

1 H.436

2 Introduced by Committee on Ways and Means

3 Date:

4 Subject: Taxation; miscellaneous tax

5 Statement of purpose: This bill proposes to implement tax changes, including  
6 changes to income taxes, property taxes, economic development credits, health  
7 care-related provisions, and miscellaneous tax provisions.

8 An act relating to tax changes, including income taxes, property taxes,  
9 economic development credits, health care-related tax provisions, and  
10 miscellaneous tax provisions

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

12 \* \* \* Income Taxes \* \* \*

13 Sec. 1. 32 V.S.A. § 3113b is added to read:

14 § 3113b. LOTTERY WINNINGS; SATISFACTION OF TAX LIABILITIES

15 For all Vermont lottery games, the lottery commissioner may, before  
16 issuing prize money to a winner, determine whether the winner has an  
17 outstanding tax liability payable to the department of taxes. If any such winner  
18 owes taxes to the state, the commissioner of taxes, after notice to the owner,  
19 may request and the lottery commission shall transfer the amount of such tax  
20 liability to the department for setoff of the taxes owed. The notice shall advise  
21 the winner of the action being taken and the right to appeal the setoff if the tax

1 debt is not the winner's debt; or if the debt has been paid; or if the tax debt was  
2 appealed within 60 days from the date of the assessment and the appeal has not  
3 been finally determined; or if the debt was discharged in bankruptcy. Any  
4 offset of lottery winnings for taxes shall be second in priority to the offset of  
5 lottery winnings to the office of child support pursuant to 15 V.S.A. § 792.

6 Sec. 2. 32 V.S.A. § 5824 is amended to read:

7 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

8 The statutes of the United States relating to the federal income tax, as in  
9 effect for taxable year ~~2009~~ 2010, but without regard to federal income tax  
10 rates under Section 1 of the Internal Revenue Code, are hereby adopted for the  
11 purpose of computing the tax liability under this chapter.

12 Sec. 3. 32 V.S.A. § 5884(d) is added to read:

13 (d) Notwithstanding subsection (a) of this section, a report required by  
14 subsection 5842(b) of this title may be amended after the due date of such  
15 report only for an administrative error. An administrative error is one that does  
16 not change the amount of tax withheld.

17 \* \* \* Property Taxes \* \* \*

18 Sec. 4. FISCAL YEAR 2012 EDUCATION PROPERTY TAX RATE

19 (a) For fiscal year 2012 only, the education property tax imposed under  
20 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and  
21 shall instead be at the following rates:

1           (1) the tax rate for nonresidential property shall be \$1.36 per \$100.00;

2           and

3           (2) the tax rate for homestead property shall be \$0.87 multiplied by the  
4           district spending adjustment for the municipality, per \$100.00 of equalized  
5           property value as most recently determined under 32 V.S.A. § 5405.

6           (b) For claims filed in 2012 only, “applicable percentage” in 32 V.S.A.  
7           § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.80  
8           percent multiplied by the fiscal year 2012 district spending adjustment for the  
9           municipality in which the homestead residence is located; but in no event shall  
10           the applicable percentage be less than 1.80 percent.

11           (c) For fiscal year 2012 only, the spending adjusted homestead tax rate  
12           shall be reduced by \$0.01 for any municipality that is part of a supervisory  
13           union or technical center district that met its challenges for changes spending  
14           target under Sec. E2 of No. 146 of the 2009 Adj. Sess. (2010) as determined by  
15           the commissioner of education.

16           (d) For fiscal year 2013 only, the department of taxes shall calculate  
17           adjustments under 32 V.S.A. § 6066 for taxpayers affected by subsection (c) of  
18           this section as if that subsection had not applied in fiscal year 2012.

1 Sec. 5. FISCAL YEAR 2012 BASE EDUCATION PAYMENT

2 AMOUNT

3 Notwithstanding 16 V.S.A. § 4011(b) or any other provision of law, the  
4 base education payment for fiscal year 2012 shall be \$8,544.00.

