

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 873  
3 entitled “An act relating to making miscellaneous tax changes” respectfully  
4 reports that it has considered the same and recommends that the Senate  
5 propose to the House that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 \* \* \* Tax Administration \* \* \*

8 Sec. 1. 32 V.S.A. § 3102(e) is amended to read:

9 (e) The Commissioner may, in his or her discretion and subject to such  
10 conditions and requirements as he or she may provide, including any  
11 confidentiality requirements of the Internal Revenue Service, disclose a return  
12 or return information:

13 \* \* \*

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

21 \* \* \*

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

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

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

8           § 3208. ADMINISTRATIVE GARNISHMENT

9           (a) Notwithstanding other statutes which provide for levy or execution,  
10 trustee process, or attachment, the Commissioner may garnish a taxpayer's  
11 earnings pursuant to this section to satisfy amounts collectible by the  
12 Commissioner under this title, subject to the exemptions provided in 12 V.S.A.  
13 § 3170(a) and (b)(1).

14   \* \* \*

15           (e) If, after 15 days, the taxpayer has not petitioned for a hearing, a notice  
16 of garnishment shall direct an employer to transmit a specified portion of the  
17 taxpayer's disposable earnings to the Commissioner from each periodic  
18 payment that is due to the taxpayer until the taxpayer's obligation is paid in  
19 full. The notice shall identify the taxpayer by Social Security number. An  
20 employer is immune from any liability due to compliance with the  
21 Commissioner's notice of garnishment.

1                                 \* \* \* Use Value Appraisals \* \* \*

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

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

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

8       § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

9   \* \* \*

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

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

18           (d) The land use change tax shall be due and payable by the owner 30 days  
19 after the tax notice is mailed to the taxpayer. The tax shall be paid to the  
20 Commissioner who shall remit to the municipality the lesser of one-half the tax  
21 paid or \$2,000.00. The Director shall deposit three-quarters of the remainder

1 of the tax paid in the Education Fund, and one-quarter of the remainder of the  
2 tax paid in the General Fund. The Commissioner shall issue a form to the  
3 assessing officials which shall provide for a description of the land developed,  
4 the amount of tax payable, and the fair market value of the land at the time of  
5 development or withdrawal from use value appraisal. The owner shall fill out  
6 the form and shall sign it under the penalty of perjury. After receipt of  
7 ~~payment~~ the completed and signed form, the Commissioner shall furnish the  
8 owner with one copy, shall retain one copy, and shall forward one copy to the  
9 local assessing officials, one copy to the register of deeds of the municipality  
10 in which the land is located, and one copy to the Secretary of Agriculture,  
11 Food and Markets if the land is agricultural land and in all other cases to the  
12 Commissioner of Forests, Parks and Recreation.

13 \* \* \* Property Tax \* \* \*

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

15 § 4041a. REAPPRAISAL

16 (a) A municipality shall be paid \$8.50 per grand list parcel per year, from  
17 the equalization and reappraisal account within the education fund to be used  
18 only for reappraisal and costs related to reappraisal of its grand list properties  
19 and for maintenance of the grand list. ~~Additionally, a municipality shall be~~  
20 ~~paid \$3.65 per grand list parcel for the first 100 parcels \$0.20 for each of the~~  
21 ~~next 100 parcels, and \$0.01 for each parcel in excess of 200 from the~~

1 ~~equalization and reappraisal account within the education fund, to be used only~~  
2 ~~for costs to acquire assessment education provided under section 3436 of this~~  
3 ~~title.~~

4 (b) If the Director of Property Valuation and Review determines that a  
5 municipality's education grand list is at a common level of appraisal below  
6 80 percent or has a coefficient of dispersion greater than 20, the municipality  
7 shall reappraise its education grand list properties. If the Director orders a  
8 reappraisal, the Director shall send the municipality written notice of the  
9 decision. The municipality shall be given 30 days to contest the finding under  
10 procedural rules adopted by the Director, to develop a compliance plan, or  
11 both. If the Director accepts a proposed compliance plan submitted by the  
12 municipality, the Director shall not order commencement of the reappraisal  
13 until the municipality has had one year to carry out that plan.

