Report of Committee of Conference

H.873

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

H.873. An act relating to making miscellaneous tax changes.

Respectfully reports that it has met and considered the same and recommends that the House accede to all the Senate proposals of amendment

And that the bill be further amended as follows:

First: In Sec. 26 (noncollecting vendor notice requirements), by striking subsection (c) in its entirety and redesignating subsection (d) as subsection (c)

Second: By striking out Secs. 32 (home health agency assessment) and 33 (working group report) in their entirety and inserting in lieu thereof the following:

Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL YEARS 2017 AND 2018

Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for fiscal years 2017 and 2018 only, the amount of the home health agency assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63 percent of its annual net patient revenue.

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

(a) It is the intent of the General Assembly to ensure that the home health agency assessment imposed pursuant to 33 V.S.A. § 1955a provide a sustainable funding source for home health agencies, to the extent permitted under federal law, while conforming to Vermont's health care system goals.

(b) The Department of Vermont Health Access shall convene a working group comprising nonprofit and for-profit home health agencies and other interested stakeholders to determine whether the home health agency assessment as amended in 3 V.S.A. § 1955a, in Sec. 32 of this act, represents the most appropriate and equitable model for the assessment, or whether additional changes to the methodology are needed.

(c) On or before December 15, 2016, the Department shall provide the results of the working group's meetings and any recommendations for rulemaking and 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.

Third: By striking out Secs. 34 (fuel gross receipt tax forecasting), 35 (fuel gross receipts tax) and 36 (fuel gross receipts tax study) in their entirety and inserting in lieu thereof the following:

Sec. 34. [Deleted.]

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 0.5 percent on the retail sale of the following types of fuel:~~

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

~~(2) natural gas;~~

~~(3) electricity;~~

~~(4) coal~~

(1) There is imposed a tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business, at the rate of $0.02 per gallon.

(2) There is imposed a gross receipts tax of 0.75 percent on the retail sale of natural gas and coal.

(3) There is imposed a gross receipts tax of 0.5 percent on the retail sale of electricity.

* * *

(c) The tax shall be administered by the Commissioner of Taxes, and all receipts shall be deposited by the Commissioner in the Home Weatherization Assistance Trust Fund. All provisions of law relating to the collection,

administration, and enforcement of the sales and use tax imposed by 32 V.S.A. chapter 233 shall apply to the tax imposed by this chapter.

(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~~ 2019. ~~Monies from the escrow account shall be issued for rebates pursuant to subsection (f) of this section until March 1, 2017~~.

Sec. 36. FUEL TAX; RATE SETTING

A company subject to 30 V.S.A. § 218 shall be entitled to recovery of an increase in the fuel tax in 33 V.S.A. § 2503(a)(2), in Sec. 35 of this act, from the effective date of that increase. The manner of recovery shall be approved by the Vermont Public Service Board pursuant to its authority in 30 V.S.A. § 218.

Fourth: By striking out Sec. 39 (fuel gross receipts filing period) and inserting in lieu thereof Secs. 39 and 39a to read as follows:

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% gross receipts tax, enacted in 1990, for support of Vermont's Low Income Home Weatherization Program."~~ Fuel sellers may itemize the tax on the invoice or bill, and if the seller does itemize the amount, the invoice or bill shall include a statement that the tax is "for support of Vermont's Low Income Home Weatherization Program."

Sec. 39a. ITEMIZATION TRANSITION

For the first year that itemization is permitted under Sec. 39 of this act, fuel dealers who elect to itemize shall include a notice with the invoice or bill that states the following:

"In 2016, the fuel gross receipts tax, in place since 1990, was converted from a tax based on the price of fuel to a tax based on the volume of fuel sales in order to provide a more stable funding source for low-income weatherization programs."

Fifth: By striking out Sec. 40 (tax expenditure evaluations) in its entirety and inserting in lieu thereof the following:

Sec. 40. EVALUATION OF TAX EXPENDITURES

(a) Definitions. As used in this section:

(1) "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 term "expedited review" shall have the same meaning as that term is used in the report titled "Tax Expenditure Review Report 2016," submitted to the General Assembly on January 15, 2016, as required by 2015 Acts and Resolves No. 33.

(2) "Full evaluation" means a review of a tax expenditure that includes the elements of an expedited review but also includes a quantitative analysis of the economic impact of the tax expenditure, consideration of the direct and indirect economic and social benefits of the tax expenditure, and a comparison of the effectiveness of the tax expenditure with alternate policies.

(b) Expedited review. 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. 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.

(c) Full evaluation. On or before January 15, 2017, the Joint Fiscal Office shall develop recommendations for the standards and processes to conduct a full evaluation of tax expenditures, as outlined in the report required by 2015 Acts and Resolves No. 33. The report shall include recommendations on how

to structure and fund a program designed to conduct a full evaluation of tax expenditures. The Joint Fiscal Office shall submit its recommendations and report to the Senate Committees on Finance and on Appropriations and the House Committees on Ways and Means and on Appropriations.

Sixth: By striking out Sec. 41 (effective dates) in its entirety and inserting in lieu thereof the following:

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 (withhol ding and W2s), 15 (solid waste tax returns), 22–24 (sales tax contractors), 28–30 (ambulance provider tax), and 35 (fuel tax) shall take effect on July 1, 2016.

(3) Sec. 19 (Fire Service Training Council) shall take effect for fiscal year 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~~ the sales and use tax reporting requirements challenged in *Direct Marketing*

Assoc. v. Brohl, 814 F.3d 1129 (10th Cir. 2016) are implemented by the State of Colorado.

(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 tax) shall take effect on January 1, 2017.

COMMITTEE ON THE PART OF THE SENATE

SEN. TIMOTHY R. ASHE

SEN. CLAIRE D. AYER

SEN. VIRGINIA V. LYONS

COMMITTEE ON THE PART OF THE HOUSE

REP. JANET ANCEL

REP. JOHANNAH L. DONOVAN

REP. JAMES W. MASLAND