

1 H.933

2 Senator Vyhovsky moves that the report of the Committee on Finance be  
3 amended as follows:

4 First: By striking out Secs. 50–51 (deleted) in their entireties and inserting  
5 in lieu thereof two new sections to be Secs. 50–51 and a reader assistance  
6 heading to read as follows:

7 \* \* \* Income Tax Surcharge and VIP Tax \* \* \*

8 Sec. 50. 32 V.S.A. § 5822a is added to read:

9 § 5822a. PERSONAL INCOME TAX SURCHARGE

10 (a) There shall be a surcharge applied to the federal adjusted gross income  
11 of individuals with federal adjusted gross income equal to or greater than  
12 \$250,000.00. The surcharge shall be at a rate of two percent of the adjusted  
13 gross income exceeding \$250,000.00. The surcharge shall be in addition to  
14 any tax assessed under this chapter and shall be paid, collected, and enforced in  
15 the same manner as the tax assessed under section 5822 of this title.

16 (b) There shall be an additional surcharge applied to the federal adjusted  
17 gross income of individuals with federal adjusted gross income equal to or  
18 greater than \$500,000.00. The surcharge shall be at a rate of six percent of the  
19 adjusted gross income exceeding \$500,000.00. The surcharge shall be in  
20 addition to any tax assessed under this chapter and shall be paid, collected, and

1 enforced in the same manner as the tax assessed under section 5822 of this  
2 title.

3 (c) The surcharges imposed under this section shall be applied to  
4 individuals without regard for filing status.

5 (d) Annually, the Commissioner of Taxes shall use the process required  
6 under subdivision 5822(b)(2) of this title to adjust for inflation the minimum  
7 amount of federal adjusted gross income necessary for an individual to incur a  
8 surcharge under this section.

9 Sec. 51. 32 V.S.A. chapter 149 is added to read:

10 CHAPTER 149. VERMONT INVESTMENT PROCEEDS TAX

11 § 5701. DEFINITIONS

12 As used in this chapter:

13 (1) “Federal modified adjusted gross income” means modified adjusted  
14 gross income as defined in 26 U.S.C. § 1411(d).

15 (2) “Investment income” has the same meaning as net investment  
16 income in 26 U.S.C. § 1411(c) as adjusted by section 5703 of this chapter.

17 (3) “Threshold amount” has the same meaning as in 26 U.S.C.  
18 § 1411(b).

1     § 5702. IMPOSITION OF VERMONT INVESTMENT PROCEEDS TAX

2           (a) A Vermont investment proceeds tax is imposed for each taxable year on  
3     individuals, estates, and trusts subject to the personal income tax under chapter  
4     151 of this title as follows:

5           (1) individuals filing as single or head of household with federal  
6     modified adjusted gross income exceeding \$200,000.00;

7           (2) married individuals filing jointly with federal modified adjusted  
8     gross income exceeding \$250,000.00;

9           (3) individuals filing as married filing separately with federal modified  
10    adjusted gross income exceeding \$125,000.00; and

11          (4) estates and trusts with adjusted gross income, as defined in  
12    26 U.S.C. § 67(e), exceeding the dollar amount at which the highest tax  
13    bracket begins for the taxable year under 26 U.S.C. § 1(e).

14          (b)(1) For individuals, tax is imposed at the rate of 4 percent of the lesser  
15    of:

16            (A) investment income for the taxable year; or

17            (B) federal modified adjusted gross income for the taxable year,  
18    reduced by the threshold amount.

19          (2) For estates and trusts, tax is imposed at the rate of four percent of the  
20    lesser of:

1           (A) undistributed investment income for the taxable year; or

2           (B) the dollar amount at which the highest tax bracket begins for the  
3 taxable year under 26 U.S.C. § 1(e).

4           (c) The tax imposed under this section shall be in addition to any other tax  
5 imposed under this title.

