

Senate proposal of amendment

H. 873

An act relating to making miscellaneous tax changes

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Tax Administration * * *

Sec. 1. 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:

* * *

(3) To any officer, employee, or agent of any other state or Vermont municipality that administers its own local option sales tax or meals and rooms tax or gross receipts tax under its charter, provided that the information will be used by that state or municipality for tax administration and that state or municipality grants substantially similar disclosure privileges to this State and provides for the secrecy of records in terms substantially similar to those provided by this section.

* * *

(17) To the Department of Financial Regulation, if such return or return information relates to the tax on premiums of captive insurance companies contained in 8 V.S.A. chapter 141.

(18) To the Vermont Student Assistance Corporation if such return or return information is necessary to verify eligibility for the matching allocation required by 16 V.S.A. § 2880d(c).

Sec. 2. 32 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATIVE GARNISHMENT

(a) Notwithstanding other statutes which provide for levy or execution, trustee process, or attachment, the Commissioner may garnish a taxpayer's earnings pursuant to this section to satisfy amounts collectible by the Commissioner under this title, subject to the exemptions provided in 12 V.S.A. § 3170(a) and (b)(1).

* * *

(e) If, after 15 days, the taxpayer has not petitioned for a hearing, a notice of garnishment shall direct an employer to transmit a specified portion of the taxpayer's disposable earnings to the Commissioner from each periodic

payment that is due to the taxpayer until the taxpayer's obligation is paid in full. The notice shall identify the taxpayer by Social Security number. An employer is immune from any liability due to compliance with the Commissioner's notice of garnishment.

* * * Use Value Appraisals * * *

Sec. 3. 32 V.S.A. § 3754(b) is amended to read:

(b) Annually ~~in August~~ on or before October 15, the Board shall hold a public hearing and such other hearings as they deem necessary to receive public testimony on the criteria and values for use value appraisals in the coming tax year and on the administration of this subchapter.

Sec. 4. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(f) On or before September 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

Sec. 5. 32 V.S.A. § 3757(d) is amended to read:

(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. The tax shall be paid to the Commissioner who shall remit to the municipality the lesser of one-half the tax paid or \$2,000.00. The Director shall deposit three-quarters of the remainder of the tax paid in the Education Fund, and one-quarter of the remainder of the tax paid in 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 completed and signed form, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials, one copy to the register of deeds of the municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation.

* * * Property Tax * * *

Sec. 6. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

(a) A municipality shall be paid \$8.50 per grand list parcel per year, from the equalization and reappraisal account within the education fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. ~~Additionally, a municipality shall be paid \$3.65 per grand list parcel for the first 100 parcels \$0.20 for each of the next 100 parcels, and \$0.01 for each parcel in excess of 200 from the equalization and reappraisal account within the education fund, to be used only for costs to acquire assessment education provided under section 3436 of this title.~~

(b) If the Director of Property Valuation and Review determines that a municipality's education grand list is at a common level of appraisal below 80 percent or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If the Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director, to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

(c) If a municipality fails to submit an acceptable plan or fails to carry out the plan, pursuant to subsection (b) of this section, the State shall withhold the education, transportation, and other funds from the municipality until the Director certifies that the town has carried out that plan.

(d) A sum not to exceed \$100,000.00 each year shall be paid from the equalization and reappraisal account within the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal assessing officials. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using funds described in this section shall be provided at no cost or minimal cost to the municipal assessing officials. In addition to providing the annual education programs as described in this section, up to 20 percent of the amount available for education programs may be reserved as a scholarship fund to permit municipal assessing officials to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director.

~~(d)~~(e) The Director shall adopt rules necessary for administration of this section.

Sec. 7. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY ~~TAX~~ VALUATION HEARING OFFICER; OATH; PAY

* * *

Sec. 8. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the Director or the Court, the hearing officer or Court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The hearing officer or Court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the hearing officer or Court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or Court shall set said property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant. If the appeal is taken to the Director, the hearing officer ~~shall~~ may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of his or her option to request an inspection under this section.

