

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 954  
3 entitled “An act relating to miscellaneous tax provisions” respectfully reports  
4 that it has considered the same and recommends that the Senate propose to the  
5 House that the bill be amended as follows:

6 First: In Sec. 12, 32 V.S.A. § 9248, by striking out the section in its entirety  
7 and inserting in lieu thereof:

8 Sec. 12. [Deleted.]

9 Second: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and  
10 inserting in lieu thereof the following:

11 Sec. 19. 32 V.S.A. § 5825a is amended to read:

12 § 5825a. CREDIT FOR VERMONT HIGHER EDUCATION

13 INVESTMENT PLAN CONTRIBUTIONS

14 (a) A taxpayer of this State, including each spouse filing a joint return,  
15 shall be eligible for a nonrefundable credit against the tax imposed under  
16 section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary,  
17 contributed by the taxpayer during the taxable year to a Vermont ~~higher~~  
18 ~~education investment plan~~ Higher Education Investment Plan account under 16  
19 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by  
20 the Vermont Student Assistance Corporation to the participant.

1 (b) A taxpayer who has received a credit under subsection (a) of this  
2 section shall repay to the Commissioner 10 percent of any distribution from a  
3 higher education investment plan account, ~~which distribution is not used~~  
4 ~~exclusively for costs of attendance at an approved postsecondary education~~  
5 ~~institution as defined in 16 V.S.A. § 2822(6)~~, up to a maximum of the total  
6 credits received by the taxpayer under subsection (a) of this section minus any  
7 amount of repayment of such credits in prior tax years except when the  
8 distribution:

9 (1) is used exclusively for costs of attendance at an approved  
10 postsecondary education institution as defined in 16 V.S.A. § 2822(6);

11 (2) qualifies as an expense associated with a registered apprenticeship  
12 program pursuant to 26 U.S.C. § 529(c)(8);

13 (3) qualifies as an education loan repayment pursuant to 26 U.S.C. §  
14 529(c)(9); or

15 (4) is made after the death of the beneficiary or after the beneficiary  
16 becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C.  
17 § 72.

18 (c) Repayments under ~~this~~ subsection (b) of this section shall be subject to  
19 assessment, notice, penalty and interest, collection, and other administration in  
20 the same manner as an income tax under this chapter.

1 Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

2 \* \* \*

3 § 2876. DEFINITIONS

4 As used in this subchapter, except where the context clearly requires  
5 another interpretation:

6 (1) “Beneficiary” means any individual designated by a participation  
7 agreement to benefit from payments for qualified postsecondary education  
8 costs ~~at an institution of postsecondary education.~~

9 (2) “Benefits” means the payment of qualified postsecondary education  
10 costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during~~  
11 ~~the beneficiary’s attendance at an institution of postsecondary education~~ from a  
12 participant’s investment plan account.

13 (3) “Corporation” means Vermont Student Assistance Corporation.

14 (4) “Internal Revenue Code” means the federal Internal Revenue Code  
15 of 1986, as amended, together with the regulations promulgated ~~thereunder~~  
16 pursuant to that Code.

17 (5) “Qualified postsecondary education costs” means the ~~qualified costs~~  
18 ~~of tuition and fees and other expenses for attendance at an approved~~  
19 ~~postsecondary education institution~~ costs of tuition and fees for attendance at  
20 an approved postsecondary education institution, and other qualified higher  
21 education expenses as provided under 26 U.S.C. § 529.

1           (6) “Approved postsecondary education institution” means a  
2 postsecondary education institution as defined in section 2822 of this title.

3           (7) “Vermont Higher Education Investment Plan” or “Investment Plan”  
4 means ~~the program~~ one or more plans created pursuant to this subchapter.

5           (8) “Participant” means a person who has entered into a participation  
6 agreement pursuant to this subchapter intended for the ~~advance~~ payment of  
7 qualified postsecondary education costs on behalf of a beneficiary.

8           (9) “Participation agreement” means an agreement between a participant  
9 and the Corporation, pursuant to and conforming with the requirements of this  
10 subchapter.

11 § 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN

12           CREATED

13           (a) There is created a program of the State to be known as the Vermont  
14 Higher Education Investment Plan and a trust for that purpose to be  
15 administered by the Vermont Student Assistance Corporation as an  
16 instrumentality of the State. The program may consist of one or more different  
17 investment plans, including one or more plans that may be offered to a  
18 participant only with the assistance of a qualified financial advisor.

19           (b) In order to establish and administer the Investment Plan, the  
20 Corporation, in addition to its other powers and authority, shall have the power  
21 and authority to:

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(2) Enter into agreements with any ~~institution of~~ approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of ~~the~~ an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys~~ monies from the State; any unit of federal, State, or local government; or any other person, firm, partnership, or corporation for ~~deposit~~ contribution to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment ~~structures~~ options for participants.

