

1 **DRAFT LANGUAGE BASED ON H.53 OF 2000 FOR**
2 **CONSIDERATION BY THE PROPERTY TAX EXEMPTION STUDY**
3 **COMMITTEE AT ITS DECEMBER 16, 2013 MEETING**
4 **NOTE: This draft has not been adopted or approved by the Committee**
5 **but is being circulated for public comment at its December 16, 2013**
6 **meeting.**

7
8 Introduced by

9 Referred to Committee on

10 Date:

11 Subject: Taxation; property taxes; exemptions

12 Statement of purpose of bill as introduced: This bill proposes to change the
13 tax-exempt treatment of public, pious, and charitable properties. Under the
14 bill, determinations of eligibility for the exemption would be done at the State
15 level, and qualified properties would be exempt from the statewide education
16 property tax. Municipalities could then vote to exempt qualified properties
17 from municipal taxes. In addition, colleges and universities would eventually
18 be exempt from all property taxes but would be required to enter into
19 agreements with local municipalities to pay fees for services.

20 An act relating to the public, pious, and charitable property tax exemption

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

2 * * * Public, Pious, and Charitable Properties * * *

3 Sec. 1. 32 V.S.A. § 3802(4) is amended to read:

4 (4) ~~Real and personal estate granted, sequestered or used for public,~~
5 ~~pious or charitable uses; real property owned by churches or church societies~~
6 ~~or conferences and used as parsonages and personal property therein used by~~
7 ~~ministers engaged in full time work in the care of the churches of their~~
8 ~~fellowship within the state; real and personal estate set apart for library uses~~
9 ~~and used by the public and private circulating libraries, open to the public and~~
10 ~~not used for profit; lands leased by towns or town school districts for~~
11 ~~educational purposes; and lands owned or leased by colleges, academies or~~
12 ~~other public schools or leased by towns for the support of the gospel; and lands~~
13 ~~and buildings owned and used by towns for the support of the poor therein; but~~
14 ~~private buildings on such lands shall be set in the list to the owners thereof, and~~
15 ~~shall not be exempt. The exemption of lands owned or leased by colleges,~~
16 ~~academies or other public schools, shall not apply to lands or buildings rented~~
17 ~~for general commercial purposes, nor to farming or timber lands owned or~~
18 ~~leased thereby; but this provision shall not affect the exemption of so-called~~
19 ~~school or college lands, sequestered to such use prior to January 28, 1911.~~

20 (A) real and personal property owned by churches, synagogues,
21 religious societies, or religious conferences and used as a house of worship,

1 parsonage, convent, center for religious education, administrative office, home
2 provided without regard to any ability to pay, or school; related outbuildings;
3 land not used to produce income adjacent to any of these buildings and kept
4 and used as a parking lot, lawn, playground, or garden, or any glebe lands
5 sequestered as tax-exempt;

6 (B) real and personal estate set apart for library uses and used by the
7 public and private circulating libraries, open to the public, and not used for
8 profit;

9 (C) real property owned or leased by school districts for educational
10 purposes;

11 (D) real property owned or leased by nonprofit colleges, universities,
12 academies, or other public schools, and used for educational purposes,
13 including student housing, and not used for general commercial purposes. The
14 exemption of property owned by nonprofit colleges and universities under this
15 section shall apply only to property acquired and owned on or before April 1,
16 1941;

17 (E) property owned by a nonprofit hospital licensed under 18 V.S.A.
18 chapter 43 that provides its services to all who need them without regard to
19 their ability to pay for those services. The property must be owned and
20 operated by the nonprofit hospital, directly connected to the hospital's
21 operation, and the use of the property must confer a benefit on society; and

1 (F) real property owned by a municipality within its borders as long
2 as it is used for municipal purposes and not used for general commercial
3 purposes.

