

1 H.24

2 Introduced by Representatives Poirier of Barre City and McCormack of

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Health; taxation; excise; health insurance; Vermont Health Benefit

7 Exchange; subsidies; sugar-sweetened beverages

8 Statement of purpose of bill as introduced: This bill proposes to provide  
9 individuals and families with incomes between 300 and 400 percent of the  
10 federal poverty level with premium and cost-sharing assistance for plans  
11 purchased through the Vermont Health Benefit Exchange. It would increase  
12 the amount of the cost-sharing subsidies available to individuals and families  
13 with incomes between 200 and 400 percent of the federal poverty level. The  
14 bill would also impose an excise tax on sugar-sweetened beverages.

15 An act relating to increasing subsidies in the Vermont Health Benefit  
16 Exchange and establishing a sugar-sweetened beverage tax

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

1 Sec. 1. 33 V.S.A. § 1812 is amended to read:

2 § 1812. FINANCIAL ASSISTANCE TO INDIVIDUALS

3 (a)(1) An individual or family eligible for federal premium tax credits  
4 under 26 U.S.C. § 36B with income less than or equal to ~~300~~ 400 percent of  
5 federal poverty level shall be eligible for premium assistance from the State of  
6 Vermont.

7 (2) The Department of Vermont Health Access shall establish a  
8 premium schedule on a sliding scale based on modified adjusted gross income  
9 for the individuals and families described in subdivision (1) of this subsection.  
10 The Department shall reduce the premium contribution for these individuals  
11 and families by 1.5 percent below the premium amount established in  
12 26 U.S.C. § 36B.

13 (3) Premium assistance shall be available for the same qualified health  
14 benefit plans for which federal premium tax credits are available.

15 (b)(1) An individual or family with income at or below ~~300~~ 400 percent of  
16 the federal poverty guideline shall be eligible for cost-sharing assistance,  
17 including a reduction in the out-of-pocket maximums established under  
18 Section 1402 of the Affordable Care Act.

19 (2) The Department of Vermont Health Access shall establish  
20 cost-sharing assistance on a sliding scale based on modified adjusted gross

1 income for the individuals and families described in subdivision (1) of this  
2 subsection. Cost-sharing assistance shall be established as follows:

3 (A) for households with income at or below 150 percent of the  
4 federal poverty level (FPL): 94 percent actuarial value; and

5 (B) for households with income above 150 percent FPL and at or  
6 below ~~200~~ 400 percent FPL: 87 percent actuarial value;

7 ~~(C) for households with income above 200 percent FPL and at or~~  
8 ~~below 250 percent FPL: 77 percent actuarial value;~~

9 ~~(D) for households with income above 250 percent FPL and at or~~  
10 ~~below 300 percent FPL: 73 percent actuarial value.~~

11 (3) Cost-sharing assistance shall be available for the same qualified  
12 health benefit plans for which federal cost-sharing assistance is available and  
13 administered using the same methods as set forth in Section 1402 of the  
14 Affordable Care Act.

15 (c) To the extent feasible, the Department shall use the same mechanisms  
16 provided in the Affordable Care Act to establish financial assistance under this  
17 section in order to minimize confusion and complication for individuals,  
18 families, and health insurers.

1 Sec. 2. 32 V.S.A. chapter 227 is added to read:

2 CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

3 § 9401. DEFINITIONS

4 As used in this chapter:

5 (1) “Commissioner” means the Commissioner of Taxes and his or her  
6 authorized agents and employees.

7 (2) “Consumer” means a person who purchases or otherwise obtains a  
8 sugar-sweetened beverage for consumption and not for sale to another.

9 (3) “Department” means the Vermont Department of Taxes.

10 (4) “Distributor” means any person, including a manufacturer and a  
11 wholesale dealer, who receives, stores, manufactures, bottles, or distributes  
12 syrop, powder, or sugar-sweetened beverages for sale to retailers, whether or  
13 not that person also sells such products to consumers. “Distributor” also  
14 means any person importing or causing to be imported syrop, powder, or  
15 sugar-sweetened beverages into the State from outside the State for sale to a  
16 retailer or consumer.

17 (5) “Place of business” means any place where syrop, powder, or  
18 sugar-sweetened beverages are manufactured or received for sale in the State.

19 (6) “Powder” means any solid mixture of ingredients used in making,  
20 mixing, or compounding sugar-sweetened beverages by mixing the powder  
21 with any one or more other ingredients, including water, ice, syrop, simple

1 syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or  
2 other gas.

3 (7) "Retailer" means any person who sells syrup, powder, or  
4 sugar-sweetened beverages to consumers in the State.

5 (8) "Sale" means the transfer of title or possession for valuable  
6 consideration regardless of the manner by which the transfer is completed.