5 Sec. 6. Sec. 45 of No. 160 of the Acts of the 2009 Adj. Sess. (2010) is  
6 amended to read:

7 Sec. 45. STATE COLLECTION OF EDUCATION PROPERTY TAX

8 No later than July 15, 2011, the department of taxes shall provide the joint  
9 fiscal committee with a feasibility report on developing an electronic system  
10 for the department's administration, billing, and collection of the education  
11 property tax provided for in chapter 135 of Title 32 and on the application of  
12 the common level of appraisal separately and independently from the tax rate.

13 Sec. 7. REPEAL

14 The following are repealed:

15 (1) Sec. 46 of No. 160 of the Acts of the 2009 Adj. Sess. (2010) as  
16 amended by Sec. 102 of No. 3 of the Acts of 2011.

17 ~~(2) 16 V.S.A. § 164(18).~~

*Sec. 7a. 16 V.S.A. § 164(18) is amended to read:*

*(18) Ensure that Vermont's students, including students enrolled in secondary technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont's education finance system and school quality standards under section 165 of this title. ~~Beginning in school year 2000 and every five years thereafter, or more often if requested by the general assembly, the state~~*

~~board shall report to the general assembly concerning the results of this evaluation and recommendations for change if needed.~~

1       Sec. 8. EVALUATION OF EDUCATION FINANCING SYSTEM

2           (a) The joint fiscal office with the assistance of the legislative council, the  
3       department of taxes, and the department of education shall develop a proposal  
4       for a provider to evaluate the outcomes of No. 60 of the Acts of the 1997 Adj.  
5       Sess. (1998) and No. 68 of the Acts of the 2003 Adj. Sess. (2004).

6           (b) The proposal shall be approved by the president pro tempore of the  
7       senate, the speaker of the house, and a special committee consisting of the  
8       members of the joint fiscal committee and the chairs of the house and senate  
9       committees on education.

10          (c) The evaluation shall incorporate the following:

11           (1) a review of the existing studies of Vermont's education finance  
12       system since the enactment of No. 60 of the Acts of the 1997 Adj. Sess. (1998)  
13       and No. 68 of the Acts of the 2003 Adj. Sess. (2004);

14           (2) a review of the existing data collected by the departments of  
15       education and of taxes related to the Vermont education finance system under  
16       Act 60 and Act 68;

17           (3) a review of education finance systems in comparable states with an  
18       emphasis on states in New England and states committed to equity.

1        (d) The evaluation will include comparisons between the communities  
2        within this state and between this state and other states based on the following  
3        factors:

4                (1) equity, which includes the opportunity for students, access to  
5        resources for schools, and equal treatment for taxpayers;

6                (2) education quality, which includes a review of Vermont's statutory  
7        outcome measures of performance and other state and national measures of  
8        performance based on existing data;

9                (3) comparative costs, including spending growth overall and particular  
10       areas of spending (e.g., special education), understanding that No. 60 of the  
11       Acts of the 1997 Adj. Sess. (1998) and No. 68 of the Acts of the 2003 Adj.  
12       Sess. (2004) envisioned some increase in spending in poorer communities;

13               (4) funding reliance, which means the types of tax and revenues used to  
14       fund the education system;

15               (5) demographic issues, including the impact of demographic changes  
16       independent of the state education funding system;

17               (6) economic impacts, if any, that the education funding system has had  
18       on state and local economies;

19               (7) the relationship between per pupil spending and the total amount  
20       spent for each community; and

1           (8) the extent to which spending is correlated to community income  
2 wealth.

3           (e) The provider selected shall:

4           (1) carry out public participation activities as part of its evaluation;

5           (2) submit a draft report to the governor, the president pro tempore of  
6 the senate, the speaker of the house, and the joint fiscal committee by  
7 March 30, 2012, and a final report due one month later.

8           (f) The department of education, the department of taxes, the joint fiscal  
9 office, and the legislative council shall assist the provider with gathering data  
10 required for the study.

11       Sec. 9. AUTHORIZATION TO SPEND

12           The joint fiscal office is authorized to expend up to a total of \$210,000.00  
13 for the evaluation in Sec. 8 of this act and related expenses by using funds  
14 from its existing budget, and, if necessary, the joint fiscal committee is  
15 authorized to transfer additional funds from other legislative departments to the  
16 joint fiscal office to cover the full amount of the evaluation requirements.

