

# Journal of the House

Tuesday, March 28, 2017

At ten o'clock in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Reverend Earl Kooperkamp, Good Shepherd Episcopal Church, Barre, VT.

## Pledge of Allegiance

Page Aiden Casey of Worcester led the House in the Pledge of Allegiance.

## Message from the Senate No. 35

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 72.** An act relating to requiring telemarketers to provide accurate caller identification information.

**S. 75.** An act relating to aquatic nuisance species control.

**S. 92.** An act relating to interchangeable biological products.

**S. 96.** An act relating to a news media privilege.

The Senate has on its part adopted Senate concurrent resolution of the following title:

**S.C.R. 10.** Senate concurrent resolution designating Friday, March 24, 2017 as Northeast Kingdom Day in Vermont.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

**H.C.R. 76.** House concurrent resolution congratulating the 2016 Milton High School Yellow Jackets Division II championship girls' soccer team.

**H.C.R. 77.** House concurrent resolution congratulating the 2017 St. Johnsbury Academy girls' indoor track and field team on winning a third consecutive Division I indoor championship.

**H.C.R. 78.** House concurrent resolution honoring the TRIO academic

programs in Vermont and designating March 17, 2017 as TRIO Day at the State House.

**H.C.R. 79.** House concurrent resolution congratulating the 2017 Mt. Anthony Union High School Patriots championship wrestling team.

**H.C.R. 80.** House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers Division I championship baseball team.

**H.C.R. 81.** House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers girls' track and field team on winning a second straight Division I outdoor championship.

**H.C.R. 82.** House concurrent resolution designating the month of March 2017 as Professional Social Workers Month.

**H.C.R. 83.** House concurrent resolution honoring the outstanding municipal service of Stowe Town Clerk and Treasurer Alison Kaiser and expressing best wishes as she continues her rehabilitation process.

**H.C.R. 84.** House concurrent resolution congratulating the Holton Home Inc. on its 125th anniversary.

**H.C.R. 85.** House concurrent resolution congratulating the 2017 Burr and Burton Academy Bulldogs championship girls' snowboarding team.

**H.C.R. 86.** House concurrent resolution congratulating Rylee Field of Montpelier on her being crowned Miss Vermont 2016.

**H.C.R. 87.** House concurrent resolution designating March 23, 2017 as Vermont Nonprofit Legislative Day at the State House.

**H.C.R. 88.** House concurrent resolution congratulating the Montpelier Senior Activity Center on its 50th Anniversary.

### **House Bills Introduced**

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

#### **H. 516**

By the committee on Ways and Means,

An act relating to miscellaneous tax changes;

Pursuant to House rule 48, bill placed on the Calendar for notice.

#### **H. 517**

By the committee on Education,

An act relating to prekindergarten education and child development

programs;

Pursuant to House rule 48, bill placed on the Calendar for notice.

**H. 518**

By the committee on Appropriations,

An act relating to making appropriations for the support of government;

Pursuant to House rule 48, bill placed on the Calendar for notice.

**Senate Bill Referred**

**S. 72**

Senate bill, entitled

An act relating to requiring telemarketers to provide accurate caller identification information

Was read and referred to the committee on Commerce and Economic Development.

**Senate Bill Referred**

**S. 75**

Senate bill, entitled

An act relating to aquatic nuisance species control

Was read and referred to the committee on Natural Resources; Fish & Wildlife.

**Senate Bill Referred**

**S. 92**

Senate bill, entitled

An act relating to interchangeable biological products

Was read and referred to the committee on Health Care.

**Senate Bill Referred**

**S. 96**

Senate bill, entitled

An act relating to a news media privilege

Was read and referred to the committee on Judiciary.

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**Committee Relieved of Consideration  
and Bill Committed to Other Committee**

**S. 4**

**Rep. Pugh of South Burlington** moved that the committee on Human Services be relieved of House bill, entitled

An act relating to publicly accessible meetings of an accountable care organization's governing body

And that the bill be committed to the committee on Government Operations, which was agreed to.

**Third Reading; Bill Passed**

**H. 130**

House bill, entitled

An act relating to approval of amendments to the charter of the Town of Hartford

Was taken up, read the third time and passed.

**Third Reading; Bill Passed**

**H. 308**

House bill, entitled

An act relating to a committee to reorganize and reclassify Vermont's criminal statutes

Was taken up, read the third time and passed.

**Third Reading; Bill Passed**

**H. 326**

House bill, entitled

An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program

Was taken up, read the third time and passed.

**Second Reading; Third Reading Ordered**

**H. 514**

**Rep. Weed of Enosburgh** spoke for the committee on Government Operations.

House bill entitled

An act relating to elections corrections

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Message from the Senate No. 36**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 52.** An act relating to the Public Service Board and its proceedings.