4 Sec. 2. 32 V.S.A. § 3832 is amended to read:

5 § 3832. PUBLIC, ~~PIOUS~~ AND CHARITABLE USES

6 ~~The exemption from taxation of real and personal estate granted,~~
7 ~~sequestered or used for public, pious or charitable uses shall not be construed~~
8 ~~as exempting:~~

9 ~~(1) Real and personal property held in trust for a municipal corporation~~
10 ~~by virtue of a trust which takes effect after passage of this act when the~~
11 ~~property is located outside the town where the said municipal corporation has~~
12 ~~its principal place of business, unless the town or municipality in which the~~
13 ~~property is located so votes at any regular or special meeting duly warned~~
14 ~~therefor.~~

15 ~~(2) Real estate owned or kept by a religious society other than a church~~
16 ~~edifice, a parsonage, the outbuildings of the church edifice or parsonage, a~~
17 ~~building used as a convent, school, orphanage, home or hospital, land adjacent~~
18 ~~to any of the buildings named in this subsection, kept and used as a parking lot~~
19 ~~not used to produce income, lawn, playground or garden and the so-called~~
20 ~~glebe lands.~~

21 ~~(3) Property of railroad corporations.~~

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

3 ~~(5) Real and personal property held by the state and located in any town~~
4 ~~other than that in which the institution of which it forms a part is located.~~

5 ~~(6) Real and personal property owned or kept by an orphanage, home or~~
6 ~~hospital including diagnostic and treatment center not used for the purpose of~~
7 ~~such institution but leased to others for income or profit, whether or not the~~
8 ~~institution is conducted by or connected with a religious society unless the~~
9 ~~town or municipality in which the property is located so votes at any regular or~~
10 ~~special meeting duly warned therefor.~~

11 ~~(7) Real and personal property of an organization when the property is~~
12 ~~used primarily for health or recreational purposes, unless the town or~~
13 ~~municipality in which the property is located so votes at any regular or special~~
14 ~~meeting duly warned therefor.~~

15 (a) The following property shall be exempt from statewide education
16 property tax based on its charitable or public use:

17 (1) real and personal property certified under section 3833 of this title to
18 be dedicated to a charitable or public use;

19 (2) real property acquired and owned by nonprofit colleges and
20 universities after April 1, 1941, used for educational purposes, including
21 student housing, and not used for general commercial purposes; and

1 (3) real property owned by a nonprofit volunteer fire, ambulance, or
2 rescue company, and used exclusively for the purposes of such company, to
3 the extent voted exempt from municipal taxes under subsection (b) of this
4 section.

5 (b) A town may at a regular or special meeting duly warned, by a majority
6 of those present and voting, elect to exempt any of the following in whole or in
7 part, from municipal tax authorized under 17 V.S.A. § 2664:

8 (1) real and personal property certified under section 3833 of this title to
9 be dedicated to a charitable or public use;

10 (2) real and personal property held in trust for a municipal corporation,
11 but located outside the town where that municipal corporation has its principal
12 place of business;

13 (3) property used primarily for recreational purposes, is owned and
14 operated on a nonprofit basis, dedicated unconditionally to public use, used for
15 the benefit of an indefinite class of the public and only for the purpose of such
16 institution, and the use of which confers a benefit on society; or

17 (4) real property owned by a nonprofit volunteer fire, ambulance, or
18 rescue company and used for purposes consistent with the company's public
19 mission.

20 (c) Notwithstanding any other provision of law, any fraternal organization
21 exempt under the provisions of this chapter or under any provision of session

1 law must certify under penalty of perjury to the Commissioner on an annual
2 basis, that the amount it contributes to charity in a given year exceeds the
3 amount of the property tax exemption that organization receives. If a fraternal
4 organization fails to so certify to the Commissioner, or if the Commissioner
5 determines that the certification is incorrect, the property of that organization
6 shall be taxed for that year as if it were not entitled to any exemption. The
7 Commissioner is authorized to develop rules and procedures to implement this
8 subsection.

9 Sec. 3. 32 V.S.A. § 3833 is added to read:

10 § 3833. CERTIFICATION OF CHARITABLE OR PUBLIC USE

11 (a) A property owner seeking a voted exemption under subsection 3832(b)
12 of this title or seeking an education property tax exemption under subsection
13 3832(a) of this title shall first obtain certification from a certification officer to
14 be appointed by the Commissioner of Taxes.

15 (1) An application for certification under this section shall be in writing
16 in a form and with accompanying information as required by the certification
17 officer. An application under this section shall constitute a waiver of any right
18 to confidentiality with regard to any records in the possession of the
19 certification officer related to the application for certification and these records
20 shall be public records.