7 (9) "Sugar-sweetened beverage" means any nonalcoholic beverage,  
8 carbonated or noncarbonated, that is intended for human consumption and  
9 contains any added sweetener. As used in this definition, "nonalcoholic  
10 beverage" means any beverage that contains less than one-half of one percent  
11 alcohol per volume. However, the term "sugar-sweetened beverage" does  
12 not include:

13 (A) Beverages consisting of 100 percent natural fruit or vegetable  
14 juice with no added sweetener. As used in this subdivision (9), "natural fruit  
15 juice" and "natural vegetable juice" mean the original liquid resulting from the  
16 pressing of fruits or vegetables or the liquid resulting from the dilution of  
17 dehydrated natural fruit juice or natural vegetable juice.

18 (B) Milk, with or without any added sweetener, which means natural  
19 liquid milk regardless of animal source or butterfat content; natural milk  
20 concentrate, whether or not reconstituted, regardless of animal source or  
21 butterfat content; dehydrated natural milk, whether or not reconstituted and

1 regardless of animal source or butterfat content; or soy, rice, or similar milk  
2 substitutes.

3 (C) Infant formula.

4 (10) "Sweetener" means any caloric substance suitable for human  
5 consumption that humans perceive as sweet and includes sucrose, fructose,  
6 glucose, other sugars, or fruit juice concentrates but does not include any  
7 substance that adds fewer than five calories per reference amount customarily  
8 consumed or per labeled serving.

9 (11) "Syrup" means a liquid mixture of ingredients used in making,  
10 mixing, or compounding sugar-sweetened beverages using one or more other  
11 ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit  
12 juice, vegetable juice, or carbonation or other gas.

13 § 9402. TAX IMPOSED

14 (a) There is imposed an excise tax on every distributor of \$0.02 per ounce  
15 upon sugar-sweetened beverages sold in the State.

16 (b) There is imposed on every distributor an excise tax of \$0.02 per ounce  
17 of syrup and powder sold in the State. For purposes of calculating the tax  
18 under this subsection, the taxable volume of syrup or powder shall be equal to  
19 the largest volume of sugar-sweetened beverage resulting from use of the syrup  
20 or powder according to the manufacturer's instructions.

1     § 9403. RETURNS AND REMITTANCES

2           (a) Any distributor liable for the tax imposed by this chapter shall, on or  
3     before the 15th day of every month, return to the Commissioner, under oath of  
4     a person with legal authority to bind the distributor, a statement containing its  
5     name and place of business, the quantity of syrup, powder, and  
6     sugar-sweetened beverages subject to the excise tax imposed by this chapter  
7     sold in the preceding month, and any other information required by the  
8     Commissioner, along with the tax due.

9           (b) There is established a special fund pursuant to chapter 7, subchapter 5  
10    of this title comprising one-half of the revenue from the tax imposed by this  
11    chapter together with any additions or interest accruing to the Fund. The Fund  
12    shall be called the “Vermont Healthy Weight Initiative Fund.” The  
13    Commissioner of Finance and Management may draw warrants for  
14    disbursements from this Fund in anticipation of receipts. The monies in the  
15    Fund shall be available for the General Assembly to appropriate in accordance  
16    with subsection (d) of this section. Any remaining balance at the end of the  
17    fiscal year shall be carried forward in the Fund.

18           (c) One-half of the revenue from the tax imposed by this chapter shall be  
19    deposited in the State Health Care Resources Fund established under 33 V.S.A.

20    § 1901d.

1        (d) The funds in the Vermont Healthy Weight Initiative Fund may only be  
2        used to:

3            (1) subsidize the purchase of fruits and vegetables by WIC and  
4        3SquaresVT recipients;

5            (2) establish a revolving loan fund to facilitate the purchase of  
6        energy-efficient refrigeration equipment for the sale of fruits and vegetables by  
7        small food retailers;

8            (3) provide electronic benefits transfer terminals to all Vermont farmers'  
9        markets as well as technical assistance, promotional support, and  
10       reimbursement to farmers' markets for transaction costs;

11           (4) subsidize school meals for low-income Vermonters; and

12           (5) create a permanent and self-sustaining fund to support programs  
13       combating obesity to be administered by a board comprising representatives  
14       from the Agency of Human Services, the Agency of Education, and the  
15       Agency of Agriculture, Food and Markets.

16       § 9404. RECORDS

17           Every distributor shall maintain, for not less than three years, accurate  
18       records showing all transactions subject to tax liability under this chapter.  
19       Distributors must identify the amount of tax collected as a separate invoice  
20       entry on sales to retailers. These records are subject to inspection by the  
21       Commissioner at all reasonable times during normal business hours.