**S. 134.** An act relating to court diversion and pretrial services.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

**Action on Bill Postponed**

**H. 111**

House bill, entitled

An act relating to vital records

Was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Devereux of Mount Holly**, action on the bill was postponed until March 29, 2017.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 216**

**Rep. Yantachka of Charlotte**, for the committee on Energy and Technology, to which had been referred House bill entitled,

An act relating to establishment of the Vermont Lifeline program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218(c) is amended to read:

(c)(1) The Public Service Board shall take any action, including the setting of telephone rates, enabling necessary to enable the State of Vermont and

~~telecommunications companies offering service in Vermont to participate in the Federal Communications Commission telephone federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection. The Board shall set one or more residential basic exchange Lifeline telephone service credits, for those persons eligible to participate in the Federal Communications Commission Lifeline program.~~

~~(2) A person shall be eligible for the Lifeline benefit who meets the Department for Children and Families means test of eligibility, which shall include all persons participating in public assistance programs administered by the Department. The Department for Children and Families shall verify this eligibility, in compliance with Federal Communications Commission requirements.~~

~~(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:~~

~~(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and~~

~~(ii) \$7.00 per month;~~

~~(B) provided that in no event shall the amount of the monthly credit exceed the monthly basic service charge, including any standard usage and mileage charges household that qualifies for participation in the federal Lifeline program under criteria established by the FCC or other federal law or regulation shall also be eligible to receive a Vermont Lifeline benefit for wireline voice telephone service. The Vermont Lifeline benefit established under this subdivision shall be set at an amount not to exceed the benefit provided to a household as of October 31, 2017, or \$4.25, whichever is greater, and shall be applied as a supplement to any wireline voice benefit received through participation in the federal Lifeline program. However, in no event shall the aggregate amount of benefits received through the federal and State programs described in this subdivision exceed a household's monthly basic service charge for wireline services, including any standard usage and mileage charges.~~

~~(3) A person shall also be eligible for the Lifeline benefit who submits to the Commissioner for Children and Families an application containing any information and disclosure of information authorization necessary to process the Lifeline credit. Such application shall be filed with the Commissioner on~~

or before June 15 of each year and shall be signed by the applicant under the pains and penalties of perjury. A person shall be eligible who is 65 years of age or older whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 175 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. A person shall be eligible whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. In the case of sickness, absence, disability, excusable neglect, or when, in the judgment of the Secretary of Human Services good cause exists, the Secretary may extend the deadline for filing claims under this section. The provisions of 32 V.S.A. § 5901 shall apply to such application. The Secretary of Human Services shall perform income verification. Upon enrollment in the program, and for each period of renewal, such participant shall receive the credit for 12 ensuing months.

(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:

(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and

(ii) \$7.00 per month.

(B) The amount of the monthly credit pursuant to subdivision (A) of this subdivision (3) shall not exceed the monthly basic service charge, including any standard usage and mileage charges company designated as an eligible telecommunications carrier by the Board pursuant to 47 U.S.C. § 214(e) shall verify an applicant's eligibility for receipt of federal or State Lifeline benefits as required by federal law or regulation or as directed by the Vermont Agency of Human Services, as applicable. The Agency shall provide the FCC or its agent with categorical eligibility data regarding an applicant's status in qualifying programs administered by the Agency.

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any

~~charges required to change from a published to a nonpublished number. Such subscribers shall be deemed to have good cause by the Secretary of Human Services for the purpose of extending the application deadline in subdivision (3) of this subsection. For purposes of As used in this section, “nonpublished” means that the customer’s telephone number is not listed in any published directories, is not listed on directory assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The Department for Children and Families shall develop an application form and certification process for obtaining this Lifeline benefit credit. Upon enrollment in the program, such participant shall receive the Lifeline benefit credit until the end of the calendar year. Renewals shall be for a period of one year.~~

## Sec. 2. LIFELINE ELIGIBILITY AND PARTICIPATION;REPORT

On or before January 1, 2019 and annually thereafter for the next three years, the Commissioner for Children and Families, in consultation with the Commissioner of Public Service, shall file a report with the General Assembly describing the eligibility and participation rates in Vermont with respect to both the federal and State Lifeline programs.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on November 1, 2017.

And that after passage the title of the bill be amended to read: “An act relating to Lifeline benefits”

**Rep. Dakin of Colchester**, for the committee on Appropriations, recommended the bill ought to pass when amended by the committee on Energy and Technology.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Energy and Technology and Appropriations agreed to and third reading was ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 386**

**Rep. Baser of Bristol**, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to home health agency provider taxes

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

(1) “Assessment” means a tax levied on a health care provider pursuant to this chapter.

