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**DRAFT FOR DISCUSSION**

H.164

Representative Condon of Colchester moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following: **[EDUCATION INCOME TAX COLLECTED AS AN INCOME TAX, WITHHOLDING ADDED IN YEAR ONE]**

\* \* \*Fund Allocation\* \* \*

Sec. 1. 16 V.S.A. § 4025(a)(1) is amended to read:

(a) An education fund is established to be comprised of the following:

(1) All revenue paid to the state from the statewide education tax on nonresidential and homestead property under 32 V.S.A. chapter 135, and the education income tax under 32 V.S.A. § 5822a.

Sec. 2. 32 V.S.A. § 435(b)(5) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

\* \* \*

(5) Individual income taxes levied pursuant to chapter 151 of this title, except for the education income tax under 32 V.S.A. § 5822a;



1 ~~under subsection 6066(b) of this title, rented and occupied by a resident~~  
2 ~~individual as the individual's domicile.~~

3 \* \* \*

4 (12) ~~"Excess spending" means:~~

5 ~~(A) the per equalized pupil amount of the district's education~~  
6 ~~spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be~~  
7 ~~added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b);~~

8 ~~(B) in excess of 125 percent of the statewide average district~~  
9 ~~education spending per equalized pupil in the prior fiscal year, as determined~~  
10 ~~by the Secretary of Education on or before November 15 of each year based on~~  
11 ~~the passed budgets to date. [Deleted.]~~

12 Sec. 6. 32 V.S.A. § 5402 is amended to read:

13 § 5402. EDUCATION PROPERTY TAX LIABILITY

14 (a) A statewide education tax is imposed on all nonresidential and  
15 homestead property at the following rates:

16 (1) the tax rate for nonresidential property shall be ~~\$1.59~~ \$1.52 per  
17 \$100.00 of equalized education property value as most recently determined  
18 under section 5405 of this title; and

19 (2) the tax rate for homestead property shall be ~~\$1.10 multiplied by the~~  
20 ~~district spending adjustment for the municipality,~~ \$0.47 per \$100.00, of  
21 equalized education property value as most recently determined under section

1 5405 of this title. ~~The homestead property tax rate for each municipality which~~  
2 ~~is a member of a union or unified union school district shall be calculated as~~  
3 ~~required under subsection (e) of this section.~~

4 (b) Calculation of education tax.

5 (1) ~~The commissioner of taxes shall determine for each municipality the~~  
6 ~~education tax rates under subsection (a) of this section, divided by the~~  
7 ~~municipality's most recent common level of appraisal. For each municipality,~~  
8 ~~the Commissioner shall divide the education tax rates under subsection (a) of~~  
9 ~~this section by the most recent common level of appraisal.~~ The legislative  
10 body in each municipality shall ~~then~~ bill each property taxpayer at the  
11 homestead or nonresidential rate determined by the Commissioner under this  
12 subdivision, multiplied by the education property tax grand list value of the  
13 property, properly classified as homestead or nonresidential property and  
14 without regard to any other tax classification of the property. Tax bills shall  
15 show the tax due and the calculation of the rate determined under subsection  
16 (a) of this section, divided by the municipality's most recent common level of  
17 appraisal, multiplied by the current grand list value of the property to be taxed.

18 (2) Taxes assessed under this section shall be assessed and collected in  
19 the same manner as taxes assessed under chapter 133 of this title with no tax  
20 classification other than as homestead or nonresidential property.

1           (3) ~~If a district has not voted a budget by June 30, an interim homestead~~  
2 ~~education tax shall be imposed at the base rate determined under subdivision~~  
3 ~~(a)(2) of this section, divided by the municipality's most recent common level~~  
4 ~~of appraisal, but without regard to any district spending adjustment. Within 30~~  
5 ~~days after a budget is adopted and the deadline for reconsideration has passed,~~  
6 ~~the commissioner shall determine the municipality's homestead tax rate as~~  
7 ~~required under subdivision (b)(1) of this subsection. [Repealed.]~~

8           (c) The treasurer of each municipality shall by December 1 of the year in  
9 which the tax is levied and on June 1 of the following year pay to the ~~state~~  
10 ~~treasurer~~ State Treasurer for deposit in the ~~education fund~~ Education Fund ~~one~~  
11 ~~half~~ one-half of the municipality's statewide nonresidential tax and ~~one-half~~  
12 one-half of the municipality's homestead education tax, as determined under  
13 subdivision (b)(1) of this section. The Secretary of Education shall determine  
14 the municipality's net nonresidential education tax payment and its net  
15 homestead education tax payment to the State based on grand list information  
16 received by the Commissioner no later than the March 15 prior to the June 1  
17 net payment. Payment shall be accompanied by a return prescribed by the  
18 Secretary of Education. The municipality may retain 0.225 of one percent of  
19 the total education tax collected, only upon timely remittance of net payment to  
20 the State Treasurer. The municipality may also retain \$15.00 for each late  
21 property tax adjustment claim filed after April 15 and before September 2, as

1 notified by the Department of Taxes, for the cost of issuing a new property tax  
2 bill.