6           (d) For part-year and nonresident individuals, estates, and trusts, the tax  
7 imposed by this section shall be calculated by multiplying a taxpayer's total  
8 amount of investment income for the taxable year by the percentage of  
9 investment income allocable to Vermont under section 5823 of this title.

10 § 5703. DETERMINATION OF VERMONT INVESTMENT INCOME

11           The Vermont investment income of an individual, estate, or trust means net  
12 investment income, as defined in 26 U.S.C. § 1411(c), and decreased by the  
13 following to the extent they are included in net investment income:

14           (1) income from U.S. government obligations; and

15           (2) any amount exempted from state taxation under the laws of the  
16 United States.

17 § 5704. ADMINISTRATION

18           The tax imposed under this chapter shall be administered and enforced  
19 under this chapter in the same manner as the income tax imposed under section  
20 5822 of this title, including all provisions relating to deficiencies, assessments,

1 refunds, appeals, enforcement, and collection under chapter 151, subchapters 8  
2 and 9 of this title.

3 Second: By striking out Secs. 52–53 (deleted) in their entireties and  
4 inserting in lieu thereof ten new sections to be Secs. 52, 53, 53a, 53b, 53c, 53d,  
5 53e, 53f, 53g, and 53h and a reader assistance heading to read as follows:

6 \* \* \* Tax Classifications and School Construction \* \* \*

7 Sec. 52. 32 V.S.A. § 4152 is amended to read:

8 § 4152. CONTENTS

9 (a) When completed, the grand list of a town shall be in such form as the  
10 Director prescribes and shall contain such information as the Director  
11 prescribes, including:

12 \* \* \*

13 (10) A separate column listing the number of dwelling units, as defined  
14 pursuant to subdivision 4152a(c)(2) of this title.

15 \* \* \*

16 Sec. 53. 32 V.S.A. § 4152a is added to read:

17 § 4152a. PROPERTY TAX CLASSIFICATIONS

18 (a) Establishment. Each parcel of real estate shall be classified as one or  
19 more of the classifications listed under subsection (b) of this section and based  
20 on information and guidance provided by the Commissioner of Taxes under  
21 this section and rules adopted pursuant section 5410 of this title.

1        (b) Classifications. A parcel shall be assigned one or more of the following  
2        general classes:

3            (1) homestead;

4            (2) nonhomestead nonresidential; and

5            (3) nonhomestead residential.

6        (c) Definitions. As used in this section:

7            (1) “Commissioner” means the Commissioner of Taxes.

8            (2) “Dwelling unit” means a building or part of a building, including a  
9        single-family home, a unit within a multifamily building, an apartment, a  
10       condominium, or other similar property or structure containing a separate  
11       means of ingress and egress that:

12            (A) is designed or intended to be used for occupancy by one or more  
13       persons in a household, including providing living facilities for sleeping,  
14       cooking, and sanitary needs; and

15            (B) is fit for year-round habitation as determined by the  
16       Commissioner.

17            (3) “Homestead” has the same meaning as in subdivision 5401(7) of this  
18       title and means a parcel, or portion of a parcel, declared as a homestead on or  
19       before October 15 in accordance with section 5410 of this title for the current  
20       year.

21            (4)(A) “Long-term rental” means:

1           (i) a dwelling unit for which rent is paid for the right of occupancy  
2           for periods of at least 30 days;

3           (ii) a dwelling unit with combined rental periods in the current  
4           calendar year that total at least six calendar months, which need not be  
5           consecutive; and

6           (iii) there is a bona fide landlord-tenant relationship between the  
7           parties.

8           (B) “Long-term rental” also means a dwelling unit used by an  
9           employer to house the employer’s employees for at least six calendar months,  
10           which need not be consecutive, in the current calendar year. As used in this  
11           section, “employee” means an individual who is reported by an employer for  
12           purposes of complying with Vermont unemployment compensation law  
13           pursuant to 21 V.S.A. chapter 17 or a farm employee as defined by 9 V.S.A.  
14           § 4469a(a)(1), without regard for whether the farm employee is reported  
15           pursuant to 21 V.S.A. chapter 17.