(2)(A) “Core home health care and hospice services” means:

(i) those medically necessary, intermittent, skilled nursing, home health aide, therapeutic, and personal care attendant services, provided exclusively in the home by home health agencies. Core home health services do not include private duty nursing, hospice, homemaker, or physician services, or services provided under early periodic screening, diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high technology programs, or services provided by a home for persons who are terminally ill as defined in subdivision 7102(3) of this title home health services provided by Medicare-certified home health agencies that are covered under Title XVIII (Medicare) or XIX (Medicaid) of the Social Security Act;

(ii) services covered under the adult and pediatric High Technology Home Care programs;

(iii) personal care, respite care, and companion care services provided through the Choices for Care program contained within Vermont’s Global Commitment to Health Section 1115 demonstration;

(iv) hospice services; and

(v) home health and hospice services covered under a health insurance or other health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402.

(B) The term “core home health and hospice services” shall not include any other service provided by a home health agency, including:

(i) private duty nursing;

(ii) case management services;

(iii) homemaker services;

(iv) the Flexible Choices or Assistive Devices options under the Choices for Care program contained within Vermont’s Global Commitment to Health Section 1115 demonstration;

(v) adult day services;

(vi) group-directed attendant care services;

- (vii) primary care services;
- (viii) nursing home room and board when a hospice patient is in a nursing home;
- (ix) health clinics, including occupational health, travel, and flu clinics;
- (x) services provided to children under the early and periodic screening, diagnostic, and treatment Medicaid benefit;
- (xi) services provided pursuant to the Money Follows the Person demonstration project;
- (xii) services provided pursuant to the Traumatic Brain Injury Program; or
- (xiii) maternal-child wellness services, including services provided through the Nurse Family Partnership program.

\* \* \*

(10) “~~Net operating patient revenues~~” means a provider’s gross charges less any deductions for bad debts, charity care, contractual allowances, and other payer discounts as reported on its audited financial statement.

\* \* \*

Sec. 2. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

~~(a)(1)~~ (1) ~~Beginning October 1, 2011, each~~ Each home health agency’s assessment shall be ~~19.30~~ 4.17 percent of its net ~~operating patient~~ revenues from core home health care and hospice services, ~~excluding revenues for services provided under Title XVIII of the federal Social Security Act;~~ provided, however, that each home health agency’s annual assessment shall be limited to no more than six percent of its annual net patient revenue provided exclusively in Vermont.

(2) The amount of the tax shall be determined by the Commissioner based on the home health agency’s most recent audited financial statements at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department.

(3) For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

~~(4)(A)~~ (A) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the Commissioner, in consultation with the home health agency, shall annually

estimate the amount of tax payable and shall prescribe a schedule for interim payments.

(2)(B) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the Department shall refund any overpayment. The assessment for the State fiscal year in which a provider commences operations as a home health agency shall be prorated for the proportion of the State fiscal year in which the new home health agency was in operation.

\* \* \*

Sec. 3. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

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

Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for fiscal years year 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. 4. REPEAL

33 V.S.A. § 1955a is repealed on July 1, 2019.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Ways and Means agreed to and third reading ordered.

**Favorable Report; Second Reading;  
Third Reading Ordered**

**H. 508**

**Rep. Mrowicki of Putney**, spoke for the committee on Human Services.

House bill, entitled

An act relating to building resilience for individuals experiencing adverse childhood experiences

**Rep. Trieber of Rockingham**, for the committee on Appropriations reported in favor of its passage.

The bill having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

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**Favorable Reports; Second Reading;  
Third Reading Ordered**

**H. 510**

**Rep. Ainsworth of Royalton**, spoke for the committee on Natural Resources; Fish & Wildlife.

House bill, entitled

An act relating to the cost share for State agricultural water quality financial assistance grants

**Rep. Helm of Fair Haven**, for the committee on Appropriations reported in favor of its passage.

The bill having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Favorable Reports; Second Reading;  
Third Reading Ordered**

**H. 511**

**Rep. Brennan of Colchester**, spoke for the committee on Transportation.

House bill, entitled

An act relating to highway safety

**Rep. Helm of Fair Haven**, for the committee on Appropriations reported in favor of its passage.

The bill having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Recess**

At twelve o'clock and thirty-one minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and fifty-two minutes in the afternoon, the Speaker called the House to order.