1 (2) The applicant shall bear the burden of proving, by a preponderance
2 of the evidence, that the applicant meets the requirements for certification
3 under this section.

4 (3) The certification officer shall certify the property as charitable or
5 public use property if the officer finds that the property is both owned and
6 operated on a nonprofit basis, dedicated unconditionally to public use, used for
7 the benefit of an indefinite class of the public primarily for charitable or public
8 purposes, and confers a benefit on society and is not:

9 (A) property held in trust for a municipal corporation by virtue of a
10 trust when the property is located outside the town where the municipal
11 corporation has its principal place of business;

12 (B) a municipal electric light plant when located outside the town
13 where the municipality owning it is situated;

14 (C) property leased for income or profit or used for general
15 commercial purposes; or

16 (D) property used primarily for recreational purposes.

17 (4) The certification officer may certify a portion of the property for an
18 exemption if not all of the property qualifies under this section. In such a case,
19 the listers shall only exempt the value of the portion of the property that has
20 received certification of exempt status.

1 (b) A party aggrieved by a determination of the certification officer under
2 this section shall have a right to appeal that determination by filing a notice of
3 appeal with the Director of Property Valuation and Review within 30 days
4 after the date the determination is issued. The appeal to the Director shall be
5 de novo. Within five days after the Director receives a notice of appeal, the
6 Director shall give notice of the appeal to the town in which the property is
7 located and to the Commissioner of Taxes. The town and the Commissioner
8 shall each have 10 days to file with the Director a notice of election to join as a
9 party. A party to the appeal shall have the right to appeal the Director's
10 determination to the Superior Court of the county in which the property is
11 located, pursuant to Rule 74 of the Vermont Rules of Civil Procedure, within
12 30 days of the date of the Director's determination, but the appeal shall be on
13 the record and without jury. A party to the Superior Court appeal shall have
14 the right to appeal the Superior Court decision to the Supreme Court, on the
15 record.

16 (c) Upon determination under this section that a property is a charitable or
17 public use property, the person or court making the determination shall within
18 10 days of the date of that determination notify the town in which the property
19 is located. If the certification officer determines that an application has been
20 completed by October 1 of any year, then the officer shall issue the
21 determination to that applicant by December 31 of that year.

1 * * * College and University Property * * *

2 Sec. 4. 32 V.S.A. § 3831 is amended to read:

3 § 3831. COLLEGE, UNIVERSITY, OR FRATERNITY PROPERTY

4 (a)(1) Any real property acquired after April 1, 1941, by any college,
5 ~~university or~~ fraternity such as would be exempt from taxation under the
6 provisions of section 3802 of this title, shall be set to such institution in the
7 grand list of the town or city in which such real property is located at the value
8 fixed in the appraisal next preceding the date of acquisition of such property,
9 and taxed on such valuation.

10 (2) Any real property acquired and owned after April 1, 1941, by any
11 nonprofit college or university used for educational purposes, including student
12 housing, and not used for general commercial purposes shall for municipal tax
13 purposes only be set to such institution in the grand list of the town or city in
14 which such real property is located at the value fixed in the appraisal next
15 preceding the date of acquisition of such property and taxed on such valuation.

16 (3) ~~However, the~~ The voters of any town or city may at any legal
17 meeting thereof vote to exempt ~~such from taxation,~~ property listed in
18 subdivision (1) of this subsection from all taxes or property listed in
19 subdivision (2) from municipal taxes either in whole or in part. Except as
20 provided under subsection (c) of this section, the value fixed on such property
21 at such appraisal shall not be increased so long as the property is owned and

1 used by such institution for other than commercial and investment purposes,
2 whether or not improvements are made thereon.

3 (b) The provisions of subsection (a) of this section shall not exempt from
4 county, town, or school taxes, lands owned by a college, and leased “as long as
5 wood grows and water runs,” securing to the lessees the right of preemption,
6 unless such lands were chartered as sequestered for the benefit of the college,
7 or became the property of the college prior to the organization of the town in
8 which they lie.

