



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

TO: Senate Committee on Finance
FROM: Tim Ashe, Deputy State Auditor, Vermont State Auditor's Office
Tanya Morehouse, Chief Auditor, Vermont State Auditor's Office
DATE: January 19, 2022
RE: Testimony S.169 An act relating to education property tax overpayment by a municipality or school district

- I. **Equity:** Municipalities with TIF districts that have *underpayed* the Education Fund due to errors in records or miscalculations are rightly expected to repay these amounts. Therefore, it's fair to provide a refund mechanism for municipalities when clerical/administrative errors or miscalculations lead to *overpayments* of statewide education property taxes.

For example, in our 2020 audit of Hartford's TIF district, we recommended that Hartford repay the Education Fund \$2,200 for errors in records that led to underpayments to the Education Fund in FY2018 and FY2019. Our Barre audit discovered errors resulting in an overpayment. The language in Section 1 would reconcile Barre's overpayment.

Technical note: We are not sure what "not later than fiscal year 2023" means. It would be clearer to simply provide a date by which Barre must receive the funds.

- II. **Oversight:** Periodic reporting of refunds is an appropriate oversight mechanism but annually and prior to issuance may not be necessary.

The new authority granted in Section 2 would allow the Secretary to refund monies from the Education Fund in certain overpayment scenarios (like Barre's). Unless the Committee envisions a legislative process that, on a case-by-case basis, would block that authority, it is not clear why the Agency would be prohibited from refunding the monies until after submitting a report to the General Assembly.

Additionally, rather than requiring an annual report to the whole General Assembly, a more timely and well-directed notification process might be a simple requirement that Senate Finance Committee and the House Ways and Means Committee be informed whenever a refund is issued, including explanations for the errors/miscalculations that caused the refunds to occur and, if relevant, corrective actions to be taken to prevent the errors from occurring in the future.

Another alternative is to provide the Agency of Education with authority to process up to a certain amount of refunds which would limit the impact on the Education Fund and eliminate the need for annual reporting to the Legislature.

Technical note: We are not sure what “Annually, on or before June 30” achieves on the first line of Page 3 of the bill. If the authority is being granted, we assume the Committee intends to allow the refund to happen as it is detected, not on some fixed annual schedule.

III. Existing mechanism for a related issue/potential complication for TIF districts: In instances when a municipality’s property list value is reduced due to an appeal subsequent to the determination of the municipality’s education tax liability, [32 V.S.A. §5412](#) authorizes Property Valuation and Review (PVR) in the Department of Taxes to reduce the municipality’s education tax liability. The reduction is handled as a credit to the following year’s education tax liability rather than payment of a refund.

For municipalities with TIF districts that overpaid statewide education property taxes because of reductions in property value due to property tax appeals and errors or miscalculations, quantifying the amount of the credit and refund could be complicated.

You may want to hear from PVR on this in case they believe they should be consulted with prior to certain Education Fund refunds.