**Favorable Report; Second Reading;  
Bill Amended; Third Reading Ordered**

**H. 512**

**Rep. Hubert of Milton**, spoke for the committee on Government Operations.

House bill, entitled

An act relating to the procedure for conducting recounts

**Rep. Juskiewicz of Cambridge**, for the committee on Appropriations reported in favor of its passage.

The bill having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Ainsworth of Roylton** moved to amend the bill as follows:

In Sec. 1, 17 V.S.A. chapter 51, subchapter 9, in § 2602a (appointment of recount committee), in subdivision (b)(1), following “under this section” by inserting  
“, with the number of appointments based on the number of votes to be recounted and a goal of completing the recount within one day”

Which was agreed to. Thereupon, third reading was ordered.

### **Second Reading; Third Reading Ordered**

#### **H. 515**

**Rep. Young of Glover** spoke for the committee on Ways and Means.

House bill, entitled

An act relating to Executive Branch and Judiciary fees

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 85**

**Rep. Sullivan of Dorset** for the committee on Economic Development, to which had been referred House bill entitled,

An act relating to captive insurance companies

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 8 V.S.A. § 6007, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies or industrial insured captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, statutory accounting principles, or

international financial reporting standards unless the Commissioner requires, approves, or accepts the use of ~~statutory accounting principles or any~~ other comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. As used in this section, statutory accounting principles shall mean the accounting principles codified in the NAIC Accounting Practices and Procedures Manual. Upon application for admission, a captive insurance company shall select, with explanation, an accounting method for reporting. Any change in a captive insurance company's accounting method shall require prior approval. Except as otherwise provided, each risk retention group shall file its report in the form required by subsection 3561(a) of this title, and each risk retention group shall comply with the requirements set forth in section 3569 of this title. The Commissioner shall by rule propose the forms in which pure captive insurance companies, association captive insurance companies, and industrial insured captive insurance companies shall report. Subdivision 6002(c)(3) of this title shall apply to each report filed pursuant to this section, except that such subdivision shall not apply to reports filed by risk retention groups.

Second: In Sec. 3, 8 V.S.A. § 6001, by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read as follows:

~~(4)~~(5) "Captive insurance company" means any pure captive insurance company, association captive insurance company, sponsored captive insurance company, industrial insured captive insurance company, agency captive insurance company, risk retention group, or special purpose financial insurance company formed or licensed under the provisions of this chapter. For purposes of this chapter, a branch captive insurance company shall be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the Commissioner.

**Rep. Young of Glover**, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Ways and Means and when further amended as follows:

By striking out Sec. 2 (premium tax credit) in its entirety, and by inserting in lieu thereof a new Sec. 2 as follows:

Sec. 2. [Deleted.]

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Ways and Means was agreed to. Report of the committee on Commerce and Economic

Development agreed to and third reading was ordered.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 424**

**Rep. Sullivan of Burlington** for the committee on Natural Resources, Fish & Wildlife, to which had been referred House bill entitled,

An act relating to the Commission on Act 250: The Next 50 Years

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; PURPOSE

(a) Findings. The General Assembly finds as follows:

(1) In 1969, Governor Deane Davis by executive order created the Governor's Commission on Environmental Control, which consisted of 12 members and became known as the Gibb Commission because it was chaired by Representative Arthur Gibb.

(2) The Gibb Commission's recommendations, submitted in 1970, included a new State system for reviewing and controlling plans for large-scale and environmentally sensitive development. The system was not to be centered in Montpelier. Instead, the power to review projects and grant permits would be vested more locally, in commissions for districts within the State.

(3) In 1970, the General Assembly enacted 1970 Acts and Resolves No. 250, an act to create an environmental board and district environmental commissions. This act is now codified at 10 V.S.A. chapter 151 and is commonly known as Act 250. In Sec. 1 of Act 250 (the Findings), the General Assembly found that:

(A) "the unplanned, uncoordinated and uncontrolled use of the lands and the environment of the state of Vermont has resulted in usages of the lands and the environment which may be destructive to the environment and which are not suitable to the demands and needs of the people of the state of Vermont";

(B) "a comprehensive state capability and development plan and land use plan are necessary to provide guidelines for utilization of the lands and environment of the state of Vermont and to define the goals to be achieved through land environmental use, planning and control";

(C) "it is necessary to establish an environmental board and district environmental commissions and vest them with the authority to regulate the

use of the lands and the environment of the state according to the guidelines and goals set forth in the state comprehensive capability and development plan and to give these commissions the authority to enforce the regulations and controls”; and

(D) “it is necessary to regulate and control the utilization and usages of lands and the environment to insure that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state.”

(4) In 1973 Acts and Resolves No. 85, Secs. 6 and 7, the General Assembly adopted the Capability and Development Plan (the Plan) called for by Act 250. Among the Plan’s objectives are:

(A) “Preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state’s hills, forests, streams and lakes, wise use of the state’s non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these resources should be permitted only when the public interest is clearly benefited thereby.”