16           (5) “Nonhomestead nonresidential” means a parcel, or portion of a  
17           parcel, that does not qualify as “homestead” or “nonhomestead residential”  
18           under this section.

19           (6) “Nonhomestead residential” means a parcel, or portion of a parcel,  
20           with a dwelling unit that is not:

21           (A) a homestead;

1           (B) rented out as a long-term rental; or

2           (C) a mobile home, as defined under 10 V.S.A. § 6201(1), but not  
3 including other types of manufactured homes.

4           (d) Mixed-use parcels. A parcel with two or more portions qualifying as  
5 different classifications shall be classified proportionally as follows:

6           (1) Buildings shall be classified proportionally based on the percentage  
7 of finished floor space used. Improvements and structures on a nonhomestead  
8 residential parcel shall be classified as nonhomestead residential unless used  
9 for a business purpose.

10           (2) Underlying land, including improvements or fixtures that lack floor  
11 space, shall be classified proportionally based on the same percentage as the  
12 finished floor space of the buildings.

13           (3) Notwithstanding any provision of this subsection to the contrary, the  
14 entire parcel of land surrounding a homestead shall be classified as homestead  
15 in accordance with subdivision 5401(7) of this title, including any  
16 improvements or structures considered part of a homestead under subdivision  
17 5401(7)(F) of this title.

18           (4) If a portion of floor space is used for more than one purpose, the use  
19 for which the floor space is most often used shall be considered the primary  
20 use and the floor space shall be dedicated to that use for purposes of tax

1 classification, except as provided for a homestead under subdivision 5401(7) of  
2 this title.

3 (e) Forms. The Commissioner shall amend existing forms, and publish  
4 new forms, as needed to gather the necessary attestations and declarations  
5 required under this section.

6 (f) Use value appraisal. Nothing in this section shall be construed to alter  
7 the tax treatment or enrollment eligibility of property as it relates to use value  
8 appraisal under chapter 124 of this title.

9 (g) Appeals.

10 (1) Persons aggrieved by a decision of an assessing official relating to  
11 how a property is classified for taxation purposes under this section may  
12 appeal in the manner provided for property valuation appeals under this title.  
13 The Commissioner shall provide written guidance for municipalities to follow  
14 when hearing such appeals and technical assistance if requested by a municipal  
15 official responsible for such appeals.

16 (2) Notwithstanding subdivision (1) of this subsection, appeals of a  
17 decision of the Commissioner to classify property shall be made to the  
18 Commissioner in the same manner as an appeal under chapter 151 of this title.

19 (3) A timely filed appeal made pursuant to this subsection that is  
20 erroneously made to the Commissioner instead of the municipality, or to a  
21 municipality instead of the Commissioner, shall be considered timely. The

1 recipient of the erroneously filed appeal shall forward the appeal to the  
2 Commissioner or the correct municipality within 14 days.

3 Sec. 53a. 32 V.S.A. § 5410 is amended to read:

4 § 5410. DECLARATION OF HOMESTEAD; DWELLING USE

5 ATTESTATION

6 \* \* \*

7 (g) If the property identified in a declaration under subsection (b) of this  
8 section is not the taxpayer's homestead ~~or if the owner of a homestead fails to~~  
9 ~~declare a homestead as required under this section~~, the Commissioner shall  
10 notify the municipality, and the municipality shall issue a corrected tax bill that  
11 may, as determined by the governing body of the municipality, include a  
12 penalty of up to ~~three~~ five percent of the education tax on the property.  
13 ~~However, if the property incorrectly declared as a homestead is located in a~~  
14 ~~municipality that has a lower homestead tax rate than the nonhomestead tax~~  
15 ~~rate or if an undeclared homestead is located in a municipality that has a lower~~  
16 ~~nonhomestead tax rate than the homestead tax rate, then the governing body of~~  
17 ~~the municipality may include a penalty of up to eight percent of the education~~  
18 ~~tax liability on the property.~~ If the Commissioner determines that the  
19 declaration or failure to declare was with fraudulent intent, then the  
20 ~~municipality~~ Commissioner shall assess the taxpayer a penalty in an amount  
21 equal to 100 percent of the education tax on the property, plus any interest and

1 late-payment fee or commission that may be due. Any penalty imposed under  
2 this section by a municipality and any additional property tax interest and late-  
3 payment fee or commission shall be assessed and collected by the municipality  
4 in the same manner as a property tax under chapter 133 of this title.

