

# Journal of the Senate

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WEDNESDAY, JUNE 21, 2017

The time for convening of the Senate set pursuant to Joint Senate resolution No. 34 having arrive the Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

## Message from the Governor

A message was received from His Excellency, the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-fourth day of May, 2017 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

**S. 22.** An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age and older.

## Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 22** to the Senate is as follows:

May 24, 2017

The Honorable John Bloomer, Jr.  
Secretary of the Senate  
State House  
Montpelier, Vermont 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.22, *An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age and older*, without my signature because of my objections described herein:

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With a libertarian streak in me, I believe that what adults do behind closed doors and on private property is their choice, so long as it does not negatively impact the health and safety of others, especially children. I also have compassion for those for whom marijuana alleviates the symptoms of debilitating diseases. That is why I have previously supported, and continue to support, medical marijuana laws and decriminalization.

We cannot ignore the fact that marijuana is a widely-consumed substance, and more states, as well as an entire nation to our north, are making marijuana legal and regulating it. I am not philosophically opposed to ending the prohibition on marijuana, and there is a clear societal shift in that direction. However, it is crucial that key questions and concerns involving public safety and health are addressed before moving forward.

We must get this right. That means letting the science inform any policy made around this issue, learning from the experience of other states, and taking whatever time is required to do so. Policymakers have an obligation to Vermonters to address health, safety, prevention and education questions before committing the State to moving forward.

More specifically, before we implement a commercial system we need to know how we will detect and measure impairment on our roadways, fund and implement additional substance abuse prevention education, keep our children safe and penalize those who do not, and measure how legalization impacts the mental health and substance abuse issues our communities are already facing.

This legislation does not yet adequately address these questions. However, there is a path forward to work collaboratively that will take a more thorough look at what public health, safety and education policies are needed before Vermont pursues a comprehensive regulatory system for an adult-use marijuana market.

I will provide the Legislature with recommended changes, and if we can work together, we *can* move forward on this issue.

Those recommendations include the following:

First, this legislation creates confusion around which penalties for the sale and dispensing of marijuana to minors should apply. This legislation opens the door for litigation over which are the appropriate penalties. I believe this legislation must be clear that penalties for the dispensing and sale of marijuana to minors and on school grounds remain severe. These changes must be made to ensure no leniency is intended for those who sell or dispense marijuana to our youth. Weakening these protections and penalties should be totally unacceptable to even the most ardent legalization advocates.

Second, we must aggressively penalize consumption while driving and usage in the presence of minors. For example, while this legislation states that one cannot use marijuana in a vehicle if an adult is smoking with a child in the car, there is *only* a small civil fine equal to the penalty for an adult having an open container of alcohol.

How we protect children from the new classification of limited amounts of what is otherwise a controlled substance is incredibly important. This is not just a concern about impaired driving. According to the best science available, and our own Department of Health, secondhand marijuana smoke can negatively impact a child's brain development. Therefore, if an adult is smoking marijuana in a car or a confined space with a child this should be severely penalized.

Third, we must be sure we are not impeding the ability of public safety officials to enforce remaining drug laws.

Finally, the Marijuana Regulatory Commission proposed in this legislation must have broader membership to include key stakeholder communities who will be faced with the everyday impacts of a fully regulated and taxed system, such as representatives from the Department of Public Safety, the Department of Health, the Department of Taxes, and substance abuse prevention professionals.

At a minimum, the Commission must determine an appropriate regulatory and taxation system; an impairment threshold for operating a motor vehicle; the options for an impairment testing mechanism; an education and prevention strategy for minors; and a plan for continued monitoring and reporting on impacts to public health. The Commission must also produce a detailed estimate of the revenue required for the adequate regulation, enforcement, administration, and education and prevention recommendations it shall make.

As S.22 currently stands, legislation for a regulated system will be introduced before the personal possession and cultivation laws have even changed. The Commission should have more time to thoughtfully complete its work on this complex issue. Given the gravity of this policy change, the Commission must have at least a year before making final recommendations.

We can all work together on this issue in a comprehensive and responsible way. I have already reached out to the Coalition of Northeastern Governors (CONEG) to engage our neighboring states in a discussion about creating a regional highway safety standard. Information gathered and progress made with CONEG will be shared with the Commission to support the goals detailed above.

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If the Legislature agrees to make the changes I am seeking, we can move this discussion forward in a way that ensures that the public health and safety of our communities and our children continues to come first.

As noted, based on the outstanding objections outlined above I cannot support this legislation and must return it without my signature pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,

/s/ Philip B. Scott

Philip B. Scott  
Governor

PBS/jj

#### **Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 3.** An act relating to mental health professionals' duty to warn.

**S. 9.** An act relating to the preparation of poultry products.

**S. 52.** An act relating to the Public Service Board, energy, and telecommunications.

#### **Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the second day of June, 2017 he approved and signed a bill originating in the Senate of the following title:

**S. 10.** An act relating to liability for the contamination of potable water supplies.

#### **Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifth day of June, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 4.** An act relating to publicly accessible meetings of an accountable care organization's governing body.

**S. 112.** An act relating to creating the Spousal Support and Maintenance Task Force.

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

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventh day of June, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 33.** An act relating to the Rozo McLaughlin Farm-to-School Program.

**S. 50.** An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the eighth day of June, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 16.** An act relating to expanding patient access to the Medical Marijuana Registry.

**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. 95.** An act relating to sexual assault nurse examiners.

**S. 127.** An act relating to miscellaneous changes to laws related to vehicles and vessels.

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**S. 135.** An act relating to promoting economic development.

**S. 136.** An act relating to miscellaneous consumer protection provisions.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twelfth day of June, 2017 he approved and signed a bill originating in the Senate of the following title:

**S. 34.** An act relating to rural economic development.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirteenth day of June, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 23.** An act relating to juvenile jurisdiction.

**S. 61.** An act relating to offenders with mental illness, inmate records, and inmate services.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourteenth day of June, 2017 he approved and signed a bill originating in the Senate of the following title:

**S. 8.** An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifteenth day of June, 2017 he approved and signed bills originating in the Senate of the following titles:

**S. 56.** An act relating to insurance and securities.

**S. 131.** An act relating to State's Attorneys and sheriffs.

**S. 133.** An act relating to examining mental health care and care coordination.

#### **Message from the House No. 81**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

**H. 516.** An act relating to miscellaneous tax changes.

And has adopted the same on its part.

#### **Message from the House No. 82**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolutions originating in the Senate of the following title:

**J.R.S. 33.** Joint resolution relating to compensation of Members of the General Assembly during the remainder of the 2017 Session.

**J.R.S. 34.** Joint resolution relating to final adjournment of the General Assembly 2017.

And has adopted the same in concurrence.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

**H. 509.** An act relating to calculating statewide education tax rates.

And has adopted the same on its part.

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The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

**H. 518.** An act relating to making appropriations for the support of government.

And has adopted the same on its part.

The House has adopted House concurrent resolution of the following title:

**H.C.R. 191.** House concurrent resolution honoring former Representative and Deputy Secretary of Education William B. Talbott for his dedicated public service.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

**S.C.R. 16.** Senate concurrent resolution honoring the Martin Family for its pioneering role in Vermont television broadcasting.

**S.C.R. 17.** Senate concurrent resolution congratulating and thanking all the participants in the 25th Annual Letter Carriers' Food Drive in Rutland County.

And has adopted the same in concurrence.

#### **Message from the House No. 83**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that the House has on its part completed the business of the first half of the Biennial session and is ready to adjourn pursuant to the provisions of J.R.S. 34.