(7) Make payments ~~to institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.



1 shall reference the relevant expenses and other pertinent information about the  
2 account.

3 \* \* \*

4 (4) A participation agreement shall clearly and prominently disclose to  
5 participants the risks associated with ~~depositing monies with the Corporation~~  
6 the various investment options available under the applicable Investment Plan.

7 (5) Participation agreements shall be organized and presented in a way  
8 and with language that is easily understandable by the general public. A  
9 participation agreement shall clearly and prominently disclose to participants  
10 that the Corporation, the State, and any other governmental entity are not liable  
11 for, nor guarantee the return of or on the participant's contributions to an  
12 Investment Plan. A participation agreement shall also clearly and prominently  
13 disclose to participants the existence of any load charge or similar charge  
14 assessed against the accounts of the participants for administration, operation,  
15 or services. No fee or similar charge may be imposed with regard to an  
16 investment managed by the Corporation. Any fee, load, or similar charge with  
17 regard to any investment not managed by the Corporation shall be no greater  
18 than the cost determined by the Corporation to be required to administer the  
19 investment. The cost of originating and servicing any education loans made or  
20 acquired pursuant to participation agreements shall not be considered as load  
21 charges or similar charges.

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§ 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN;  
INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing~~ contributing funds into an account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

§ 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be ~~deposited~~ credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, ~~for payments to any institution of postsecondary education~~ including for payments of qualified postsecondary education costs.



1 The trust shall continue in existence as long as it holds any funds belonging to  
2 a participant.

3 \* \* \*

4 § 2879c. TAX EXEMPTION

5 \* \* \*

6 (b) Contributions to an account held under ~~the~~ a Vermont Higher Education  
7 Investment Plan that is provided directly by the Corporation to a participant  
8 shall be eligible for a credit against Vermont income tax as provided under 32  
9 V.S.A. § 5825a.

10 § 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

11 The assets of the Vermont Higher Education Investment Plan shall at all  
12 times be held in trust for the benefit of the participant, shall not be commingled  
13 with any other funds of the Corporation or the State, shall be preserved,  
14 invested, and expended solely and only for the purposes set forth in this  
15 chapter and in accordance with the participation agreements, and no property  
16 rights therein shall exist in favor of the Corporation or the State. Amounts held  
17 in, or withdrawn from, a participant's Investment Plan account under a  
18 participation agreement shall not be subject to liens, attachment, garnishment,  
19 levy, seizure, claim by creditors of the contributors, participants, or any  
20 beneficiary, or subject to any involuntary sale, transfer, or assignment by any

1 execution or any other legal or equitable operation of law, including  
2 bankruptcy or insolvency laws.

3 \* \* \*

4 Third: By inserting a Sec. 25a to read as follows:

5 Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

6 (a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to  
7 the Department for collection under the procedure established by this chapter.  
8 This setoff debt collection remedy is in addition to and not in substitution for  
9 any other remedy available by law.

10 Fourth: By inserting before the reader assistance heading new Secs. 27 and  
11 28 and their reader assistance headings to read as follows:

12 \* \* \* Land Use Change Tax Lien Subordination \* \* \*

13 Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

14 Sec. 109. REPEALS

15 (a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is  
16 repealed on July 1, 2020.

17 \* \* \*

18 \* \* \* Interest Rate; Overpayments and Underpayments \* \* \*

19 Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

20 (a) Not later than December 15 of each year, the Commissioner shall  
21 establish an annual rate of interest applicable to unpaid tax liabilities and tax

1 overpayments that shall be equal to the average prime rate charged by banks  
 2 during the immediately preceding 12 months commencing on October 1 of the  
 3 prior year, rounded upwards to the nearest quarter percent. ~~Not later than~~  
 4 ~~December 15 of each year, the Commissioner shall establish an annual rate of~~  
 5 ~~interest applicable to unpaid tax liabilities, which in each instance shall be~~  
 6 ~~equal to the annual rate established for tax overpayments plus 200 basis points.~~  
 7 The ~~rates~~ rate established hereunder shall be effective on January 1 of the  
 8 immediately following year. As used in this section, the term “prime rate  
 9 charged by banks” shall mean the average predominate prime rate quoted by  
 10 commercial banks to large businesses as determined by the Board of  
 11 Governors of the Federal Reserve Board.

12 And by renumbering the remaining section to be numerically correct.

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18 (Committee vote: \_\_\_\_\_)

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 Senator \_\_\_\_\_  
 FOR THE COMMITTEE