17       Sec. 10. 32 V.S.A. § 4961(c) is amended to read:

18           (c) Annually, on or before August 1, the supervisors of Glastenbury and  
19 Somerset shall each present the proposed budget and tax rate for the town for  
20 the ensuing year. Upon a finding by the commissioner of taxes before  
21 September 10 that the budget and tax rate are reasonable and show no obvious

1 irregularities, the commissioner shall approve the budget and tax rate, and the  
2 supervisor shall then adopt the budget and tax rate and notify the residents of  
3 the town. If the commissioner does not approve the budget and tax rate by  
4 September 10, the budget ~~and tax rate~~ shall remain the same as the budget ~~and~~  
5 ~~tax rate~~ for the prior year, and the supervisor shall so notify the residents of the  
6 town.

7 Sec. 11. 32 V.S.A. § 5410(g) is amended to read:

8 (g) If the property identified in a declaration under subsection (b) of this  
9 section is not the taxpayer's homestead, or if the owner of a homestead fails to  
10 declare a homestead as required under this section, ~~or fails to file a notice of~~  
11 ~~transfer or change in qualification pursuant to subdivisions (b)(1)(A) and (B)~~  
12 ~~of this section,~~ the commissioner shall notify the municipality, and the  
13 municipality shall issue a corrected tax bill that ~~includes~~ may include a penalty  
14 ~~in an amount equal to three percent of the education tax on the property if the~~  
15 ~~municipality's nonresidential tax rate is higher than the municipality's~~  
16 ~~homestead tax rate for the tax year to which the declaration or failure pertains,~~  
17 ~~or in any other case shall assess the taxpayer a penalty in an amount equal to~~  
18 ~~eight percent of the education tax on the property. If the property incorrectly~~  
19 ~~declared as a homestead is located in a municipality that has a lower~~  
20 ~~homestead tax rate than the nonresidential tax rate, the penalty shall be an~~  
21 ~~amount equal to eight percent of the education tax on the property, but if the~~

1 homestead tax rate is higher than the nonresidential tax rate, the penalty shall  
2 be in an amount equal to three percent of the education tax on the property. If  
3 an undeclared homestead is located in a municipality that has a lower  
4 nonresidential tax rate than the homestead tax rate, the penalty shall be eight  
5 percent of the education tax liability on the property, but if the nonresidential  
6 tax rate is higher than the homestead tax rate, then the penalty shall be in an  
7 amount equal to three percent of the education tax on the property. If the  
8 commissioner determines that the declaration or failure to declare was with  
9 fraudulent intent, then the municipality shall assess the taxpayer a penalty in an  
10 amount equal to 100 percent of the education tax on the property; plus any  
11 interest and late-payment fee or commission which may be due. Any penalty  
12 imposed under this section and any additional property tax interest and  
13 late-payment fee or commission shall be assessed and collected by the  
14 municipality in the same manner as a property tax under chapter 133 of this  
15 title.

16 Sec. 12. EXAMINATION OF RENEWABLE ENERGY PROPERTY TAX  
17 ISSUES

18 (a) The director of property valuation and review and the commissioner of  
19 public service shall undertake a joint examination of issues regarding the  
20 taxation of real property that includes a renewable energy plant.

1       (b) No later than January 15, 2012, the director of property valuation and  
2       review and the commissioner of public service shall report findings and  
3       analysis to the house committees on ways and means, on commerce and  
4       economic development, and on natural resources and energy, and the senate  
5       committees on finance, on economic development, housing and general affairs,  
6       and on natural resources and energy. The report shall include specific  
7       recommendations with respect to the following:

8               (1) Whether the current method of property taxation of renewable  
9               energy plants adequately apportions the tax burden and, if not, whether energy  
10              plants using different renewable resources should be subject to different rates  
11              of tax and how those rates should be determined.

12              (2) Whether renewable energy plants that are on leased land should be  
13              taxed differently from renewable energy plants that are on land owned by the  
14              plant owner.

15              (3) Whether renewable energy plants installed on residential property  
16              should be exempt from taxation.

17              (4) Whether renewable energy plants installed on land enrolled in the  
18              use value appraisal program or affixed to exempt farm buildings should be  
19              subject to property taxation and, if so, how the rates should be determined.

