

No. 143. An act relating to miscellaneous tax changes for 2012.

(H.782)

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

* * * Administrative Provisions * * *

Sec. 1. 10 V.S.A. § 1942(b) is amended to read:

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this state ~~and not used to propel a motor vehicle~~, a licensing fee of one cent per gallon of such heating oil, kerosene, or other dyed diesel fuel.

This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233 ~~of Title 32~~, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund established pursuant to subsection 1941(a) of this title.

The secretary, in consultation with the petroleum cleanup fund advisory committee established pursuant to subsection 1941(e) of this title, shall annually report to the legislature on the balance of the heating fuel account of the fund and shall make recommendations, if any, for changes to the program.

The secretary shall also determine the unencumbered balance of the heating fuel account of the fund as of May 15 of each year, and if the balance is equal to or greater than \$3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The secretary shall promptly notify all sellers

assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate April 1, 2016.

Sec. 2. PETROLEUM CLEANUP FUND OUTREACH

The secretary of agriculture, food and markets shall publish or broadcast in media designed to reach a farming audience information advising Vermont farmers of the existence of the petroleum cleanup fund under 10 V.S.A. chapter 59 and the terms of available assistance to farmers from that fund. The secretary shall publish or broadcast this information no fewer than four times each year.

Sec. 3. 14 V.S.A. § 3502(f) is added to read:

(f) Notwithstanding any other provision of law, a power of attorney appointing a representative to represent a person before the Vermont department of taxes that conforms to the requirements of the U.S. Internal Revenue Service for a valid power of attorney and declaration of representative pursuant to 25 C.F.R. § 601.503 shall be deemed to be legally executed and shall be of the same force and effect for purposes of representation before the department of taxes as if executed in the manner prescribed in this chapter.

Sec. 4. 32 V.S.A. § 3102(e) is amended to read:

(e) The commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any

confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(14) to the office of the state treasurer, only in the form of mailing labels, with only the last address known to the department of taxes of any person identified to the department by the treasurer by name and Social Security number, for the treasurer's use in notifying owners of unclaimed property; and

(15) to the department of liquor control, provided that the information is limited to information concerning the sales and use tax and meals and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license.

Sec. 5. 32 V.S.A. § 3102(j) and (k) are added to read:

(j) Tax bills prepared by a municipality under subdivision 5402(b)(1) of this title showing only the amount of total tax due shall not be considered confidential return information under this section. For the purposes of calculating adjustments under chapter 154 of this title, information provided by the commissioner to a municipality under subsection 6066a(a) of this title and information provided by the municipality to a taxpayer under subsection 6066a(f) shall be considered confidential return information under this section.

(k) Notwithstanding subsection (j) of this section, the commissioner or a municipal official acting as his or her agent may provide the information in subsection 6066a(f) of this title to the following people without incurring liability under this section:

(1) an escrow agent, the owner of the property to which the adjustment applies, a town auditor, or a person hired by the town to serve as an auditor;

(2) a lawyer, including a paralegal or assistant of the lawyer, an employee or agent of a financial institution as that term is defined in 8 V.S.A. § 11101, an employee or agent of a credit union as that term is defined in 8 V.S.A. § 30101, a realtor, or a certified public accountant as that term is defined in 26 V.S.A. § 13(12) who represents that he or she has a need for the information as it pertains to a real estate transaction or to a client or customer relationship; and

(3) any other person as long as the taxpayer has filed a written consent to such disclosure with the municipality.

Sec. 6. 32 V.S.A. § 3205(b) is amended to read:

(b) The taxpayer advocate shall have the following functions and duties:

(1) identify subject areas where taxpayers have difficulties interacting with the department of taxes;

(2) identify classes of taxpayers or specific business sectors who have common problems related to the department of taxes;

(3) propose solutions, including administrative changes to practices and procedures of the department of taxes;

(4) recommend legislative action as may be appropriate to resolve problems encountered by taxpayers;

(5) educate taxpayers concerning their rights and responsibilities under Vermont's tax laws; ~~and~~

(6) educate tax professionals concerning the department of taxes regulations and interpretations by issuing bulletins and other written materials; and

(7) assist individual taxpayers in resolving disputes with the department of taxes.

Sec. 7. TAXPAYER STATEMENT OF RIGHTS

By January 15, 2013, the taxpayer advocate shall propose to the senate committee on finance and the house committee on ways and means a draft of a taxpayer's statement of rights. The draft language shall include a description of a taxpayer's existing rights and responsibilities under Vermont's tax laws and shall not be designed to expand any of those rights and responsibilities.

Sec. 8. 32 V.S.A. § 3206 is added to read:

§ 3206. RECOMMENDATION FOR EXTRAORDINARY RELIEF

(a) The taxpayer advocate may make a written recommendation for extraordinary relief to the commissioner under the provisions of this section.

A recommendation for extraordinary relief may be made only in response to a request from a taxpayer and after a thorough investigation of the taxpayer's circumstances by the taxpayer advocate which results in findings by the taxpayer advocate that:

(1) Vermont tax laws apply to the taxpayer's circumstances in a way that is unfair and unforeseen or that results in significant hardship; and

(2) the taxpayer has no available appeal rights or administrative remedies to correct the issue that led to such unfair result or hardship.

(b) For purposes of this section, "extraordinary relief" means a remedy that is within the power of the commissioner to grant under this title, a remedy that compensates for the result of inaccurate classification of property as homestead or nonresidential pursuant to section 5410 of this title through no fault of the taxpayer, or a remedy that makes changes to a taxpayer's property tax adjustment or renter rebate claim necessary to remedy the problem identified by the taxpayer advocate.

