

Miscellaneous Tax Bill
Section by Section Summary of the
Report of Committee of Conference

Sec. 1. Tax Expenditures. Amends the definition of tax expenditure to include items of exclusion, deduction, credit, or other adjustment at the federal level that flow through to Vermont taxable income.

Sec. 2. Tax Expenditures. Sets forth additional tax expenditures that are to be included in the next three biannual reports.

Sec. 3. Budget Bill. Amends the amount \$15,700,000 in an appropriation to \$15,300,00.

Sec. 4. Compliance. Authorizes commissioner to charge travel expenses and a reasonable per diem to companies that are unable or unwilling to provide books and records for audit at either department's Montpelier office or an in-state location of the company.

Sec. 5. Tax Rate Data. Allows municipalities to transmit tax rate information to the department in forms other than electronic media.

Sec. 6. Collection Assistance Fees. Amends offset statute to provide that fee is taken out of the taxpayer's refund instead of from the general fund. Allows department to annually adjust the per-offset fee.

Sec. 7. Offset for Taxes Owed in Another Jurisdiction. Allows the department to enter into reciprocity agreements with other states to offset refunds.

Sec. 8. Local Option Tax Administration Fee. Sets the per-return administrative fee for local option taxes at \$9.52 and makes the fee subject to the fee bill.

Sec. 9. Municipal Lien on Uninhabitable Property. Allows a municipality to place a lien on an uninhabitable property in order to recoup expenses associated with keeping the property safe.

Sec. 10. VEGI Recapture. Amends the recapture provision in the VEGI credits as follows:

1. Changes "year" to "period" to prevent businesses from eliminating half of its workforce in one calendar year and half in the next calendar year without triggering recapture of benefits;
2. Clarifies how the recapture applies to a start-up business;
3. Allows penalty to be assessed at the time recapture and interest is assessed;
4. Changes assessment trigger date to allow department to initiate recapture prior to notification by business of a drop in payroll - for example, where the department discovers layoffs by other means such as the news media; and
5. Makes general withholding provisions applicable to amounts taken as credit against wage withholding under VEGI program, including the personal liability provision.

Sec. 11. Assessed Value of Land with Recreational Trails. Requires the director of Property Valuation & Review to meet with listers and other stakeholders regarding the increasing or decreasing the value of land based on whether the land includes or abuts recreation trails such as VAST.

Sec. 12. Use Value Appraisal Program. Amends the current use definition of "development". The subdivision of land which creates a parcel of less than 25 acres constitutes development, but an exception exists if the subdivision results from a transfer to a specified close relative and the transferee/relative re-

enrolls the newly created parcel. This section would amend the law so that if it is the transferor's parcel that is less than 25 acres following subdivision, and the land is re-enrolled, the exception would also apply.

Sec. 13. Current Use Advisory Board. Deems the board's methodology for calculating land use values to have the force and effect of rules adopted pursuant to the rulemaking process and requires that any modification to the methodology be subject to the rulemaking process.

Sec. 14. Tax Increment Financing – Common Level of Appraisal. Provides that market value of TIF property - not just the original taxable value - is included in the equalization study.

Sec. 15. Excess Property Tax Payment. Makes technical amendments to clarify when towns must refund an excess property tax adjustment amount to a taxpayer (20 days after notification of the adjustment amount) and to correct the source of the notice (from the commissioner of taxes, not education).

Sec. 16. Property Transfer Tax. Provides that property transfer tax (PTT) is paid to the department instead of the town clerk of the town in which the property is located and makes payment due on transfer (rather than recording).

Sec. 17. Property Transfer Tax. Provides that the PTT return shall be delivered to the town clerk at the same time as the deed; eliminates the requirement that all buyers and sellers sign the return; and replaces the dollar amount of the recording fee with a reference to the statute which delineates fees.

Sec. 18. Property Transfer Tax. Deletes the requirement that the return be "complete and regular on its face" and makes technical changes to section 9607.

Sec. 19. Property Transfer Tax. Deletes the reference to "tax payment" in section 9608 to conform with the proposal that the tax be paid to the department and not the town clerk.

Sec. 20. Property Transfer Tax. Makes similar conforming change to section 9610(a). Also provides for electronic transmission of the deed, but allows the commissioner to make an exception for paper-filed returns because some towns will not have the capacity for electronic transmission immediately.

Sec. 21. Clarendon Education Payment. Allows the Town of Clarendon to receive an adjustment to its education payment amount. The lower amount received from the department of education last year was due to a filing error and a hard deadline.

Sec. 22. Skating Rink Property Tax Exemption. Extends for the 2011 fiscal year the education property tax exemption for skating rinks that are used by a school.

