an additional credit amount from the claimant’s  
 23 statewide education tax for the upcoming fiscal year that is equal to the amount

1 by which the education property tax for the municipal fiscal year that began in  
 2 the taxable year upon the claimant's housesite, reduced by the credit amount  
 3 determined under subdivisions (1) and (2) of this subsection, exceeds a  
 4 percentage of the claimant's household income for the taxable year as follows:

|    |                              |  |
|----|------------------------------|--|
| 5  | If household income (rounded | then the taxpayer is entitled to       |
| 6  | to the nearest dollar) is:   | credit for the reduced property tax in |
| 7  |                              | excess of this percent of that income  |
| 8  | \$0.00 — 9,999.00            | 0.5                                    |
| 9  | \$10,000 — 24,999.00         | 1.5                                    |
| 10 | \$25,000.00 — 47,000.00      | 2.0                                    |

11 ~~(5) In no event shall the credit provided for in subdivision (3) or (4) of~~  
 12 ~~this subsection exceed the amount of the reduced property tax. The credits~~  
 13 ~~under subdivision (4) of this subsection shall be calculated considering only~~  
 14 ~~the tax due on the first \$400,000.00 in equalized housesite value.~~

15 \* \* \*

16 (e) Property taxes paid by a cooperative, not including a mobile home park  
 17 cooperative, allocable to property used as a homestead shall be attributable to  
 18 the co-op member for the purpose of computing the credit of municipal  
 19 property tax liability of the co-op member under this section. Property owned  
 20 by a cooperative declared as a homestead may only include the homestead and  
 21 a pro rata share of any common land owned or leased by the cooperative, not  
 22 to exceed the two-acre housesite limitation. The share of the cooperative's  
 23 assessed value attributable to the housesite shall be determined by the

1 cooperative and specified annually in a notice to the co-op member. Property  
2 taxes paid by a mobile home park cooperative, allocable to property used as a  
3 housesite, shall be attributed to the owner of the housesite for the purpose of  
4 computing the credit of municipal property tax liability of the housesite owner  
5 under this section. Property owned by the mobile home park cooperative and  
6 declared as a housesite may only include common property of the cooperative  
7 contiguous with at least one mobile home lot in the park, not to exceed the  
8 two-acre housesite limitation. The share attributable to any mobile home lot  
9 shall be determined by the cooperative and specified in the cooperative  
10 agreement.

11 (f) [Repealed.]

12 (g) Notwithstanding subsection (d) of this section, if the land surrounding a  
13 homestead is owned by a nonprofit corporation or community land trust with  
14 tax exempt status under 26 U.S.C. § 501(c)(3), the homeowner may include an  
15 allocated amount as property tax paid on the land with the amount of property  
16 taxes paid by the homeowner on the home for the purposes of computation of  
17 the credit under this section. The allocated amount shall be determined by the  
18 nonprofit corporation or community land trust on a proportional basis. The  
19 nonprofit corporation or community land trust shall provide to that  
20 homeowner, by January 31, a certificate specifying the allocated amount. The  
21 certificate shall indicate the proportion of total property tax on the parcel that  
22 was assessed for municipal property tax ~~and for statewide property tax.~~





1 ~~this title, which the taxpayer has directed to be used for payment of property~~  
2 ~~taxes. [Repealed.]~~

3 (c) The Commissioner shall notify the municipality of any claim and  
4 refund amounts unresolved by November 1 at the time of final resolution,  
5 including adjudication, if any; provided, however, that towns will not be  
6 notified of any additional credit amounts after November 1 of the claim year,  
7 and such amounts shall be paid to the claimant by the Commissioner.

8 (d) For late claims filed after April 15, the municipal property tax credit  
9 amount shall be reduced by \$15.00.

10 (e) At the time of notice to the municipality, the Commissioner shall notify  
11 the taxpayer of the municipal property tax credit amount determined under  
12 ~~subdivision subsection 6066(a)(1) of this title, the amount determined under~~  
13 ~~subdivision 6066(a)(3) of this title, any additional credit amounts due the~~  
14 ~~homestead owner under section 6066 of this title, the amount of income tax~~  
15 ~~refund, if any, allocated to payment of homestead property tax liabilities, and~~  
16 ~~any late claim reduction amount.~~

17 ~~(f)(1) For taxpayers and amounts stated in the notice to towns on or before~~  
18 ~~July 1, municipalities shall create and send to taxpayers a homestead property~~  
19 ~~tax bill, instead of the bill required under subdivision 5402(b)(1) of this title,~~  
20 ~~providing the total amount allocated to payment of homestead education~~  
21 ~~property tax liabilities and notice of the balance due. Municipalities shall apply~~  
22 ~~the amount allocated under this chapter to current year property taxes in equal~~  
23 ~~amounts to each of the taxpayers' property tax installments that include~~

1 education taxes. Notwithstanding section 4772 of this title, if a town issues a  
2 corrected bill as a result of the notice sent by the Commissioner under  
3 subsection (a) of this section, issuance of the corrected new bill does not  
4 extend the time for payment of the original bill nor relieve the taxpayer of any  
5 interest or penalties associated with the original bill. If the corrected bill is less  
6 than the original bill, and there are also no unpaid current year taxes, interest,  
7 or penalties, and no past year delinquent taxes or penalties and interest charges,  
8 any overpayment shall be reflected on the corrected tax bill and refunded to the  
9 taxpayer.

10 (2) For property tax credit amounts for which municipalities receive  
11 notice after November 1, municipalities shall issue a new homestead property  
12 tax bill with notice to the taxpayer of the total amount allocated to payment of  
13 homestead property tax liabilities and notice of the balance due.