5 Notwithstanding section 4772 of this title, issuance of a corrected bill issued  
6 under this section does not extend the time for payment of the original bill nor  
7 relieve the taxpayer of any interest or penalties associated with the original bill.

8 If the owner of a homestead fails to declare a homestead as required under this  
9 section, the Commissioner shall notify the municipality, and the municipality  
10 shall issue a corrected tax bill. If the corrected bill is less than the original bill  
11 and there are also no unpaid current year taxes, interest, or penalties and no  
12 past year delinquent taxes or penalties and interest charges, any overpayment  
13 shall be reflected on the corrected tax bill and refunded to the taxpayer.

14 \* \* \*

15 (i) An owner filing a new or corrected declaration or dwelling use  
16 attestation or rescinding an erroneous declaration or dwelling use attestation  
17 after October 15 shall not be entitled to a refund resulting from the correct  
18 property classification, and any additional property tax and interest that would  
19 result from the correct classification shall not be assessed as tax and interest,  
20 but shall instead constitute an additional penalty to be assessed and collected in  
21 the same manner as penalties under subsection (g) of this section. Any change

1 in property classification under this subsection shall not be entered on the  
2 grand list.

3 (j) A taxpayer may appeal a determination of domicile for purposes of a  
4 homestead declaration or an assessment of fraud penalty under this section to  
5 the Commissioner in the same manner as an appeal under chapter 151 of this  
6 title. A taxpayer may appeal an assessment of any other penalty under this  
7 section to the listers within 14 days after the date of mailing of notice of the  
8 penalty, and from the listers to the board of civil authority, and thereafter to the  
9 courts, in the same manner as an appraisal appeal under chapter 131 of this  
10 title. The legislative body of a municipality shall have authority in cases of  
11 hardship to abate all or any portion of a penalty appealable to the listers under  
12 this section and any tax, penalty, and interest arising out of a corrected  
13 property classification under this section, and shall state in detail in writing the  
14 reasons for its grant or denial of the requested abatement. The legislative body  
15 may delegate this abatement authority to the board of civil authority or the  
16 board of abatement for the municipality. Requests for abatement shall be made  
17 to the municipal treasurer or other person designated to collect current taxes,  
18 and that person shall forward all requests, with that person's recommendation,  
19 to the body authorized to grant or deny abatement.

20 (k) A municipality may retain any penalties and interest assessed and  
21 collected in accord with this section.

1 (l) “Hardship” under this section means an owner’s inability to pay as  
2 certified by the Commissioner of Taxes, in the Commissioner’s discretion, or  
3 means an owner filing an incorrect, or failing to file a correct, homestead  
4 declaration or dwelling use attestation due to one or more of the following:

5 (1) full-time active military duty of the declarant outside the State;

6 (2) serious illness or disability of the declarant;

7 (3) serious illness, disability, or death of an immediate family member  
8 of the declarant; and

9 (4) fire, flood, or other disaster.

10 (m)(1) Annually, on or before the due date for filing the Vermont income  
11 tax return, without extension, each owner of a property with a dwelling unit, as  
12 defined under subdivision 4152a(c)(2) of this title, that is not declared as a  
13 homestead pursuant to this section, may file a dwelling use attestation  
14 describing how the dwelling unit will be used in the current year for purposes  
15 of assigning a tax classification under section 4152a of this title. Properties  
16 with a dwelling unit for which no homestead declaration or dwelling use  
17 attestation have been filed shall be assigned the tax classification with the  
18 highest statewide education tax rate multiplier under section 5402(a) of this  
19 title. The Commissioner may collect any additional information through the  
20 attestation as required to administer the classification of properties pursuant to  
21 section 4152a of this title.