Sec. 9. TAX INCREMENT FINANCING DISTRICT AUDITS

Notwithstanding 32 V.S.A. § 5404a(1)(2), the first audit of the Milton Town Core Tax Financing District conducted by the State Auditor of Accounts shall be delayed one year to allow for completion of the first annual municipal audit that includes procedures required by 24 V.S.A. § 1901(3)(A).

Sec. 9a. 2013 Acts and Resolves No. 80, Sec. 18 is amended to read:

Sec. 18. BURLINGTON WATERFRONT TIF

(a) The authority of the City of Burlington to incur indebtedness for its waterfront tax increment financing district is hereby extended for five years beginning January 1, 2015; provided, however, that the City is authorized to extend the period to incur indebtedness for 6.5 years beginning on January 1, 2015 for three properties located within the waterfront tax increment financing district at 49 Church Street and 75 Cherry Street, as designated on the City's Tax Parcel Maps as the following:

(1) Parcel ID# 044-4-004-000;

(2) Parcel ID# 044-4-004-001;

(3) Parcel ID# 044-4-033-000.

(b) This extension does not extend any period that municipal or education tax increment may be retained. Notwithstanding any other provision of law, the City of Burlington may extend the period to retain municipal and education tax increment for the parcels described in subdivisions (a)(1), (2), and (3) of this section until June 30, 2035. The City shall not extend the period to retain municipal or education tax increment for any other properties within the waterfront tax increment financing district.

(c) The extension of the period to incur indebtedness for the specific parcels in subdivision (a)(1)–(3) of this section is subject to the City of Burlington’s submission to the Vermont Economic Progress Council of an executed construction contract with a completion guarantee by the owner of the parcels evidencing commitment to construct not less than \$50 million of private development on the parcels.

Sec. 10. 1892 Acts and Resolves No. 213, Secs. 5 and 6, as amended by 1906 Acts and Resolves No. 357, Sec. 1, and as amended by 2008 Acts and Resolves No. 190, Sec. 46 is further amended to read:

Sec. 5. ~~Said corporation~~ The Corporation shall have power to purchase and receive for the charitable purposes herein indicated, by gift, bequest, devise or otherwise, real and personal property, and the same to hold, for such purposes only, and to sell and convey the same or any part thereof when expedient in the judgment of the Directors. No more than ~~fifty thousand dollars~~ \$50,000.00 in value of the property of ~~said corporation~~ the Corporation which is used directly as a nonprofit elder residential care home shall be exempt from municipal property taxation, and up to \$500,000.00 of the same property shall be exempt from education property taxation, ~~and such property;~~ provided that the property, to be so exempt from taxation under this section, shall be located in Brattleboro.

Sec. 6. ~~Said~~ The Corporation, in the investment of its funds, shall be governed by the laws relative to ~~Savings Banks~~ savings banks in this ~~state~~ State. ~~Neither said Corporation, nor any corporator, officer, or employee, shall have power to create a debt against the Corporations except for current expenses.~~

* * * Income Tax * * *

Sec. 11. 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 ~~2014~~ 2015, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 12. 32 V.S.A. § 5842 is amended to read:

§ 5842. RETURN AND PAYMENT OF WITHHELD TAXES

(a) Every person required to deduct and withhold any amount under section 5841 of this title shall make return thereof and shall pay over that amount to the Commissioner as follows:

(1) In quarterly payments to be made not later than 25 days following the last day of March, June, September, and December if the person ~~reasonably estimates that the amount to be deducted and withheld during that quarter will not exceed \$2,500.00; or is required to make quarterly or annual payments of~~ federal withholding pursuant to the Internal Revenue Code.

(2) In semiweekly payments, if the person is required to make semiweekly payments of federal withholding pursuant to the Internal Revenue Code. Semiweekly shall mean payment of tax withheld for pay dates on Wednesday, Thursday, or Friday is due by the following Wednesday, and tax withheld for pay dates on Saturday, Sunday, Monday, or Tuesday is due by the following Friday.