#### **Message from the House No. 84**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 4, 2017, he approved and signed bills originating in the House of the following titles:

**H. 3.** An act relating to burial depth in cemeteries.

**H. 35.** An act relating to adopting the Uniform Voidable Transactions Act.

**H. 136.** An act relating to accommodations for pregnant employees.

**H. 182.** An act relating to certain businesses regulated by the Department of Financial Regulation.

**H. 265.** An act relating to the State Long-Term Care Ombudsman.

**H. 290.** An act relating to clarifying ambiguities relating to real estate titles and conveyances.

**H. 507.** An act relating to Next Generation Medicaid ACO pilot project reporting requirements.

The Governor has informed the House that on May 10, 2017, he approved and signed bills originating in the House of the following titles:

**H. 5.** An act relating to investment of town cemetery funds.

**H. 42.** An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

**H. 297.** An act relating to miscellaneous court operations procedures.

**H. 326.** An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program.

**H. 497.** An act relating to health requirements for animals used in agriculture.

**H. 502.** An act relating to modernizing Vermont's parentage laws.

The Governor has informed the House that on May 22, 2017, he approved and signed bills originating in the House of the following titles:

**H. 111.** An act relating to vital records.

**H. 130.** An act relating to approval of amendments to the charter of the Town of Hartford.

**H. 154.** An act relating to approval of amendments to the charter of the City of Burlington and to charter amendment procedure.

**H. 347.** An act relating to the State Telecommunications Plan.

**H. 356.** An act relating to approval of amendments to the charter of the Town of Berlin.

**H. 411.** An act relating to miscellaneous energy issues.

**H. 508.** An act relating to building resilience for individuals experiencing adverse childhood experiences.

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**H. 522.** An act relating to approval of amendments to the charter of the City of Burlington.

The Governor has informed the House that on May 23, 2017, he approved and signed bills originating in the House of the following titles:

**H. 74.** An act relating to domestic and sexual violence.

**H. 145.** An act relating to establishing the Mental Health Crisis Response Commission.

**H. 424.** An act relating to the Commission on Act 250: the Next 50 Years.

**H. 506.** An act relating to professions and occupations regulated by the Office of Professional Regulation.

**H. 513.** An act relating to making miscellaneous changes to education law.

The Governor has informed the House that on May 30, 2017, he approved and signed bills originating in the House of the following titles:

**H. 512.** An act relating to miscellaneous changes to election law.

**H. 529.** An act relating to approval of amendments to the charter of the City of Barre.

**H. 534.** An act relating to approval of the adoption and codification of the charter of the Town of Calais.

The Governor has informed the House that on May 31, 2017, he approved and signed a bill originating in the House of the following title:

**H. 308.** An act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel.

The Governor has informed the House that on the June 5, 2017, he approved and signed bills originating in the House of the following titles:

**H. 22.** An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

**H. 171.** An act relating to expungement.

**H. 218.** An act relating to the adequate shelter of dogs and cats.

**H. 527.** An act relating to approval of amendments to the charter of the Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1.

### **Message from the House No. 85**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on June 6, 2017, he returned without signature and vetoed a bill originating in the House of the following title:

**H. 509. An act relating to calculating statewide education tax rates.**

**Text of Communication from Governor**

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 509** to the House is as follows:

June 6, 2017

The Honorable William M. MaGill  
Clerk of the Vermont House of Representatives  
State House  
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.509, *An Act Relating to Calculating Statewide Education Tax Rates* without my signature because of my objections described herein.

Please note, the following also addresses objections to H.518, *An Act Relating to Making Appropriations for the Support of Government*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.518 will be returned to you in a separate message containing the same objections.

At the beginning of the session, I challenged the Legislature to give residents and businesses a break from new or higher taxes and fees in all bills passed this year. I also urged the Legislature to join me in the work of making Vermont more affordable in every way we can. H.509 and H.518 fail to achieve these goals and, as a result, I cannot support them as written. We must not be afraid to think, and legislate, differently in order to reverse our challenging demographic trends, grow the economy, and make Vermont more affordable. I have made a number of proposals to generate savings in the Education Fund, beginning with my first budget presentation. To date, the Legislature has rejected all such proposals and instead has passed H.509, which, together with and intrinsically linked to H.518, only worsens the unsustainable trajectory towards higher property taxes to support an education system with declining enrollment and extremely high per pupil costs. Instead,

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we have an opportunity to moderate those rates by rebasing school budgets through the transition to new plans in the Vermont Education Health Initiative (VEHI); and without asking school employees to pay more for healthcare.

Although H.509 appears to provide property tax relief for residential tax payers, it does so through an unequal allocation of the tax burden to other Vermont property taxpayers and the unsustainable, irresponsible allocation of one-time revenue sources. More specifically, H.509 increases the nonresidential property tax rate from \$1.535 per \$100 of assessed value, to \$1.555. Property taxes are not only an impediment to living in Vermont, but also a barrier to creating jobs in our state. Most of the “nonresidential” tax actually falls on Vermonters, like employers, renters and camp owners. In fact, the Department of Taxes reports that about 60 percent of the property that is classified as “non-residential” has a Vermont owner. Small and medium sized businesses are the backbone of our economy, and we must make Vermont a more affordable and attractive place to do business to increase opportunities for all Vermonters. I remain determined to achieving level property tax rates for all payer groups.

Also concerning is that buying down the average residential rate from \$1.527 to \$1.505 in H.509 is achieved in H.518 through two sources of one-time money. First, H.509 reduced the Education Fund's stabilization reserves by \$9.2 million to the Fund's statutory minimum. Second, \$26.1 million in the unallocated and unreserved balance in the Education Fund was applied as it has been over the past few years.

Although the unallocated/unreserved balance in the Education Fund has been used in previous sessions to buy down tax rates, it has been done so under the assumption that the balance will not be guaranteed year after year. According to the Agency of Education, the majority of this surplus was generated as the result of the consolidation of special education administration to the supervisory district level, from the local level, in 2010 through Act 153. Overbudgeting for this expense created a surplus in the Education Fund over the past several years. However, in H.518, the anticipated special education expenditures were budgeted to more accurately reflect actual costs and it is unlikely the surplus, if any, will be realized to the extent it has in the past, for use in future fiscal years. Achieving savings through the transition to the new VEHI health insurance benefits is critically important to filling the gap that will inevitably occur in Fiscal Year 2019 when this surplus is no longer generated.

This anticipated shortfall coupled with the decision to use \$9.2 million of one-time money from the Education Fund stabilization reserves creates a steep cliff for taxpayers to make up in Fiscal Year 2019. These decisions, without a

sustainable plan in place to fill the shortfall, expose taxpayers unnecessarily to the risk of an increase in property tax rates, could be of concern to the rating agencies, and are difficult to understand in a political climate where federal funding for school districts could be drastically reduced. This issue alone is sufficient to justify a veto. The use of the stabilization reserve coupled with the continued reliance on one-time funds predicated on prior year reversions that may not materialize in future fiscal years ensures the likelihood of future property tax increases. I cannot support a budget that makes expenditure choices that knowingly result in higher property tax rates in future years.

Moreover, the Legislature in H.509, Section 3, passed an additional one percent transfer of sales and use tax to the Education Fund which creates a General Fund shortfall in Fiscal Year 2019 and beyond. In H.518, Section D.101.1(a), the Legislature budgets a one-time Fiscal Year 2018 fund transfer of \$3.3 million. Year after year the Legislature must reconcile a growing gap between what we want to provide Vermonters and what we can afford based on our incoming revenues. Taking steps today that do not account for known future shortfalls puts the Legislature on a trajectory to increase the tax and fee burden on Vermonters. We should be taking steps to curb education spending instead of continuing to increase non-property tax sources in the Education Fund, which in Fiscal Year 2018 total \$525.1 million. Section 5 of H.509 creates a Health Benefits Commission that I believe is set up to ensure impasse. Vermont's school boards have clearly articulated over the past several months their need for a simplified process for negotiating the increasingly complex health insurance system.