(B) “Increased demands for and costs of public services, such as schools, road maintenance, and fire and police protection must be considered in relation to available tax revenues and reasonable public and private capital investment. . . . Accordingly, conditions may be imposed upon the rate and location of development in order to control its impact upon the community.”

(C) “Strip development along highways and scattered residential development not related to community centers cause increased cost of government, congestion of highways, the loss of prime agricultural lands, overtaxing of town roads and services and economic or social decline in the traditional community center.”

(D) “Provision should be made for the renovation of village and town centers for commercial and industrial development, where feasible, and location of residential and other development off the main highways near the village center on land which is other than primary agricultural soil.”

(E) “In order to achieve a strong economy that provides satisfying and rewarding job and investment opportunities and sufficient income to meet the needs and aspirations of the citizens of Vermont, economic development should be pursued selectively so as to provide maximum economic benefit with minimal environmental impact.”

(b) Purpose. In light of Act 250’s upcoming 50th anniversary, the General

Assembly establishes the Commission on Act 250: the Next 50 Years, in order to review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving the goals set forth in the Findings and the Capability and Development Plan, which in this act will be referred to as “the Act 250 goals.” The General Assembly intends that the Commission provide information to the public on the history and implementation of Act 250 and solicit proposals and input from the public on the matters within its charge. The General Assembly also intends that the Commission’s recommendations enable the Act 250 program, going forward, to meet the Act 250 goals and to safeguard Vermont’s environment effectively and efficiently.

(c) Executive Branch working group. Contemporaneously with the consideration of this act by the General Assembly, the Chair of the Natural Resources Board (NRB) has convened a working group on Act 250 to include the NRB and the Agencies of Commerce and Community Development and of Natural Resources, with assistance from the Agencies of Agriculture, Food and Markets and of Transportation. The working group intends to make recommendations during October 2017. The General Assembly intends that the Commission established by this act receive and consider information and recommendations offered by the working group convened by the Chair of the NRB.

Sec. 2. COMMISSION ON ACT 250: THE NEXT 50 YEARS; REPORT;  
APPROPRIATION

(a) Establishment. There is established the Commission on Act 250: the Next 50 Years to:

(1) provide information regarding Act 250 and its operation and implementation to date; and

(2) review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving the Act 250 goals.

(b) Membership. The Commission shall be composed of the following 11 members:

(1) Four current members of the General Assembly with knowledge and expertise in one or more of the following areas: conservation and development, natural resources, or judicial or quasi-judicial process. Of these members:

(A) two shall be members of the House of Representatives, appointed by the Speaker of the House; and

(B) two shall be members of the Senate, appointed by the Committee on Committees.

(2) The Chair of the Natural Resources Board or designee.

(3) A representative of a Vermont-based, statewide environmental organization that has a focus on land use and significant experience in the Act 250 process, appointed by the Committee on Committees.

(4) A person with significant experience in real estate development and land use permitting, including Act 250, appointed by the Speaker of the House.

(5) A representative of the Vermont Planners Association, appointed by the Governor.

(6) A member of a Vermont-based statewide business organization, appointed by the Governor.

(7) A person who is the owner of a small business that has had to obtain permits under Act 250, appointed by the Governor.

(8) A person currently serving in the position of an elected officer of a Vermont city or town, appointed by the Governor.

(c) Public meetings. The Commission shall conduct seven public meetings in different regions of the State to provide information and collect public input regarding the protections and process of Act 250, with the seventh meeting to occur in Montpelier. The Commission shall collaborate with regional and municipal planning organizations. At these meetings, the Commission shall provide the information described in subsection (d) of this section and solicit input and proposals from the public on the issues identified in subsection (e) of this section. In addition to public meetings, the Commission shall use social media and other online mechanisms to survey and obtain information from the public.

(d) Information. The Commission shall summarize and present to the public:

(1) the purpose and requirements of Act 250 and the rules adopted pursuant to the Act, and the process for appealing decisions;

(2) the history of Act 250 and its implementation; and

(3) the data on numbers of applications and appeals and processing times for each.

(e) Study; recommendations. In performing the review and making the recommendations described in subsection (a) of this section:

(1) The Commission shall examine the criteria at 10 V.S.A. § 6086(a)

and make recommendations to:

(A) Ensure that the requirements of the criteria reflect current science and research. This inquiry shall include specific examination of the Act 250 criteria related to air, water, waste, habitat protection, forestland, and the impact of development on the budgets, facilities, and infrastructure of local, regional, and State governments.

(B) Ensure that the criteria address the issue of climate change, including reducing greenhouse gas emissions from projects subject to the Act and ensuring that those projects are prepared for the potential effects of climate change. In 2013 Acts and Resolves No. 89, Sec. 1(1), the General Assembly found that “[t]he primary driver of climate change in Vermont and elsewhere is the increase of atmospheric carbon dioxide (CO2) from the burning of fossil fuels.”