Sec. 23. Income Sensitivity Property Tax Adjustment. Adds interest and dividend income above \$10,000 one more time to modified adjusted gross income. This will apply for claims in 2010, 2011, and 2012 for homeowners and in 2011 and 2012 for renters.

Sec. 24. Income Sensitivity Property Tax Adjustment. For claims in 2011 and after, amends the definition of modified adjusted gross income to add back several deductions taken before adjusted gross income on the federal Form 1040. Amends the definition of household income so that it may not be reduced below zero. Changes the term "rent constituting property taxes" to "qualifying rent" and amends the definition to be 21% of gross rent in every case. Removes the alternative calculation of "rent constituting property taxes. These changes will take effect for claims filed in 2011 and after.

Sec. 25. Income Sensitivity Property Tax Adjustment. Amends the property tax adjustment calculation for income sensitivity on the equalized value of a housesite in excess of \$500,000. Removes the \$10 per-acre adjustment amount for up to 5 additional acres for claimants with household income under \$90,000. This change will affect claims filed in 2010, 2011, and 2012.

Sec. 26. Landlord Certificate. Amends the requirement for a landlord to provide a tenant with a certificate of rent as follows: (1) Changes the number of units the landlord rents to require the landlord to provide the certificate from 4 or more to 2 or more. (2) Increases penalties for landlords who fail to provide the certificate or provide a falsified certificate from \$100 per act to \$200 per act. (3) Removes language allowing tenant to waive rights to a certificate. This change will affect landlords beginning in 2011.

Sec. 27. Statutory Revision. Directs legislative council to amend statutes to conform to the changes in preceding section.

Sec. 28. FY 2011 Education Property Tax Rates. Sets the education property tax rates for fiscal year 2011 as follows: \$1.35 for nonresidential property and \$0.86 multiplied by the district spending adjustment for homestead property. Set the “applicable percentage to 1.8%.

Sec. 29. Adoption of Federal Income Tax Laws. Links Vermont’s income tax laws to the federal government’s income tax laws, except for the tax rates.

Sec. 30. Downtown Tax Credits. Allows insurance companies to accept credit certificates in the same manner that banks do under current law.

Sec. 31. Downtown Tax Credits. Amends downtown tax credit recapture provisions to track change made by preceding section.

Sec. 32. Estate Tax. Amends estate tax to provide that interest on refunds is due only from the date of the amended return. This would conform to the rule for income tax refunds.

Sec. 33. Estate Tax. For decedents dying in 2011, the exclusion amount is increased from \$2.0 million to \$2.75 million for 2011. The report further states that it is the intent of the legislature to “re-couple” to the federal estate tax system if the federal government adopts a system that is similar to the one in place before “de-coupling” in 2002.

Sec. 34. Tobacco Taxes. Provides a definition of a cigar.

Sec. 35. Tobacco Taxes. Amends the amount of roll-your-own tobacco that constitutes a cigarette for tax purposes.

Sec. 36. Tobacco Taxes. Increases tax on snuff and new smokeless tobacco to approximate tax increase on cigarettes last session, and imposes a tax on cigars as follows:

1. If wholesale price is between \$1.09 and \$9.99, tax is \$2.00;
2. If wholesale price is greater than \$10.00, tax is \$4.00.
3. If wholesale price is \$1.08 or less, tax is 92% of wholesale price.

Sec. 37. Use Tax. Increases the percentage of Vermont adjusted gross income acceptable to report as use tax from 0.0004 to 0.0008

Sec. 38. Sales and Use Tax. Change of term “amusement” to “entertainment.”

Sec. 39. Sales and Use Tax. Statutory revision re change of term amusement.

Sec. 40a. Sales and Use Tax. Provides for transition rules that abate certain assessments made by the commissioner for performances for which the sales tax was not collected.

Sec. 40b. Sales and Use Tax. Provides organizations with guidance until the new statute takes effect on April 1, 2011.

Sec. 41. Sales and Use Tax; Organizations Not Covered. Amends the definition of organizations not covered by (1) making technical corrections to statutory references under subdivision (4), which deals with sales of building materials for governmental structures and development corporations; (2) clarifying that schools and municipalities are exempt from collecting and remitting sales tax, but vendors who sell on school or municipal property must collect and remit the sales tax. Amends rules for nonprofit organization so that if the nonprofit organization’s gross ticket sales in the previous calendar year are \$50,000 or more, the nonprofit will collect and remit the sales tax on all of its entertainment charges. This last change will take effect on April 1, 2011

Sec. 42. Petroleum Cleanup Fund. Increases the amount of money that may be spent from the motor fuel account on any one site from \$990,000 to \$1,240,000.