Additionally, thus far the VT-NEA has shown great resistance to any change in the bargaining dynamic and to sending savings back to taxpayers. I agree it would be advantageous for these groups to be able to work through this issue without legislative interference. However, by including five representatives from labor organizations and five representatives from school boards and superintendents' organizations, it is unlikely that these conversations will be fruitful. Additionally, the State will likely have a hand in administering a statewide health benefit if legislation is introduced, and has no representation on the Commission.

While I appreciate the Legislature's willingness in H.509 to revisit this issue in the future, such as receiving findings from the Health Benefits Commission this November, and reopening contracts in September 2019, Vermont faces an immediate and growing crisis of affordability, and recapturing the available savings – without asking school employees to pay more or cutting programs for kids – can only happen during the unique set of circumstances at this moment. The reopening of contracts in September 2019 will not allow the Legislature to revisit this issue comprehensively, as contracts that settle prior

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to July 1, 2017 will be exempt. As we have seen from settlements to date, there is a wide range of healthcare coverage, and contracts range in length from 1 to 3 years. Therefore, this is setting up an unfair scenario for those negotiating parties that are currently at impasse, and an incentive for those who are still at the table to settle quickly. Without more explicit expectations set by the State, many agreements will likely include premium cost-sharing and out of pocket costs that eat away the available savings and, therefore, our ability to lower property tax rates.

It is essential to remember the alternatives which I have proposed, and which could have been taken up by the Legislature, to put Vermont on a new and more sustainable economic footing. Beginning with my recommended budget in January, I encouraged legislators to look for savings in the Education Fund, specifically in health care costs for school employees, to keep property tax rates for all payer groups level. During the 2015-2016 Biennium, in the context of Act 46, we heard it was nearly impossible to control education spending, despite declining student enrollments, due to the uncontrollable rising cost of health care for educators. This resulted in legislative action to remove allowable spending growth thresholds originally applied in Act 46. Acknowledging healthcare costs are a driver in education spending, in my proposed budget I included an 80/20 premium split to achieve savings in school employees' healthcare costs and introduce equity among public sector employees. This is not only the same premium split that our State employees and eligible retired teachers pay, but would bring parity across the system for all active educators and other school employees.

My original mechanisms, level funding school budgets coupled with the premium split, to achieve savings in the Education Fund and level property tax rates, were met with much resistance, as well as opposition from stakeholder groups including the Vermont School Boards Association (VSBA) and the Vermont Superintendents Association (VSA). At the same time, my Administration began to learn more about a unique opportunity to save money in the Education Fund through changes in the VEHI healthcare plans. It is important to note that VEHI is an intermunicipal trust made up of State municipalities, including school districts, and administers a standard offering of healthcare benefits to over 90 percent of Vermont schools. Vermont school employees constitute a single statewide risk pool insured through the VEHI offerings. VEHI healthcare plans offered to school employees for Fiscal Year 2018 have been restructured to cost substantially less than the old plans to avoid the Affordable Care Act's "Cadillac Tax." Discussions in the State House outlining plan changes, and the opportunity for savings, began in the 2015-2016 Biennium with representatives from VEHI testifying in the Senate Finance and House Education Committees.

After the introduction of my recommended budget, legislators began asking my Administration for an alternative, and I began pointing to the opportunity for savings from these VEHI plan changes. Unfortunately, it became clear that neither the House nor Senate Appropriations Committees were planning to take advantage of this once-in-a-lifetime opportunity to rebase school budgets and save Vermonters millions on an ongoing basis. Therefore, to propel this conversation forward, I introduced a policy proposal – through collaboration with the VSBA and the VSA – that ensures there is a mechanism to recapture up to \$75 million in available savings. In my proposal, I recommend reinvesting nearly \$50 million back into school employees to make sure they don't pay more for out of pocket expenses, and returning the remaining \$26 million to all classes of property taxpayers to keep all property tax rates the same as Fiscal Year 2017. I also suggested investing in other education priority areas, such as early care and learning, higher education, and shoring up the Vermont State Teachers Retirement Health Insurance Program.

My proposal calls for the State to negotiate with the school employees' unions for the VEHI health benefit. Other states, like Massachusetts which has an opt-in state health plan, have started moving in this direction. My proposal does three things: First, it maintains the right of school employees to bargain this valuable benefit through a joint body representing all school employees with a single voice and an opportunity to maximize benefits for all school employees equally. Second, my proposal assumes sharing the cost savings with school employees through the creation of a health savings or health retirement accounts (HSA or HRA) funded with a majority of the VEHI plan savings. Third, it creates a mechanism for recapturing the VEHI cost savings built into the existing school budgets and returning those savings to Vermont property taxpayers. This makes particular sense because school employees participate in a statewide insurance risk pool now.

While my goal is not a statewide teachers' contract, elevating benefits to the State level has been floated numerous times in the Legislature, as recently as 2014, when it was included in a December 12, 2014, report from then-Speaker Shap Smith's Education Finance Working Group, which included current Speaker Mitzi Johnson and House Education Chair David Sharpe (see pg. 3, number 8: "*Have the Agency produce a model teachers' contract that districts could use during labor negotiations. Explore the idea that districts could opt-in to a statewide contract*").

Under my proposal, local school boards would still bargain with school employees over all other compensation and benefits. Healthcare benefits would be bargained one time, instead of more than 60 times, which would give the maximum potential to realize up to \$75 million in savings (noting that contracts which have been ratified to date will not be reopened).

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Despite our differences, I remain fully committed to working with the Legislature on a solution in H.509 and H.518 that meets the following core principles:

1. *Maximize Savings* – Any alternative must maximize the savings opportunity of the transition to these new healthcare plans;
2. *Keep Teachers Whole & Provide Parity* – Any alternative must hold educators harmless and provide parity and uniformity across the system; and
3. *Simplify Negotiations for School Boards* – Any alternative must reduce the burden currently on school boards negotiating these new, more complex insurance plans.

I am encouraged there is agreement between the Administration and the Legislature that the transition to the new VEHI plans provides an opportunity to save millions of dollars. While I first and foremost prefer a negotiated statewide health benefit, I am willing to consider negotiations remaining at the local level. However, it will require a policy mechanism in H.509 that mandates the parameters of the benefit plan, or provides a strong and equitable financial incentive for both school boards and unions to reach settlements that are within the constructs of the Gold CDHP VEHI model. That model includes an 80/20 premium split with at least the first \$400 out of pocket cost borne by the employee through an HSA or HRA.

As noted earlier, I am also willing to return 100 percent of savings to all classes of property taxpayers to further bring down property tax rates, which is a primary advantage of seizing this opportunity, rather than reinvesting equal portions into early childhood and higher education and shoring up the Vermont State Teachers Retirement Health Insurance Program, in addition to tax relief, as was originally proposed. It is worth noting that at adjournment on May 18, 2017, an agreement with House and Senate leadership was within reach.

Again, H.509 and H.518 are fundamentally tied. The appropriations made from the Education Fund in H.518 are contingent upon the revenue provided by H.509. If the funding raised through H.509 changes, the allocation of funding in H.518 needs to be updated to reflect a change in the amount of available funds. For reference, the specific line item in H.518 is B.505, Education – adjusted education payment. It would also eliminate the need for the transfer from the Education Fund's stabilization reserves, as discussed above.

Given the opportunity I have outlined to save taxpayers millions of dollars through the new VEHI healthcare plans, the education payments in the budget should be adjusted by the amount of savings expected from transitioning to the new VEHI healthcare plans.

I promised Vermonters I would listen to any idea to make Vermont more affordable, and that is what I'm doing. We have been losing, on average, six workers from our workforce, and three students from our schools every day. We literally cannot pass up this opportunity to put a dent in property tax growth. My education savings proposal allows us to bring down property tax rates while not requiring education employees to pay more or cuts to programs for kids.