1           (2) If the Commissioner determines that a filed dwelling use attestation  
2           contains errors or omissions but does not find that the filing was made with  
3           fraudulent intent, the Commissioner shall notify the municipality, and the  
4           municipality shall issue a corrected tax bill that may, as determined by the  
5           governing body of the municipality, include a penalty of up to five percent of  
6           the education tax on the property. Any penalty imposed under this subdivision  
7           and any additional property tax interest and late-payment fee or commission  
8           shall be assessed and collected by the municipality in the same manner as a  
9           property tax under chapter 133 of this title. The municipality assessing and  
10           collecting any fee, interest, or commission under this subdivision shall retain it  
11           to pay for municipal services.

12           (3) If the Commissioner determines that a filed dwelling use attestation  
13           contains errors or omissions and further finds that the filing was made with  
14           fraudulent intent, then the Commissioner shall assess the taxpayer a penalty in  
15           an amount equal to 100 percent of the education tax on the property, plus any  
16           interest and late-payment fee that may be due. The Commissioner shall further  
17           notify the municipality, and the municipality shall issue a corrected tax bill.  
18           Any penalty imposed under this subdivision and any additional property tax  
19           interest and late-payment fee shall be assessed and collected by the  
20           Commissioner.

21           Sec. 53b. PROPERTY TAX CLASSIFICATIONS; TRANSITION; DATA



1 individual's domicile or owned and fully leased on April 1, provided the  
2 property is not leased for more than 182 days out of the calendar year or, for  
3 purposes of the renter credit under subsection 6066(b) of this title, is rented  
4 and occupied by a resident individual as the individual's domicile.

5 (B) The parcel of land surrounding the dwelling shall be determined  
6 without regard to any road that intersects the land. If the parcel of land  
7 surrounding the dwelling is owned by a cooperative housing corporation  
8 incorporated under 11 V.S.A. chapter 14 or owned by a nonprofit land  
9 conservation corporation or community land trust with exempt status under  
10 ~~26 U.S.C.~~ U.S.C. § 501(c)(3), the homestead includes a pro rata part of the land  
11 upon which the dwelling is built, as determined by the cooperative corporation,  
12 nonprofit corporation, or land trust.

13 (C) A homestead may consist of a part of a multidwelling or  
14 multipurpose building, including cooperative property occupied as a permanent  
15 residence by a member of a cooperative housing corporation incorporated  
16 under 11 V.S.A. chapter 14. A mobile home may constitute a principal  
17 dwelling for purposes of this chapter.

18 (D) A dwelling owned by a trust may qualify as a homestead if it  
19 meets the requirements of subsection 6062(e) of this title.

20 (E)(i) A homestead also includes a dwelling on the homestead parcel  
21 owned by a farmer as defined under section 3752 of this title and occupied as

1 the permanent residence by a parent, sibling, child, or grandchild of the farmer  
2 or by a shareholder, partner, or member of the farmer-owner, provided that the  
3 shareholder, partner, or member owns more than 50 percent of the farmer-  
4 owner, including attribution of stock ownership of a parent, sibling, child, or  
5 grandchild.

6 (ii) A homestead further includes the principal dwelling of a  
7 widow or widower, provided the dwelling is owned by the estate of the  
8 deceased spouse and it is reasonably likely that the dwelling will pass to the  
9 widow or widower by law or valid will when the estate is settled.

10 (F) A homestead also includes any other improvement or structure on  
11 the homestead parcel that is not used for business purposes, including a  
12 nonprincipal dwelling used exclusively by the owner for domestic purposes as  
13 part of the homestead on the same parcel. A homestead does not include that  
14 portion of a principal dwelling used for business purposes if the portion used  
15 for business purposes includes more than 25 percent of the floor space of the  
16 building.