20              (5) Whether there is a method for assessing the impact of a commercial  
21              renewable energy plant on homestead and nonresidential property values

1 within the vicinity of the plant, and the impact, if any, on the grand lists of the  
2 host community and adjoining communities.

3 (6) Whether the property tax on renewable energy plants should account  
4 for any change in value of properties affected by a renewable energy plant.

5 (7) Any other criteria that the director and listers should consider when  
6 assessing the fair market value of land that includes a renewable energy plant.

7 (c) For the purpose of this section, the terms “plant” and “renewable  
8 energy” shall have the same meaning as under 30 V.S.A. § 8002.

9 Sec. 13. 32 V.S.A. § 6061 is amended to read:

10 § 6061. DEFINITIONS

11 The following definitions shall apply throughout this chapter unless the  
12 context requires otherwise:

13 \* \* \*

14 (5) “Modified adjusted gross income” means “federal adjusted gross  
15 income”:

16 \* \* \*

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

21 \* \* \*



1 Sec. 16. BURLINGTON TAX INCREMENT FINANCING

2 (a) Pursuant to Sec. 83 of No. 54 of the Acts of the 2009 Adj. Sess. (2010),  
3 the joint fiscal committee approved a formula for the implementation of a  
4 payment to the education fund in lieu of tax increment payments.

5 (b) The terms of the formula approved by the joint fiscal committee are as  
6 follows:

7 (1) Beginning in the fiscal year in which there is the incurrence of new  
8 TIF debt, the city will calculate and make an annual payment on December  
9 10th to the education fund each year until 2025. The April 1, 2010 grand list  
10 for the area encompassing the existing Waterfront TIF – excluding two parcels  
11 at 25 Cherry Street or the Marriott Hotel (SPAN#114-035-20755) and  
12 41 Cherry Street – is the baseline to be used as the starting point for calculating  
13 the tax increment that will be divided 25 percent to the state education fund  
14 and 75 percent to the city of Burlington. At the conclusion of the TIF in  
15 FY2025, any surplus tax increment funds will be returned to the city of  
16 Burlington and state education fund in proportion to the relative municipal and  
17 education tax rates as clarified in a letter from Mayor Bob Kiss to the chair of  
18 the joint fiscal committee dated September 9, 2009.

19 (2) The formula for calculating the payment in lieu of tax increment is  
20 as follows: first, the difference between the grand list for the Waterfront TIF  
21 excluding the two hotel parcels from the fiscal year in which the payment is

1 due and the April 1, 2010 grand list is calculated. Next, that amount is  
2 multiplied by the current education property tax rates to determine the  
3 increment subject to payment. Finally, this new increment is multiplied by  
4 25 percent to derive the payment amount.

5 (3) The city of Burlington will prepare a report annually, beginning  
6 July 1, 2010, for both the joint fiscal committee and the department of taxes,  
7 which will contain:

8 (A) the calculation set out in subdivision (2) of this subsection;

9 (B) a listing of each parcel within the Waterfront TIF District and the  
10 1996 original taxable value, 2010 extended base value, and the most recent  
11 values for all homestead and nonresidential property;

12 (C) a history of all of the TIF revenue and debt service payments; and

13 (D) details of new debt authorized, including repayment schedules.

14 Sec. 17. Sec. 2 of No. 2 of the Acts of 2005 (Spec. Sess.), as amended by Sec.  
15 9 of No. 212 of the Acts of the 2005 Adj. Sess. (2006) and Sec. 29 of No. 190  
16 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

17 Sec. 2. EFFECTIVE DATE; SUNSET

18 Sec. 1 of this act (wood products manufacture tax credit) shall apply to  
19 taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is  
20 repealed July 1, ~~2011~~ 2013, and no credit under that section shall be available  
21 for any taxable year beginning on or after July 1, ~~2011~~ 2013.

1 Sec. 18. 32 V.S.A. § 5930dd is amended to read:

2 § 5930dd. CLAIMS; AVAILABILITY

3 (a) A taxpayer claiming credit under this subchapter shall submit to the  
4 department of taxes with the first return on which a credit is claimed a copy of  
5 the state board's tax credit allocation.