(3) In monthly payments to be made not later than the 25th (23rd of February) day following the close of the calendar month during which the amount was withheld, if subdivisions (1) and (2) of this subsection do not apply.

(b) The Commissioner shall prescribe the method of payment of tax and may, without limitation, require electronic funds transfer or payment to a bank depository. The Commissioner may, in writing, permit or require returns to be made covering other periods and upon such dates as the Commissioner may specify and require payments of tax liability at such intervals and based upon such classifications as the Commissioner may designate:

(1) to conform to federal withholding law as the Commissioner deems appropriate;

(2) in cases in which less frequent reporting is determined by the Commissioner to be sufficient; and

(3) in cases in which the Commissioner determines that the taxpayer's repeated failure to file or pay tax makes more frequent reporting necessary to insure the prompt and orderly collection of the tax.

(c) In addition to the returns required to be filed and payments required to be made under subsection (a) of this section, every person required to deduct

and withhold any tax under section 5841 of this title shall file an annual return covering the aggregate amount deducted and withheld during the entire preceding year, ~~not later than February 28~~ on or before January 31 of each year. At the time of filing that return, the person shall pay over to the Commissioner any amount deducted and withheld during the preceding calendar year and not previously paid. The person shall, further, make such annual report to payees and to the Commissioner of amounts paid and withheld as the Commissioner by regulation shall prescribe.

(d) Notwithstanding section 5867 of this title, the Commissioner may, in his or her discretion, prescribe that one or more or all of the returns required by subsection (a) of this section are not required to be signed or verified by the taxpayer. The Commissioner may require businesses and payroll service providers to file information under this section by electronic means.

Sec. 13. REPEAL

32 V.S.A. § 5912 (characterization of income) is repealed.

Sec. 14. 32 V.S.A. § 5915 is amended to read:

§ 5915. MINIMUM TAX

An S corporation which is subject to the provisions of section 5914 of this title shall pay an annual tax of \$250.00 to the Commissioner of Taxes on or before the due date prescribed for the filing of ~~C corporation returns under section 5862 of this title~~ S corporation returns under subsection 6072(b) of the Internal Revenue Code.

* * * Solid Waste Tax * * *

Sec. 15. 32 V.S.A. § 5954(a) is amended to read:

(a) Every person required to pay this tax shall on or before the 30th day of the month following each calendar quarter, file a return with the Commissioner of Taxes and pay the amount of tax due. The Commissioner may require a return to be filed for quarters in which no tax is due.

* * * Homestead Property Tax Adjustment * * *

Sec. 16. 32 V.S.A. § 6061(13) is amended to read:

(13) "Homestead" means a homestead as defined under subdivision 5401(7), but not under subdivision 5401(7)(G), of this title and declared on or before ~~September 1~~ October 15 in accordance with section 5410 of this title.

Sec. 17. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

(a) ~~By~~ On or before January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of

rent to the Department of Taxes and to each claimant who owned a portion of the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax, and for statewide property tax.

(b) The owner of each rental property consisting of more than one rented homestead shall, ~~not later than~~ on or before January 31 of each year, furnish a certificate of rent to the Department of Taxes and to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address.

(c) A certificate under this section shall be in a form prescribed by the Commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the Commissioner determines is appropriate.

(d)(1) An owner who knowingly fails to furnish a certificate to the Department or a renter as required by this section shall be liable to the Commissioner for a penalty of \$200.00 for each failure to act. An owner shall be liable to the Commissioner for a penalty equal to the greater of \$200.00 or the excess amount reported who:

(A) willfully furnishes a certificate that reports total allocable rent in excess of the actual amount paid; or

(B) reports a total amount of allocable rent that exceeds by 10 percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

* * * Corporation Taxes * * *

Sec. 18. 32 V.S.A. § 8146 is amended to read:

§ 8146. ADDITIONAL TAX; REFUNDS

When the Commissioner finds that owing to the incorrectness of a return or any other cause, a tax paid pursuant to this chapter is too small, he or she shall

assess an additional tax sufficient to cover the deficit and shall forthwith notify the parties so assessed. The administrative provisions of chapters 103 and 151 of this title shall apply to assessments and refund claims under this chapter, including those provisions governing interest and penalty in section 3202 of chapter 103, appeals, and collection of assessments.

