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October 15, 2009

Rep. Michael Obuchowski, Chair  
Legislative Joint Fiscal Committee  
State House  
115 State Street  
Montpelier, Vermont 05633-5301

Dear Rep. Obuchowski:

The Vermont League of Cities and Towns would like to provide the Joint Fiscal Committee with its perspective on some of the issues included in a letter sent to the Committee by Commissioner of Taxes Westman on September 8, 2009.

### **Property Tax Exemptions**

VLCT shares his concerns expressed regarding the steady erosion of the education property tax base posed by the expansion and proliferation of exemptions. Obviously cities and towns share that tax base and have suffered the same kind of erosion for longer than the state has had its property tax. This is also an issue that is exacerbated as property taxes continue to increase. The higher the property taxes (whether through valuation increases or rate increases caused by higher local spending, new state uses of the Education Fund or less in alternative state revenues for the Fund), the greater the pressure on properties that might be exempt to declare themselves so. That then leads to a smaller tax base on which to distribute the tax burden, increasing the rate everyone else has to pay, causing others to seek exemptions. It is a vicious circle.

We would ask that the legislature charge the House Ways and Means and Senate Finance Committees to thoroughly study the current property tax exemption situation and the legal parameters establishing them. It should determine whether some current exemptions and valuation methods applying to certain types of properties should be repealed and whether the current tests for exemption should be more restrictive.

### **Current Use**

We also agree with the Commissioner that the current use program is already making non-enrollees pay \$24 million more in education property taxes than they would without the program. That figure has also exploded as property taxes have risen, forcing or enticing more property owners to enroll in the program, contributing to the same vicious circle as the exemptions cited above.

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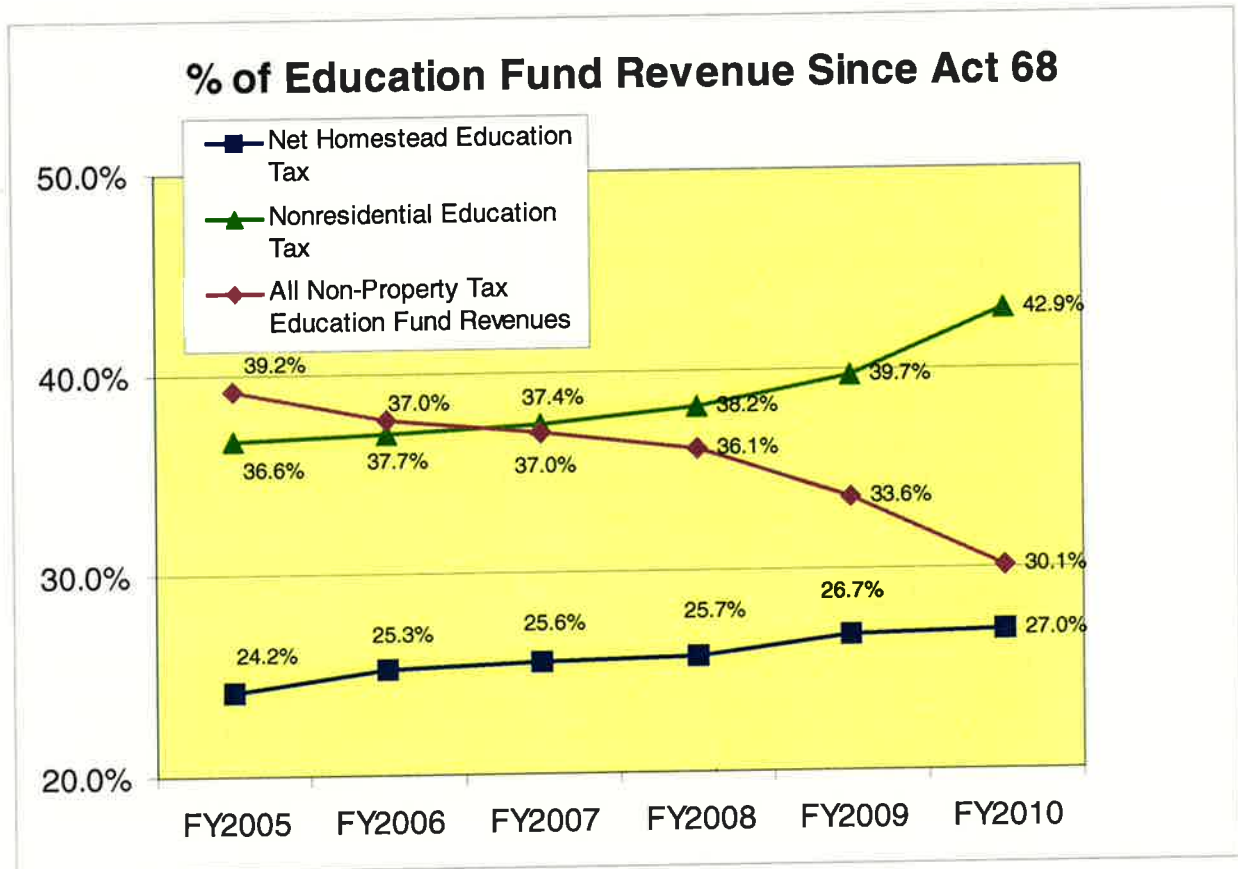
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It is important to remember that the property tax is a tax and not a user fee. Because a taxpayer's property, income or purchases that are the subject of the tax "don't use" police services or need roads plowed or "don't send" kids to school has never been an accepted excuse for avoiding paying a tax. Almost 60% of eligible farmland and 40% of forestland is enrolled in the program, meaning that over 34% of the total land area of the state is not paying property taxes at its full fair market value. It is little wonder why it is costing the state as much as it is and why other property taxpayers are upset with their bills.