6 (b) A credit under this subchapter shall be available for the first tax year in  
7 which the qualified project is complete. In the alternative, the state board may  
8 allocate the credit available under this subchapter and make an allocation  
9 available upon completion of any distinct phase of a qualified project. The  
10 allocation and distinct phases of the qualified project shall be identified in the  
11 application package approved by the state board.

12 \* \* \*

13 Sec. 19. 32 V.S.A. § 5930ee is amended to read:

14 § 5930ee. LIMITATIONS

15 Beginning in fiscal year 2010 and thereafter, the state board may award tax  
16 credits to all qualified applicants under this subchapter, provided that:

17 \* \* \*

18 (6) Credit awarded under section 5930cc of this subchapter that is  
19 rescinded or recaptured by the state board shall be available for the state board  
20 to award to applicants in any subsequent year, in addition to the total amount  
21 of tax credits authorized under this section.

1 Sec. 20. 32 V.S.A. § 5914(b) is amended to read:

2 (b) The commissioner may upon request and for ease of administration  
3 permit S corporations to file composite returns and to make composite  
4 payments of tax on behalf of some or all of its nonresident shareholders. In  
5 addition, the commissioner may require an S corporation that has in excess of  
6 ~~100~~ 50 nonresident shareholders to file composite returns and to make  
7 composite payments at the middle marginal rate on behalf of all of its  
8 nonresident shareholders.

9 Sec. 21. 32 V.S.A. § 5920(b) is amended to read:

10 (b) The commissioner may permit a partnership or limited liability  
11 company to file composite returns and to make composite payments of tax on  
12 behalf of some or all of its nonresident partners or members. In addition, the  
13 commissioner may require a partnership or limited liability company that has  
14 in excess of ~~100~~ 50 nonresident partners or members to file composite returns  
15 and to make composite payments at the middle marginal rate on behalf of all of  
16 its nonresident partners or members.

17 \* \* \* Health Care-Related Provisions \* \* \*

18 Sec. 22. 32 V.S.A. § 7811 is amended to read:

19 § 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

20 There is hereby imposed and shall be paid a tax on all tobacco products  
21 except roll-your-own tobacco and little cigars taxed under section 7771 of this

1 title possessed in the state of Vermont by any person for sale on and after  
2 July 1, 1959 which were imported into the state or manufactured in the state  
3 after said date, except that no tax shall be imposed on tobacco products sold  
4 under such circumstances that this state is without power to impose such tax,  
5 or sold to the United States, or sold to or by a voluntary unincorporated  
6 organization of the armed forces of the United States operating a place for the  
7 sale of goods pursuant to regulations promulgated by the appropriate executive  
8 agency of the United States. Such tax is intended to be imposed only once  
9 upon the wholesale sale of any tobacco product and shall be at the rate of 92  
10 percent of the wholesale price for all tobacco products except snuff, which  
11 shall be taxed at \$1.87 per ounce, or fractional part thereof, new smokeless  
12 tobacco, which shall be taxed at the greater of \$1.87 per ounce or, if packaged  
13 for sale to a consumer in a package that contains less than 1.2 ounces of the  
14 new smokeless tobacco, at the rate of \$2.24 per package, and cigars with a  
15 wholesale price greater than ~~\$1.08~~ \$2.17, which shall be taxed at the rate of  
16 \$2.00 per cigar if the wholesale price of the cigar is greater than ~~\$1.08~~ \$2.17  
17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of  
18 the cigar is \$10.00 or more. Provided, however, that upon payment of the tax  
19 within 10 days, the distributor or dealer may deduct from the tax two percent  
20 of the tax due. It shall be presumed that all tobacco products within the state  
21 are subject to tax until the contrary is established and the burden of proof that

1 any tobacco products are not taxable hereunder shall be upon the person in  
2 possession thereof. Wholesalers of tobacco products shall state on the invoice  
3 whether the price includes the Vermont tobacco products tax.