(C) Ensure that the criteria support development in centers designated under 24 V.S.A. chapter 76A and preserve, outside designated centers, natural resources, working farms, and working forests, including a healthy forest industry and a healthy ecosystem protected from fragmentation. The Commission also shall consider the impact of these policies on towns in which physical or other constraints may inhibit development in or expansion of existing settlements.

(D) Ensure that the criteria address any other issues related to the impacts of developments and subdivisions that the Commission determines have emerged since passage of the Act, including issues that may be raised by changes in the environmental protections afforded by federal law and regulation.

(2) The Commission shall examine potential changes to Act 250 jurisdiction to encourage development in designated centers and protect natural resources outside those centers, including working farms and forestland.

(3) The Commission shall examine whether efficiencies in Act 250 are available based on each of the planning and permitting processes listed in this subdivision and, based on this examination, make recommendations, if any, on ways to achieve those efficiencies while preserving the authority of the Act.

(A) In performing this examination, the Commission shall consider the compatibility with Act 250 of the scope, criteria, and procedures for each of these processes, which are:

(i) current environmental regulation by the Agency of Natural Resources;

(ii) current implementation of municipal and regional land use

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planning and regulation; and

(iii) the designations available under 24 V.S.A. chapter 76A.

(B) The Commission's examination shall identify changes in these planning and permitting processes that would assist in making Act 250 more effective and efficient.

(4) The Commission shall review the efficiency and effectiveness of the process before the District Commissions in achieving the Act 250 goals and whether changes could better meet these goals and improve the process for participants, including applicants and other parties, and shall make its resulting recommendations, if any.

(5) The Commission shall examine the effectiveness and efficiency of the current appeals process in achieving the Act 250 goals and whether changes could better meet these goals, and make its recommendations, if any, on how to improve the appeals process to achieve them. This inquiry shall include consideration of:

(A) barriers, if any, in the current appeals process that discourage participation;

(B)(i) the use of de novo hearing or on the record review on appeal of Act 250 decisions; and

(ii) if de novo hearing is retained, barriers in the current appeals process, if any, that inhibit reaching decisions on the merits of whether a project meets the Act 250 criteria on appeal; and

(C) comparison of the cost, length of time, and efficiency of the appeals process before the Environmental Division of the Superior Court as compared to the appeals process before the former Environmental Board.

(6) The Commission shall examine whether the intent of Act 250 to encourage citizen participation is being achieved effectively and identify ways to improve citizen participation in Act 250.

(7) The Commission shall examine the role of the Natural Resources Board and alternatives to the Board model in administering the Act 250 program, including whether the Board as currently constituted is the most effective and efficient structure to administer Act 250.

(8) The Commission shall examine the circumstances under which land might be released from Act 250 jurisdiction when the use of land has changed to a use that would not constitute a development or subdivision within the meaning of the Act. The Commission shall propose a process and criteria under which such a release might be allowed.

(9) The Commission shall examine the definitions of “development” and “subdivision” contained in the Act and consider whether changes to those definitions would better achieve the Act 250 goals, including:

(A) examining changes to improve the ability of the Act to protect forest blocks and habitat connectivity;

(B) reviewing the scope of Act 250’s jurisdiction over projects on ridgelines, including its ability to protect ridgelines that are lower than 2,500 feet, and projects on ridgelines that are expressly exempted from Act 250; and

(C) considering projects that involve land in more than one town and one of the towns has both permanent zoning and subdivision bylaws and one of the towns does not have both sets of bylaws.

(f) Report. The Commission shall consider the public input and proposals provided under subsection (c) of this section and the issues set forth in subsection (e) of this section and shall report its findings and recommendations for legislative action to the House Committee on Natural Resources, Fish and Wildlife and the Senate Committee on Natural Resources and Energy (the Natural Resource Committees). The report shall attach proposed legislation. The report of the Commission shall be submitted on or before January 15, 2019 and on submission shall be posted to the web pages of the Natural Resources Committees.

(g) Assistance.

(1) The staff of the Natural Resources Board shall provide professional, legal, and administrative services to the Commission, including the scheduling of meetings and the preparation of the Commission’s report.

(2) The Office of Legislative Council shall provide legal services to the Commission, including drafting the Commission’s proposed legislation.

(3) The Commission shall have technical services of the Agencies of Commerce and Community Development, of Natural Resources, and of Transportation and, on request, shall be entitled to legal assistance from those agencies in their areas of expertise.