Under my proposal teachers will not be exposed to higher out of pocket costs and will still enjoy robust healthcare plans with higher than average actuarial values. Neither H.509 nor H.518, as presented for my approval, takes any steps to provide a mechanism to recapture the available savings for the Fiscal Year 2018 budget, which could be as much as \$13 million, or alleviate the property tax burden on all rate payer groups.

As noted, based on the outstanding objections outlined above I cannot support H.509 or H.518 and must return both bills without my signature pursuant to Chapter II, §11 of the Vermont Constitution. If the veto is sustained, I know we can come to an agreement, and when we do, H.509, H.518, and Vermonters will be better for it.

Sincerely,  
Philip B. Scott  
Governor

The Governor has informed the House that on June 6, 2017, he returned without signature and vetoed a bill originating in the House of the following title:

**H. 518. An act relating to making appropriations for the support of government.**

#### **Text of Communication from Governor**

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 518** to the House is as follows:

June 6, 2017

The Honorable William M. MaGill  
Clerk of the Vermont House of Representatives  
State House  
Montpelier, VT 05633

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Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.518, *An Act Relating to Making Appropriations for the Support of Government* without my signature because of my objections described herein.

Please note, the following also addresses objections to H.509, *An Act Relating to Calculating Statewide Education Tax Rates* as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.509 will be returned to you in a separate message containing the same objections.

At the beginning of the session, I challenged the Legislature to give residents and businesses a break from new or higher taxes and fees in all bills passed this year. I also urged the Legislature to join me in the work of making Vermont more affordable in every way we can. H.509 and H.518 fail to achieve these goals and, as a result, I cannot support them as written. We must not be afraid to think, and legislate, differently in order to reverse our challenging demographic trends, grow the economy, and make Vermont more affordable. I have made a number of proposals to generate savings in the Education Fund, beginning with my first budget presentation. To date, the Legislature has rejected all such proposals and instead has passed H.509, which, together with and intrinsically linked to H.518, only worsens the unsustainable trajectory towards higher property taxes to support an education system with declining enrollment and extremely high per pupil costs. Instead, we have an opportunity to moderate those rates by rebasing school budgets through the transition to new plans in the Vermont Education Health Initiative (VEHI); and without asking school employees to pay more for healthcare.

Although H.509 appears to provide property tax relief for residential tax payers, it does so through an unequal allocation of the tax burden to other Vermont property taxpayers and the unsustainable, irresponsible allocation of one-time revenue sources. More specifically, H.509 increases the nonresidential property tax rate from \$1.535 per \$100 of assessed value, to \$1.555. Property taxes are not only an impediment to living in Vermont, but also a barrier to creating jobs in our state. Most of the “nonresidential” tax actually falls on Vermonters, like employers, renters and camp owners. In fact, the Department of Taxes reports that about 60 percent of the property that is classified as “non-residential” has a Vermont owner. Small and medium sized businesses are the backbone of our economy, and we must make Vermont a more affordable and attractive place to do business to increase opportunities for all Vermonters. I remain determined to achieving level property tax rates for all payer groups.

Also concerning is that buying down the average residential rate from \$1.527 to \$1.505 in H.509 is achieved in H.518 through two sources of one-time money. First, H.509 reduced the Education Fund's stabilization reserves by \$9.2 million to the Fund's statutory minimum. Second, \$26.1 million in the unallocated and unreserved balance in the Education Fund was applied as it has been over the past few years.

Although the unallocated/unreserved balance in the Education Fund has been used in previous sessions to buy down tax rates, it has been done so under the assumption that the balance will not be guaranteed year after year. According to the Agency of Education, the majority of this surplus was generated as the result of the consolidation of special education administration to the supervisory district level, from the local level, in 2010 through Act 153. Overbudgeting for this expense created a surplus in the Education Fund over the past several years. However, in H.518, the anticipated special education expenditures were budgeted to more accurately reflect actual costs and it is unlikely the surplus, if any, will be realized to the extent it has in the past, for use in future fiscal years. Achieving savings through the transition to the new VEHI health insurance benefits is critically important to filling the gap that will inevitably occur in Fiscal Year 2019 when this surplus is no longer generated.

This anticipated shortfall coupled with the decision to use \$9.2 million of one-time money from the Education Fund stabilization reserves creates a steep cliff for taxpayers to make up in Fiscal Year 2019. These decisions, without a sustainable plan in place to fill the shortfall, expose taxpayers unnecessarily to the risk of an increase in property tax rates, could be of concern to the rating agencies, and are difficult to understand in a political climate where federal funding for school districts could be drastically reduced. This issue alone is sufficient to justify a veto. The use of the stabilization reserve coupled with the continued reliance on one-time funds predicated on prior year reversions that may not materialize in future fiscal years ensures the likelihood of future property tax increases. I cannot support a budget that makes expenditure choices that knowingly result in higher property tax rates in future years.

Moreover, the Legislature in H.509, Section 3, passed an additional one percent transfer of sales and use tax to the Education Fund which creates a General Fund shortfall in Fiscal Year 2019 and beyond. In H.518, Section D.101.1(a), the Legislature budgets a one-time Fiscal Year 2018 fund transfer of \$3.3 million. Year after year the Legislature must reconcile a growing gap between what we want to provide Vermonters and what we can afford based on our incoming revenues. Taking steps today that do not account for known future shortfalls puts the Legislature on a trajectory to increase the tax and fee burden on Vermonters. We should be taking steps to curb education spending

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instead of continuing to increase non-property tax sources in the Education Fund, which in Fiscal Year 2018 total \$525.1 million.

Section 5 of H.509 creates a Health Benefits Commission that I believe is set up to ensure impasse. Vermont's school boards have clearly articulated over the past several months their need for a simplified process for negotiating the increasingly complex health insurance system.

Additionally, thus far the VT-NEA has shown great resistance to any change in the bargaining dynamic and to sending savings back to taxpayers. I agree it would be advantageous for these groups to be able to work through this issue without legislative interference. However, by including five representatives from labor organizations and five representatives from school boards and superintendents' organizations, it is unlikely that these conversations will be fruitful. Additionally, the State will likely have a hand in administering a statewide health benefit if legislation is introduced, and has no representation on the Commission.

While I appreciate the Legislature's willingness in H.509 to revisit this issue in the future, such as receiving findings from the Health Benefits Commission this November, and reopening contracts in September 2019, Vermont faces an immediate and growing crisis of affordability, and recapturing the available savings – without asking school employees to pay more or cutting programs for kids – can only happen during the unique set of circumstances at this moment. The reopening of contracts in September 2019 will not allow the Legislature to revisit this issue comprehensively, as contracts that settle prior to July 1, 2017 will be exempt. As we have seen from settlements to date, there is a wide range of healthcare coverage, and contracts range in length from 1 to 3 years. Therefore, this is setting up an unfair scenario for those negotiating parties that are currently at impasse, and an incentive for those who are still at the table to settle quickly. Without more explicit expectations set by the State, many agreements will likely include premium cost-sharing and out of pocket costs that eat away the available savings and, therefore, our ability to lower property tax rates.

It is essential to remember the alternatives which I have proposed, and which could have been taken up by the Legislature, to put Vermont on a new and more sustainable economic footing. Beginning with my recommended budget in January, I encouraged legislators to look for savings in the Education Fund, specifically in health care costs for school employees, to keep property tax rates for all payer groups level. During the 2015-2016 Biennium, in the context of Act 46, we heard it was nearly impossible to control education spending, despite declining student enrollments, due to the uncontrollable rising cost of health care for educators. This resulted in legislative action to

remove allowable spending growth thresholds originally applied in Act 46. Acknowledging healthcare costs are a driver in education spending, in my proposed budget I included an 80/20 premium split to achieve savings in school employees' healthcare costs and introduce equity among public sector employees. This is not only the same premium split that our State employees and eligible retired teachers pay, but would bring parity across the system for all active educators and other school employees.