Sec. 19. 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 ~~\$950,000.00~~ \$1,200,000.00 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 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.

* * * Meals and Rooms Tax * * *

Sec. 20. 32 V.S.A. § 9202(15) is amended to read:

(15) “Restaurant” means:

(A) An establishment from which food or beverage of the type for immediate consumption is sold or for which a charge is made, including a cafe, cafeteria, dining room, diner, lunch counter, snack bar, private or social club, bar, tavern, street vendor, or person engaged in the business of catering.

(B) An establishment 80 percent or more of whose total sales of food and beverage in the previous taxable year were, or in the first taxable year are reasonably projected to be, of alcoholic beverages, food, and beverage that are taxable under subdivision (10)(C) of this section, and food and beverage that

are taxable under subdivision (10)(B) and are not exempt under subdivision (10)(D) of this section.

(C) “Restaurant” shall not include a snack bar on the premises of a retail grocery or “convenience” store.

~~(D) A vending machine is not a restaurant, but food or beverage that is sold from a vending machine shall be deemed to be sold by a “restaurant” if the vending machine is located on the premises of a restaurant.~~

Sec. 21. PRIVATE SHORT-TERM RENTALS

Given the growth in private short-term rentals in the State, the Department of Taxes shall pursue negotiations to enter into a contract for the collection and remittance of the rooms and meals tax under 32 V.S.A. chapter 225 with persons who provide an Internet platform for the short-term rental of property for occupancy. The Department of Taxes shall report to the Senate Committee on Finance and the House Committee on Ways and Means on or before January 15, 2017 on the status of any contracts signed under this section.

Sec. 21a. 32 V.S.A. § 9248 is added to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes shall collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

* * * Sales and Use Tax – Contractors * * *

Sec. 22. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

* * *

(5) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent, including sales to contractors, subcontractors, or repair persons of materials and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property. A manufacturer or retailer shall be treated as a contractor when purchasing material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property unless an election is made under section 9711 of this title.

* * *

Sec. 23. 32 V.S.A. § 9711 is added to read:

§ 9711. ELECTION BY MANUFACTURER OR RETAILER

(a) As used in this section:

(1) “Manufacturer” is any person that is primarily engaged in the business of manufacturing tangible personal property for sale.

(2) “Retailer” is any person that is primarily engaged in the business of making retail sales of tangible personal property.

(b) A manufacturer or retailer that purchases material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property shall be permitted to make an election that it will be treated as a retailer on the purchase of those materials and supplies and such purchase will not be considered a retail sale under subdivision 9701(5) of this title.

(c) A manufacturer or retailer making an election under subsection (b) of this section shall charge sales tax to its customer on its materials and supplies or, in the case of a manufacturer, the finished manufactured products, when it uses those materials, supplies, or finished manufactured products in erecting structures or otherwise improving, altering, or repairing real property. The sales price for the purposes of calculating sales tax on materials, supplies, or finished manufactured products shall not be less than the manufacturer’s or retailer’s best customer price. The tax charged shall be separately stated on any invoice or receipt.

(d) An election made under subsection (b) of this section shall be binding on a manufacturer or retailer for a minimum of five years and shall remain in effect until the manufacturer or retailer files a withdrawal of election. No manufacturer or retailer shall be entitled to a refund on the basis of a withdrawal of an election.

(e) The provisions of this section shall not excuse any person from the obligation to collect tax on retail sales of tangible personal property not used in erecting structures or otherwise improving, altering, or repairing real property or from the obligation to pay sales tax or remit the use tax on tools, services, and other materials that are not used in erecting structures or otherwise improving, altering, or repairing real property.

(f) An election made under subsection (b) of this section shall be made on a form prescribed by the Commissioner and filed with the Department of Taxes at least 30 days prior to such election taking effect.