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

18 (d) A sum not to exceed \$100,000.00 each year shall be paid from the  
19 equalization and reappraisal account within the Education Fund to the Division  
20 of Property Valuation and Review for the purpose of providing assessment  
21 education for municipal assessing officials. The Director is authorized to

1 establish guidelines and requirements for education programs to be provided  
2 using the funds described in this section. Education programs provided using  
3 funds described in this section shall be provided at no cost or minimal cost to  
4 the municipal assessing officials. In addition to providing the annual education  
5 programs as described in this section, up to 20 percent of the amount available  
6 for education programs may be reserved as a scholarship fund to permit  
7 municipal assessing officials to attend national programs providing education  
8 opportunities on advanced assessment topics. All applications for scholarships  
9 shall be submitted to and approved by the Director.

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

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

13 § 4465. APPOINTMENT OF PROPERTY TAX VALUATION HEARING  
14 OFFICER; OATH; PAY

15 \* \* \*

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

17 § 4467. DETERMINATION OF APPEAL

18 Upon appeal to the Director or the Court, the hearing officer or Court shall  
19 proceed de novo and determine the correct valuation of the property as  
20 promptly as practicable and to determine a homestead and a housesite value if  
21 a homestead has been declared with respect to the property for the year in

1 which the appeal is taken. The hearing officer or Court shall take into account  
2 the requirements of law as to valuation, and the provisions of Chapter I,  
3 Article 9 of the Constitution of Vermont and the 14th Amendment to the  
4 Constitution of the United States. If the hearing officer or Court finds that the  
5 listed value of the property subject to appeal does not correspond to the listed  
6 value of comparable properties within the town, the hearing officer or Court  
7 shall set said property in the list at a corresponding value. The findings and  
8 determinations of the hearing officer shall be made in writing and shall be  
9 available to the appellant. If the appeal is taken to the Director, the hearing  
10 officer ~~shall~~ may inspect the property prior to making a determination, unless  
11 one of the parties requests an inspection, in which case the hearing officer shall  
12 inspect the property prior to making a determination. Within 10 days of the  
13 appeal being filed with the Director, the Director shall notify the property  
14 owner in writing of his or her option to request an inspection under this  
15 section.

16 Sec. 9. TAX INCREMENT FINANCING DISTRICT AUDITS

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

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

2 Sec. 18. BURLINGTON WATERFRONT TIF

3 (a) The authority of the City of Burlington to incur indebtedness for its  
4 waterfront tax increment financing district is hereby extended for five years  
5 beginning January 1, 2015; provided, however, that the City is authorized to  
6 extend the period to incur indebtedness for 6.5 years beginning on January 1,  
7 2015 for three properties located within the waterfront tax increment financing  
8 district at 49 Church Street and 75 Cherry Street, as designated on the City's  
9 Tax Parcel Maps as the following:

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

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

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

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

20 (c) The extension of the period to incur indebtedness for the specific  
21 parcels in subdivision (a)(1)–(3) of this section is subject to the City of



1 Burlington's submission to the Vermont Economic Progress Council of an  
2 executed construction contract with a completion guarantee by the owner of  
3 the parcels evidencing commitment to construct not less than \$50 million of  
4 private development on the parcels.

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

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

19 Sec. 6. ~~Said~~ The Corporation, in the investment of its funds, shall be  
20 governed by the laws relative to ~~Savings Banks~~ savings banks in this state  
21 State. ~~Neither said Corporation, nor any corporator, officer, or employee, shall~~

1 ~~have power to create a debt against the Corporations except for current~~  
2 ~~expenses.~~

3 \* \* \* Income Tax \* \* \*

4 Sec. 11. 32 V.S.A. § 5824 is amended to read:

5 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

6 The statutes of the United States relating to the federal income tax, as in  
7 effect for taxable year ~~2014~~ 2015, but without regard to federal income tax  
8 rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the  
9 tax liability under this chapter.