My original mechanisms, level funding school budgets coupled with the premium split, to achieve savings in the Education Fund and level property tax rates, were met with much resistance, as well as opposition from stakeholder groups including the Vermont School Boards Association (VSBA) and the Vermont Superintendents Association (VSA). At the same time, my Administration began to learn more about a unique opportunity to save money in the Education

Fund through changes in the VEHI healthcare plans. It is important to note that VEHI is an intermunicipal trust made up of State municipalities, including school districts, and administers a standard offering of healthcare benefits to over 90 percent of Vermont schools. Vermont school employees constitute a single statewide risk pool insured through the VEHI offerings. VEHI healthcare plans offered to school employees for Fiscal Year 2018 have been restructured to cost substantially less than the old plans to avoid the Affordable Care Act's "Cadillac Tax." Discussions in the State House outlining plan changes, and the opportunity for savings, began in the 2015-2016 Biennium with representatives from VEHI testifying in the Senate Finance and House Education Committees.

After the introduction of my recommended budget, legislators began asking my Administration for an alternative, and I began pointing to the opportunity for savings from these VEHI plan changes. Unfortunately, it became clear that neither the House nor Senate Appropriations Committees were planning to take advantage of this once-in-a-lifetime opportunity to rebase school budgets and save Vermonters millions on an ongoing basis. Therefore, to propel this conversation forward, I introduced a policy proposal – through collaboration with the VSBA and the VSA – that ensures there is a mechanism to recapture up to \$75 million in available savings. In my proposal, I recommend reinvesting nearly \$50 million back into school employees to make sure they don't pay more for out of pocket expenses, and returning the remaining \$26 million to all classes of property taxpayers to keep all property tax rates the same as Fiscal Year 2017. I also suggested investing in other education priority areas, such as early care and learning, higher education, and shoring up the Vermont State Teachers Retirement Health Insurance Program.

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My proposal calls for the State to negotiate with the school employees' unions for the VEHI health benefit. Other states, like Massachusetts which has an opt-in state health plan, have started moving in this direction. My proposal does three things: First, it maintains the right of school employees to bargain this valuable benefit through a joint body representing all school employees with a single voice and an opportunity to maximize benefits for all school employees equally. Second, my proposal assumes sharing the cost savings with school employees through the creation of a health savings or health retirement accounts (HSA or HRA) funded with a majority of the VEHI plan savings. Third, it creates a mechanism for recapturing the VEHI cost savings built into the existing school budgets and returning those savings to Vermont property taxpayers. This makes particular sense because school employees participate in a statewide insurance risk pool now.

While my goal is not a statewide teachers' contract, elevating benefits to the State level has been floated numerous times in the Legislature, as recently as 2014, when it was included in a December 12, 2014, report from then-Speaker Shap Smith's Education Finance Working Group, which included current Speaker Mitzi Johnson and House Education Chair David Sharpe (see pg. 3, number 8: "*Have the Agency produce a model teachers' contract that districts could use during labor negotiations. Explore the idea that districts could opt-in to a statewide contract*").

Under my proposal, local school boards would still bargain with school employees over all other compensation and benefits. Healthcare benefits would be bargained one time, instead of more than 60 times, which would give the maximum potential to realize up to \$75 million in savings (noting that contracts which have been ratified to date will not be reopened).

Despite our differences, I remain fully committed to working with the Legislature on a solution in H.509 and H.518 that meets the following core principles:

1. *Maximize Savings* – Any alternative must maximize the savings opportunity of the transition to these new healthcare plans;
2. *Keep Teachers Whole & Provide Parity* – Any alternative must hold educators harmless and provide parity and uniformity across the system; and
3. *Simplify Negotiations for School Boards* – Any alternative must reduce the burden currently on school boards negotiating these new, more complex insurance plans.

I am encouraged there is agreement between the Administration and the Legislature that the transition to the new VEHI plans provides an opportunity

to save millions of dollars. While I first and foremost prefer a negotiated statewide health benefit, I am willing to consider negotiations remaining at the local level. However, it will require a policy mechanism in H.509 that mandates the parameters of the benefit plan, or provides a strong and equitable financial incentive for both school boards and unions to reach settlements that are within the constructs of the Gold CDHP VEHI model. That model includes an 80/20 premium split with at least the first \$400 out of pocket cost borne by the employee through an HSA or HRA.

As noted earlier, I am also willing to return 100 percent of savings to all classes of property taxpayers to further bring down property tax rates, which is a primary advantage of seizing this opportunity, rather than reinvesting equal portions into early childhood and higher education and shoring up the Vermont State Teachers Retirement Health Insurance Program, in addition to tax relief, as was originally proposed. It is worth noting that at adjournment on May 18, 2017, an agreement with House and Senate leadership was within reach.

Again, H.509 and H.518 are fundamentally tied. The appropriations made from the Education Fund in H.518 are contingent upon the revenue provided by H.509. If the funding raised through H.509 changes, the allocation of funding in H.518 needs to be updated to reflect a change in the amount of available funds. For reference, the specific line item in H.518 is B.505, Education – adjusted education payment. It would also eliminate the need for the transfer from the Education Fund's stabilization reserves, as discussed above.

Given the opportunity I have outlined to save taxpayers millions of dollars through the new VEHI healthcare plans, the education payments in the budget should be adjusted by the amount of savings expected from transitioning to the new VEHI healthcare plans.

I promised Vermonters I would listen to any idea to make Vermont more affordable, and that is what I'm doing. We have been losing, on average, six workers from our workforce, and three students from our schools every day. We literally cannot pass up this opportunity to put a dent in property tax growth. My education savings proposal allows us to bring down property tax rates while not requiring education employees to pay more or cuts to programs for kids.

Under my proposal teachers will not be exposed to higher out of pocket costs and will still enjoy robust healthcare plans with higher than average actuarial values. Neither H.509 nor H.518, as presented for my approval, takes any steps to provide a mechanism to recapture the available savings for the Fiscal Year 2018 budget, which could be as much as \$13 million, or alleviate the property tax burden on all rate payer groups.

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As noted, based on the outstanding objections outlined above I cannot support H.509 or H.518 and must return both bills without my signature pursuant to Chapter II, §11 of the Vermont Constitution. If the veto is sustained, I know we can come to an agreement, and when we do, H.509, H.518, and Vermonters will be better for it.

Sincerely,  
Philip B. Scott  
Governor

### **Message from the House No. 86**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on June 7, 2017, he approved and signed a bill originating in the House of the following title:

**H. 503.** An act relating to to criminal justice.

The Governor has informed the House that on June 12, 2017, he approved and signed a bill originating in the House of the following title:

**H. 495.** An act relating to miscellaneous agriculture subjects.

The Governor has informed the House that on June 13, 2017, he approved and signed bills originating in the House of the following titles:

**H. 59.** An act relating to technical corrections.

**H. 515.** An act relating to executive branch and judiciary fees and food and lodging establishments.

**H. 516.** An act relating to miscellaneous tax changes.

The Governor has informed the House that on June 16, 2017, he approved and signed bills originating in the House of the following titles:

**H. 238.** An act relating to modernizing and reorganizing Title 7.

**H. 519.** An act relating to capital construction and State bonding.

### **Resignation of Senator**

The following communication was received by the Secretary from the Honorable Kevin J. Mullin, Senator from Rutland District, notifying the Senate of his resignation from the Senate, which letter is as follows:

May 24, 2017

Honorable Philip B. Scott  
Governor of the State of Vermont  
State House  
Montpelier, Vermont 05633

Dear Governor Scott:

It has been a privilege and an honor to represent the people of Rutland County in the Vermont State Senate.

At this time, I'm pleased to accept the appointment as Chair, of the Green Mountain Care Board and hereby resign my seat in the Senate.

I look forward to working together to meet the challenges ahead.