9 (c) In the event of a general reappraisal of all property in the municipality
10 completed after 1982, the appraisal value of property subject to subsection (a)
11 of this section shall first be changed to an amount which yields a municipal tax
12 liability (computed with reference to the tax rate applicable to the first tax year
13 based on the reappraisal) equal to the municipal tax liability for such property
14 for the tax year immediately preceding the reappraisal; provided; that in the
15 event the tax liability imposed on the majority of all taxable properties in the
16 municipality increases in the first tax year based on the reappraisal, then any
17 appraisal value of property subject to subsection (a) shall be ~~further~~ changed
18 further to an amount that yields the tax liability computed above adjusted by
19 the average percentage increase or decrease in the tax liability of all taxable
20 properties in the municipality.

1 (d) ~~For the purposes of~~ As used in this section, the term “fraternity” shall
2 also mean “sorority.”

3 Sec. 5. 32 V.S.A. § 3802(4)(D) is amended to read:

4 (D) Real property owned or leased by nonprofit colleges,
5 universities, academies, or other public schools, and used for educational
6 purposes, including student housing, and not used for general commercial
7 purposes. ~~The exemption of property owned by nonprofit colleges and~~
8 ~~universities under this section shall apply only to property acquired and owned~~
9 ~~on or before April 1, 1941.~~

10 Sec. 6. 32 V.S.A. § 3831 is amended to read:

11 § 3831. ~~COLLEGE, UNIVERSITY, OR FRATERNITY PROPERTY~~

12 (a)~~(1)~~ Any real property acquired after April 1, 1941, by any fraternity such
13 as would be exempt from taxation under the provisions of section 3802 of this
14 title, shall be set to such institution in the grand list of the town or city in which
15 such real property is located at the value fixed in the appraisal next preceding
16 the date of acquisition of such property, and taxed on such valuation.

17 ~~(2) Any real property acquired and owned after April 1, 1941, by any~~
18 ~~nonprofit college or university used for educational purposes, including student~~
19 ~~housing, and not used for general commercial purposes shall for municipal tax~~
20 ~~purposes only be set to such institution in the grand list of the town or city in~~

1 ~~which such real property is located at the value fixed in the appraisal next~~
2 ~~preceding the date of acquisition of such property and taxed on such valuation.~~

3 (3) The voters of any town or city may at any legal meeting thereof vote
4 to exempt property listed in ~~subdivision (1) of this subsection from all taxes or~~
5 ~~property listed in subdivision (2) from municipal taxes~~ this subsection either in
6 whole or in part. Except as provided under subsection (c) of this section, the
7 value fixed on such property at such appraisal shall not be increased so long as
8 the property is owned and used by such institution for other than commercial
9 and investment purposes, whether or not improvements are made thereon.

10 (b) The provisions of subsection (a) of this section shall not exempt from
11 county, town, or school taxes, lands owned by a college, and leased “as long as
12 wood grows and water runs,” securing to the lessees the right of preemption,
13 unless such lands were chartered as sequestered for the benefit of the college or
14 became the property of the college prior to the organization of the town in
15 which they lie.

16 (c) In the event of a general reappraisal of all property in the municipality
17 completed after 1982, the appraisal value of property subject to subsection (a)
18 of this section shall first be changed to an amount which yields a municipal tax
19 liability (computed with reference to the tax rate applicable to the first tax year
20 based on the reappraisal) equal to the municipal tax liability for such property
21 for the tax year immediately preceding the reappraisal; provided that in the

1 event the tax liability imposed on the majority of all taxable properties in the
2 municipality increases in the first tax year based on the reappraisal, then any
3 appraisal value of property subject to subsection (a) of this section shall be
4 further changed to an amount that yields the tax liability computed above
5 adjusted by the average percentage increase or decrease in the tax liability of
6 all taxable properties in the municipality.

7 (d) As used in this section, the term “fraternity” shall also mean “sorority.”

8 Sec. 7. 32 V.S.A. § 3831a is added to read:

9 § 3831a. COLLEGE AND UNIVERSITY PROPERTY

10 (a) A town and a nonprofit college or university shall negotiate an
11 agreement for payment to the town for municipal services. The amount of the
12 payment shall be based upon the value of town services and benefits provided
13 or available to the college or university offset by the value of the services and
14 benefits provided to the community by the college or university that reduce the
15 cost of providing municipal services.