1     § 9405. EXEMPTIONS

2             The following shall be exempt from the tax imposed by section 9402 of this  
3 chapter:

4             (1) syrup, powder, or sugar-sweetened beverages sold to the  
5 U.S. government, its subdivisions, or under any other circumstances in which  
6 the State is without power to impose the tax;

7             (2) syrup, powder, or sugar-sweetened beverages sold by a distributor  
8 for resale or consumption outside the State; and

9             (3) syrup, powder, or sugar-sweetened beverages sold by a distributor to  
10 another distributor and not intended for resale to a consumer if the purchasing  
11 distributor holds a license issued under section 9406 of this chapter and if the  
12 sales invoice clearly indicates that the sale is exempt.

13     § 9406. LICENSE REQUIRED

14             Each distributor shall secure a license from the Commissioner before  
15 engaging in the business of selling sugar-sweetened beverages in the State.

16     § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

17             (a) A separate application and license is required for each wholesale outlet  
18 when a distributor owns or controls more than one such outlet.

19             (b) Licenses shall be issued by the Commissioner on application, without  
20 charge, on forms prescribed by the Commissioner, stating the name and  
21 address of the applicant, the address of the place of business, the type of

1 business, and any other information the Commissioner may require for the  
2 proper administration of this chapter.

3 § 9408. TERM OF LICENSES

4 Each license issued under the provisions of this chapter shall be valid as  
5 long as the licensee continues to do business at the place named, unless the  
6 license is revoked or suspended by the Commissioner as provided in section  
7 9409 of this chapter. If the business is sold or transferred or if the licensee  
8 ceases to do business at the place named, the license shall immediately be  
9 returned to the Commissioner for cancellation.

10 § 9409. REVOCATION AND SUSPENSION OF LICENSES

11 The Commissioner may revoke or suspend the license of any licensee for  
12 failure to comply with any provision of this chapter or for failure to comply  
13 with the provisions of 11 V.S.A. chapter 15.

14 § 9410. PENALTIES

15 (a) Any person subject to the provisions of this chapter who fails to pay the  
16 tax imposed by this chapter by the date that payment is due or fails to submit a  
17 return as required by this chapter is subject to the provisions of section 3202 of  
18 this title (interest and penalties).

19 (b) Any person subject to the provisions of this chapter who sells or offers  
20 for sale any syrup, powder, or sugar-sweetened beverages in the State without

1 holding a license as required by this chapter is liable for a penalty of up to  
2 \$100.00 for each day such sales are made or offered.

3 § 9411. APPEALS

4 Any person aggrieved by an action taken by the Commissioner under this  
5 chapter may appeal in writing to the Commissioner for a review. The  
6 Commissioner shall then grant a hearing under 3 V.S.A. chapter 25 and notify  
7 the aggrieved person in writing of his or her determination. The  
8 Commissioner's determination may be appealed within 30 days to the Superior  
9 Court of the county of this State in which the taxpayer resides or has a place of  
10 business or to the Superior Court of Washington County.

11 § 9412. BONDING

12 When the Commissioner, in his or her discretion, considers it necessary to  
13 protect the revenues raised under this chapter, he or she may require any  
14 licensee to file with him or her a bond under the terms of section 3114 of this  
15 title.

16 Sec. 3. 33 V.S.A. § 1901d is amended to read:

17 § 1901d. STATE HEALTH CARE RESOURCES FUND

18 \* \* \*

19 (b) Into the Fund shall be deposited:

20 (1) all revenue from the tobacco products tax and from the cigarette tax  
21 levied pursuant to 32 V.S.A. chapter 205;

1 (2) revenue from health care provider assessments pursuant to  
2 subchapter 2 of chapter 19 of this title;

3 (3) revenue from the employer health care premium contribution  
4 pursuant to 21 V.S.A. chapter 25;

5 (4) revenue from health care claims assessments pursuant to 32 V.S.A.  
6 § 10402;

7 (5) one-half of the revenue from the sugar-sweetened beverage tax  
8 levied pursuant to 32 V.S.A. chapter 227;

9 (6) premium amounts paid by individuals unless paid directly to the  
10 insurer;

11 ~~(6)~~(7) the proceeds from grants, donations, contributions, taxes, and any  
12 other sources of revenue as may be provided by statute, rule, or act of the  
13 General Assembly; and

14 ~~(7)~~(8) any remaining balance in the terminated Catamount Fund as of  
15 June 30, 2012.

16 \* \* \*

17 Sec. 4. MONITORING

18 The Department of Health shall develop criteria and components for an  
19 independent evaluation to assess the impact that the sugar-sweetened beverage  
20 tax has on consumption of products affected by the implementation of the tax.  
21 Specifically, the evaluation shall seek to determine the impact of these

1 exclusions on consumer purchasing and health outcomes. The amount of  
2 \$100,000.00 is appropriated to the Department of Health for this purpose.

3 Sec. 5. EFFECTIVE DATE

4 This act shall take effect on July 1, 2015.