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

11 § 5842. RETURN AND PAYMENT OF WITHHELD TAXES

12 (a) Every person required to deduct and withhold any amount under section  
13 5841 of this title shall make return thereof and shall pay over that amount to  
14 the Commissioner as follows:

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

20 (2) In semiweekly payments, if the person is required to make  
21 semiweekly payments of federal withholding pursuant to the Internal Revenue

1 Code. Semiweekly shall mean payment of tax withheld for pay dates on  
2 Wednesday, Thursday, or Friday is due by the following Wednesday, and tax  
3 withheld for pay dates on Saturday, Sunday, Monday, or Tuesday is due by the  
4 following Friday.

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

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

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

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

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

1 (c) In addition to the returns required to be filed and payments required to  
2 be made under subsection (a) of this section, every person required to deduct  
3 and withhold any tax under section 5841 of this title shall file an annual return  
4 covering the aggregate amount deducted and withheld during the entire  
5 preceding year, ~~not later than February 28~~ on or before January 31 of each  
6 year. At the time of filing that return, the person shall pay over to the  
7 Commissioner any amount deducted and withheld during the preceding  
8 calendar year and not previously paid. The person shall, further, make such  
9 annual report to payees and to the Commissioner of amounts paid and withheld  
10 as the Commissioner by regulation shall prescribe.

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

16 Sec. 13. REPEAL

17 32 V.S.A. § 5912 (characterization of income) is repealed.

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

19 § 5915. MINIMUM TAX

20 An S corporation which is subject to the provisions of section 5914 of this  
21 title shall pay an annual tax of \$250.00 to the Commissioner of Taxes on or

1 before the due date prescribed for the filing of ~~C corporation returns under~~  
2 ~~section 5862 of this title~~ S corporation returns under subsection 6072(b) of the  
3 Internal Revenue Code.

4 \* \* \* Solid Waste Tax \* \* \*

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

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

10 \* \* \* Homestead Property Tax Adjustment \* \* \*

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

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

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

16 § 6069. LANDLORD CERTIFICATE

17 (a) ~~By~~ On or before January 31 of each year, the owner of land rented as a  
18 portion of a homestead in the prior calendar year shall furnish a certificate of  
19 rent to the Department of Taxes and to each claimant who owned a portion of  
20 the homestead and rented that land as a portion of a homestead in the prior  
21 calendar year. The certificate shall indicate the proportion of total property tax

1 on that parcel which was assessed for municipal property tax, for local share  
2 property tax, and for statewide property tax.

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

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

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

1 be liable to the Commissioner for a penalty equal to the greater of \$200.00 or  
2 the excess amount reported who:

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

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

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

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

12 \* \* \* Corporation Taxes \* \* \*

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

14 § 8146. ADDITIONAL TAX; REFUNDS

15 When the Commissioner finds that owing to the incorrectness of a return or  
16 any other cause, a tax paid pursuant to this chapter is too small, he or she shall  
17 assess an additional tax sufficient to cover the deficit and shall forthwith notify  
18 the parties so assessed. The administrative provisions of chapters 103 and 151  
19 of this title shall apply to assessments and refund claims under this chapter,  
20 including those provisions governing interest and penalty in section 3202 of  
21 chapter 103, appeals, and collection of assessments.

1 Sec. 19. 32 V.S.A § 8557(a) is amended to read:

2 (a) Sums for the expenses of the operation of training facilities and  
3 curriculum of the Vermont Fire Service Training Council not to exceed  
4 ~~\$950,000.00~~ \$1,200,000.00 per year shall be paid to the Fire Safety Special  
5 Fund created by 20 V.S.A. § 3157 by insurance companies, including surplus  
6 lines companies, writing fire, homeowners multiple peril, allied lines, farm  
7 owners multiple peril, commercial multiple peril (fire and allied lines), private  
8 passenger and commercial auto, and inland marine policies on property and  
9 persons situated within the State of Vermont within 30 days after notice from  
10 the Commissioner of Financial Regulation of such estimated expenses.  
11 Captive companies shall be excluded from the effect of this section. The  
12 Commissioner shall annually, on or before July 1, apportion such charges  
13 among all such companies and shall assess them for the same on a fair and  
14 reasonable basis as a percentage of their gross direct written premiums on such  
15 insurance written during the second prior calendar year on property situated in  
16 the State. An amount not less than \$100,000.00 shall be specifically allocated  
17 to the provision of what are now or formerly referred to as Level I, units I, II,  
18 and III (basic) courses for entry level firefighters. An amount not less than  
19 \$150,000.00 shall be specifically allocated to the Emergency Medical Services  
20 Special Fund established under 18 V.S.A. § 908 for the provision of training  
21 programs for emergency medical technicians, advanced emergency medical