(c) Notwithstanding any other provision of law, if, in response to the taxpayer advocate's recommendation, the commissioner determines that the taxpayer should receive a refund or other monetary adjustment, the commissioner shall certify that amount to the commissioner of finance and management who shall issue his or her warrant in favor of the taxpayer for payment by the treasurer from the appropriate fund.

(d) A recommendation for extraordinary relief shall be in writing, shall be addressed to the commissioner, and shall include a description of the problem sought to be remedied along with specific recommendations to the commissioner. The taxpayer advocate's decision to make or not make a recommendation for extraordinary relief shall be final and not subject to review.

(e) The commissioner may choose to act on the recommendation of the taxpayer advocate, not act on the recommendation, or act on part of the taxpayer advocate's recommendation, and the commissioner's decision shall be final and not subject to any further review. Nothing in this section shall be construed to limit any other power or authority granted to the commissioner in this title.

Sec. 9. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2010~~ 2011, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 10. 32 V.S.A. § 6061(5)(A) is amended to read:

(5) "Modified adjusted gross income" means "federal adjusted gross income":

(A) before the deduction of any trade or business loss from a sole proprietorship, loss from a partnership, loss from a ~~small business~~ limited liability company or “subchapter S” corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain, and except that a business loss from a sole proprietorship may be netted against a business gain from a sole proprietorship, as long as the loss and the gain are incurred in the same tax year with respect to different business;

Sec. 11. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

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

* * *

Sec. 12. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on ~~January 1, 2009~~ December 31, 2011, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

- (1) the credit for state death taxes shall remain as provided for under Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;
- (2) the applicable credit amount shall remain as provided for under Section 2010 of the Internal Revenue Code as in effect on January 1, 2008; and
- (3) the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

Sec. 13. Sec. 1(c) of No. 71 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(c) Use. ~~Residents of the state of Vermont may display an approved commemorative plate on a motor vehicle registered as a pleasure car and on motor trucks registered~~ An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time

from the effective date of this act until June 30, 2014. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

Sec. 13a. 32 V.S.A. § 7702(6) is amended to read:

(6) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section) and as to which 1,000 units weigh not more than ~~three~~ four and one-half pounds.

* * * Compliance Provisions * * *

Sec. 14. 7 V.S.A. § 421(c) is amended to read:

(c) For the purpose of ascertaining the amount of tax, on or before the tenth day of each calendar month, each bottler and wholesaler shall transmit to the commissioner of taxes, upon a form prepared and furnished by the commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by the bottler or wholesaler during the preceding calendar month, and report any other information requested by the commissioner accompanied by payment of the tax required by this section. The amount of tax computed under subsection (a) of this section shall be rounded to the nearest whole cent. At the same time this form is due, each bottler and wholesaler also shall transmit to the commissioner in electronic format a separate report showing the description, quantity, and price of malt

and vinous beverages sold by the bottler or wholesaler to each retail dealer as defined in subdivision 2(18) of this title; provided, however, for direct sales to retail dealers by manufacturers or rectifiers of vinous beverages the report required by this subsection may be submitted in a nonelectronic format.

Sec. 15. 32 V.S.A. § 3108 is amended to read:

§ 3108. ESTABLISHMENT OF INTEREST RATE

(a) Not later than December 15 of each year, the commissioner shall establish a rate of interest applicable to ~~unpaid tax liabilities and tax overpayments~~ which shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest ~~whole~~ quarter percent. ~~The~~ An annual rate thus established ~~may~~ shall be converted to a monthly rate which shall be rounded upwards to the nearest tenth of a percent. Not later than December 15 of each year, the commissioner shall establish annual and monthly rates of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual and monthly rates established for tax overpayments plus 200 basis points. The ~~rate~~ rates established hereunder shall be effective on January 1 of the immediately following year. For purposes of this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the board of governors of the Federal Reserve ~~System~~ Board.

(b) Whenever the commissioner is authorized or directed to pay interest on an overpayment of any taxes, nevertheless no interest shall be paid on such overpayment:

(1) where the commissioner finds that such overpayment was made with the intention or expectation of receiving a payment of interest thereon and for no other reason;

(2) for any period of time prior to: 45 days after the date the return other than a corporate income tax return was due, including any extensions of time thereto; or 45 days after the return was filed, whichever is the later date, and with respect to corporate income tax returns, for any period of time prior to 90 days after the date the return was due or 90 days after the return was filed, whichever is the later date;

* * *

* * * Income Tax Provisions * * *

Sec. 16. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) ~~\$250.00 for all other corporations~~ For C corporations with gross receipts from \$0–\$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$300.00; or

(D) For C corporations with gross receipts from \$2,000,001.00–\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with gross receipts greater than \$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$750.00.

Sec. 17. 32 V.S.A. § 5920(g) is added to read:

(g)(1) Subsection (c) of this section shall not apply to a partnership or limited liability company engaged solely in the business of operating one or more federal new market tax credit projects in this state, provided such partnership or limited liability company shall:

(A) notify its nonresident partners or nonresident members of their obligation under subchapter 6 of this chapter to file Vermont personal income tax returns and under subchapter 2 of this chapter to pay a tax on income earned from such investment;

(B) instruct each nonresident partner or nonresident member to pay such tax; and

(C) in addition to filing copies of all schedules K-1 with its partnership or limited liability company return, file with the commissioner segregated duplicate copies of all nonresident schedules K-1.