Respectfully,

/s/ Kevin J. Mullin

Kevin J. Mullin  
State Senator  
Rutland District

Cc: David E. Zuckerman, Lieutenant Governor  
Tim Ashe, President *pro tempore*  
John H. Bloomer, Jr., Secretary of the Senate

#### **Message from the Governor**

A message was received from His Excellency, the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to deliver to the Senate a communication in writing.

#### **Appointment Journalized**

The President laid before the Senate the following communication from His Excellency, the Honorable Philip B. Scott, Governor of the State of Vermont, relating to the appointment of a new Senator from the District of Rutland, which was ordered entered in the Journal, and is as follows:

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“State of Vermont  
Executive Department  
Montpelier

June 20, 2017

The Honorable David E. Zuckerman  
President  
Vermont State Senate  
State House  
Montpelier, VT 05633-5501

Dear Mr. President:

I have the honor to inform you that I have appointed

**DAVID J. SOUCY, of Killington**

to serve the unexpired term of Kevin J. Mullin, Senator from Rutland District.  
The appointment is effective July 20, 2017.

Sincerely,

/s/ Philip B. Scott

Philip B. Scott  
Governor”

**Oath Administered; New Senator Seated**

Thereupon, the Senate-appointee, David J. Soucy, was escorted to the bar of the Senate by Senator Balint of Windham District, Senator Degree of Rutland District, Senator MacDonald of Orange District and Senator Collamore of Rutland District, and took and subscribed the oath of office required by the Constitution from the Secretary of the Senate, John H. Bloomer, Jr.

The new Senator then took his seat and assumed his legislative duties.

**Appointment of Senate Member to Advisory Council on Special  
Education**

Pursuant to the provisions of 16 V.S.A. §2945, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Advisory Council on Special Education for a term of three years:

Senator Ingram

**Appointment of Senate Member to Commission on Alzheimer's Disease and Related Disorders**

Pursuant to the provisions of 3 V.S.A. §3085b, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Commission on Alzheimer's Disease and Related Disorders for the current biennium:

Senator McCormack

**Appointment of Senate Members to the Joint Legislative Justice Oversight Committee**

Pursuant to the provisions of 2 V.S.A. §801, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Legislative Justice Oversight Committee for terms of two years:

Senator Sears  
Senator Ashe  
Senator Lyons  
Senator Degree  
Senator Flory

**Appointment of Senate Member to the Justice Cabinet**

Pursuant to the provisions of Executive Order No. 13-1, issued on July 22, 1992, by Governor Howard B. Dean, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator as a member of the Justice Cabinet during this biennium:

Senator Sears

**Appointment of Senate Member to Petroleum Clean-Up Fund Advisory Committee**

Pursuant to the provisions of 10 V.S.A. §1941(e), the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Petroleum Clean-Up Fund Advisory Committee during this biennium:

Senator MacDonald

**Appointment of Senate Member to Public Transit Advisory Council**

Pursuant to the provisions of 24 V.S.A. §5084, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Public Transit Advisory Council during this biennium:

Senator Kitchel

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**Appointment of Senate Member to Recreational Facilities Grants Program**

Pursuant to the provisions of 24 V.S.A. Sec. 5605(a), the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Recreational Facilities Grants Program for a term of two years:

Senator Branagan

**Appointment of Senate Members to the Transportation Enhancement Grant Committee**

Pursuant to the provisions of Sec. 41v(a) of No. 18 of Acts of 1999, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Transportation Enhancement Grant Committee during this biennium:

Senator Mazza  
Senator Flory

**Appointment of Senate Members to the Vermont Citizens Advisory Committee on Lake Champlain's Future**

Pursuant to the provisions of 10 V.S.A. §1960, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Committee on Lake Champlain's Future for the current biennium:

Senator Lyons  
Senator Branagan

**Appointment of Senate Members to the Workforce Development Council**

Pursuant to the provisions of 10 V.S.A. §541(a), the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Workforce Development Council for a term of two years:

Senator Sears  
Senator Clarkson

**Appointment of Senate Member to the Vermont Veterans' Memorial Cemetery Advisory Board**

Pursuant to the provisions of 20 V.S.A. §1581(a)(2), the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Vermont Veterans' Memorial Cemetery Advisory Board for a term of two (2) years:

Senator MacDonald

**Appointment of Senate Member to Approved Independent Schools Study Committee**

Pursuant to the provisions of Act No. 49, §42(b) (2017), the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Approved Independent Schools Study Committee:

Senator Baruth

**Appointment of Senate Members to National Legislative Association on RX Pricing**

The President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the National Legislative Association on RX Pricing during this biennium:

Senator Pollina

Senator Collamore

**Message from the Governor  
Appointments Referred**

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Mullin, Kevin J. of Rutland - Chair of the Green Mountain Care Board, - from May 24, 2017, to September 30, 2018.

To the Committee on Health and Welfare.

Usifer, Maureen K. of Colchester - Member of the Green Mountain Care Board, - from May 24, 2017, to September 30, 2021.

To the Committee on Health and Welfare.

Murphy, Scott of Northfield - State Librarian of the Department of Libraries for indefinite term.

To the Committee on Education.

Roisman, Anthony Z. of Weathersfield - Chair of the Public Service Board, - from June 12, 2017, to February 28, 2023.

To the Committee on Finance.

**Senate Resolution Placed on Calendar****S.R. 10.**

Senate resolution of the following title was offered, read the first time and is as follows:

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By Senators Lyons, McCormack, Pearson, Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, MacDonald, Nitka, Pollina, Sears, Sirotkin, and White,

**S.R. 10.** Senate resolution relating to strongly opposing the U.S. withdrawal from the Paris Agreement of the United Nations Framework Convention on Climate Change and recognizing Governor Philip Scott's enrolling Vermont in the U.S. Climate Alliance.

*Whereas*, according to the National Aeronautics and Space Administration (NASA) and multiple research studies, “scientific evidence for warming of the climate system is unequivocal,” and that “ninety-seven percent of climate scientists agree that climate warming trends over the past century are very likely due to human activities,” and

*Whereas*, according to NASA and the National Oceanic and Atmospheric Administration (NOAA), 2016 was the warmest year since modern meteorological record keeping began in 1880, and that 16 of the 17 warmest years on record have occurred since 2001, and

*Whereas*, in December 2015, the United Nations Framework Convention on Climate Change established the Paris Climate Agreement (the Agreement) that was entered into force in October 2016 and that as of June 8, 2017 consists of 148 countries, including the United States, and

*Whereas*, the central purpose of the Agreement is to limit the 21st century air temperature increase to less than two degrees Celsius above preindustrial levels while working to keep the increase to less than 1.5 degrees Celsius, and

*Whereas*, as part of its participation in the Agreement, the United States pledged to reduce its greenhouse gas emissions 26–28 percent below 2005 levels by 2025 and to contribute \$3 billion to climate change assistance to poorer nations by 2020, and

*Whereas*, on June 1, 2017, President Trump announced that the United States would invoke the Agreement's withdrawal process, and

*Whereas*, the withdrawal of the United States from the Agreement will create a serious impediment to the international effort to address the planet's projected increase in temperature, and

*Whereas*, Governor Philip Scott, U.S. Senators Patrick Leahy and Bernard Sanders, and U.S. Representative Peter Welch each strongly criticized the withdrawal decision, and

*Whereas*, Attorney General Thomas J. Donovan is among the state attorneys general who have publicly committed to the implementation of the Agreement, and

*Whereas*, Governors Jay Inslee of Washington State, Edmund G. (Jerry) Brown of California, and Andrew M. Cuomo of New York organized a bipartisan group of governors, known as the U.S. Climate Alliance (the Alliance), committed to the implementation of the Agreement, and other governors, including Governor Philip Scott, have since joined, and

*Whereas*, in 1990, Vermont emitted a total of 8.11 million metric tons of greenhouse gases, and although this amount rose to 9.4 million metric tons in 2004, by 2012 it had dropped to 8.27 metric tons, and

