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Fiscal Note

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H.397 – An act relating to miscellaneous amendments to the statutes governing emergency management and flood response

As passed by the House of Representatives[1,i]

Bill Summary

This bill proposes numerous amendments to the statutes governing emergency management. As passed by the House, the bill would (among other things):

- Enact the Voluntary Buyout and Municipal Grand List Stabilization Programs for flood-prone properties;
- Grant additional fiscal authority to municipalities;
- Modify the allocation of Local Option Tax revenue between municipalities and the State; and
- Expand eligibility for flood abatement of education property taxes.

This bill would cost $550,000 to the PILOT Special Fund and approximately $520,000 to the Education Fund in fiscal year 2026.

Fiscal Impact

The Municipal Grand List Stabilization Program in Section 5 would cost $550,000 to the PILOT Special Fund in each of the initial five years, beginning in fiscal year 2026.

Section 13b would extend the eligibility for reimbursement for flood-related abatement of education property taxes to include eligible properties lost or destroyed in federally declared disaster areas between July 1, 2023 and December 21, 2024. A similar abatement reimbursement enacted in Act 82 (2024) covered eligible properties lost or destroyed between July 1, 2023 and October 15, 2023 and cost approximately $520,000 in forgone revenue to the Education Fund in fiscal year 2025. Pending further analysis, JFO assumes the impact of this extension would follow a similar scale.

Background and Details

The following sections of the bill have a fiscal impact:

Sections 3-5: Voluntary Buyout Program and Municipal Grand List Stabilization Program

Section 3 would direct Vermont Emergency Management and the Agency of Commerce and Community Development (ACCD) to establish and maintain the Voluntary Buyout Program for flood-prone properties.

[1] *The Joint Fiscal Office (JFO) is a nonpartisan legislative office dedicated to producing unbiased fiscal analysis – this fiscal note is meant to provide information for legislative consideration, not to provide policy recommendations.*

The Program would allow a municipality, at the request of the owner of a flood-prone property, to apply for funding to cover the purchase price (full fair market value) of the property. A municipality may transfer or redevelop the acquired property for purposes of constructing flood-resilient housing.

Section 5 would establish the Municipal Grand List Stabilization Program to reimburse municipalities for the value of forgone municipal property taxes associated with the flood-prone properties acquired by a municipality through the Voluntary Buyout Program created in Section 3, or a prior voluntary buyout program operated by Vermont Emergency Management. Section 4 would amend Title 32 to enable the Municipal Grand List Stabilization Program to be funded from the PILOT Special Fund.

On or before September 1 of each year, the Commissioner of Public Safety would be required to certify eligible properties to the Commissioner of Taxes along with any other information required by the Commissioner. To be eligible for reimbursement, a municipality must have acquired an eligible property on or after July 1, 2023 and preserved the property as public open space with a deed restriction or covenant prohibiting development of the property.

The Commissioner of Taxes would be required to certify payment amounts to the Secretary of Administration, who would then make an annual payment to each municipality for each eligible property to compensate for the loss of municipal property tax. The payment would be calculated using the grand list value of the acquired property for the year during which the property was either damaged by flooding or identified as flood-prone by the Commissioner of Public Safety, multiplied by the municipal tax rate, including any submunicipal tax rates, in effect each year. This payment would be made on or before January 1 of each year for five years, after which a municipality would be eligible for payments equal to one-half of the initial annual payments for up to five subsequent years. A property would not be eligible for reimbursement payments for more than 10 years.

Payments for the Municipal Grand List Stabilization Program would come from the PILOT Special Fund and be disbursed only after all other requirements of subchapter 4 are met (the payment of PILOT funds to municipalities for State-owned properties). If the PILOT Special Fund balance is insufficient to pay the full amount of all payments authorized under the Program, then payments would be reduced proportionately.

Sections 10-11: Municipal Finance and Indebtedness

The following sections pertain to municipal finance but do not have a direct impact on the State budget:

<u>Section 10: Unassigned Fund Balance</u>

Section 10 would amend Title 24 to stipulate that funds in a voter-approved municipal budget that remain unexpended at the end of the fiscal year shall be under the control and direction of the legislative body of the municipality and may be carried forward from year to year as an unassigned fund balance. Unassigned fund balances could be invested and reinvested and expended for any public purpose as established by the legislative body of the municipality. This language could give municipalities greater flexibility and ability to establish reserves to meet future emergency or other needs. Unassigned fund balances are generally viewed as credit positives and fiscal best practices.

<u>Section 11: Emergency Borrowing Authority</u>

Section 11 would amend Title 24 to permit municipalities to borrow money by issuance of its notes or orders for the purpose of paying municipal expenses or public improvements associated with an all-hazards event or a declared state of emergency. The notes or orders shall be for a period of not more than five years or a term not to exceed the reasonably anticipated useful life of the improvements or assets financed by the notes or orders. Under current law, municipalities are limited to borrowing for up to one year without a town vote. This language would give municipalities the ability to borrow, on a limited basis, in emergency situations for up to five years without requiring voter approval in advance.