(2) For purposes of this subsection, “federal new market tax credit project” means a business that is intended primarily to benefit low income Vermont residents throughout the period of investment and that is subject to the following:

(A) has been determined by the U.S. Department of the Treasury to be a community development entity;

(B) has been awarded an allocation of federal new market tax credits under 26 U.S.C. § 45D; and

(C) is a partnership or limited liability corporation which is a pass-through of the federal new market tax credit to the nonresident investor.

Sec. 18. 32 V.S.A. § 5930b(c)(9) is amended to read:

(9) Incentive claims must be filed annually no later than the last day of April of each year of the utilization period. For a claim to be considered a timely filing and eligible for an incentive payment, all forms and workbooks must be complete and all underlying documentation, such as that required pursuant to subsection 5842(b) of this title, must be filed with the department

of taxes. Incomplete claims may be considered to have been timely filed if a complete claim is filed within the time prescribed by the department of taxes. If a claim is not filed each year of the utilization period, any incentive installment previously paid shall be recaptured in accordance with subsection (d) of this section. The incentive return shall be subject to all provisions of this chapter governing the filing of tax returns. No interest shall be paid by the department of taxes for any reason with respect to incentives allowed under this section.

Sec. 19. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By ~~May 1, 2008~~ and by ~~May 1~~ September 1 each year ~~thereafter~~, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total ~~authorized award~~ amount of incentives ~~granted~~ authorized during the preceding year; ~~amounts actually earned and paid from inception of the program to the date of the report,~~ including ~~the date and amount of the award, the expected calendar year or~~

~~years in which the award will be exercised, whether the award is currently available, the date the award will expire, and the amount and date of all incentives exercised~~ and, with respect to each recipient, the date and amount of authorization, the calendar year or years in which the authorization is expected to be exercised, whether the authorization is active, and the date the authorization will expire. The joint report shall also include ~~information on recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the~~ following aggregate information: total number of claims and total incentive payments made in the current and prior claim years, the balance of credits not yet allocated, the aggregate number of qualifying new jobs created, the aggregate and qualifying payroll of those jobs and the identity of businesses whose applications were approved, and qualifying new capital investments. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form. Data and information in the joint report ~~made available to the public~~ shall be presented in a searchable format.

Sec. 20. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 2 of No. 52 of the Acts of 2011, is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act.

Unless extended by act of the General Assembly, as of July 1, ~~2012~~ 2017, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to July 1, ~~2012~~ 2017 may remain in effect until used.

Sec. 21. 32 V.S.A. § 5930u(g) is amended to read:

(g) In any fiscal year, the allocating agency may award up to \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects; and may award up to ~~\$100,000.00~~ \$300,000.00 per year for owner-occupied unit applicants. In any fiscal year, total first-year allocations plus succeeding-year deemed allocations shall not exceed ~~\$2,500,000.00~~ \$3,500,000.00.

Sec. 21a. EFFICIENCY USE OF CREDITS

It is the intent of the general assembly that housing purchased as the result of an allocation of credits in this act for owner-occupied units shall be as energy efficient as affordability, building design, and funding allow.

Sec. 22. 32 V.S.A. § 5930bb(d) is added to read:

(d) Notwithstanding any other provision of this subchapter, qualified applicants may apply to the state board at any time prior to June 30, 2013 to obtain a tax credit not otherwise available under subsections 5930cc(a)–(c) of this title of 10 percent of qualified expenditures resulting from damage caused by a federally declared disaster in Vermont in 2011. The credit shall only be claimed against the taxpayer’s state individual income tax under section 5822 of this title. To the extent that any allocated tax credit exceeds the taxpayer’s tax liability for the first tax year in which the qualified project is completed, the taxpayer shall receive a refund equal to the unused portion of the tax credit. If within two years after the date of the credit allocation no claim for a tax credit or refund has been filed, the tax credit allocation shall be rescinded and recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of tax credits available under this subsection shall not be more than \$500,000.00 and shall not be subject to the limitations contained in subdivision 5930ee(2) of this subchapter.

Sec. 23. CREDIT LIMIT FOR FISCAL YEAR 2013

Notwithstanding any other provision of law, for fiscal year 2013 only, the limitation provided in 32 V.S.A. § 5930ee(1) shall be \$2,200,000.00 instead of \$1,700,000.00.

Sec. 24. 32 V.S.A. § 9603(23) is amended to read:

(23) Transfers of leasehold or fee interests made to low income individuals by organizations qualifying under Section 501(c)(3) of the Internal Revenue Code of 1986 and having as its primary purpose the provision of housing to low income individuals, or from a wholly-owned subsidiary of such an organization, when such a transfer is made concurrently with the transfer of an improvement located on the leasehold or fee property, or is a renewal of such a lease where the purpose of the lease is to provide affordable housing, or to ensure the continued affordability of such housing, or both.

* * * Property Tax Adjustment and Renter Rebate Provisions * * *

Sec. 25. 32 V.S.A. § 5410(b) is amended to read:

~~(b)(4)~~ Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made ~~for property that was acquired by the declarant or was made the declarant's homestead after April 1 of the previous year. The declaration of homestead shall remain in effect until the earlier of:~~

~~(A) the transfer of title of all or any portion of the homestead; or~~

~~(B) that time that the property or any portion of the property ceases to qualify as a homestead.~~

~~(2) Within 30 days of the transfer of title of all or any portion of the homestead, or upon any portion of the property ceasing to be a homestead, the declarant shall provide notice to the commissioner on a form to be prescribed by the commissioner.~~

Sec. 25a. TRANSITION TO ANNUAL FILING

For 2013 only, as part of the requirement of annual homestead filings in Sec. 25 of this act, the commissioner shall take steps to publicize and conduct outreach regarding the change in filing requirements. In addition, for 2013 only, the commissioner may use his or her authority under 32 V.S.A. § 3201 to provide a remedy for a taxpayer who fails to file or files an inaccurate classification of property as homestead or nonresidential pursuant to section 5410 of this title, through no fault of the taxpayer.