*Whereas*, 10 V.S.A. § 578 establishes a goal for Vermont to reduce greenhouse gas emissions 50 percent below the 1990 level on or before January 1, 2028, and the Comprehensive Energy Plan, as required in accordance with 30 V.S.A. § 202b, establishes a further goal of an 80 to 95 percent reduction by 2050, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont strongly opposes the announced withdrawal of the United States from the Paris Climate Agreement of the United Nations Framework Convention on Climate Change, *and be it further*

***Resolved:*** That the Senate of the State of Vermont recognizes Governor Philip Scott's enrolling Vermont in the Alliance and urges him to support State funding and policies to enable Vermont's commitment to the greenhouse gas emissions reduction provisions of the Agreement to be realized, *and be it further*

***Resolved:*** That it is imperative that Vermont uphold its commitment to the newly formed Alliance by reducing the State's reliance on fossil fuels and by meeting the greenhouse gas reduction goals established in statute for 2028 and in the Comprehensive Energy Plan for 2050, *and be it further*

***Resolved:*** That the Senate of the State of Vermont is prepared to work with the Governor, diverse stakeholders, and all Vermonters to identify and implement the policies, programs, and approaches annually required to achieve the State's greenhouse gas reduction commitments, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to President Donald Trump, to U.S. Environmental Protection Agency Administrator Scott Pruitt, to Governor Jay Inslee of Washington State, to Governor Jerry Brown of California, to Governor Andrew Cuomo of New York, to Governor Philip Scott, to Attorney General Thomas J. Donovan Jr., and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

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**Recess**

On motion of Senator Ashe the Senate recessed until 12:30 P.M.

**Called to Order**

The Senate was called to order by the President.

**Recess**

On motion of Senator Ashe the Senate recessed until 2:15 P.M.

**Called to Order**

The Senate was called to order by the President.

**Recess**

On motion of Senator Ashe the Senate recessed until fall of the gavel.

**Called to Order**

The Senate was called to order by the President.

**Committee Relieved of Further Consideration; Bill Committed****S. 101.**

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of Senate bill entitled:

An act relating to the conduct of forestry operations,  
and the bill was committed to the Committee on Agriculture.

**Recess**

On motion of Senator Ashe the Senate recessed until 4:30 P.M.

**Called to Order**

The Senate was called to order by the President.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered;  
Rules Suspended; Bill Passed; Bill Messaged****H. 511.**

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House bill entitled:

An act relating to highway safety.

Was taken up for immediate consideration.

Senator Sears, for the Committee on Judiciary, to which the bill was referred, reported recommending that the Senate propose to the House to

amend the bill by striking out 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 and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing, and sale of larger amounts of marijuana.

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.~~

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(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 of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four 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 of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four 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 four mature marijuana plants or eight immature marijuana plants 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 years or fined not more than \$100,000.00 \$10,000.00, or both.

(4) 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) 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.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e 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 less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) 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 and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use 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. The one-ounce limit of marijuana or five grams of hashish 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 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana 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 use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.~~

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

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

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

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

~~(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)(b)(1) 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 possessed or consumed in violation of State law is contraband pursuant to section 4242 subsection 4242(d) of this title 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 expense.~~

~~(2) This section does not:~~

~~(A) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;~~

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(E) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

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

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of 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)~~(d) 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.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

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 or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four 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. 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 4230a 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 section 4230 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 is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

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

§ 4230f. DISPENSING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense 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)(1) Subsections (a)–(d) of this section shall not apply to a person under 21 years of age who dispenses 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.

(2) A person who is 18, 19, or 20 years of age who knowingly dispenses marijuana to a person who is 18, 19, or 20 years of age 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 in accordance with the provisions of section 4230b of this title and shall be subject to the penalties in that section for failure to complete the program successfully.

(3) A person 18, 19, or 20 years of age who knowingly dispenses to a person under 18 years of age who is at least three years that person's junior shall be sentenced to a term of imprisonment of not more than five years in accordance with section 4237 of this title.

(4) A person who is 19 years of age who knowingly dispenses to a person 17 years of age or a person who is 18 years of age who knowingly dispenses marijuana to a person who is 16 or 17 years of age commits a misdemeanor crime and shall be fined not more than \$500.00.

(5) A person who is under 18 years of age who knowingly dispenses marijuana to another person who is under 18 years of age commits a delinquent act and shall be subject to 33 V.S.A. chapter 52.

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

(g) The provisions of this section do not limit or restrict the prosecution for other offenses arising out of the same conduct, nor shall they limit or restrict defenses under common law.

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

§ 4230g. DISPENSING 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 knowingly dispensing marijuana to a person under 21 years of age or enabling the consumption of marijuana by 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 knowingly dispensed the marijuana or enabled the consumption of 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 dispenses marijuana to a person under 21 years of age or who enables consumption of marijuana by a person under 21 years of age may be held liable under this section if the person 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. 10. 18 V.S.A. § 4230h is added to read:

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

§ 4230i. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

- (1) 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) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

- (1) more than one ounce, but not more than two ounces of marijuana;
- (2) more than five grams, but not more than 10 grams of hashish; or
- (3) not more than six mature marijuana plants and 12 immature marijuana plants.

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. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume ~~an alcoholic beverages~~ beverage or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains ~~an alcoholic beverages~~ beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) "Alcoholic beverage" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(2) "~~passenger~~ Passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an open container which contains an alcoholic beverage in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$25.00. A person who possesses an open container which contains marijuana in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$200.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

~~(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume an alcoholic beverages beverage or marijuana or possess any open container which contains alcoholic beverages in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.~~

~~(b) A passenger in a motor vehicle shall not possess any open container which contains an alcoholic beverage or marijuana in the passenger area of the motor vehicle.~~

~~(c) As used in this section:~~

~~(1) “Alcoholic beverage” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.~~

~~(2) “passenger Passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.~~

~~(e)(d) A person, other than the operator, may possess an open container which contains an alcoholic beverages beverage in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.~~

~~(d)(e) A person who ~~violates~~ consumes an alcoholic beverage or possesses an open container which contains an alcoholic beverage in violation of this section shall be fined assessed a civil penalty of not more than \$25.00. A person who consumes marijuana or possesses an open container which contains marijuana in violation of this section shall be assessed a civil penalty of not more than \$200.00.~~

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a motor vehicle that is occupied by a child under 18 years of age.

(c)(1) A person who violates subsection (a) of this section shall be subject to a fine civil penalty of not more than \$100.00.—No and no points shall be assessed for a violation of this section.

(2) A person who violates subsection (b) of this section commits a misdemeanor crime and shall be subject to the following penalties:

(A) a fine of not more than \$500.00 for a first offense;

(B) a fine of not more than \$750.00 for a second offense;

(C) a fine of not more than \$1,000.00 for a third or subsequent offense.

(3) A person who violates subsection (b) of this section shall be assessed two points.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used. Cultivation of marijuana in a licensed or registered family child care home is not permitted.

(c) A person who knowingly uses or cultivates marijuana in violation of this section commits a misdemeanor crime and shall be subject to the following penalties:

(1) a fine of not more than \$500.00 for a first offense;

(2) a fine of not more than \$750.00 for a second offense;

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(3) a fine of not more than \$1,000.00 for a third or subsequent offense.

Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS;  
MARIJUANA REGULATORY COMMISSION

(a) Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, The War on Marijuana in Black and White, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, Driving While Black or Brown in Vermont, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, substantially reduce the illegal marijuana market, and use revenues to support substance use prevention and education and enforcement of impaired driving laws.

(b) Creation. There is created the Marijuana Regulatory Commission.