4 Sec. 23. 33 V.S.A. § 1955a is amended to read:

5 § 1955a. HOME HEALTH AGENCY ASSESSMENT

6 (a) Beginning ~~July 1, 2009~~ October 1, 2011, each home health agency's  
7 assessment shall be ~~17.69~~ 19.30 percent of its net operating revenues from core  
8 home health care services, excluding revenues for services provided under  
9 Title XVIII of the federal Social Security Act. The amount of the tax shall be  
10 determined by the commissioner based on the home health agency's most  
11 recent audited financial statements at the time of submission, a copy of which  
12 shall be provided on or before December 1 of each year to the department. For  
13 providers who begin operations as a home health agency after January 1, 2005,  
14 the tax shall be assessed as follows:

15 \* \* \*

16 Sec. 24. 33 V.S.A. § 1953(a) is amended to read:

17 (a) Hospitals shall be subject to an annual assessment as follows:

18 (1) Each hospital's annual assessment, except for hospitals assessed  
19 under subdivision (2) of this subsection, shall be 5.5 percent of its net patient  
20 revenues (less chronic, skilled, and swing bed revenues) ~~for the hospital's~~  
21 ~~fiscal year as determined annually by the commissioner of Vermont health~~

1 ~~access from the hospital's financial reports and other data filed with the~~  
2 ~~department of banking, insurance, securities, and health care administration~~  
3 through September 30, 2011. Beginning October 1, 2011, each hospital's  
4 assessment, except for hospitals assessed under subdivision (2) of this  
5 subsection, shall be 6.0 percent of its net patient revenues (less chronic, skilled,  
6 and swing bed revenues). The annual assessment shall be based on data from a  
7 hospital's most recent ~~full~~ budgeted fiscal year for which data has been  
8 ~~reported to~~ approved by the department of banking, insurance, securities, and  
9 health care administration.

10 \* \* \*

11 Sec. 25. 33 V.S.A. § 1954(a) is amended to read:

12 (a) Beginning July 1, ~~2007~~ 2011, each nursing home's annual assessment  
13 shall be ~~\$4,322.90~~ \$4,509.57, and beginning ~~January 1, 2008,~~ \$3,962.66  
14 October 1, 2011, \$4,919.53 per bed licensed pursuant to section 7105 of this  
15 title on June 30 of the immediately preceding fiscal year. The annual  
16 assessment for each bed licensed as of the beginning of the fiscal year shall be  
17 prorated for the number of days during which the bed was actually licensed  
18 and any over payment shall be refunded to the facility. To receive the refund,  
19 a facility shall notify the commissioner in writing of the size of the decrease in  
20 the number of its licensed beds and dates on which the beds ceased to be  
21 licensed.

1 Sec. 26. 33 V.S.A. § 1955(a) is amended to read:

2 (a) Beginning ~~January 1, 2008~~ October 1, 2011, each ICF/MR's annual  
3 assessment shall be ~~5.5~~ 6.0 percent of the ICF/MR's total annual direct and  
4 indirect expenses for the most recently settled ICF/MR audit.

5 Sec. 27. 32 V.S.A. § 7771 is amended to read:

6 § 7771. RATE OF TAX

7 \* \* \*

8 (d) The tax imposed under this section shall be at the rate of ~~44~~ 125.5  
9 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own  
10 tobacco. The interest and penalty provisions of section 3202 of this title shall  
11 apply to liabilities under this section.

12 Sec. 27a. 32 V.S.A. § 7814(b) is amended to read:

13 (b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the  
14 prohibition against further tax on stamped cigarettes, little cigars, or  
15 roll-your-own tobacco under section 7771 of this title, a floor stock tax is  
16 hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own  
17 tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m.  
18 on July 1 ~~following enactment of this act, 2011~~, has more than 10,000  
19 cigarettes or little cigars or who has \$500.00 or more of wholesale value of  
20 roll-your-own tobacco, for retail sale in his or her possession or control. The  
21 amount of the tax shall be the amount by which the new tax exceeds the