Section 13a: Local Option Tax Revenue Share

Under current law, local option tax (LOT) revenue is allocated 70 percent to the municipality and 30 percent to the PILOT Special Fund.[2] The cost of the $5.96 per-return fee paid to the Department of Taxes is similarly allocated 70/30. Section 13a would amend the revenue allocation and per-return fee cost from LOTs to increase the share allocated to municipalities to 75 percent, and reduce the share allocated to the PILOT Special Fund to 25 percent. Sections 14, 14a, 14b, and 14c would make conforming amendments to four municipal charters (Burlington, Montpelier, Middlebury, and Williston) to reference the revised 75/25 allocation.

Section 13b: Flooding Education Property Tax Abatement Program

Section 13b would extend reimbursement to municipalities for certain State education property tax payments if the municipality granted State education property tax abatements to property owners for damage caused by severe storms and flooding. For a municipality to qualify, it must have abated, in proportion to the municipal tax it abated, the State education property taxes assessed on eligible property after the application of any property tax credit. Under current law, eligible property refers to property lost or destroyed by severe storms and flooding in an area that was declared a federal disaster between July 1, 2023 and October 15, 2023. This section would extend this reimbursement to property damaged in an area declared a federal disaster through December 31, 2024.

For a property to be eligible for reimbursement, the storm or flooding must have resulted in at least one of the following:

- 50% or greater loss in value to the primary structure on the property;
- Loss of use by the property owner of the primary structure on the property for 60 days or more;
- Loss of access by the property owner to utilities for the primary structure on the property for 60 days or more; or
- Condemnation of the primary structure on the property under federal, State, or municipal law.

The section would also extend a current provision of law that reimbursed flood impacted municipalities for unanticipated interest expenses on funds borrowed to make State education property tax payments, up to an eight percent interest rate. This provision would be extended to areas with federal disaster declarations through December 31, 2024.

Summary of Fiscal Impacts

<u>Municipal Grand List Stabilization Program</u>

According to data from Vermont Emergency Management, since July 1, 2023, 227 properties have been submitted on applications for the State-managed buyout process. The approximate municipal property tax value of those properties is estimated at approximately $550,000 per year in the initial five-year period of the program when municipalities would be reimbursed at the full tax value of buyout properties as proposed. Two competing pressures could influence this estimate. First, the buyout program is voluntary and some applicants may drop out of the program before the municipality closes on the transfer of property. This would decrease the annual cost of the program. On the other hand, municipalities may offer to buy out additional properties once lost property tax value is reimbursed through the proposed program. This pressure could drive up the cost of the program in future years, but it is unlikely in the near term, as the program only reimburses municipalities once they own flood-prone property and it takes time to complete transfers under federal grant programs.

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[2] The revenue from LOT on jet fuel sales is allocated 70% to the municipality and 30% to the Transportation Fund. Federal regulations restrict the use of revenues on aviation fuels to aviation-related purposes. The bill does not propose to change the current allocation of LOT revenue on aviation jet fuel sales.

While this bill does not appropriate or transfer any funds to support this Program, the House-passed fiscal year 2026 appropriations act (H.493) would appropriate $1 million from the PILOT Special Fund for this Program (consistent with the Governor's recommendation). Under current law, the PILOT Special Fund, which makes payments to municipalities for the value of State-owned buildings, receives revenue from 30% of LOT collections. Broader macroeconomic trends and an increase in the number of municipalities adopting LOTs have substantially increased revenue going into the Fund. In fiscal year 2024, the difference between Fund revenue ($14.9 million) and expenses ($11.6 million) was over $3.3 million. The Fund had a balance of $10.3 million at the end of fiscal year 2024 and a structural surplus that can accommodate this expense in future years.

Local Option Tax

The proposed shift in revenue and per-return fee cost allocation between municipalities and the PILOT Special Fund would result in an increase of revenue allocated to municipalities with LOTs by approximately $2.8 million, and a corresponding reduction of revenue to the PILOT Special Fund (see Table 1).

Table 1: **Estimated FY 2026 LOT Revenue with Proposed Allocation Changes**

($ in millions)

	Total LOT Revenue	Municipal Revenue Share	PILOT Fund Share	Return Fee to Tax Dept
Current – 70% Allocation to Towns	$59.18	$39.24	$16.82	$3.13
Proposed – 75% Allocation to Towns	$59.18	$42.04	$14.01	$3.13

The Governor's recommended fiscal year 2026 budget appropriates $12.2 million from the PILOT Special Fund for base PILOT appropriations. Due to recent legislative changes, more municipalities could adopt LOTs in the future which would lead to continued growth in LOT revenues, which would increase revenue to municipalities and the PILOT Special Fund. The reduced allocation to the PILOT Special Fund, therefore, is expected to still result in sufficient revenues to fully fund base PILOT payments.

Flooding Education Property Tax Abatement Program

According to data from the Department of Taxes, when the original program was enacted in 2024, the cost of the abatement was approximately $520,000 to the Education Fund in fiscal year 2025. Pending further analysis, JFO assumes the impact of the extension included in this bill would be of similar scale to the original cost of the abatement. Absent any other changes in policy, this expense will need to be accounted for when calculating the statewide homestead property yield and/or the nonhomestead property tax rate.

[i] *The bill as introduced can be found here: https://legislature.vermont.gov/Documents/2026/Docs/BILLS/H-0397/H-0397%20As%20Introduced.pdf The full fiscal note history is available on the fiscal tab of the bill page on the General Assembly website and can be pulled up through a bill number search on the JFO page.*