Sec. 24. 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 this 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:

(1) ~~tangible personal property, including property used to improve, alter, or repair the real property of others by a manufacturer or any person who is primarily engaged in the business of making retail sales of tangible personal property;~~

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* * * Sales and Use Tax – Out-of-State Vendors * * *

Sec. 25. 32 V.S.A. § 9701(54) is added to read:

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

Sec. 26. 32 V.S.A. § 9712 is added to read:

§ 9712. NOTICE REQUIREMENTS FOR NONCOLLECTING VENDORS

(a) Each noncollecting vendor making sales into Vermont shall notify Vermont purchasers that sales or use tax is due on nonexempt purchases made from the noncollecting vendor and that the State of Vermont requires the purchaser to pay the tax due on his or her tax return. Failure to provide the notice required by this subsection shall subject the noncollecting vendor to a penalty of \$5.00 for each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(b) Each noncollecting vendor shall send notification to all Vermont purchasers on or before January 31 of each year showing the total amount paid by the purchaser for Vermont purchases made from the noncollecting vendor in the previous calendar year. The notice requirement in this subsection only applies to Vermont purchasers who have made \$500.00 or more of purchases from the noncollecting vendor in the previous calendar year. The notice shall include any information required by the Commissioner by rule. The notification shall state that the State of Vermont requires a sales or use tax return to be filed and sales or use tax paid on nonexempt purchases made by the purchaser from the noncollecting vendor. The notification required by this subsection shall be sent separately to all Vermont purchasers by first-class mail or electronic mail and shall not be included with any other shipments. The notification shall include the words “Important Tax Document Enclosed” on the exterior of the mailing. The notification shall include the name of the noncollecting vendor. Failure to send the notification required by this subsection shall subject the noncollecting vendor to a penalty of \$10.00 for

each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(c) Each noncollecting vendor shall file an annual statement for each purchaser with the Department of Taxes, on forms required by the Commissioner, showing the total amount paid for Vermont purchases by that purchaser during the preceding calendar year or any portion thereof, and this annual statement shall be filed on or before March 1 of each year. The notice requirements of this subsection only apply to noncollecting vendors who make \$100,000.00 or more of sales into Vermont in the previous calendar year. Failure to file the annual statement required by this subsection shall subject the noncollecting vendor to a penalty of \$10.00 for each purchaser that should have been included in the annual statement, unless the noncollecting vendor shows reasonable cause for such failure.

(d) The Commissioner is authorized to adopt rules or procedures, or to create forms, necessary to implement this section. Penalties imposed under this section shall be subject to the same administrative and appeal provisions of this chapter as if imposed under section 3202 of this title.

Sec. 27. 32 V.S.A. § 9701(9)(F) is amended to read:

~~(F) A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business in this State who engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:~~

~~(i) by the display of advertisements in this State;~~

~~(ii) by the distribution of catalogs, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or~~

~~(iii) by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication systems, for the purpose of effecting sales of tangible personal property; provided such person has made sales from outside this State to destinations within this State of at least \$50,000.00 during any 12-month period preceding the monthly or quarterly period with respect to which such person's liability for tax under this chapter is determined.~~

A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business or other physical presence in this State that:

(i) engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:

(I) by the display of advertisements in this State;

(II) by the distribution of catalogues, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or

(III) by mail, Internet, telephone, computer database, cable, optic, cellular, or other communication systems, for the purpose of effecting sales of tangible personal property; and

(ii) has either made sales from outside this State to destinations within this State of at least \$100,000.00, or totaling at least 200 individual sales transactions, during any 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

* * * Health Care Provisions* * *

Sec. 28. 18 V.S.A. § 9607 is amended to read:

§ 9607. FUNDING; ~~INTENT~~ ALLOCATION OF EXPENSES

(a) The Office of the Health Care Advocate shall specify in its annual report filed pursuant to this chapter the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(b)(1) Expenses incurred by the Office of the Health Care Advocate for services related to the Green Mountain Care Board's and Department of Financial Regulation's regulatory and supervisory duties shall be borne as follows:

(A) 27.5 percent by the State from State monies;

(B) 24.2 percent by the hospitals;

(C) 24.2 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125; and

(D) 24.2 percent by health insurance companies licensed under 8 V.S.A. chapter 101.