(4) On request, the Commission shall be entitled to financial assistance from the Joint Fiscal Office and to data from the Superior Court on appeals before the Environmental Division from decisions under Act 250, including annual numbers of appeals, length of time, and disposition.

(5) The Commission may request that an organization that has a member on the Commission make available to the Commission information or professional or technical resources that the member’s organization already possesses.

(h) Meetings; officers.

(1) In addition to the public meetings required under subsection (c) of this section, the Commission may meet as needed to perform its tasks, and shall cease to exist on February 15, 2019.

(2) The staff of the Natural Resources Board and the Office of Legislative Council jointly shall convene the first meeting of the Commission to occur during October 2017. At that meeting, the Commission shall:

(A) elect a chair from among its legislative members and a vice chair from among its members; and

(B) receive the information and recommendations developed by the working group described in Sec. 1(c) of this act.

(3) The Commission may appoint members of the Commission to subcommittees to which it assigns tasks related to specific issues within the Commission's charge.

(4) Meetings of the Commission and subcommittees shall be subject to the Vermont Open Meeting Law and 1 V.S.A. § 172.

(i) Reimbursement.

(A) For attendance at no more than 10 Commission meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(B) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than 10 Commission meetings. These costs shall be allocated to the budget of the Natural Resources Board and District Environmental Commissions.

(C) There shall be no reimbursement for attendance at subcommittee meetings or more than 10 Commission meetings.

(j) Facilitator; retention; appropriation. On behalf of the Commission, the Office of Legislative Council shall be authorized to retain, after a competitive bid process, a professional facilitator to assist the Commission in the development of information to be presented or provided at the public meetings under subsection (c) of this section; the conduct of these meetings; the use of social media and other online mechanisms to survey and obtain information from the public; and in making decisions on its report and recommendations. The facilitator shall attend each of the public meetings conducted under

subsection (c) of this section. During fiscal year 2018, the sum of \$50,000.00 is appropriated to the Office of Legislative Council for the purpose of this subsection and the expenditure of up to \$50,000.00 for this purpose is authorized.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**Rep. Feltus of Lyndon**, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Natural Resources, Fish & Wildlife and when further amended as follows:

In Sec. 2 (commission on Act 250: the next 50 years; report; appropriation), by striking out subsection (j) (facilitator; retention; appropriation) in its entirety.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Natural Resources, Fish & Wildlife was amended as recommended by the committee on Appropriations. Report of the committee on Natural Resources, Fish & Wildlife as amended agreed to and third reading ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 509**

**Rep. Sharpe of Bristol** spoke for the committee on Education.

House bill entitled

An act relating to calculating statewide education tax rates

**Rep. Donovan of Burlington** for the committee on Ways and Means recommended that the bill ought to pass when amended as follows:

First: By striking out Secs. 1–8 and inserting in lieu thereof the following:

\* \* \* Yields and Nonresidential Tax Rate \* \* \*

### Sec. 1. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2018

Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2018 only:

- (1) the property dollar equivalent yield is \$10,077.00; and
- (2) the income dollar equivalent yield is \$11,851.00.

### Sec. 2. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR

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2018

For fiscal year 2018 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be reduced from the rate of \$1.59 and instead be \$1.555 per \$100.00.

\* \* \* Unfunded Mandates\* \* \*

Sec. 3. 32 V.S.A. § 305b is added to read:

§ 305b. UNFUNDED EDUCATION MANDATE AMOUNT TRANSFER

Within 30 days after the end of each annual legislative session of the General Assembly, the Joint Fiscal Office and the Secretary of Administration in consultation with the Secretary of Education shall estimate the “unfunded education mandate amount.” This estimate shall equal the total dollar amount required for supervisory unions and school districts to perform any action that is required pursuant to legislation enacted during that annual legislative session, and which has a related direct cost, but does not have a specifically identified appropriation for fulfilling that obligation. The estimate shall be for the fiscal year commencing on July 1 of the following year. The Joint Fiscal Office and the Secretary of Administration shall present the unfunded education mandate amount estimate to the Emergency Board at its July meeting and the Emergency Board shall determine the unfunded education mandate amount. The Governor’s budget report required under section 306 of this title shall include a transfer of this amount from the General Fund pursuant to 16 V.S.A. § 4025(a)(2) for the fiscal year commencing on July 1 of the following year.

Sec. 4. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) ~~An~~ The Education Fund is established to comprise the following:

\* \* \*

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the Education Fund shall be ~~\$305,900,000.00, to be:~~

(A) the total of \$305,900,000.00 plus the unfunded education mandate amount, as defined in subsection (e) of this section;

(B) increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined;

(C) plus an additional one-tenth of one percent.