1 technicians, and paramedics. The Department of Health shall present a plan to  
2 the Joint Fiscal Committee which shall review the plan prior to release of any  
3 funds.

4 \* \* \* Meals and Rooms Tax \* \* \*

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

6 (15) “Restaurant” means:

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

11 (B) An establishment 80 percent or more of whose total sales of food  
12 and beverage in the previous taxable year were, or in the first taxable year are  
13 reasonably projected to be, of alcoholic beverages, food, and beverage that are  
14 taxable under subdivision (10)(C) of this section, and food and beverage that  
15 are taxable under subdivision (10)(B) and are not exempt under subdivision  
16 (10)(D) of this section.

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

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

1       Sec. 21. PRIVATE SHORT-TERM RENTALS

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

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

10       § 9248. INFORMATIONAL REPORTING

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

1                                   \* \* \* Sales and Use Tax – Contractors \* \* \*

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

3       § 9701. DEFINITIONS

4   \* \* \*

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

13   \* \* \*

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

15       § 9711. ELECTION BY MANUFACTURER OR RETAILER

16       (a) As used in this section:

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

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

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

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

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

20       (e) The provisions of this section shall not excuse any person from the  
21       obligation to collect tax on retail sales of tangible personal property not used in

1 erecting structures or otherwise improving, altering, or repairing real property  
2 or from the obligation to pay sales tax or remit the use tax on tools, services,  
3 and other materials that are not used in erecting structures or otherwise  
4 improving, altering, or repairing real property.

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

8 Sec. 24. 32 V.S.A. § 9771 is amended to read:

9 § 9771. IMPOSITION OF SALES TAX

10 Except as otherwise provided in this chapter, there is imposed a tax on retail  
11 sales in this State. The tax shall be paid at the rate of six percent of the sales  
12 price charged for but in no case shall any one transaction be taxed under more  
13 than one of the following:

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

18 \* \* \*

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

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

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

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

7           § 9712. NOTICE REQUIREMENTS FOR NONCOLLECTING VENDORS

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

15                   (b) Each noncollecting vendor shall send notification to all Vermont  
16                   purchasers on or before January 31 of each year showing the total amount paid  
17                   by the purchaser for Vermont purchases made from the noncollecting vendor  
18                   in the previous calendar year. The notice requirement in this subsection only  
19                   applies to Vermont purchasers who have made \$500.00 or more of purchases  
20                   from the noncollecting vendor in the previous calendar year. The notice shall  
21                   include any information required by the Commissioner by rule. The

1 notification shall state that the State of Vermont requires a sales or use tax  
2 return to be filed and sales or use tax paid on nonexempt purchases made by  
3 the purchaser from the noncollecting vendor. The notification required by this  
4 subsection shall be sent separately to all Vermont purchasers by first-class mail  
5 or electronic mail and shall not be included with any other shipments. The  
6 notification shall include the words “Important Tax Document Enclosed” on  
7 the exterior of the mailing. The notification shall include the name of the  
8 noncollecting vendor. Failure to send the notification required by this  
9 subsection shall subject the noncollecting vendor to a penalty of \$10.00 for  
10 each such failure, unless the noncollecting vendor shows reasonable cause for  
11 such failure.