If the costs of this state program exceed the benefits the state perceives it is deriving or its remaining taxpayers' ability to pay, the legislature needs to make changes in the program that will reduce the costs to equal those benefits or resources. Like in so many other issues being discussed in this era of limited capacity, it changes nothing to simply shift the burden to another set of taxpayers.

**Income Sensitivity**

VLCT is not opposed to the income sensitivity feature of Act 60/68. We have in fact supported converting the residential education tax to a pure income tax in the past. What we are concerned about it that the "three-legged stool" of funding sources of the Education Fund (homestead education taxes, nonresidential education taxes and all non-property tax sources) remains somewhat equally balanced.



As the graph above shows, non-property tax support for the Education Fund (e.g., General Fund transfer, sales and rooms taxes, the lottery) has dropped by 25% as a percentage of the total since the passage of Act 68. Nonresidential property taxpayers have made up for most of that decrease, though residents – those “income-sensitized” and those not – have also seen a substantial increase. Income sensitivity must not be used to lower the overall tax burden of residents but to more fairly distribute it. Also – and this is very important as we try to get a handle on school spending – income sensitivity cannot “disconnect” voters from their spending decisions in school budgets. Spending decisions must have a tax consequence that is apparent and, to a degree, painful to assure that an appropriate level of service is being provided at an affordable cost.

### **Tax Increment Financing**

Tax incremental financing is an important tool in the toolkit of municipalities trying to generate taxpaying jobs and properties in Vermont. The Commissioner states that TIF's results in “revenue lost” to the Education Fund. I must remind you that no TIF is awarded unless a state agency finds that the development would not have otherwise taken place “but for” the creation of the TIF, or the TIF is located in a “growth center” again designated by a state agency where the state wants development to happen. No taxes are lost because otherwise, no development (and hence, no jobs) would have been created if not for the TIF designation. Also, the law states that at least 25% of the new education property taxes generated go into the Education Fund on Day 1 of the development and, after 20 years, all of the new development education taxes are deposited there. Given that all the education taxes ultimately end up in the Education Fund benefiting school districts across the state, that the only proceeds that are not deposited in the Education Fund are used to pay for infrastructure directly necessary for the development to have taken place, and that none of this tax revenue would have been generated “but for” the TIF, we disagree with the Commissioner's concern that this somehow “threaten[s] the equity of our education funding system.” We would argue that these communities are some of the few that are working hard to assure that there are state resources to provide the equity required by *Brigham*.

### **Local Option Taxes**

We could not disagree more with the Commissioner on everything he says in his letter on local option taxes. First, there is no *Brigham* case for municipal services, but if there were, we'd be looking at a lot of “equity” issues of more relevance than whether they are allowed to impose local option taxes on their taxpayers and businesses. We would begin with the clustering of tax-exempt properties in our service center communities (all due to state mandates) and the housing of people “under the supervision” of the Department of Corrections. The Commissioner states that “communities with the greatest ability to avail themselves of Act 54 and TIF districts are, for the most part, the same communities that have the ability to benefit from and use local option taxes”. To date, only four communities have TIFs and only one of them has a local option tax. Seventy-nine communities have the authority to levy local option taxes under Act 60 and legislatively approved charters and only one of them has a TIF. Without local option tax towns, the state would not be doing anything to cure the “inequity” of property tax exempt state building locations as the only funding source for payments in lieu of taxes (PILOT) is from local option tax municipalities.

### **Education Spending**

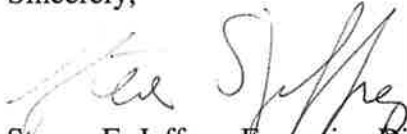
We would agree with the Commissioner's concern with increasing school budgets and again would urge the legislature to analyze its roles in adding to those costs. We are aware that the issue of "unfunded mandates" imposed by the state and national governments have been studied but they continue to be added. The legislature and administration cannot, on the one hand, complain about higher school costs and on the other add to those costs with new initiatives, obligations, policies and programs that increase those costs.

We would also point out that a large and growing portion of the "Education Fund" expenditures the Commissioner is concerned about growing 23% in the past five years are beyond the reach of local school district voters and are decisions made by this legislature. Specifically, I refer to Correction Department, Education Department, and Human Service Agency expenses that have been shifted to the Education Fund in recent years.

We agree with the concern of the Commissioner that we must develop a long-term sustainable solution. We believe that entails the legislature and administration looking carefully at many of their own actions. VLCT also believes it is time for us to develop a new education funding system that does not suffer from all the problems referred to in the Commissioner's letter and this response.

We look forward to working with the Joint Fiscal Committee and the entire legislature to address these issues in the coming months without increasing the property tax burden.

Sincerely,



Steven E. Jeffrey, Executive Director  
Vermont League of Cities and Towns

cc: Richard Westman, Commissioner, Vermont Department of Taxes