3 (d) A municipality which has upon its grand list an operating electric  
4 generating plant subject to the tax under section 5402a of this chapter shall be  
5 subject to the nonresidential education property tax at three-quarters of the rate  
6 provided in subdivision (a)(1) of this section, as adjusted under section 5402b  
7 of this chapter; and shall be subject to the homestead education property tax at  
8 three-quarters of the base rate provided in subdivision (a)(2) of this section, as  
9 adjusted under section 5402b of this chapter, ~~and multiplied by its district~~  
10 ~~spending adjustment.~~

11 ~~(e) The commissioner of taxes shall determine a homestead education tax~~  
12 ~~rate for each municipality which is a member of a union or unified union~~  
13 ~~school district as follows:~~

14 ~~(1) For a municipality which is a member of a unified union school~~  
15 ~~district, use the base rate determined under subdivision (a)(2) of this section~~  
16 ~~and a district spending adjustment based upon the education spending per~~  
17 ~~equalized pupil of the unified union.~~

18 ~~(2) For a municipality which is a member of a union school district:~~

19 ~~(A) determine the municipal district homestead tax rate using the~~  
20 ~~base rate determined under subdivision (a)(2) of this section and a district~~

1 ~~spending adjustment based on the education spending per total equalized pupil~~  
2 ~~in the municipality who attends a school other than the union school;~~

3 ~~(B) determine the union district homestead tax rate using the base~~  
4 ~~rate determined under subdivision (a)(2) of this section and a district spending~~  
5 ~~adjustment based on the education spending per equalized pupil of the union~~  
6 ~~school district; and~~

7 ~~(C) determine a combined homestead tax rate by calculating the~~  
8 ~~weighted average of the rates determined under subdivisions (A) and (B) of~~  
9 ~~this subdivision (2), with weighting based upon the ratio of union school~~  
10 ~~equalized pupils from the member municipality to total equalized pupils of the~~  
11 ~~member municipality; and the ratio of equalized pupils attending a school other~~  
12 ~~than the union school to total equalized pupils of the member municipality.~~

13 ~~Total equalized pupils of the member municipality is based on the number of~~  
14 ~~pupils who are legal residents of the municipality and attending school at~~  
15 ~~public expense. If necessary, the commissioner may adopt a rule to clarify and~~  
16 ~~facilitate implementation of this subsection.~~

17 Sec. 7. 32 V.S.A. § 5402b is amended to read:

18 § 5402B. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS

19 (a) Annually, by December 1, the Commissioner of Taxes shall recommend  
20 to the General Assembly, after consultation with the Agency of Education, the  
21 Secretary of Administration and the Joint Fiscal Office, the following

1 adjustments in the ~~statewide education tax rates under subdivisions 5402(a)(1)~~  
2 ~~and (2) of this title~~ education income tax rate in subsection 5822a(b) of this  
3 title, and the base education amount in subsection 4011(b) of title 16:

4 (1) If there is a projected balance in the Education Fund Budget  
5 Stabilization Reserve in excess of the five percent level authorized under 16  
6 V.S.A. § 4026, the Commissioner shall recommend a reduction, for the  
7 following fiscal year only, in the ~~statewide education tax rates~~ education  
8 income tax rate or base education amount which will retain the projected  
9 Education Fund Budget Stabilization Reserve at the five percent maximum  
10 level authorized ~~and raise at least 34 percent of projected education spending~~  
11 ~~from the tax on nonresidential property;~~ and

12 (2) If there is a projected balance in the Education Fund Budget  
13 Stabilization Reserve of less than the three and one-half percent level required  
14 under 16 V.S.A. § 4026, the Commissioner shall recommend an increase, for  
15 the following fiscal year only, in the ~~statewide education tax rates~~ education  
16 income tax rate or base education amount which will retain the projected  
17 Education Fund Budget Stabilization Reserve at no less than the three and one-  
18 half percent minimum level authorized under 16 V.S.A. § 4026, ~~and raise at~~  
19 ~~least 34 percent of projected education spending from the tax rate on~~  
20 ~~nonresidential property.~~



1           (3) ~~In any year following a year in which the nonresidential rate~~  
2           ~~produced an amount of revenues insufficient to support 34 percent of education~~  
3           ~~fund spending in the previous fiscal year, the Commissioner shall determine~~  
4           ~~and recommend an adjustment in the nonresidential rate sufficient to raise at~~  
5           ~~least 34 percent of projected education spending from the tax rate on~~  
6           ~~nonresidential property. [Deleted.]~~

7           (4) ~~If in any year in which the nonresidential rate is less than the~~  
8           ~~statewide average homestead rate, the Commissioner of Taxes shall determine~~  
9           ~~the factors contributing to the deviation in the proportionality of the~~  
10           ~~nonresidential and homestead rates and make a recommendation for adjusting~~  
11           ~~statewide education tax rates accordingly. [Deleted.]~~