12 (c) Each noncollecting vendor shall file an annual statement for each  
13 purchaser with the Department of Taxes, on forms required by the  
14 Commissioner, showing the total amount paid for Vermont purchases by that  
15 purchaser during the preceding calendar year or any portion thereof, and this  
16 annual statement shall be filed on or before March 1 of each year. The notice  
17 requirements of this subsection only apply to noncollecting vendors who make  
18 \$100,000.00 or more of sales into Vermont in the previous calendar year.  
19 Failure to file the annual statement required by this subsection shall subject the  
20 noncollecting vendor to a penalty of \$10.00 for each purchaser that should

1 have been included in the annual statement, unless the noncollecting vendor  
2 shows reasonable cause for such failure.

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

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

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

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

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

15 ~~(iii) by mail, telegraphy, telephone, computer database, cable,~~  
16 ~~optic, microwave, or other communication systems, for the purpose of~~  
17 ~~effecting sales of tangible personal property; provided such person has made~~  
18 ~~sales from outside this State to destinations within this State of at least~~  
19 ~~\$50,000.00 during any 12-month period preceding the monthly or quarterly~~  
20 ~~period with respect to which such person's liability for tax under this chapter is~~  
21 ~~determined.~~



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

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

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

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

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

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

17 \* \* \* Health Care Provisions\* \* \*

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

19 § 9607. FUNDING; ~~INTENT~~ ALLOCATION OF EXPENSES

20 (a) The Office of the Health Care Advocate shall specify in its annual  
21 report filed pursuant to this chapter the sums expended by the Office in

1 carrying out its duties, including identifying the specific amount expended for  
2 actuarial services.

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

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

8 (B) 24.2 percent by the hospitals;

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

11 (D) 24.2 percent by health insurance companies licensed under  
12 8 V.S.A. chapter 101.

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

19 (3) The Green Mountain Care Board shall administer the bill back  
20 authority created in this subsection on behalf of the Agency of Administration  
21 in support of the Agency's contract with the Office of the Health Care

1 Advocate pursuant to section 9602 of this title to carry out the duties set forth  
2 in this chapter.

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

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

7 § 1951. DEFINITIONS

8 As used in this subchapter:

9 \* \* \*

10 (15) “Ambulance agency” means an ambulance agency licensed  
11 pursuant to 18 V.S.A. chapter 17.

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

13 § 1959. AMBULANCE AGENCY ASSESSMENT

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



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

11 \* \* \*

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

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

18 (1) core home health agency services;

19 (2) net operating revenue for core home health agency services;

20 (3) net patient revenue; and

21 (4) criteria for determining medical necessity.

1        (b) On or before October 1, 2016, the Department shall provide the results  
2        of the working group's meetings and any recommendations for statutory  
3        modifications to the Health Reform Oversight Committee, the House  
4        Committees on Health Care and on Ways and Means, and the Senate  
5        Committees on Health and Welfare and on Finance.

6                                \* \* \* Fuel Gross Receipts Tax \* \* \*

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

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

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

12       § 2503. FUEL GROSS RECEIPTS TAX

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

14       (1) ~~0.5~~ 0.75 percent on the retail sale of the following types of fuel:

15       ~~(1)(A)~~ heating oil, propane, kerosene, and other dyed diesel fuel

16       delivered to a residence or business;

17       ~~(2)~~ natural gas;

18       ~~(3)~~ electricity; and

19       ~~(4)(B)~~ coal.

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

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\* \* \*

~~(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~~

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

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



1 households at or below 150 percent of the federally established poverty  
2 guidelines.

3 ~~(f) On or before August 7 of each year, the Director of the State Office of~~  
4 ~~Economic Opportunity shall set aside a sum of money equaling two and~~  
5 ~~one half percent of the tax receipts of the fuel gross receipts tax for the~~  
6 ~~preceding fiscal year in an escrow account. The monies in the escrow account~~  
7 ~~are to be used for rebate, as approved under subsections (d) and (e) of this~~  
8 ~~section, of the gross receipts tax established in subsection (a) of this section.~~  
9 ~~Upon approval of rebates, the Director shall pay the approved rebates out of~~  
10 ~~the escrow account. In the event that the approved rebates exceed the amount~~  
11 ~~of money set aside in the escrow account, the Director shall prorate each~~  
12 ~~rebate. Any balance of rebate awards remaining unpaid as a result of proration~~  
13 ~~may be carried forward for payment in a succeeding year. If monies set aside~~  
14 ~~exceed approved rebates, then the balance shall be returned to the Fund. The~~  
15 ~~Director of the State Office of Economic Opportunity shall use the remainder~~  
16 ~~of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to~~  
17 ~~assure the provision of weatherization services as described in subsections~~  
18 ~~2502(a), (b), and (c) of this title.~~