Sec. 26. 32 V.S.A. § 6061(5)(D) is amended to read:

(D) without the inclusion of adjustments to total income except certain business expenses of reservists, one-half of self-employment tax paid, alimony paid, deductions for tuition and fees, ~~and~~ health insurance costs of self-employed individuals, and health savings account deductions; and

Sec. 27. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

(a) Annually, the commissioner shall determine the property tax adjustment amount under section 6066 of this title, related to a homestead owned by the claimant. The commissioner shall notify the municipality in which the housesite is located of the amount of the property tax adjustment for the claimant for homestead property tax liabilities, on July 1 for ~~timely-filed~~ timely filed claims and on ~~September 15~~ November 1 for late claims filed by ~~September 1~~ October 15. The tax adjustment of a claimant who was assessed property tax by a town which revised the dates of its fiscal year, however, is the excess of the property tax which was assessed in the last 12 months of the revised fiscal year, over the adjusted property tax of the claimant for the revised fiscal year as determined under section 6066 of this title, related to a homestead owned by the claimant.

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by ~~September 15~~ November 1 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~September 15~~ November 1 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

* * *

(2) For property tax adjustment amounts for which municipalities receive notice on or after ~~September 15~~ November 1, municipalities shall issue a new homestead property tax bill with notice to the taxpayer of the total amount allocated to payment of homestead property tax liabilities and notice of the balance due.

* * *

(g) Annually, on August 1 and on ~~September 15~~ November 1, the commissioner of taxes shall pay to each municipality the amount of property tax adjustment of which the municipality was notified on July 1 for the August 1 transfer, or ~~September 15~~ November 1 for the ~~September 15~~ November 1 transfer, related to municipal property tax on homesteads within that municipality, as determined by the commissioner of taxes.

Sec. 28. 32 V.S.A. § 6074 is amended to read:

§ 6074. AMENDMENT OF CERTAIN CLAIMS

At any time within three years after the date for filing claims under subsection 6068(a) of this chapter, a claimant who filed a claim by ~~September 1~~ October 15 may file to amend that claim to correct the amount of household income reported on that claim.

Sec. 29. 32 V.S.A. § 6068 is amended to read:

§ 6068. APPLICATION AND TIME FOR FILING

(a) A tax adjustment claim or request for allocation of an income tax refund to homestead property tax payment shall be filed with the commissioner on or before the due date for filing the Vermont income tax return, without extension, and shall describe the school district in which the homestead property is located and shall particularly describe the homestead property for which the adjustment or allocation is sought, including the school parcel account number prescribed in subsection 5404(b) of this title. A renter rebate claim shall be filed with the commissioner on or before the due date for filing the Vermont income tax return, without extension.

(b) Late-filing penalties. If the claimant fails to file a timely claim, the amount of the property tax adjustment under this chapter shall be reduced by \$15.00, but not below \$0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. No benefit shall be allowed in the calendar year unless the claim is filed with the commissioner on or before ~~September 1~~ October 15.

(c) No request for allocation of an income tax refund or for a renter rebate claim may be made after ~~September 1~~ October 15.

Sec. 30. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive an adjustment under subsection 6066(b) of this title in excess of \$3,000.00. No taxpayer shall receive total adjustments under this chapter in excess of \$8,000.00 related to any one property tax year.

Sec. 31. Sec. 51(b) of No. 160 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(b) ~~The following sections of Title 32 relating to homestead education property tax income sensitivity adjustments are repealed for claims filed on and after January 1, 2013:~~

~~(1) 32 V.S.A. § 6061(5)(E) (requiring adjustment for interest and dividend income for purposes of calculating modified adjusted gross income).~~

~~(2) The amendments in this act to 32 V.S.A. § 6066(a) regarding the equalized value of a housesite in excess of \$500,000.00~~ The amendments in this act related to 32 V.S.A. § 6061(5)(E), regarding the adjustment for interest and dividend income for purposes of calculating modified adjusted gross income, are repealed on January 1, 2013.

Sec. 31a. 32 V.S.A. § 6061(5)(E) is added to read:

(E) with the addition of an asset adjustment of 1 × the sum of interest and dividend income included in household income above \$10,000.00 for claimants under age 65, regardless of whether that dividend or interest income is included in federal adjusted gross income.

Sec. 32. LANDLORD CERTIFICATES

The commissioner of taxes shall report to the senate committee on finance and the house committee on ways and means no later than January 15, 2013 on how to develop an electronic system for the reporting and issuance of the landlord certificate under 32 V.S.A. § 6069. The commissioner's report shall include recommendations for legislative changes to implement such a system.

* * * Property Tax Provisions * * *

Sec. 33. 27A V.S.A. § 1-105 is amended to read:

§ 1-105. SEPARATE TITLES AND TAXATION

(a) In a condominium or planned community:

(1) if there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate;

(2) if there is any unit owner other than a declarant, each unit shall be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no

development rights; provided, however, that if a portion of the common elements is located in a town other than the town in which the unit is located, the town in which the common elements are located may designate that portion of the common elements within its boundaries as a parcel for property tax assessment purposes and may tax each unit owner at an appraisal value pursuant to 32 V.S.A. § 3481.