(2) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(3) The Green Mountain Care Board shall administer the bill back authority created in this subsection on behalf of the Agency of Administration in support of the Agency's contract with the Office of the Health Care Advocate pursuant to section 9602 of this title to carry out the duties set forth in this chapter.

(c) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Sec. 28a. OFFICE OF THE HEALTH CARE ADVOCATE; REPORT

In the annual report submitted by the Office of the Health Care Advocate for calendar year 2016 pursuant to 18 V.S.A. § 9603(a)(11), the Office shall provide recommendations regarding whether:

(1) the Office of the Health Care Advocate should be relieved of obligations to serve as a voting member of any advisory group, task force, or similar group in order to fulfill more effectively the Office's consumer advocacy function;

(2) Vermont Health Connect-related consumer issues should be directed in the first instance to the insurance carrier for resolution; and

(3) any other statutory or structural changes to strengthen the role of the Office of the Health Care Advocate in providing systemic advocacy.

Sec. 29. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

* * *

(15) "Ambulance agency" means an ambulance agency licensed pursuant to 18 V.S.A. chapter 17.

Sec. 30. 33 V.S.A. § 1959 is added to read:

§ 1959. AMBULANCE AGENCY ASSESSMENT

(a) The annual assessment for each ambulance agency shall be 3.3 percent of the ambulance agency's annual net patient revenues for services delivered to patients in Vermont during the most recent annual fiscal period. The Department shall determine the appropriate fiscal period as necessary to ensure compliance with federal law. Ambulance agencies shall remit the assessment amount to the Department annually on or before March 31, beginning with March 31, 2017.

(b) The Department shall provide written notification of the assessment amount to each ambulance agency. The assessment amount determined shall be considered final unless the agency requests reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ambulance agency shall remit its assessment to the Department according to a schedule adopted by the Commissioner. The Commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ambulance agency that fails to make a payment to the Department on or before the specified schedule, or under any schedule of delayed payments established by the Commissioner, shall be assessed not more than \$1,000.00. The Commissioner may waive the late-payment assessment provided in this subsection for good cause shown by the ambulance agency.

Sec. 31. AMBULANCE PROVIDER TAX; INTENT

In establishing a provider tax on ambulance agencies, it is the intent of the General Assembly to increase Medicaid reimbursement rates to these providers while ensuring full compliance with 42 C.F.R. 433.68.

* * *

Sec. 32. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning on October 1, ~~2014~~ 2016, each home health agency's assessment shall be the greater of 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act, or two percent of its annual net patient revenue; provided, however, that each home health agency's annual assessment shall be limited to no more than ~~six~~ 4.5 percent of its annual net patient revenue. The amount of the tax shall be determined by the Commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

Sec. 33. HOME HEALTH AGENCY ASSESSMENT WORKING GROUP;
REPORT

(a) The Department of Vermont Health Access shall convene a working group comprising nonprofit and for-profit home health agencies and other interested stakeholders to develop a common understanding, for purposes of the home health agency assessment established in 33 V.S.A. § 1955a, of:

- (1) core home health agency services;
- (2) net operating revenue for core home health agency services;
- (3) net patient revenue; and
- (4) criteria for determining medical necessity.

(b) On or before October 1, 2016, the Department shall provide the results of the working group's meetings and any recommendations for statutory modifications to the Health Reform Oversight Committee, the House

Committees on Health Care and on Ways and Means, and the Senate Committees on Health and Welfare and on Finance.

* * * Fuel Gross Receipts Tax * * *

Sec. 34. 32 V.S.A. § 2501(d) is added to read:

(d) The Emergency Board shall adopt an official revenue estimate for the fuel gross receipts tax under section 2503 of this title in the same manner as it does for other revenues under 32 V.S.A. § 305a.