1 amount of the tax already paid for each cigarette, little cigar, or roll-your-own  
2 tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m.  
3 on July 1 ~~following enactment of this act, 2011~~, and on which cigarette stamps  
4 have been affixed before July 1 ~~following enactment of this act, 2011~~. A floor  
5 stock tax is also imposed on each Vermont cigarette stamp in the possession or  
6 control of the wholesaler at 12:01 a.m. on July 1 ~~following enactment of this~~  
7 ~~act, 2011~~, and not yet affixed to a cigarette package, and the tax shall be at the  
8 rate of \$0.25 per stamp. Each wholesaler and retailer subject to the tax shall,  
9 on or before July 25 ~~following enactment of this act, 2011~~, file a report to the  
10 commissioner in such form as the commissioner may prescribe showing the  
11 cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at  
12 12:01 a.m. on July 1 ~~following enactment of this act, 2011~~, and the amount of  
13 tax due thereon. The tax imposed by this section shall be due and payable on  
14 or before July 25 ~~following enactment of this act, 2011~~, and thereafter shall  
15 bear interest at the rate established under section 3108 of this title. In case of  
16 timely payment of the tax, the wholesaler or retailer may deduct from the tax  
17 due two and three-tenths of one percent of the tax. Any cigarettes, little cigars,  
18 or roll-your-own tobacco with respect to which a floor stock tax has been  
19 imposed under this section shall not again be subject to tax under section 7771  
20 of this title.

1 Sec. 28. 8 V.S.A. § 4089I is added to read:

2 § 4089I. HEALTH CARE CLAIMS ASSESSMENT

3 (a)(1) Beginning October 1, 2011 and annually thereafter, each health  
4 insurer shall pay an assessment into the state health care resources fund  
5 established in 33 V.S.A. § 1901d in the amount of 0.80 of one percent of all  
6 health insurance claims paid by the health insurer for its Vermont members in  
7 the previous fiscal year ending June 30. The annual fee shall be paid in  
8 quarterly installments on November 1, January 1, April 1, and June 30.

9 (2) On or before September 1, 2011 and annually thereafter, the  
10 secretary of administration, in consultation with the commissioner of banking,  
11 insurance, securities, and health care administration, shall publish a list of  
12 health insurers subject to the fee imposed by this section together with the paid  
13 claims amounts attributable to each health insurer for the previous fiscal year.  
14 The costs of the department of banking, insurance, securities, and health care  
15 administration in calculating the annual claims data shall be paid from the state  
16 health care resources fund.

17 (b) It is the intent of the general assembly that all health insurers shall  
18 contribute equitably to the state health care resources fund. In the event that  
19 the assessment established in subsection (a) of this section is found not to be  
20 enforceable as applied to third-party administrators or other entities, the  
21 assessment amounts owed by all other health insurers shall remain at existing

1 levels and the general assembly shall consider alternative funding mechanisms  
2 that would be enforceable as to all health insurers.

3 (c) As used in this section:

4 (1) "Health insurance" means any group or individual health care  
5 benefit policy, contract, or other health benefit plan offered, issued, renewed,  
6 or administered by any health insurer, including any health care benefit plan  
7 offered, issued, renewed, or administered by any health insurance company,  
8 any nonprofit hospital and medical service corporation, or any managed care  
9 organization as defined in 18 V.S.A. § 9402. The term includes  
10 comprehensive major medical policies, contracts, or plans and Medicare  
11 supplemental policies, contracts, or plans, but does not include Medicaid,  
12 VHAP, or any other state health care assistance program financed in whole or  
13 in part through a federal program, unless authorized by federal law and  
14 approved by the general assembly. The term does not include policies issued  
15 for specified disease, accident, injury, hospital indemnity, dental care,  
16 long-term care, disability income, or other limited benefit health insurance  
17 policies.

18 (2) "Health insurer" means any person who offers, issues, renews, or  
19 administers a health insurance policy, contract, or other health benefit plan in  
20 this state and includes third-party administrators or pharmacy benefit managers  
21 who provide administrative services only for a health benefit plan offering

1 coverage in this state. The term does not include a third-party administrator or  
2 pharmacy benefit manager to the extent that a health insurer has paid the fee  
3 which would otherwise be imposed in connection with health care claims  
4 administered by the third-party administrator or pharmacy benefit manager.  
5 The term also does not include a health insurer with a monthly average of  
6 fewer than 200 Vermont insured lives.

