H.436

Introduced by Committee on Ways and Means

Date:

Subject: Taxation; miscellaneous tax

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

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

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

* * * Income Taxes * * *

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

§ 3113b. LOTTERY WINNINGS; SATISFACTION OF TAX LIABILITIES

For all Vermont lottery games, the lottery commissioner may, before issuing prize money to a winner, determine whether the winner has an outstanding tax liability payable to the department of taxes. If any such winner owes taxes to the state, the commissioner of taxes, after notice to the owner, may request and the lottery commission shall transfer the amount of such tax liability to the department for setoff of the taxes owed. The notice shall advise the winner of the action being taken and the right to appeal the setoff if the tax debt is not the winner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy. Any offset of lottery winnings for taxes shall be second in priority to the offset of lottery winnings to the office of child support pursuant to 15 V.S.A. § 792.

Sec. 2. 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 ~~2009~~ 2010, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

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

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

* * * Property Taxes * * *

Sec. 4. FISCAL YEAR 2012 EDUCATION PROPERTY TAX RATE

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

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

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

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

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

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

Sec. 5. FISCAL YEAR 2012 BASE EDUCATION PAYMENT AMOUNT

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

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

Sec. 45. STATE COLLECTION OF EDUCATION PROPERTY TAX

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

Sec. 7. REPEAL

The following are repealed:

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

(2) 16 V.S.A. § 164(18).

Sec. 8. EVALUATION OF EDUCATION FINANCING SYSTEM

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

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

(c) The evaluation shall incorporate the following:

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

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

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

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

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

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

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

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

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

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

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

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

(e) The provider selected shall:

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

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

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

Sec. 9. AUTHORIZATION TO SPEND

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

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

(c) Annually, on or before August 1, the supervisors of Glastenbury and Somerset shall each present the proposed budget and tax rate for the town for the ensuing year. Upon a finding by the commissioner of taxes before September 10 that the budget and tax rate are reasonable and show no obvious irregularities, the commissioner shall approve the budget and tax rate, and the supervisor shall then adopt the budget and tax rate and notify the residents of the town. If the commissioner does not approve the budget and tax rate by September 10, the budget ~~and tax rate~~ shall remain the same as the budget ~~and~~

~~tax rate~~ for the prior year, and the supervisor shall so notify the residents of the town.

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

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, ~~or fails to file a notice of transfer or change in qualification pursuant to subdivisions (b)(1)(A) and (B) of this section,~~ the commissioner shall notify the municipality, and the municipality shall issue a corrected tax bill that ~~includes~~ may include a penalty ~~in an amount equal to three percent of the education tax on the property if the municipality's nonresidential tax rate is higher than the municipality's homestead tax rate for the tax year to which the declaration or failure pertains, or in any other case shall assess the taxpayer a penalty in an amount equal to eight percent of the education tax on the property~~. If the property incorrectly declared as a homestead is located in a municipality that has a lower homestead tax rate than the nonresidential tax rate, the penalty shall be an amount equal to eight percent of the education tax on the property, but if the homestead tax rate is higher than the nonresidential tax rate, the penalty shall be in an amount equal to three percent of the education tax on the property. If an undeclared homestead is located in a municipality that has a lower nonresidential tax rate than the homestead tax rate, the penalty shall be eight percent of the education tax liability on the property, but if the nonresidential tax rate is higher than the homestead tax rate, then the penalty shall be in an amount equal to three percent of the education tax on the property. If the commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

Sec. 12. EXAMINATION OF RENEWABLE ENERGY PROPERTY TAX ISSUES

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

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

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

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

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

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

(5) Whether there is a method for assessing the impact of a commercial renewable energy plant on homestead and nonresidential property values within the vicinity of the plant, and the impact, if any, on the grand lists of the host community and adjoining communities.