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

1       Sec. 36. STUDY ON FUEL GROSS RECEIPTS TAX

2           The Vermont Department of Taxes, with the assistance of other executive  
3           agencies, shall report to the General Assembly on or before November 15,  
4           2016 with a specific proposal to restructure the fuel gross receipts tax from one  
5           based on gross receipts to one based on a levy for each unit of fuel source,  
6           including draft legislation to implement the proposal. The proposal shall be  
7           designed to raise the same amount of revenue as the fuel gross receipts tax did  
8           for a three year average from fiscal years 2013–2015.

9       Sec. 36a. ANALYSIS OF ADMINISTRATIVE COSTS

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

16                                   \* \* \* Filing Periods \* \* \*

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

18           (c) The tax imposed by this section shall be paid ~~quarterly~~ monthly to the  
19           Commissioner ~~not later than~~ on or before the 25th day of the each month  
20           ~~following the last day of each quarter of the corporation's taxable year under~~

1 ~~the federal Internal Revenue Code, for the three months of that quarter~~ for the  
2 tax due in the previous month.

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

4 § 8521. IMPOSITION AND RATE OF TAX

5 (a) There is hereby assessed, upon each person or corporation owning or  
6 operating a telephone line or business within the State, a tax equal to  
7 2.37 percent of net book value as of the preceding December 31 of all personal  
8 property of the taxpayer located within the State. The tax shall be paid to the  
9 Commissioner in equal ~~quarterly~~ monthly installments ~~no later than~~ on or  
10 before the 25th day of ~~the third, sixth, ninth, and 12th month of each taxable~~  
11 year each month of each taxable year.

12 \* \* \*

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

17 (1) for ~~quarters~~ months beginning after the date of transfer, the  
18 transferee shall include the net book value of the transferred property as of the  
19 date of transfer in the calculation of the tax due under subsection (a) of this  
20 section and the transferor shall exclude such value from its calculation of its  
21 tax under subsection (a);

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

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

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

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

15                           \* \* \* Evaluation of Tax Expenditures \* \* \*

16 Sec. 40. EXPEDITED REVIEW OF CERTAIN TAX EXPENDITURES

17           The Department of Taxes and the Joint Fiscal Office shall conduct an  
18 expedited review of certain tax expenditures as outlined in Appendix C of the  
19 report required by 2015 Acts and Resolves No. 33. As used in this section,  
20 “expedited review” means an evaluation of a tax expenditure that analyzes the  
21 purpose of the tax expenditure, delineates its cost and benefits, and considers

1 whether it still meets its policy goals. The specific tax expenditures receiving  
2 expedited review, and the schedule for conducting that review, shall be as  
3 follows:

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

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

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

14 (4) For the tax expenditure report due in January 2023, the tax  
15 expenditures related to promoting income security and encouraging work;  
16 exempting the necessities of life, including health care, from taxation; and  
17 implementing State tax policy and other priorities shall be reviewed.

18 \* \* \* Effective Dates \* \* \*

19 Sec. 41. EFFECTIVE DATES

20 This act shall take effect on passage, except:

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

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

7           (3) Sec. 19 (fire service training council) shall take effect for fiscal years  
8           2017 and after.

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

14           (5) Sec. 27 (definition of vendor) shall take effect on the later of July 1,  
15           2017 or beginning on the first day of the first quarter after a controlling court  
16           decision or federal legislation abrogates the physical presence requirement of  
17           *Quill v. North Dakota*, 504 U.S. 298 (1992).

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

21

1

2 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Senator \_\_\_\_\_

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FOR THE COMMITTEE