12           (b) ~~If the Commissioner makes a recommendation to the General Assembly~~  
13           ~~to adjust the education tax rates under section 5402 of this title, the~~  
14           ~~Commissioner shall also recommend a proportional adjustment to the~~  
15           ~~applicable percentage base for homestead income based adjustments under~~  
16           ~~section 6066 of this title, but the applicable percentage base shall not be~~  
17           ~~adjusted below 1.8 percent. [Deleted.]~~

18           (c) ~~[Repealed.]~~

1                                   \* \* \*Education Income Tax and Withholding\* \* \*

2           Sec. 8. 32 V.S.A. § 5822a is added to read:

3           § 5822a. EDUCATION INCOME TAX

4           (a) Resident income taxpayers shall pay an education income tax calculated  
5           by dividing the per-equalized-pupil amount of the district's education  
6           spending, as defined in 16 V.S.A. § 4001(6), by the State base spending  
7           amount calculated under 16 V.S.A. § 4011, multiplied by the statewide  
8           education income tax base rate under subsection (b) of this section, and then  
9           multiplied by the taxpayer's federal adjusted gross income.

10           (b) The statewide base rate for the education income tax shall be 1.0  
11           percent.

12           (c) The education income tax shall be assessed and collected in the same  
13           manner as the personal income tax imposed under section 5822 of this title.  
14           The education income tax shall be assessed against resident taxpayers based on  
15           their filing status under section 5822. Persons who are part-time residents of  
16           Vermont shall pay a proportion of the tax due under this section that equals the  
17           proportion of the taxpayer's Vermont income to his or her federal adjusted  
18           gross income.

19                                   \* \* \*Withholding\* \* \*

20           Sec. 9. 32 V.S.A. § 5841 is amended to read:

21           § 5841. REQUIREMENT AND RATE OF WITHHOLDING

1           (a) Every person who is required under the laws of the United States to  
2 withhold federal income tax from payments that are also subject to Vermont  
3 income tax shall deduct and withhold during the calendar year from the  
4 payments made by such person such amount as the Commissioner shall  
5 prescribe. Every person who makes payments of income with respect to  
6 services performed for such person which were previously deferred under a  
7 nonqualified deferred compensation plan shall deduct and withhold during the  
8 calendar year from the payments made by such person six percent of any  
9 payment (including any withheld tax) of such previously deferred income and  
10 of income derived from such previously deferred income. The Commissioner  
11 may authorize any person to deduct and withhold Vermont income tax from  
12 any other payments that are subject to the tax imposed by this chapter.  
13 Notwithstanding the foregoing, banks (as defined in 8 V.S.A. § 909a(a)) shall  
14 not be required to withhold Vermont income tax from payments that are  
15 subject to federal back-up withholding.

16           (b) The Commissioner shall establish such withholding tables, schedules or  
17 formulae as will result in the withholding of such amounts from the payments  
18 made by any person during any taxable year, as shall closely approximate the  
19 income tax liabilities of the recipients of those payments with respect to those  
20 payments for that year under this chapter, including any income tax liabilities  
21 for the education income tax in 32 V.S.A. § 5822a.

1        (c) The Commissioner shall base withholding requirements for the  
2        education income tax in 32 V.S.A. § 5822a on the per-equalized-pupil amount  
3        of the district’s education spending from the prior year, and the federal  
4        adjusted gross income of the recipient from the prior year.

5        Sec. 10. 32 V.S.A. § 5842(e) is added to read:

6        (e) Withholding of payments attributable to a tax liability under 32 V.S.A.  
7        § 5822 shall be deposited in the General Fund, and withholding of payments  
8        attributable to a tax liability under 32 V.S.A. § 5822a shall be deposited in the  
9        Education Fund.

10       Sec. 11. 32 V.S.A. § 5852(a) is amended to read:

11       (a) Every individual subject to taxation under ~~section~~ sections 5822 or  
12       5822a of this title, (other than a person receiving at least two-thirds of his or  
13       her income from farming or fishing as defined under the laws of the United  
14       States) shall make installment payments of the taxpayer's estimated tax liability  
15       for each taxable year. The amount of each payment shall be 25 percent of the  
16       required annual payment. For any taxable year, payments shall be made on or  
17       before April 15, June 15, and September 15 of the taxable year and January 15  
18       of the following taxable year. In applying this section to a taxable year  
19       beginning on any date other than January 1, there shall be substituted, for the  
20       months specified in this section, the months which correspond thereto.

21       Sec. 12. REPEAL

1        (a) 32 V.S.A. § 6066(a) (income sensitivity adjustment) is repealed [BUT  
2        **KEEP RENTER REBATE?].**

3        (b) 2013 Acts and Resolves No. 60, Secs. 1, 2, 6(a), and 6(b) (excess  
4        spending percentage decreases) are repealed on passage of this act.

5        (c) 16 V.S.A. § 4001(6)(B) (excess spending exemptions) is repealed on  
6        July 1, 2014.

7        (d) 16 V.S.A. § 4025(b)(3) (payments for income sensitivity adjustments  
8        from the Education Fund) is repealed on January 1, 2015.

9        Sec. 13. EFFECTIVE DATES

10       This act shall take effect on January 1, 2017.