\* \* \*

(e) As used in this section, “unfunded education mandate amount” shall mean the amount appropriated by the General Assembly in any fiscal year for the purpose of providing funding for supervisory unions and school districts to perform any action that is required pursuant to legislation, and which has a related direct cost, but does not otherwise have a specifically identified appropriation for fulfilling that obligation. The “unfunded education mandate amount” shall include the cumulative amount of these appropriations for all fiscal years in which they are made.

Sec. 5. 16 V.S.A. § 4028(d) is amended to read:

(d) Notwithstanding 2 V.S.A. § 502(b)(2), the Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action with ~~an associated~~ a related direct cost, but does not provide money or a funding mechanism have a specifically identified appropriation for fulfilling that obligation. Any fiscal note prepared under this subsection shall identify whether or not the estimated costs would be considered part of the “unfunded education mandate amount” under 32 V.S.A. § 305b for the next fiscal year. Any fiscal note prepared under this subsection shall be completed no later than the date that the legislation is considered for a vote in the first committee to which it is referred.

and by renumbering the remaining sections to be numerically correct.

Second: By striking out the original Sec. 10 (effective dates) in its entirety, and inserting in lieu thereof the following:

Sec. 7. EFFECTIVE DATE

This act shall take effect July 1, 2017 and apply to fiscal year 2018 and after.

Having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Ways and Means agreed to and third reading ordered.

**Second Reading; Third Reading Ordered**

**H. 513**

**Rep. Conlon of Cornwall** spoke for the committee on Education.

House bill entitled

An act relating to making miscellaneous changes to education law

**Rep. Juskiwicz of Cambridge**, for the committee on Appropriations,

recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Recess**

At three o'clock and fifty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At four o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

**Second Reading; Bill Committed to Committee**

**H. 170**

**Rep. Conquest of Newbury**, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to possession and cultivation of marijuana by a person 21 years of age or older

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana for a person who is 21 years of age or older while retaining civil and criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains civil penalties for possession of marijuana by a person under 21 years of age, which are the same as for possession of alcohol by a person under 21 years of age.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

~~(15)(A) "Marijuana" means any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this~~

subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) "Marijuana" does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) "Immature marijuana plant" means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) "Mature marijuana plant" means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

Sec. 3. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than ~~one ounce~~ two ounces of marijuana or more than ~~five~~ 10 grams of hashish or cultivate ~~more than three mature marijuana plants or six immature marijuana plants~~. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than ~~one ounce~~ two ounces of marijuana or more than ~~five~~ 10 grams of hashish or cultivating more than three

mature marijuana plants or six immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

~~(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.~~

~~(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than 10 ~~plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than ~~five~~ three years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.~~

~~(4)(3) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than 25 ~~plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.~~

~~(5)(4) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.~~

~~(5) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230f of this title.~~

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; CIVIL VIOLATION

(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses ~~one ounce or but less of marijuana or five grams or less of hashish~~ any of the following commits a civil violation ~~and~~:

(A) more than one ounce, but not more than two ounces of marijuana;

(B) more than five grams, but not more than 10 grams of hashish; or

(C) more than two mature marijuana plants and four immature marijuana plants, but not more than three mature marijuana plants or six immature marijuana plants.

(2) A person who violates subdivision (1) of this subsection shall be assessed a civil penalty as follows:

~~(1) of not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use and shall not be penalized or sanctioned in any other manner by the State or any of its political subdivisions or denied any right or privilege under State law.~~

~~(2) A violation of this section shall not result in the creation of a criminal history record of any kind.~~

(b) Second or subsequent violations of subdivision (1) of subsection (a) shall be punished in accordance with subdivision 4230(a)(1) of this title.

(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

(2) ~~This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and possessed in violation of this title is contraband and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.

(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at ~~state~~ State expense.

(e)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

(f) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses ~~one ounce~~ two ounces or less of marijuana or ~~five~~ 10 grams or less of hashish or three mature marijuana plants or fewer or six

immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (Marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. POSSESSION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this title, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) The one-ounce limit of marijuana that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230f of this title.

(b) A person shall not consume marijuana or hashish in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title. A person who violates this subsection shall be assessed a civil penalty as follows:

(1) not more than \$100.00 for a first offense;

(2) not more than \$200.00 for a second offense; and

(3) not more than \$500.00 for a third or subsequent offense.

Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4229a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with sections 4230 and 4230a of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(e) This section shall not apply to:

(1) A person under 21 years of age who furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party’s executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any A person who violates subsection (a) of this section by selling sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years, or fined not more than \$2,000.00, or both.~~

(e)(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be amended by the committee on Judiciary? **Rep. Sibia of Dover** moved to commit the bill to the committee on Human Services which was agreed to.

**Adjournment**

At four o'clock and forty-two minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.