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

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

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

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

§ 6061. DEFINITIONS

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

* * *

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

* * *

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

* * *

* * * Economic Development * * *

Sec. 14. 32 V.S.A. § 5930b(c)(9) is amended to read:

(9) ~~Incentives~~ Incentive claims must be ~~claimed~~ filed annually ~~on an incentive return available from the department of taxes filed~~ no later than the

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

Sec. 15. 24 V.S.A. § 1894(a)(2) is amended to read:

(2) If no indebtedness is incurred within the first five years after creation of the district, or ten years for the district approved on April 1, 2010 for the project known as the Severance Corners project in Colchester, no indebtedness may be incurred unless the municipality obtains reapproval from the Vermont economic progress council under 32 V.S.A. § 5404a(h).

Sec. 16. BURLINGTON TAX INCREMENT FINANCING

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

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

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

(2) The formula for calculating the payment in lieu of tax increment is as follows: first, the difference between the grand list for the Waterfront TIF excluding the two hotel parcels from the fiscal year in which the payment is due and the April 1, 2010 grand list is calculated. Next, that amount is multiplied by the current education property tax rates to determine the increment subject to payment. Finally, this new increment is multiplied by 25 percent to derive the payment amount.

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

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

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

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

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

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

Sec. 2. EFFECTIVE DATE; SUNSET

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

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

§ 5930dd. CLAIMS; AVAILABILITY

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

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

* * *

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

§ 5930ee. LIMITATIONS

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

* * *

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

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

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

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

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

* * * Health Care-Related Provisions * * *

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

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax is intended to be imposed only once upon the wholesale sale of any tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at $1.87 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of $1.87 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of $2.24 per package, and cigars with a wholesale price greater than ~~$1.08~~ $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than ~~$1.08~~ $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

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

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning ~~July 1, 2009~~ October 1, 2011, each home health agency's assessment shall be ~~17.69~~ 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. 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 December 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. 24. 33 V.S.A. § 1953(a) is amended to read:

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

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

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

* * *

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

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

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

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

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

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~112~~ 125.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

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

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1 ~~following enactment of this act~~, 2011, has more than 10,000 cigarettes or little cigars or who has $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1 ~~following enactment of this act~~, 2011, and on which cigarette stamps have been affixed before July 1 ~~following enactment of this act~~, 2011. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1 ~~following enactment of this act~~, 2011, and not yet affixed to a cigarette package, and the tax shall be at the rate of $0.25 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25 ~~following enactment of this act~~, 2011, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1 ~~following enactment of this act~~, 2011, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25 ~~following enactment of this act~~, 2011, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

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

§ 4089l. HEALTH CARE CLAIMS ASSESSMENT

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

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

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

(c) As used in this section:

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

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

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

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

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

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

(3) Order the health insurer to remediate the violation, including the payment of fees in arrears and payment of interest on fees in arrears at the rate of 12 percent per annum.

Sec. 29. 8 V.S.A. § 4089k(a)(1) is amended to read:

(a)(1) Beginning October 1, 2009 and annually thereafter, each health insurer shall pay a fee into the health IT fund established in 32 V.S.A. § 10301 in the amount of 0.199 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in quarterly installments on ~~October 1~~ November 1, January 1, April 1, and ~~July 1~~ June 30.

Sec. 30. DATA COLLECTION FOR PROVIDER TAXES

The secretary of administration shall develop systems to identify and collect the data necessary to administer any health-care related tax under 42 C.F.R. part 433.50 et seq. that is permitted by federal law but that Vermont does not currently levy.

* * * Miscellaneous Provisions * * *

Sec. 31. 32 V.S.A. § 3102(b)(7) is added to read:

(7) "Authorized representative" means any person who would be considered a designee of the taxpayer under 26 U.S.C. § 6103(c). The signature of a notary public shall not be required for a person to be considered an "authorized representative."

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

(h) No tax under this section shall be imposed for any quarter ending after June 30, ~~2011~~ 2016. Monies from the escrow account shall be issued for rebates pursuant to subsection (g) of this section until March 1, ~~2012~~ 2017.

Sec. 33. REPEAL

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

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

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

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

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

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

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

§ 9743. ORGANIZATIONS NOT COVERED

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

Sec. 37. EFFECTIVE DATES

This act shall take effect on passage except:

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

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

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

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

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

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

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

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

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

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