7 (d) If any health insurer fails to pay the fee established in subsection (a) of  
8 this section within 45 days after notice from the secretary of administration of  
9 the amount due, the secretary of administration or his or her designee shall  
10 notify the commissioner of banking, insurance, securities, and health care  
11 administration of the failure to pay. In addition to any other remedy or  
12 sanction provided for by law, if the commissioner finds, after notice and an  
13 opportunity to be heard, that the health insurer has violated this section or any  
14 rule or order adopted or issued pursuant to this section, the commissioner may  
15 take any one or more of the following actions:

16 (1) Assess an administrative penalty on the health insurer of not more  
17 than \$1,000.00 for each violation and not more than \$10,000.00 for each  
18 willful violation;

19 (2) Order the health insurer to cease and desist in further violations;



1 Sec. 32. 33 V.S.A. § 2503(h) is amended to read:

2 (h) No tax under this section shall be imposed for any quarter ending after  
3 June 30, ~~2014~~ 2016. Monies from the escrow account shall be issued for  
4 rebates pursuant to subsection (g) of this section until March 1, ~~2012~~ 2017.

5 Sec. 33. REPEAL

6 32 V.S.A. § 9602(2) (providing preferential property transfer tax for land  
7 enrolled in the use value appraisal program) is repealed effective July 1, 2011.

8 Sec. 34. 32 V.S.A. § 9610(c) is amended to read:

9 (c) Prior to distributions of property transfer tax revenues under 10 V.S.A.  
10 § 312, 24 V.S.A. § 4306(a), and 32 V.S.A. § 435(b)(10), ~~one~~ two percent of  
11 the revenues received from the property transfer tax shall be deposited in a  
12 special fund in the ~~tax~~ department of taxes for property valuation and review  
13 administration costs. Up to one-half of the funds deposited in a special fund  
14 under this subsection shall be used for the purpose of administering the current  
15 use value program electronically.

16 Sec. 35. 32 V.S.A. § 9610(c) is amended to read:

17 (c) Prior to distributions of property transfer tax revenues under 10 V.S.A.  
18 § 312, 24 V.S.A. § 4306(a), and 32 V.S.A. § 435(b)(10), ~~two~~ one percent of  
19 the revenues received from the property transfer tax shall be deposited in a  
20 special fund in the tax department for property valuation and review  
21 administration costs. ~~Up to one-half of the funds deposited in a special under~~

1 ~~this subsection shall be used for the purpose of administering the current use~~  
2 ~~value program electronically.~~

3 Sec. 36. 32 V.S.A. § 9743 is amended to read:

4 § 9743. ORGANIZATIONS NOT COVERED

5 \* \* \*

6 (7) An exemption under subdivisions (3) and (5) of this section shall not  
7 be available for entertainment charges for admission to a live performance by  
8 an organization whose gross sales of entertainment charges by or on behalf of  
9 an organization for admission to live performances in the prior calendar year  
10 exceeded ~~\$50,000.00~~ \$100,000.00.

11 Sec. 37. EFFECTIVE DATES

12 This act shall take effect on passage except:

13 (1) Sec. 2 (link to Internal Revenue Code) shall apply to taxable years  
14 beginning on and after January 1, 2010.

15 (2) Secs. 4 (fiscal year 2012 property tax rates) and 5 (fiscal year 2012  
16 base education payment amount) shall apply to fiscal year 2012 education  
17 property taxes.

18 (3) Sec. 11 (changes to homestead declaration penalty) shall apply to  
19 property tax adjustment claims made in 2011 and after.

20 (4) Sec. 13 (definition of household income) shall take effect on  
21 January 1, 2012 and apply to tax year 2012 and after.

1           (5) Sec. 14 (VEGI claim file date) shall apply to claims made in 2011  
2           and after.

3           (6) Secs. 20 and 21 (mandatory composite filing for pass-through  
4           entities with large number of nonresident owners) shall apply to taxable years  
5           beginning on and after January 1, 2012.

6           (7) Sec. 22 (cigar tax) shall take effect on July 1, 2011.

7           (8) Secs. 27 (cigarette tax), 27a (floor tax), 33 (property transfer tax), 34  
8           (allocation of property transfer tax revenue) and 36 (exempt organizations)  
9           shall take effect on July 1, 2011.

10           (9) Sec. 29 (health information technology) shall take effect on June 1,  
11           2011.

12           (10) Sec. 35 (repeal of the allocation of property transfer tax revenue)  
13           shall take effect on July 1, 2016.