* * *

Sec. 34. 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the center shall provide regional planning commissions, state agencies, and the general public with orthophotographic maps of the state at a scale appropriate for the production and revision of town property maps. Periodically, such ~~maps~~ digital imagery shall be ~~revised and updated to reflect~~ updated to capture land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The center shall supply to ~~the clerk and to the listers or assessors of~~ each town such ~~maps~~ orthophotographic imagery as ~~have~~ has been prepared by it of the total area of that town. Any map shall be available, without charge,

for public inspection in the office of the town clerk to whom the map was supplied.

~~(2) The state of Vermont shall retain the copyright of any map prepared by the Vermont mapping program, and the center and the Vermont mapping program shall jointly own the copyright to any map prepared on or after the effective date of this act.~~

~~(3) A person who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.~~

~~(4) At a reasonable charge to be established by the center and the director, the center shall supply to any person or agency other than a town clerk or lister a copy of any ~~map~~ digital format orthophotographic imagery prepared created under this section.~~

~~(3) Hardcopy or nondigital format orthophotographic imagery created under this section shall be available for public review at the state archives.~~

Sec. 35. 32 V.S.A. § 4301 is amended to read:

§ 4301. BASIS FOR COUNTY TAXES

(a) The equalized municipal property tax grand lists for each town, unorganized town and gore, and the unified towns and gores of Essex County shall be the basis of taxation for county purposes.

(b) Annually, on or before January 1, the director shall provide to each county treasurer the equalized municipal property tax grand list for each town, unorganized town, and gore within the county, and the unified towns and gores of Essex County. “Equalized municipal property tax grand list” in this section shall mean the equalized education property tax grand list as defined in chapter 135 of this title plus inventory, machinery and equipment subject to municipal tax in that municipality at its grand list value.

Sec. 36. 32 V.S.A. chapter 133, subchapter 5 is amended to read:

Subchapter 5. Assessment and Collection in

Unified Unorganized Towns and Gores

* * *

Sec. 37. 32 V.S.A. § 5401(13) is amended to read:

(13) “District spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the base education amount for the school year, as defined in 16 V.S.A. § 4001. For a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year and which has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year.

Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.

Sec. 38. FISCAL YEAR 2013 EDUCATION PROPERTY TAX RATE

(a) For fiscal year 2013 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.38 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.89 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2013 only, “applicable percentage” in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2013 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

Sec. 39. FISCAL YEAR 2013 BASE EDUCATION AMOUNT

Notwithstanding 16 V.S.A. § 4011(b) or any other provision of law, the base education amount for fiscal year 2013 shall be \$8,723.00.

Sec. 40. CALCULATION OF DOLLAR EQUIVALENT

In order to lead to greater understanding of education property tax rates, annually, by December 1, and in conjunction with the recommendations under 32 V.S.A. § 5402b, the commissioner of taxes shall calculate, for purposes of illustration, the dollar equivalent for the forthcoming fiscal year and report the same to the general assembly. For purposes of this subsection, “dollar equivalent” means the amount of revenue per equalized pupil that would result under a homestead tax rate of \$1.00 per \$100.00 of equalized education property value, an applicable percentage in 32 V.S.A. § 6066(a)(2) of 2.0 percent, and sufficient statutory reserves under 16 V.S.A. § 4026 and 32 V.S.A. § 5402b. For example, for fiscal year 2013, the dollar equivalent under this definition would equal \$9,912.00 per pupil.

* * * Wastewater Permit Provisions * * *

Sec. 41. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road or other structure, or any mining, excavation or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a

spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly-created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title, or contrary to the minimum acceptable standards for forest management; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the commissioner of forests, parks and recreation. Enrolled land is also considered “developed” under this section if a wastewater system permit has been issued for the land pursuant to 10 V.S.A § 1973 and the commissioner of forests, parks and recreation has certified to the director that the permit is contrary to a forest or conservation management plan or the minimum acceptable standards for forest management; use of the parcel would violate the conservation management standards; or after consulting with the secretary of agriculture, food and markets, the commissioner certifies that the permit is not part of a farm operation. The commissioner of forests, parks and recreation may develop standards regarding circumstances under which land with wastewater system

and potable water permits will not be certified to the director. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, issuance of a wastewater system permit under 10 V.S.A. § 1973, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, ~~or structure,~~ or wastewater system permit for other than farming, logging, or forestry purposes.

Sec. 42. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed forest land pursuant to this chapter shall be subject to a land use change tax ~~on the earliest of either upon~~ upon the development of that land, as defined in section 3752 of this chapter, ~~or two years after the issuance of all permits legally required by a municipality for any action constituting development, or two years after the issuance of a wastewater system and potable water supply permit under 10 V.S.A. § 1973.~~ Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land

prorated on the basis of acreage, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

* * *

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer unless, in the case of land use change tax due with respect to development occurring as a result of the issuance of a wastewater system permit, the landowner enters into a payment agreement with the commissioner of taxes. The tax shall be paid to the commissioner for deposit into the general fund. The commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the commissioner shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing

officials and one to the register of deeds of the municipality in which the land is located. Thereafter, the land which has been developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

* * *

Sec. 43. 32 V.S.A. § 3758(d) is amended to read:

(d) Any owner who is aggrieved by a decision of the department of forests, parks and recreation concerning the filing of an adverse inspection report or denial of approval of a management plan or certification to the director with respect to land for which a wastewater permit is issued may appeal to the commissioner of the department of forests, parks and recreation. An appeal of this decision of the commissioner may be taken to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in chapter 131, subchapter 2 of chapter 131 of this title.