14 (3) The property tax credit amount determined for the taxpayer shall be  
15 allocated first to current year property tax on the homestead parcel, next to  
16 current year homestead parcel penalties and interest, next to any prior year  
17 homestead parcel penalties and interest, and last to any prior year property tax  
18 on the homestead parcel. No credit shall be allocated to a property tax liability  
19 for any year after the year for which the claim or refund allocation was filed.  
20 No municipal tax reduction incentive for early payment of taxes shall apply to  
21 any amount allocated to the property tax bill under this chapter.

22 (4) If the property tax credit amount as described in subsection (e) of this  
23 section exceeds the property tax, penalties, and interest due for the current and

1 ~~all prior years, the municipality shall refund the excess to the taxpayer, without~~  
2 ~~interest, within 20 days of the first date upon which taxes become due and~~  
3 ~~payable or 20 days after notification of the credit amount by the Commissioner~~  
4 ~~of Taxes, whichever is later. [Repealed.]~~

5 (g) The Commissioner of Taxes shall pay monthly to each municipality the  
6 amount of municipal property tax credit of which the municipality was last  
7 notified related to municipal property tax on homesteads within that  
8 municipality, as determined by the Commissioner of Taxes.

9 Sec. 27. 32 V.S.A. § 6067 is amended to read:

10 § 6067. CREDIT LIMITATIONS

11 Only one individual per household per taxable year shall be entitled to a  
12 municipal property tax credit under this chapter. An individual who received a  
13 homestead exemption or credit with respect to property taxes assessed by  
14 another state for the taxable year shall not be entitled to receive a credit under  
15 this chapter. No taxpayer shall receive a renter credit under subsection 6066(b)  
16 of this title in excess of \$2,500.00. No taxpayer shall receive a municipal  
17 property tax credit under ~~subdivision~~ subsection 6066(a)(~~3~~) of this title greater  
18 than \$2,400.00 ~~or cumulative credit under subdivisions 6066(a)(1) (2) and (4)~~  
19 ~~of this title greater than \$5,600.00.~~

20 Sec. 28. 32 V.S.A. § 6068(a) is amended to read:

21 (a) ~~A tax credit claim or request for allocation of an income tax refund to~~  
22 ~~homestead property tax payment shall be filed with the Commissioner on or~~  
23 ~~before the due date for filing the Vermont income tax return, without~~

1 ~~extension, and shall describe the school district in which the homestead~~  
2 ~~property is located and shall particularly describe the homestead property for~~  
3 ~~which the credit or allocation is sought, including the school parcel account~~  
4 ~~number prescribed in subsection 5404(b) of this title.~~ A renter credit claim  
5 shall be filed with the Commissioner on or before the due date for filing the  
6 Vermont income tax return, without extension.

7 Sec. 29. 32 V.S.A. § 6070 is amended to read:

8 § 6070. DISALLOWED CLAIMS

9 A claim shall be disallowed if the claimant received title to ~~his or her~~ the  
10 claimant's homestead primarily for the purpose of receiving benefits under this  
11 chapter.

12 \* \* \* Revenue Allocation and Education Payments \* \* \*

13 Sec. 30. 16 V.S.A. § 4001 is amended to read:

14 § 4001. DEFINITIONS

15 As used in this chapter:

16 (1) "Average daily membership" of a school district or, if needed in  
17 order to calculate the appropriate ~~homestead~~ education income tax rate, of the  
18 municipality as defined in 32 V.S.A. § 5401(9), in any year means:

19 \* \* \*

20 (2) "Equalized grand list" has the same meaning that equalized  
21 education property tax grand list has in 32 V.S.A. chapter 135.

22 \* \* \*

1 Sec. 31. 16 V.S.A. § 4025 is amended to read:

2 § 4025. EDUCATION FUND

3 (a) The Education Fund is established to comprise the following:

4 (1) all revenue paid to the State from the statewide education tax on  
5 nonhomestead ~~and homestead~~ property under 32 V.S.A. chapter 135;

6 \* \* \*

7 (6) revenues raised from the sales and use tax imposed by 32 V.S.A.  
8 chapter 233; ~~and~~

9 (7) Medicaid reimbursement funds pursuant to subsection 2959a(f) of  
10 this title; and

11 (8) revenues from the education income tax imposed by 32 V.S.A.  
12 chapter 151, subchapter 14.

13 (b) Monies in the Education Fund shall be used for the following:

14 \* \* \*

15 (3) To make payments required under 32 V.S.A. § ~~6066(a)(1)~~ 5964 ~~and~~  
16 ~~only that portion attributable to education taxes~~, as determined by the  
17 Commissioner of Taxes, ~~of payments required under 32 V.S.A. § 6066(a)(3).~~

18 The State Treasurer shall withdraw funds from the Education Fund upon  
19 warrants issued by the Commissioner of Finance and Management based on  
20 information supplied by the Commissioner of Taxes. The Commissioner of  
21 Finance and Management may draw warrants for disbursements from the Fund  
22 in anticipation of receipts. All balances in the Fund at the end of any fiscal

1 year shall be carried forward and remain a part of the Fund. Interest accruing  
2 from the Fund shall remain in the Fund.

3 \* \* \*

4 Sec. 32. 32 V.S.A. § 435(b) is amended to read:

5 (b) The General Fund shall be composed of revenues from the following  
6 sources:

7 \* \* \*

8 (5) individual income taxes levied pursuant to chapter 151 of this title,  
9 except for the education income tax surcharge imposed by section 5962 of this  
10 title;

11 \* \* \*