Sec. 43. Petroleum Cleanup Fund. Increases the per-gallon heating fuel fee from one-half cent to one cent. Reestablishes the triggers for when the petroleum distributor licensing fee is not to be collected: If the motor fuel fund balance is \$7 million or more on May 15, the motor fuel fee will not be collected during the next fiscal year. If the heating fuel fund balance is \$3 million or more on May 15, the heating fuel fee will not be collected.

Sec. 44. Fuel Gross Receipts Tax. Amends fuel gross receipt tax so it applies only to dyed fuels delivered to a business or residence. Current law (amended last session) taxed all dyed diesel fuel “not used to propel a motor vehicle”. The change made last year to impose the tax on dyed diesel fuel was a response to the fact that such fuel is starting to be used for heating purposes. However, it swept in all dyed diesel used for non-heating purposes and is administratively difficult for sellers who would not necessarily know how the fuel is going to be used.

Sec. 45. State Collection of Education Property Tax. Requires the department to provide the legislature with a plan to develop a system of collecting the education property tax.

Sec. 46. Future of Education Governance and Education Finance. Requires the Blue Ribbon Tax Structure Commission to study and report on the long-term goals of Vermont education.

Sec. 47. One-Time Homestead Declaration; Duty to File a Notice of Change. Amends the homestead declaration statute so that a declaration filed in 2010 will remain in effect until the declarant transfers all or a portion of the homestead or a change of the use of the homestead would affect eligibility. A taxpayer who fails to file a declaration or fails to notify the department of a change to a declaration would pay a penalty equal to: (1) 3% of the taxpayer’s education property tax bill if the nonresidential property tax rate in the taxpayer’s municipality is higher than the homestead rate; or (2) 7% of the taxpayer’s education property tax bill in all other situations.

Sec. 48. Vermont Veterans’ Fund. Establishes a special fund to benefit Vermont veterans through grants and other support for veterans including: long-term care, aid for homeless veterans, transportation

services, other veterans' services, recognition, and direct monetary assistance for veterans. The fund will consist of revenues paid in from a check-off on Vermont income tax returns and from other contributions.

Sec. 49. Vermont Veterans' Fund Income Tax Return Check-Off. Creates a check-off box on the Vermont income tax return for making contributions to the fund.

Sec. 50. Income Sensitivity. Requires the commissioner to provide additional data on December 1 regarding education property tax rates and income sensitivity adjustments. This requirement sunsets on 4/15/11.

Sec. 51. Repeals. Repeals the following tax expenditures:

1. Support payments for developmentally disabled persons.
2. Income from commercial film production credit.

Sunsets the housesite value and interest and dividend test 1/1/2013. Repeals campaign finance checkoff box. Sunsets on April 15, 2011, the requirement for additional information set forth in section. Repeals a 1981 municipal act relating to tax sharing and joint municipal development between Clarendon and Rutland City.

Sec. 52. Tax Expenditure Repeal. States that it is the legislature's intent to use the money saved by the repeal of the support payments tax expenditure for the agency on disabilities, aging, and independent living.

Sec. 53. Tax Expenditure Repeal. Repeals film production income tax provisions.

Sec. 54. Village and downtown credits. Provides an additional \$600,000 to the village and downtown credits program for a project in Winooski.

Sec. 55. Start-ups competition. Directs the commissioner of community and economic development to work with colleges, universities and entrepreneurs in developing a business plan competition.

Sec. 56. Adamant Village flood relief. \$5,000 for the fire department to assist any individuals affected by the May flood.

Sec. 57. City of Rutland. Increases fees charge for water and sewer reconnection.

Sec. 58. Hydroelectric Facilities. Findings regarding valuation fluctuations.

Sec. 59. Hydroelectric Facilities. Freezes grand list values of hydroelectric facilities for 2 years at no less than April 1, 2009 value.

Sec. 60. Capital Gains. Beginning next year in 2011, taxpayers will have a choice for capital gains:

- (a) they may either reduce the taxable income by the first \$5000 of any capital gain;
- or
- (b) they may reduce taxable income by 40% of capital gain from assets held more than three years and which are:
- business/investment real estate;
 - farm real estate, farm business equipment and other farm capital assets; and
 - standing timber.

This 40% option cannot be applied to:

- the taxpayer's residence or second home (or third, fourth, etc. home);
- non-farm business equipment;
- sales of most securities.

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Sec. 61

Sec. 61 is amending a section of the budget bill:

- a. Sec. E.100.4 of the budget bill provides (loosely) that if the Governor decides to cut the State workforce by more than 1% during adjournment, then the secretary of administration can't implement that 1% cut unless he presents the plan to the Joint Fiscal Committee and it meets several criteria in Sec. E.100.4.
- b. Sec. E.100.4 says to measure that 1% cumulatively from July 1, 2010; the change in Sec. 61 of the Misc Tax bill says measure the 1% cumulatively from the date of passage of the budget bill.