Sec. 44. REPEAL

Sec. 13h of No. 45 of the Acts of 2011 (tracking wastewater permits) is repealed.

* * * Current Use Provisions * * *

Sec. 45. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road or other structure, or any mining, excavation or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly-created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the commissioner of forests, parks and

recreation. Enrolled land is also considered “developed” under this section if a wastewater system permit has been issued for the land pursuant to 10 V.S.A § 1973 and the commissioner of forests, parks and recreation has certified to the director that the permit is contrary to a forest or conservation management plan or the minimum acceptable standards for forest management; use of the parcel would violate the conservation management standards; or after consulting with the secretary of agriculture, food and markets, the commissioner certifies that the permit is not part of a farm operation. The commissioner of forests, parks and recreation may develop standards regarding circumstances under which land with wastewater system and potable water permits will not be certified to the director. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, issuance of a wastewater system permit under 10 V.S.A § 1973, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, structure, or wastewater system permit for other than farming, logging, or forestry purposes.

Sec. 46. 32 V.S.A. § 3753(b) is amended to read:

(b) The membership of the board shall consist of:

(1) The following persons or their designees:

* * *

(E) ~~Dean of the college of natural resources, agriculture and life sciences of the University of Vermont.~~ [Deleted.]

* * *

Sec. 47. 32 V.S.A. § 3755(b) is amended to read:

(b) Managed ~~forest land~~ forestland shall be eligible for use value appraisal under this subchapter only if:

(1) the land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), which:

(A) is signed by the owner of a tract the parcel;

(B) which complies with subdivision 3752(9) of this title;

(C) is filed with and approved by the department of forests, parks and recreation; and

(D) by October 1, which provides for continued conservation management or forest crop production on the tract parcel for at least ten years. During a period of use value appraisal under this subchapter, a conservation or forest management plan for at least ten years, including the 12-month period beginning April 1 of the year for which use value appraisal is sought, signed by the owner, shall be on file with the department in such a manner and in such form as is prescribed by the department. Upon the An initial forest management plan or conservation management plan must be filed with the

department of forests, parks and recreation no later than October 1 and shall be effective for a ten-year period beginning the following April 1. Prior to expiration of a ~~ten-year~~ ten-year plan and no later than April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for at least the next succeeding ten years to remain in the program.

* * * Sales and Use Tax Provisions * * *

Sec. 48. 24 V.S.A. § 138(g) is added to read:

(g) If the legislative body of a municipality by a majority vote recommends or by petition of ten percent of the voters of a municipality recommends, the voters of a municipality may at an annual or special meeting warned for that purpose by a majority vote of those present and voting rescind any or all of the local option taxes assessed under subsection (b) of this section.

Sec. 49. 32 V.S.A. § 9741(48) is amended to read:

(48) Sales of tangible personal property sold by an auctioneer licensed under 26 V.S.A. chapter 89 of Title 26, including any buyer's premium charged by the auctioneer, that are conducted on the premises of the owner of the property, provided that no other person's property is sold on the auction premises and provided that the property was obtained by the owner, through purchase or otherwise, for his or her own use.

Sec. 50. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in the state. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

* * *

(8) Specified digital products transferred electronically to an end user regardless of whether for permanent use or less than permanent use and regardless of whether or not conditioned upon continued payment from the purchaser.

Sec. 51. 32 V.S.A. § 9817(a) is amended to read:

(a) Any aggrieved taxpayer may, within 30 days after any decision, order, finding, assessment or action of the commissioner made under this chapter, appeal to the Washington superior court or the superior court of the county in which the taxpayer resides or has a place of business. The appellant shall give security, approved by the commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs, as set forth in subsection (c) of this section.

Sec. 52. TEMPORARY MORATORIUM ON ENFORCEMENT OF SALES
TAX ON PREWRITTEN SOFTWARE ACCESSED REMOTELY

Notwithstanding the imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233, the department of taxes shall not assess tax on charges for remotely accessed software made after December 31, 2006 and before July 1, 2013, and taxes paid on such charges shall be refunded upon request if within the statute of limitations and documented to the satisfaction of the commissioner. "Charges for remotely accessed software" means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer or a related company. Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

Sec. 53. STUDY COMMITTEE ON SALES TAX

(a) Creation of committee. There is created a sales and use tax study committee to examine the sustainability of the sales and use tax in the context of Vermont's changing economy.

(b) The committee shall be composed of seven members. Four members of the committee shall be members of the general assembly. The committee on committees of the senate shall appoint two members of the senate and the speaker of the house shall appoint two members of the house. The chair shall

be a legislative member selected by the other members of the committee.

Three members of the committee shall be as follows:

(1) the governor shall appoint two members, one representing Vermonters who are consumers subject to the sales and use tax, and one representing businesses who collect the sales tax or who pay the sales and use tax;

(2) the secretary of administration or his or her designee;

(c) Powers and duties.

(1) The committee shall study how to make the Vermont's sales and use tax more sustainable and equitable in light of Vermont's changing economy.

Specifically, the committee shall consider:

(A) the taxation of software, platform, and infrastructure as services accessed remotely;

(B) the taxation and sourcing of sales of tangible personal property made via the internet; and

(C) the feasibility of taxing services more broadly than under current law.