Sec. 35. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of:

(1) 0.5 0.75 percent on the retail sale of the following types of fuel:

~~(1)(A)~~ heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business;

~~(2)~~ natural gas;

~~(3)~~ electricity; and

~~(4)(B)~~ coal.

(2) There is imposed a gross receipts tax of 0.5 percent on the retail sale of natural gas and electricity.

* * *

~~(d) Fuel sellers, which are regulated “companies” as defined in subsection 30 V.S.A. § 201(a), which provide conservation programs that meet the goals of the Weatherization Program in a manner approved by the Public Service Board, and which enhance the Weatherization Program’s capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the Public Service Board, on or before August 15 of each year, a request for approval of rebates based on the company’s activities during the prior fiscal year. The Public Service Board shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the State Office of Economic Opportunity under the provisions of subsection (f) of this section. The Public Service Board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and cost effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households that meet the eligibility criteria for~~

~~low income weatherization services as determined by the Office of Economic Opportunity.~~

~~(e) Unregulated fuel sellers providing conservation programs that meet the goals of the Weatherization Program in a manner approved by the State Office of Economic Opportunity and that enhance the weatherization program's capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the State Office of Economic Opportunity, on or before August 15 of each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The State Office of Economic Opportunity shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and that amount shall be rebated by the State Office of Economic Opportunity under the provisions of this subsection. The State Office of Economic Opportunity shall authorize rebates equal to the expenditures undertaken by the unregulated fuel sellers provided that the expenditures were prudently incurred and cost effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households at or below 150 percent of the federally established poverty guidelines.~~

~~(f) On or before August 7 of each year, the Director of the State Office of Economic Opportunity shall set aside a sum of money equaling two and one-half percent of the tax receipts of the fuel gross receipts tax for the preceding fiscal year in an escrow account. The monies in the escrow account are to be used for rebate, as approved under subsections (d) and (e) of this section, of the gross receipts tax established in subsection (a) of this section. Upon approval of rebates, the Director shall pay the approved rebates out of the escrow account. In the event that the approved rebates exceed the amount of money set aside in the escrow account, the Director shall prorate each rebate. Any balance of rebate awards remaining unpaid as a result of proration may be carried forward for payment in a succeeding year. If monies set aside exceed approved rebates, then the balance shall be returned to the Fund. The Director of the State Office of Economic Opportunity shall use the remainder of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to assure the provision of weatherization services as described in subsections 2502(a), (b), and (c) of this title.~~

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

Sec. 36. STUDY ON FUEL GROSS RECEIPTS TAX

The Vermont Department of Taxes, with the assistance of other executive agencies, shall report to the General Assembly on or before November 15, 2016 with a specific proposal to restructure the fuel gross receipts tax from one based on gross receipts to one based on a levy for each unit of fuel source, including draft legislation to implement the proposal. The proposal shall be designed to raise the same amount of revenue as the fuel gross receipts tax did for a three-year average from fiscal years 2013–2015.

Sec. 36a. ANALYSIS OF ADMINISTRATIVE COSTS

The Joint Fiscal Office shall conduct an analysis of the administrative costs associated with seasonal and crisis fuel and weatherization programs for the State of Vermont. The Joint Fiscal Office shall report its findings to the Senate Committees on Finance, Health and Welfare, and Appropriations, and the House Committees on Ways and Means, Human Services, and Appropriations on or before December 15, 2016.

* * * Filing Periods * * *

Sec. 37. 32 V.S.A. § 5836(c) is amended to read:

(c) The tax imposed by this section shall be paid ~~quarterly~~ monthly to the Commissioner ~~not later than~~ on or before the 25th day of ~~the~~ each month ~~following the last day of each quarter of the corporation's taxable year under the federal Internal Revenue Code, for the three months of that quarter~~ for the tax due in the previous month.

Sec. 38. 32 V.S.A. § 8521 is amended to read:

§ 8521. IMPOSITION AND RATE OF TAX

(a) There is hereby assessed, upon each person or corporation owning or operating a telephone line or business within the State, a tax equal to 2.37 percent of net book value as of the preceding December 31 of all personal property of the taxpayer located within the State. The tax shall be paid to the Commissioner in equal ~~quarterly~~ monthly installments ~~no later than~~ on or before the 25th day of ~~the third, sixth, ninth, and 12th month of each taxable year~~ each month of each taxable year.