(c) Membership. The Commission shall be composed of the following 14 members:

(1) two current members of the House of Representatives who shall be appointed by the Speaker of the House;

(2) two current members of the Senate who shall be appointed by the Committee on Committees;

(3) a member appointed by the Speaker of the House;

(4) a member appointed by the Committee on Committees;

(5) the Commissioner of Public Safety or designee;

(6) the Commissioner of Health or designee;

(7) the Commissioner of Taxes or designee;

(8) the Secretary of Commerce and Community Development or designee;

(9) the Secretary of Agriculture, Food and Markets or designee;

(10) one member appointed by the Governor;

(11) the Attorney General or designee; and

(12) the Defender General or designee.

(d) Powers and duties. The Commission shall issue a report of its findings and recommendations and develop legislation that establishes a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health, and results in net revenue to the State.

(e) Best practices. The Commission shall examine best practices for addressing:

(1) impaired driving, including consideration of a regional impairment threshold for the New England states and parity in impaired driving laws and penalties;

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(2) prevention and education related to marijuana use, access to marijuana by persons under 21 years of age, impacts to public health, and consumer safety issues such as use of pesticides, GMOs, and testing of marijuana in a regulated market;

(3) regulation and taxation of a commercial adult-use marijuana market that is economically sustainable, reduces the illegal marijuana market, results in net revenues to the State after appropriate costs for education, public health and public safety have been deducted; and

(4) liability issues, including consideration of federal law, banking, landlords, and insurance.

(f) Subcommittees. The Commission may establish subcommittees for the purpose of carrying out its charge and may consult with stakeholders and interested parties, as appropriate.

(g) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of the Governor, the Secretary of Administration, and relevant administrative agencies and departments. The Office of Legislative Council shall provide legal assistance to the legislative members of the Commission and drafting services to the entire Commission for the purpose of developing the legislation required by subsection (d) of this section.

(h) Report and legislation.

(1) On or before January 15, 2018, the Commission shall provide the General Assembly and the Governor with an interim report and recommended legislation that shall address at a minimum:

(A) public safety recommendations to address impaired driving;

(B) requirements and funding for statewide evidence-based youth prevention programs;

(C) any recommended changes to the civil action for damages established in 18 V.S.A. § 4230g; and

(D) any recommended changes to the definitions of “open container” and “passenger area” as used in 23 V.S.A. §§ 1134 and 1134a.

(2) On or before December 31, 2018, the Commission shall provide the General Assembly and the Governor with its final report and recommended legislation on implementing and operating a comprehensive regulatory and revenue system for an adult marijuana market.

(i) Meetings.

(1) The Governor shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The Commission shall elect a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Commission shall cease to exist on March 15, 2019.

(j) Reimbursement.

(1) For attendance at 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 for no more than six meetings.

(2) 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.

#### Sec. 18. EFFECTIVE DATES

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Thereupon, on motion of Senator Sears, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Sears, the rules were suspended, and the bill was ordered messaged to the House forthwith.

#### **Rules Suspended; Senate Resolution Adopted**

#### **S.R. 10.**

Pending entry on the Calendar for action, on motion of Senator Ashe, the rules were suspended and Senate resolution entitled:

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Senate resolution strongly opposing the U.S. withdrawal from the Paris Agreement of the United Nations Framework Convention on Climate Change and recognizing Governor Philip Scott's enrolling Vermont in the U.S. Climate Alliance.

Was taken up for immediate consideration.

Thereupon, the question, Shall the Senate resolution be adopted?, was decided in the affirmative.

### **Concurrent Resolutions**

On motion of Senator Ashe, the rules were suspended and the following concurrent resolutions were adopted in concurrence pursuant to Rule 16b.

By Reps. Stevens and Wood,

By Senators Cummings, Brooks and Pollina,

#### **S.C.R. 18.**

Senate concurrent resolution congratulating Ken D. Squier of Stowe on his induction into the NASCAR Hall of Fame.

By All Members of the House,

#### **H.C.R. 191.**

House concurrent resolution honoring former Representative and Deputy Secretary of Education William B. Talbott for his dedicated public service.

By Reps. Yantachka and others,

By Senator Lyons,

#### **H.C.R. 192.**

House concurrent resolution congratulating the Champlain Valley Union High School girls' tennis team on winning its third consecutive Division I championship.

By Reps. Brumsted and others,

By Senator Lyons,

#### **H.C.R. 193.**

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks five-time consecutive championship boys' lacrosse team.

By Reps. Lucke and others,

By Senators Clarkson, McCormack and Nitka,

**H.C.R. 194.**

House concurrent resolution congratulating the Hartford Fire Department on being named Vermont's 2017 Ambulance Service of the Year.

By Reps. Deen and others,

**H.C.R. 195.**

House concurrent resolution thanking the employees of the U.S. Environmental Protection Agency for their role in safeguarding our State's and nation's environmental quality.

By Reps. Beck and others,

By Senators Benning and Kitchel,

**H.C.R. 196.**

House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers three-time Division I championship girls' outdoor track and field team.

By Reps. Beck and others,

By Senators Benning and Kitchel,

**H.C.R. 197.**

House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers Division I championship boys' outdoor track and field team.

**Recess**

On motion of Senator Ashe the Senate recessed until 6:45 P.M.

**Called to Order**

The Senate was called to order by the President.

**Joint Senate Resolution Adopted on the Part of the Senate****J.R.S. 35.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

**J.R.S. 35.** Joint resolution relating to final adjournment of the General Assembly 2017.

*Resolved by the Senate and House of Representatives*

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That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the twenty-first or twenty-second day of June, 2017 they shall do so to reconvene on the twenty-third day of October, 2017, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or on the third day of January, 2018, at ten o'clock in the forenoon, if not so jointly called.

**Message from the House No. 87**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 542.** An act relating to making appropriations for the support of government.

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

**Rules Suspended; Immediate Consideration; Third Reading Ordered;  
Rules Suspended; Bill Passed In Concurrence; Bill Messaged; Action  
Messaged**

**H. 542.**

House bill of the following title:

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

Was read the first time, and pending referral to the Committee on Appropriations, on motion of Senator Ashe, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was placed in all remaining stages of passage in concurrence.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith and under Joint Rule 15, the Senate ordered the bill be delivered to the Governor forthwith.

**Secretary Directed to Inform the House of Completion of Business**

On motion of Senator Ashe, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn pursuant to the provisions of J.R.S. 35.

**Final Adjournment**

On motion of Senator Ashe, at seven o'clock and thirty minutes in the evening (7:30 P.M.), the Senate adjourned pursuant to the provisions of J.R.S. 35.

**Messages Received After Final Adjournment****Message from the House No. 88**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 192.** House concurrent resolution congratulating the Champlain Valley Union High School girls' tennis team on winning its third consecutive Division I championship.

**H.C.R. 193.** House concurrent resolution congratulating the Champlain Valley Union High School Redhawks five-time consecutive championship boys' lacrosse team.

**H.C.R. 194.** House concurrent resolution congratulating the Hartford Fire Department on being named Vermont's 2017 Ambulance Service of the Year.

**H.C.R. 195.** House concurrent resolution thanking the employees of the U.S. Environmental Protection Agency for their role in safeguarding our State's and nation's environmental quality.

**H.C.R. 196.** House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers three-time Division I championship girls' outdoor track and field team.

**H.C.R. 197.** House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers Division I championship boys' outdoor track and field team.

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

The House has considered concurrent resolution originating in the Senate of the following title:

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**S.C.R. 18.** Senate concurrent resolution congratulating Ken D. Squier of Stowe on his induction into the NASCAR Hall of Fame.

And has adopted the same in concurrence.

**Message from the House No. 89**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 35.** Joint resolution relating to final adjournment of the General Assembly 2017.

And has adopted the same in concurrence.

**Message from the House No. 90**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that the House has on its part completed the business of the session and is ready to adjourn pursuant to the provisions of J.R.S. 35.