16 (b) An agreement under this section may be for a period of no longer than
17 10 years. The college or university and the town shall negotiate a new
18 agreement by April 1 of a taxable year for which there is no agreement under
19 this section.

20 (c) If the parties are unable to reach an agreement as described in this
21 section by April 1, then the parties shall enter into mediation under the

1 American Arbitration Association rules of mediation. If by the following
2 June 1 the parties are unable to select a mediator and to reach a payment
3 agreement, the parties shall submit the issue for binding arbitration under the
4 Vermont Arbitration Act. If the parties are unable to agree upon selection of
5 an arbitrator by June 10, then a court shall appoint an arbitrator as provided
6 under 12 V.S.A. § 5675. The determination of a fee through mediation or
7 arbitration shall be based upon:

8 (1) a finding of the value of town services and benefits provided or
9 available to the college or university; and

10 (2) a finding of the value of the services and benefits provided to the
11 community by the college or university which reduce the cost of providing
12 municipal services. The cost of mediation and arbitration shall be paid
13 one-half by the town and one-half by the college or university.

14 (d) If the arbitrator determines that the town has failed to participate as
15 necessary to reach a fee determination in arbitration, the college or university
16 shall not be required to make any payment to the town for municipal services
17 until such time as an agreement or fee determination is reached.

18 (e) If the arbitrator determines that the college or university has failed to
19 participate as necessary to reach a fee determination in arbitration, the college
20 or university shall pay to the town a fee for municipal services of 50 percent of
21 the town's current rate of tax authorized under 17 V.S.A. § 2664, on all

1 buildings exempt under subdivision 3802(4)(D) of this title. The fee shall be
2 applied to the estimated current cost of replacing the buildings, depreciated by
3 the age and condition of the buildings.

4 (f) An agreed payment under subsection (a) or (b) of this section or a fee
5 determined under subsection (c) or (e) of this section shall be a lien upon the
6 college or university real property, and the enforcement provisions and powers
7 of 24 V.S.A. § 3504(a), (b), and (d) shall apply in like manner to the payment
8 agreement or fee.

9 Sec. 8. REPORT

10 By January 15, 2015, the Vermont League of Cities and Towns and the
11 Association of Vermont Independent Colleges shall each submit a written
12 report to the House Committee on Ways and Means evaluating and proposing
13 any recommended changes to the procedure for property tax agreements and
14 fees as specified in Sec. 9 of this act.

15 * * * Conforming Changes * * *

16 Sec. 9. 32 V.S.A. § 3431(a) is amended to read:

17 (a) Each lister shall take and subscribe and file in the town clerk's office,
18 before entering upon the duties of his or her office, the following oath; and the
19 oath as subscribed shall be recorded in the town clerk's office:

20 "I, _____, do solemnly swear (or affirm) that I will appraise all the
21 personal property subject to taxation and all the real property subject to

1 ~~taxation~~ in the town (or city) of _____, so far as
2 required by law, at its fair market value, will list the same without
3 discrimination on a proportionate basis of such value for the grand list of such
4 town (or city), will set the same in the grand list of such town (or city) at one
5 ~~per cent~~ percent of the listed value and will faithfully discharge all the duties
6 imposed upon me by law. So help me God.” (or, “under the pains and
7 penalties of perjury.”)

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

9 § 3659. MUNICIPAL LANDS

10 Land and buildings of a municipal corporation, whether acquired by
11 purchase or condemnation and situated outside ~~of~~ its territorial limits shall be
12 taxed by the municipality in which such land is situated. ~~Said~~ Such land shall
13 be set to ~~such~~ the municipal corporation that owns it in the grand list of the
14 town or city in which ~~such~~ the real estate is located at the value fixed in the
15 appraisal next preceding the date of acquisition of ~~such~~ the property and taxed
16 on ~~such~~ its valuation. The value fixed on such property at each appraisal
17 thereafter shall be the same per acre as the value fixed on similar property in
18 the town or city. Improvements made subsequent to the acquisition of the
19 land, and used for municipal purposes and not used for general commercial
20 purposes, shall not be taxed; except that an additional tax not to exceed 75
21 percent of the appraisal of the land may be levied in lieu of a personal property

1 tax. ~~Electric utility poles, lines and pole fixtures owned by a municipal utility~~
2 ~~lying beyond its boundaries shall be taxed at appraisal value as defined in~~
3 ~~section 3481 of this title~~ Fixtures extending beyond the boundaries of the
4 municipality shall be taxed at appraisal value as defined in section 3481 of this
5 title.