(2) For purposes of its study of these issues, the committee shall have the assistance of the office of legislative council, the joint fiscal office, and the department of taxes.

(d) Report. By January 15, 2013 the committee shall report to the senate committee on finance and house committee on ways and means its findings and any recommendations for legislative action.

(e) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

Sec. 53a. ENHANCING VERMONT'S SOFTWARE AND INFORMATION
TECHNOLOGY ECONOMY

(a) Creation of committee. There is created a committee to examine strategies the state could implement to further enhance the dramatic growth of Vermont's software development and information technology sector.

(b) Membership. The committee shall be composed of seven members. The speaker of the house shall appoint one member of the house. The committee on committees shall appoint one member of the senate. The governor shall appoint one member of his or her choosing. Four members of the committee shall be as follows:

(1) three members representing the Vermont Software Developers Alliance;

(2) the secretary of the agency of commerce and community development or his or her designee;

(c) Powers and duties.

(1) The committee established by this section shall study ways to encourage the continued growth of investment and job creation in the software and information technology sector. The committee shall seek to develop strategies to assist software and new media entrepreneurs to start new businesses in Vermont and to foster growth among established software businesses. The committee shall also review workforce training and education opportunities as they apply to the software and information technology sector. The committee shall review and make recommendations as it sees fit regarding the impact of current state programs and regulations, including existing economic incentives and current taxation policies.

(2) For purposes of its study of these issues, the committee shall have the assistance of the office of legislative council, the joint fiscal office, and the department of taxes.

(d) Report. By January 15, 2013, the committee shall report to the senate committees on finance, and on economic development, housing and general affairs and the house committees on ways and means and on commerce and economic development on its findings and any recommendations for legislative action.

(e) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

Sec. 54. 32 V.S.A. § 9741(2) is amended to read:

(2) Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood, blood plasma, insulin, and medical oxygen, used in treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities; provided however, that toothbrushes, floss, and similar items of nominal value given by dentists and hygienists to patients during treatment are supplies used in treatment to alleviate human suffering or to correct, in whole or part, human physical disabilities and are exempt under this subdivision.

Sec. 54a. 32 V.S.A. § 9741(14) is amended to read:

(14) Tangible personal property which becomes an ingredient or component part of, or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for sale; machinery and equipment for use or consumption directly and exclusively, except for isolated or occasional uses, in the manufacture of tangible personal property for sale, or in the manufacture of other machinery or equipment, parts, or supplies for use in

the manufacturing process; and devices used to monitor manufacturing machinery and equipment or the product during the manufacturing process. Machinery and equipment used in administrative, managerial, sales, or other nonproduction activities, or used prior to the first production operation or subsequent to the initial packaging of a product, shall not be exempt from tax, unless such uses are merely isolated or occasional or unless the machinery used for initial packaging is also used for secondary packaging as part of an integrated process. Machinery and equipment shall not include buildings and structural components thereof. For purposes of this subdivision, it shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. For the purposes of this subsection, “manufacture” includes extraction of mineral deposits, the entire printing and ~~book-making~~ bookmaking process, and the entire publication process.

Sec. 55. SALES AND USE TAX REBATES FOR MOBILE HOMES

(a) Notwithstanding the provisions of 32 V.S.A. chapters 231 and 233 and 24 V.S.A. § 138, sales and use tax, local option sales tax, or property transfer tax shall not apply to sales to individuals of mobile homes purchased after April 1, 2011 but before July 1, 2012 to replace a mobile home that was damaged or destroyed as a result of flooding and storm damage that occurred as a result of a federally declared disaster in Vermont in 2011.

(b) Any resident of Vermont who purchased a mobile home that meets the criteria under subsection (a) of this section shall be entitled to a reimbursement in the amount of any sales and use tax, local option sales tax, or property transfer tax paid.

(c) The department of taxes may establish standards and procedures necessary to implement this section. The department of taxes shall reimburse taxpayers that qualify under subsection (a) of this section.

Sec. 56. 16 V.S.A. § 4025(a) is amended to read:

(a) An education fund is established to be comprised of the following:

* * *

(6) ~~One-third~~ Thirty-five percent of the revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233 ~~of Title 32~~.

* * *

Sec. 56a. 32 V.S.A. § 435(b) is amended to read:

(b) The general fund shall be composed of revenues from the following sources:

* * *

(11) ~~Two-thirds~~ Sixty-five percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;

* * *

* * * Electrical Energy Generating Tax Provisions * * *

Sec. 57. REPEAL

32 V.S.A. § 5402a (electric generating plant education property tax) is repealed.

Sec. 58. 32 V.S.A § 8661 is amended to read:

§ 8661. TAX LEVY

(a) There is hereby assessed ~~each year~~ upon electric generating plants constructed in the state subsequent to July 1, 1965, and having a name plate generating capacity of 200,000 kilowatts, or more, a state tax ~~in accordance with the following table:~~ at the rate of \$0.0025 per kWh of electrical energy produced.

If megawatt hour production is:	tax is:
Less than 2,300,000 megawatt hours	\$2.0 million
2,300,000 to 3,800,000 megawatt hours	\$2.0 million plus \$0.40 per megawatt hour over 2,300,000
3,800,001 to 4,200,000 megawatt hours	\$2.6 million
Over 4,200,000 megawatt hours	\$2.6 million plus \$0.40 per

~~megawatt hour~~

~~over 4,200,000~~

For purposes of this section, “megawatt hour production” means the average of net production for sale in the three most recent preceding calendar years. The tax imposed by this section shall be paid to the commissioner in equal quarterly installments on the electrical energy generated in the prior quarter on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December by the person or corporation then owning or operating such electric generating plant.