* * *

(f) When personal property is transferred during the year from a person or corporation subject to a tax imposed by this subchapter to another person or corporation ~~who~~ that operates or will operate a telephone line or business in the State:

(1) for ~~quarters~~ months beginning after the date of transfer, the transferee shall include the net book value of the transferred property as of the date of transfer in the calculation of the tax due under subsection (a) of this

section and the transferor shall exclude such value from its calculation of its tax under subsection (a);

(2) for the ~~quarter~~ month during which the transfer occurs, the transferor shall include the net book value of the transferred property as of the preceding December 31 multiplied by the number of days during the ~~quarter~~ month it owned the property and divided by the total number of days in the ~~quarter~~ month and the transferee shall include the net book value of the property as of the date of transfer multiplied by the number of days during the ~~quarter~~ month it owned the property divided by the number of days in the ~~quarter~~ month.

Sec. 39. 33 V.S.A. § 2503(b) is amended to read:

(b) The tax shall be levied upon and collected ~~quarterly~~ monthly from the seller. Fuel sellers may include the following message on their bills to customers:

“The amount of this bill includes a ~~0.5%~~ 0.75% gross receipts tax, enacted in 1990, for support of Vermont’s Low Income Home Weatherization Program.”

* * * Evaluation of Tax Expenditures * * *

Sec. 40. EXPEDITED REVIEW OF CERTAIN TAX EXPENDITURES

The Department of Taxes and the Joint Fiscal Office shall conduct an expedited review of certain tax expenditures as outlined in Appendix C of the report required by 2015 Acts and Resolves No. 33. As used in this section, “expedited review” means an evaluation of a tax expenditure that analyzes the purpose of the tax expenditure, delineates its cost and benefits, and considers whether it still meets its policy goals. The specific tax expenditures receiving expedited review, and the schedule for conducting that review, shall be as follows:

(1) For the tax expenditure report due in January 2017, the tax expenditures related to encouraging economic growth and investment shall be reviewed.

(2) For the tax expenditure report due in January 2019, the tax expenditures related to incentivizing a specific desirable outcome, including agriculture, and related to excluding charitable and public service organizations from taxation shall be reviewed.

(3) For the tax expenditure report due in January 2021, the tax expenditures related to enhancing community development, including housing and historic revitalization, shall be reviewed.

(4) For the tax expenditure report due in January 2023, the tax expenditures related to promoting income security and encouraging work;

exempting the necessities of life, including health care, from taxation; and implementing State tax policy and other priorities shall be reviewed.

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 11 (annual update of income tax link to the IRC) shall take effect retroactively on January 1, 2015 and apply to taxable years beginning on and after January 1, 2015.

(2) Secs. 12 (withholding and W2s), 15 (solid waste tax returns), 22–24 (sales tax contractors), 28–30 (ambulance provider tax), and 35 (fuel gross receipts tax) shall take effect on July 1, 2016.

(3) Sec. 19 (fire service training council) shall take effect for fiscal years 2017 and after.

(4) Secs. 21a (informational reporting) and 25–26 (definition of vendor and out-of-state vendor notification requirements) shall take effect on the earlier of July 1, 2017 or beginning on the first day of the first quarter after a resolution favorable to the State of Colorado in *Direct Marketing Assoc. v. Brohl*, 814 F.3d 1129 (10th Cir. 2016).

(5) Sec. 27 (definition of vendor) shall take effect on the later of July 1, 2017 or beginning on the first day of the first quarter after a controlling court decision or federal legislation abrogates the physical presence requirement of *Quill v. North Dakota*, 504 U.S. 298 (1992).

(6) Secs. 37 (filing period for bank franchise tax), 38 (filing period for telephone company tax) and 39 (filing period for fuel gross receipts tax) shall take effect on January 1, 2017.