6 Sec. 11. 32 V.S.A. § 4152(a) is amended to read:

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

10 (1) In alphabetical order, the name of each real property owner and each
11 owner of taxable personal property;

12 (2) The last known mailing address of all such owners;

13 (3) A brief description of each parcel of taxable and tax-exempt real
14 estate in the town. "Parcel" means all contiguous land in the same ownership,
15 together with all improvements thereon;

16 (4) The listed valuation of such owner's personal estate taxable in the
17 town; and for property exempted under the provisions of sections 3834, 3836,
18 3837, and 3838 of this title, what the full listed value of the property would be
19 absent the exemption, the statutory authority for granting such exemption, the
20 year in which the exemption became effective, and the year in which it ends;

21 (5) The listed valuation of each parcel ~~which~~ that is not exempt;

1 (6) For those parcels ~~which~~ that are exempt, what the full listed value of
2 the property would be absent the exemption and the statutory authority for
3 granting such exemption and, for properties exempt pursuant to a vote, the year
4 in which the exemption became effective, and the year in which the exemption
5 ends;

6 (7) For those parcels appraised under the provisions of sections 3607a,
7 ~~subdivisions 3832(1), (6), and (7) 3832, and sections 3836, 3840, 3845, or~~
8 3847 of this title, the value ~~which~~ that reflects the taxes to be paid on the
9 property, the full listed value absent such appraisal, the statutory authority for
10 granting such appraisal, the year in which such appraisal became effective, and
11 the year in which it ends;

12 (8) The full listed value and the stabilization value agreed to by an
13 owner and a town pursuant to 24 V.S.A. § 2741 or section 3843 or 3846 of this
14 title, the year in which the stabilization agreement became effective, and the
15 year in which it ends; and

16 (9) Separate columns ~~which will~~ that show the listed valuations of
17 homesteads as defined in subdivision 5401(7) of this title and housesites as
18 defined under subdivision 6061(11) of this title.

19 Sec. 12. 32 V.S.A. § 4404(a) is amended to read:

20 (a) Within 14 days after the date of notice thereof a person aggrieved by the
21 final decision of the listers under the provisions of section 4221 of this title,

1 including a determination as to exempt status, may appeal in writing therefrom
2 to the ~~board of civil authority~~ Board of Civil Authority, by lodging his or her
3 appeal with the town clerk, who shall record the same in the book containing
4 the abstract of individual lists. The grounds upon which such appeal is based
5 shall therein be briefly set forth.

6 * * * Repeals * * *

7 Sec. 13. REPEALS

8 (a) The following sections are repealed on January 1, 2016:

9 (1) 32 V.S.A. § 3840 (charitable and fraternal organizations).

10 (2) 32 V.S.A. § 5401(10)(F) (municipal property); and

11 (3) 32 V.S.A. § 5404a(a)(4) (nonprofit fire, ambulance, and rescue
12 organizations).

13 (b) 32 V.S.A. § 3832(a)(2) (education property tax exemption for college
14 and university property) is repealed on January 1, 2017.

15 * * * Effective Dates * * *

16 Sec. 14. EFFECTIVE DATES

17 This act shall take effect on January 1, 2016 and apply to grand lists for
18 2016 and after, except:

19 (1) Sec. 3 (certificate of public use) shall take effect on July 1, 2015.

20 (2) Sec. 8 (report on municipal service fees) shall take effect on passage.

1 (3) Secs. 5 and 6 (college and university property) shall take effect on
2 January 1, 2017 and apply to the grand list for 2017 and after.

3 (4) Sec. 7 (college and university fee agreements) shall take effect on
4 January 1, 2017 and apply for property year 2017 and later; provided however,
5 that for any nonprofit college or university which has an agreement with a
6 town for payment in lieu of taxes which is in effect on January 1, 2017.

7 (5) Sec. 7 shall not apply until the termination of the agreement in
8 subdivision (4) of this section without extension or renewal.