(b) ~~If an entity subject to this tax generates no electricity during the tax year due to termination or expiration of a necessary license, or due to permanent cessation of operations, no tax shall be due for that year.~~

(e) A person or corporation failing to make returns or pay the tax imposed by this section within the time required shall be subject to and governed by the provisions of sections 3202, ~~3203, 5868,~~ and ~~5873~~ 3203 of this title.

* * * Meals and Rooms Tax Provisions * * *

Sec. 59. 32 V.S.A. § 9202(3) is amended to read:

(3) “Hotel” means an establishment which holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or

proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes but is not limited to, inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. The term shall not include the following:

(A) a hospital, licensed under 18 V.S.A. chapter 43 ~~of Title 18~~, or a ~~sanatorium, convalescent home, nursing home, or a home for the aged~~ residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility;

* * *

Sec. 60. 32 V.S.A. § 9202(10)(D)(ii) is amended to read:

(D) “Taxable meal” shall not include:

* * *

(ii) Food or beverage, including that described in subdivision (10)(C) of this section:

* * *

(IV) prepared by the employees thereof and served in any hospital licensed under 18 V.S.A. chapter 43 ~~of Title 18, or a sanitorium, convalescent home, nursing home or home for the aged;~~

* * *

(XI) served or furnished on the premises of a continuing care retirement community certified under 8 V.S.A. chapter 151 ~~of Title 8;~~ or

(XII) prepared and served by the employees, volunteers, or contractors of any nursing home, residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility; provided, however, that “contractor” under this subdivision excludes meals provided by a restaurant as defined by subdivision (15) of this section when those meals are not otherwise available generally to residents of the facility;

Sec. 61. 32 V.S.A. § 9202(18) is added to read:

(18) “Independent living facility” means a congregate living environment, however named, for profit or otherwise, that meets the definitions of housing complexes for older persons as enumerated in 9 V.S.A. § 4503(b) and (c), or housing programs designed to meet the needs of individuals with a handicap or disability as defined in 9 V.S.A. § 4501(2) and (3).

Sec. 62. 32 V.S.A. § 8557(a) is amended to read:

(a) Sums for the expenses of the operation of training facilities and curriculum of the Vermont fire service training council not to exceed ~~\$800,000.00~~ \$950,000.00 per year shall be paid to the fire safety special fund created by 20 V.S.A. § 3157 by insurance companies, including surplus lines companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the state of Vermont within 30 days after notice from the commissioner of ~~banking, insurance, securities, and health care administration~~ financial regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section. The commissioner shall annually, on or before July 1, apportion such charges among all such companies and shall assess them for the same on a fair and reasonable basis as a percentage of their gross direct written premiums on such insurance written during the second prior calendar year on property situated in the state. An amount not less than \$100,000.00 shall be specifically allocated to the provision of what are now or formerly referred to as Level I, units I, II, and III (basic) courses for entry level firefighters. An amount not less than \$150,000.00 shall be specifically allocated to the emergency medical services special fund established under 18 V.S.A. § 908 for the provision of training

programs for emergency medical technicians, advanced emergency medical technicians, and paramedics. The department of health shall present a plan to the joint fiscal committee which shall review the plan prior to release of any funds.

Sec. 63. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Secs. 1 (petroleum cleanup fee), 2 (petroleum cleanup fund outreach), 8 (extraordinary relief), 14 (reporting requirements), 21 (affordable housing tax credit), 22 (downtown tax credit for disaster expenses), 23 (limitation on downtown tax credits for fiscal year 2013), 24 (low income property transfer tax exemption), and 54 (dental equipment) of this act shall take effect on July 1, 2012.

(2) Sec. 9 (link to Internal Revenue Code) of this act shall apply to taxable years beginning on and after January 1, 2011, and Sec. 12 (estate tax link to Internal Revenue Code) of this act shall apply to decedents dying on or after January 1, 2011.

(3) Sec. 16 (increasing minimum tax on certain C corporations) of this act shall apply to taxable years beginning on and after January 1, 2012.

(4) Secs. 10 (netting), 25 (homestead filing), 26 (health savings accounts) 27, 28, and 29 (moving final date for filing renter rebate or property tax adjustment claims), 30 (renter rebate cap), 31a (double counting for

claimants under 65) of this act shall take effect on January 1, 2013 and apply to property tax adjustments, renter rebate claims, and homestead declarations for 2013 and after.

(5) Secs. 38 (education base rates) and 39 (education base amount) shall take effect on passage and apply to education property tax rates and the base education amount for fiscal year 2013.

(6) Secs. 41 through 43 (wastewater permits) of this act shall take effect retroactively on July 1, 2011 and apply only to wastewater permits issued after that date.

(7) Sec. 49 (auction sale exemption) of this act shall take effect retroactively on May 24, 2011.

(8) Sec. 54a (secondary packaging) shall take effect retroactively on January 1, 2012.

(9) Secs. 56 and 56a (sales tax allocation) shall take effect on July 1, 2013.

(10) Secs. 57 (repeal) and 58 (electrical generation tax) of this act shall take effect on July 1, 2012 and apply to power generated after that date.

(11) Secs. 59 (rooms tax definitions), 60 (meals tax definitions), and 61 (definition of independent living facility) of this act shall take effect on passage and apply retroactively to July 1, 2012.

Approved: May 15, 2012