17 (G) For purposes of homestead declaration and application of the  
18 homestead property tax rate, “homestead” also means a residence that was the  
19 homestead of the decedent at the date of death and, from the date of death  
20 through the next April 1, is held by the estate of the decedent and not rented.

1 (H) A homestead does not include any portion of a dwelling that is  
2 rented, and a dwelling is not a homestead for any portion of the year in which  
3 it is rented.

4 (I) A homestead also includes any dwelling that is used as a  
5 homestead without regard for whether it is fit for year-round habitation.

6 \* \* \*

7 Sec. 53e. 32 V.S.A. § 5402 is amended to read:

8 § 5402. EDUCATION PROPERTY TAX LIABILITY

9 (a) A statewide education tax is imposed on all nonhomestead and  
10 homestead property at the following rates:

11 (1) The tax rate for nonhomestead nonresidential and nonhomestead  
12 seasonal property shall be \$1.59 per \$100.00 divided by the statewide  
13 adjustment.

14 (2) The tax rate for homestead property shall be \$1.00 multiplied by the  
15 education property tax spending adjustment for the municipality per \$100.00 of  
16 equalized education property value as most recently determined under section  
17 5405 of this title. The homestead property tax rate for each municipality that is  
18 a member of a union or unified union school district shall be calculated as  
19 required under subsection (e) of this section.

20 (3) The tax rate for nonhomestead residential property shall be \$2.00  
21 multiplied by the education property tax spending adjustment for the

1 municipality per \$100.00 of equalized education property value as most  
2 recently determined under section 5405 of this title. The Commissioner of  
3 Taxes shall determine a nonhomestead residential education tax rate for each  
4 municipality that is a member of a union or unified union school district using  
5 the same process as is used for homesteads under subsection (e) of this section.  
6 Nonhomestead residential property shall use the same property dollar  
7 equivalent yield as homesteads in the same municipality.

8 \* \* \*

9 Sec. 53f. 32 V.S.A. § 5402b is amended to read:

10 § 5402b. STATEWIDE EDUCATION TAX YIELDS;

11 RECOMMENDATION OF THE COMMISSIONER

12 (a) Annually, not later than December 1, the Commissioner of Taxes, after  
13 consultation with the Secretary of Education, the Secretary of Administration,  
14 and the Joint Fiscal Office, shall calculate and recommend a property dollar  
15 equivalent yield, an income dollar equivalent yield, and a nonhomestead  
16 property tax rate for the following fiscal year. In making these calculations,  
17 the Commissioner shall assume:

18 \* \* \*

19 (4) the percentage change in the average education tax bill applied to  
20 nonhomestead nonresidential property ~~and~~, the percentage change in the  
21 average education tax bill applied to nonhomestead seasonal property, the

1 percentage change in the average education tax bill applied to nonhomestead  
2 residential property, the percentage change in the average education tax bill of  
3 homestead property, and the percentage change in the average education tax  
4 bill for taxpayers who claim a credit under subsection 6066(a) of this title are  
5 equal;

6 \* \* \*

7 Sec. 53g. 16 V.S.A. § 3444 is added to read:

8 § 3444. SCHOOL CONSTRUCTION AID SPECIAL FUND

9 (a) Creation. There is created the School Construction Aid Special Fund,  
10 to be administered by the Agency of Education. Monies in the Fund shall be  
11 used for the purposes of:

12 (1) awarding aid to school construction projects under section 3448 of  
13 this title, provided the construction contract requires the use of a project labor  
14 agreement for contractors and subcontractors engaged in the construction of  
15 the project;

16 (2) awarding grants through the Facilities Master Plan Grant Program  
17 established in section 3441 of this title;

18 (3) funding administrative costs of the State Aid for Capital  
19 Construction Costs program; and

20 (4) awarding emergency aid under section 3448 of this title.

21 (b) Funds. The Fund shall consist of:

