

# Journal of the House

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Wednesday, April 6, 2011

At one o'clock in the afternoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Rabbi Tobi Weisman of the Jewish Learning Center, Montpelier, and Rep. Kevin Christie of Hartford.

## Bill Referred to Committee on Appropriations

**H. 448**

House bill, entitled

An act relating to contributions to the state and municipal employees' retirement systems

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

## Joint Resolution Placed on Calendar

**J.R.H. 16**

Joint resolution authorizing Green Mountain Boys' State educational program to use the state house

Offered by: Representatives Koch of Barre Town, Lawrence of Lyndon and Kilmartin of Newport City

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys' State program which provides an opportunity for boys in high school to study the workings of state government in Montpelier, and

Whereas, as part of their visit to the state's capital city, the boys conduct a mock legislative session in the state house, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

### Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the state house for the Green Mountain Boys' State program on Thursday, June 23, 2011 from 8:00 a.m. to 5:00 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont headquarters in Montpelier.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

### **Joint Resolution Referred to Committee**

#### **J.R.H. 17**

Joint resolution strongly urging the United States Department of Homeland Security to resume issuing H-2A visas for Jamaican agricultural workers

Offered by: Representatives Jewett of Ripton, Turner of Milton, Partridge of Windham, Lawrence of Lyndon, Botzow of Pownal, Marcotte of Coventry, Johnson of South Hero and Stevens of Shoreham

Whereas, for many years, Vermont's agricultural community has been heavily dependent on seasonal Jamaican migrant labor to harvest crops and perform related duties, and

Whereas, among the agricultural operations reliant on seasonal Jamaican labor are poultry and vegetable farms, greenhouses, and apple orchards, and

Whereas, native Vermont turkeys have gained in popularity for Thanksgiving celebrations and other occasions, and the viability of Vermont's turkey farms needs to be assured, and

Whereas, many Vermont farms rely on chicken and egg sales for a significant slice of their revenue, and vegetable farms are prevalent throughout the state, and

Whereas, greenhouses are fundamental for the initial cultivation of many crops, and this is especially true given the state's challenging winter climate, and

Whereas, according to the Vermont Apple Marketing Board, the state's fresh apple crop is valued at \$10–12 million annually, and processed products including cider, applesauce, and hard cider double the total cash value of the state's apple crop, and

Whereas, the general assembly recognized the importance of apples to the state's economic well-being when in 1999 it enacted Act 15 designating the apple as the official state fruit, and

Whereas, Jamaican workers are admitted to work temporarily in the United States as a result of the H-2A visa program that the United States Department

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of Homeland Security administers in consultation with the United States Department of Labor, and

Whereas, these Jamaican workers have long proven their worth to Vermont's farmers and orchard owners with hardly any demand on the state's human services system, and

Whereas, in recent months, as Vermont's farmers have submitted applications for authority to hire Jamaican H-2A workers for the upcoming season, they have been distressed that the Department of Homeland Security has refused to authorize the Jamaicans' entry, and

Whereas, without H-2A labor, many Vermont farmers and orchard owners will be hard-pressed to harvest their crops in a timely manner, and as a consequence, thousands of apples may rot, costing the orchard owners millions of dollars, and

Whereas, Jamaican migrant agricultural workers are being specifically excluded because the United States Department of Labor has the impression that the Jamaican Central Labour Organisation (JCLO) is a recruitment organization and is charging a fee for this service, and

Whereas, the nonprofit JCLO has stated that it does not engage in any recruitment activities, rather those are the responsibility of the Jamaican Department of Labour, prospective American employers, or employers' representatives, and

Whereas, to the contrary, the JCLO promotes employment standards and provides support services including: advising workers of employment conditions and welfare benefits; meeting workers at the United States port of entry and assisting them in clearing customs; ensuring that workers and employers adhere to the terms and conditions of employment; periodically visiting housing and work sites and assisting in the resolution of work-related or domestic disputes; ensuring that workers receive proper medical attention; and monitoring the submission and auditing of workers' payrolls from employers, and

Whereas, although the JCLO does charge an administrative fee, it is not a recruitment nor a transportation nor any form of facilitation fee, but rather it is to defray actual program costs underwritten by the Jamaican government, and

Whereas, those Jamaican workers who are being permitted to enter the United States are being denied benefit deductions, which means they lack health insurance coverage, and

Whereas, this misunderstanding of the JCLO's role is harming the workers denied entry and threatens to cause serious havoc for Vermont's agricultural sector, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Department of Homeland Security to resume issuing H-2A visas for Jamaican migrant agricultural workers, and be it further

Resolved: That the Secretary of State be directed to send copies of this resolution to United States Secretary of Homeland Security Janet Napolitano, to United States Secretary of Labor Hilda Solis, to United States Secretary of Agriculture Tom Vilsack, to Vermont Secretary of Agriculture Chuck Ross, and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Agriculture.

**Joint Resolution Placed on Calendar**

**J.R.H. 18**

Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor

Offered by: Representatives Font-Russell of Rutland City, Andrews of Rutland City, Courcelle of Rutland City, Fagan of Rutland City, Lanpher of Vergennes, Aswad of Burlington, Acinapura of Brandon, Ancel of Calais, Atkins of Winooski, Bartholomew of Hartland, Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal, Bouchard of Colchester, Branagan of Georgia, Brennan of Colchester, Browning of Arlington, Burditt of West Rutland, Burke of Brattleboro, Buxton of Royalton, Champion of Bennington, Canfield of Fair Haven, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Condon of Colchester, Conquest of Newbury, Consejo of Sheldon, Copeland-Hanzas of Bradford, Corcoran of Bennington, Crawford of Burke, Dakin of Chester, Davis of Washington, Deen of Westminster, Degree of St. Albans City, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donovan of Burlington, Eckhardt of Chittenden, Edwards of Brattleboro, Ellis of Waterbury, Emmons of Springfield, Evans of Essex, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, French of Randolph, Greshin of Warren, Haas of Rochester, Head of South Burlington, Heath of Westford, Helm of Fair Haven, Hooper of Montpelier, Howard of Cambridge, Howrigan of Fairfield, Hubert of Milton, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Keenan of St. Albans City, Kitzmiller of

Montpelier, Klein of East Montpelier, Koch of Barre Town, Krebs of South Hero, Kupersmith of South Burlington, Larson of Burlington, Lawrence of Lyndon, Lenex of Shelburne, Leriche of Hardwick, Lewis of Berlin, Lewis of Derby, Lippert of Hinesburg, Lorber of Burlington, Macaig of Williston, Malcolm of Pawlet, Manwaring of Wilmington, Marcotte of Coventry, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McAllister of Highgate, McCullough of Williston, McFaun of Barre Town, McNeil of Rutland Town, Miller of Shaftsbury, Mitchell of Barnard, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Munger of South Burlington, Myers of Essex, Nuovo of Middlebury, O'Brien of Richmond, Olsen of Jamaica, Partridge of Windham, Pearson of Burlington, Peltz of Woodbury, Potter of Clarendon, Pugh of South Burlington, Ralston of Middlebury, Ram of Burlington, Reis of St. Johnsbury, Shand of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, South of St. Johnsbury, Stevens of Waterbury, Stevens of Shoreham, Strong of Albany, Stuart of Brattleboro, Sweaney of Windsor, Taylor of Barre City, Till of Jericho, Toll of Danville, Townsend of Randolph, Trieber of Rockingham, Waite-Simpson of Essex, Webb of Shelburne, Weston of Burlington, Wilson of Manchester, Wizowaty of Burlington, Woodward of Johnson, Wright of Burlington, Yantachka of Charlotte and Young of Albany

Whereas, for many years there has been strong support in the private and public sectors, and across partisan lines, for the rebuilding of Vermont's western rail corridor that would enable the resumption of passenger rail service from Albany, New York to Burlington via Bennington, Manchester, Rutland, and Middlebury, and improve freight service as well, and

Whereas, the Amtrak Ethan Allen Express, whose annual ridership increased by 2.7 percent in 2010, was inaugurated in December 1996, and provides Rutland a connection with the Amtrak network, but its passage through Vermont ends a few miles west of Rutland at the New York state line, and

Whereas, a train serving all the major communities of the western corridor, which lacks an interstate highway, would prove even more successful, and

Whereas, twice, since Congress appropriated funds for improving intercity passenger rail infrastructure, the state of Vermont applied for a \$74-million grant to make progress on the needed upgrades to the western corridor's infrastructure, and

Whereas, although major funding was awarded to make improvements to the Vermonter's rail infrastructure on the eastern side of the state, the Ethan Allen Express request was twice denied, and

Whereas, federal passenger rail funds have been awarded to states that have ultimately turned them back while Vermont's broadly supported funding requests for the western corridor have been rejected, and

Whereas, the state of Florida has recently turned back \$2.4 billion for the construction of a new high speed rail line, and the Federal Railroad Administration (FRA) is soliciting requests for proposals to reallocate these funds, and

Whereas, the state of Vermont is once again submitting a well-structured proposal, in the amount of \$80 million, to upgrade the western corridor section from Rutland to Burlington which would be an important step in restoring the entire route from Albany to Burlington, and

Whereas, in order to emphasize the depth of support for the western corridor proposal, Congressman Peter Welch invited FRA Deputy Administrator Karen Rae to a rally held in Rutland in support of the Vermont funding proposal, and

Whereas, in attendance at the rally to advocate for the federal funding were Congressman Welch, Governor Peter Shumlin, Transportation Secretary Brian Searles, and many local and state business leaders, all of whom voiced enthusiastic support for the western corridor funding, and

Whereas, a further, and equally significant, demonstration of the state's commitment to the western corridor is Sec. 9 of H.443, the FY 2012 transportation bill, that encourages the agency of transportation to apply for federal funding for the western corridor upgrade and further authorizes a state match of up to \$15 million should a federal grant be awarded, and

Whereas, no state could possibly have initiated more dispositive measures to prove to the FRA that a passenger rail improvement grant is truly desired and has tangible and genuine support, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Federal Railroad Administrator Joseph Szabo, to Deputy Federal Railroad Administrator Karen Rae, to Governor Peter Shumlin, to Secretary of Transportation Brian Searles, and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

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**House Resolution Placed on Calendar****H.R. 9**

House resolution, entitled

House resolution designating April 25, 2011 as Genetic Equity Awareness Day

Offered by: Representatives Wizowaty of Burlington, Ancel of Calais, Bissonnette of Winooski, Bohi of Hartford, Burke of Brattleboro, Champion of Bennington, Christie of Hartford, Conquest of Newbury, Copeland-Hanzas of Bradford, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, Evans of Essex, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, Heath of Westford, Hooper of Montpelier, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Kitzmiller of Montpelier, Klein of East Montpelier, Lanpher of Vergennes, Larson of Burlington, Lenes of Shelburne, Lippert of Hinesburg, Lorber of Burlington, Macaig of Williston, Marek of Newfane, Martin of Springfield, Masland of Thetford, McCullough of Williston, Miller of Shaftsbury, Mitchell of Barnard, Mrowicki of Putney, Munger of South Burlington, Partridge of Windham, Shand of Weathersfield, Till of Jericho, Waite-Simpson of Essex, Weston of Burlington, Woodward of Johnson and Yantachka of Charlotte

Whereas, all Vermonters enjoy a right to privacy inherent under the color of law, and

Whereas, one's genetic makeup represents a unique expression of individual personhood, and

Whereas, an individual's genetic information and material are the product of that specific individual and should be treated in accordance with the provision of Vermont's civil and criminal codes, and

Whereas, the House of Representatives recognizes the primacy of the individual in medical decision-making, and medical decision-making is the province of individuals working in concert with their health care providers and in consultation with their families, and

Whereas, the age of personalized medicine promises advances in the administration of health care services, and

Whereas, digitizing genetic profiles, genetic material, and genetic information permits greater ease in transmitting patient information, and reasonable safeguards are necessary to ensure that the transfer of genetic profiles, genetic material, and genetic information occurs within a legal framework which recognizes that unlawful and unauthorized breaches of

personal health information constitute a real and growing threat to the well-being of all Vermonters, and

Whereas, the House of Representatives reaffirms that no class of persons shall be denied access to any public accommodation under state law and recognizes that the sequenced human genome was the product of a public-private partnership, and reasonable measures must be pursued to safeguard the current and future interests of all Vermont residents with respect to maintaining pathways to the information yielded through the mapping process, and

Whereas, there is a compelling public interest in policing products which materially rely on genetic material or information or both and which are neither insurance products nor medical devices, and

Whereas, the House of Representatives acknowledges the need to create clear and concise rules so as to affirm public confidence in genetics-related products and services as they emerge in a quickly evolving marketplace, now therefore be it

Resolved by the House of Representatives:

That this legislative body designates April 25, 2011 as Genetic Equity Awareness Day, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Forum on Genetic Equity in Hull, Massachusetts.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

### **Joint Resolution Adopted in Concurrence**

#### **J.R.S. 25**

By Senators Carris and Mullin,

**J.R.S. 25.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, April 8, 2011, it be to meet again no later than Tuesday, April 12, 2011.

Was taken up read and adopted in concurrence.

#### **Message from the Senate No. 34**

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



Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

**S. 53.** An act relating to the number of prekindergarten children included within a school district's average daily membership.

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

**Bill Amended; Third Reading Ordered**

**H. 73**

**Rep. Hubert of Milton**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to establishing a government transparency office to enforce the public records act

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

Sec. 1. 1 V.S.A. § 315 is amended to read:

**§ 315. STATEMENT OF POLICY**

It is the policy of this subchapter to provide for ~~free and~~ open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the general assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed ~~with the view towards carrying out the above declaration of public policy to implement this policy, and the burden of proof shall be on the public agency to sustain its action.~~

Sec. 2. 1 V.S.A. § 316 is amended to read:

**§ 316. ACCESS TO PUBLIC RECORDS AND DOCUMENTS**

(a) Any person may inspect or copy any public record ~~or document~~ of a public agency, as follows:

(1) For any agency, board, department, commission, committee, branch instrumentality, or authority of the state, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon; provided, however, if the public agency is not regularly open to the public during those hours, inspection or copying may be made

(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the state, a person may inspect a public record during customary office business hours.

(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making the request, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

(c) In the following instances an agency may also charge and collect the cost of staff time associated with complying with a request ~~for a~~ to inspect or to copy of a public record: (1) the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge.

(d) The secretary of state, after consultation with the secretary of administration, shall establish the actual cost of providing a copy of a public record that may be charged by state agencies. The secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost" the secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record and any utility charges directly associated with copying a record. The secretary of state

shall adopt, by rule, a uniform schedule of public record charges for state agencies.

(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the secretary of state. If a legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the secretary of state until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.

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Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

(a) As used in this subchapter,;

(1) ~~“public~~ Public agency” or “agency” means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state. “Public agency” shall include a quasi-public agency.

(2) “Public record” or “public document” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying. “Public record” shall include written or recorded information produced or acquired by a quasi-public agency that relates to the governmental function performed by the quasi-public agency.

(3) “Quasi-public agency” means a nongovernmental authority that:

(A) receives \$250,000.00 or more a year by or through a public agency; and

(B) performs a governmental function on behalf of a public agency.

(b) ~~As used in this subchapter, “public record” or “public document” means any written or recorded information, regardless of physical form or~~

~~characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying~~

(1) A person's "right to privacy" or "personal privacy," as these terms are used in this subchapter, is violated or invaded only if disclosure of information about the person reveals intimate details of a person's life, including any information that might subject the person to embarrassment, harassment, disgrace, or loss of employment or friends.

(2) The provisions of this subchapter addressing the "right to privacy" or "personal privacy" in personal and economic pursuits do not create any right beyond the rights specified under subsection (c) of this section as express exemptions to the public's right to inspect or copy public records.

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(c) The following public records are exempt from public inspection and copying:

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(7) personal documents relating to an individual, including information in any files maintained to hire, evaluate, promote or discipline any employee of a public agency, information in any files relating to personal finances, medical or psychological facts concerning any individual or corporation if disclosure of information would violate the individual's right to privacy as defined in subsection (b) of this section; provided, however, that all information in personnel files of an individual employee of any public agency shall be made available to that individual employee or his or her designated representative;

Sec. 4. 1 V.S.A. § 318 is amended to read:

§ 318. PROCEDURE

(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except that:

(1) if the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so certify this fact in writing to the applicant and set a date and hour within one calendar week of the request when the record will be available for examination;

(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, the custodian shall so certify in writing. Such certification shall identify the records withheld and the basis for

the denial. The A record shall be produced for inspection or a certification shall be made that a record is exempt within ~~two~~ three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection. The certification shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. The custodian shall also notify the person of his or her right to appeal to the head of the agency any adverse determination;

(3) if appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days, excepting Saturdays, Sundays, and legal public holidays, after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title;

(4) if a record does not exist, the custodian shall certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian;

(5) in unusual circumstances as herein specified the time limits prescribed in this subsection may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten ~~working~~ business days from receipt of the request. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the attorney general.

(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to

comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal. A written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.

(2) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.

(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision (a)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.

(e) A public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.

(f) If a person making the request has a disability which requires accommodation to gain equal access to the public record sought, the person shall notify the public agency of the type of accommodation requested. The public agency shall give primary consideration to the accommodation choice expressed by the requestor, but may propose an alternative accommodation so long as it achieves equal access. The public agency shall provide accommodation to the person making the request unless the agency can demonstrate that accommodation would result in a fundamental alteration in the nature of its service, programs, activities, or in undue financial and administrative burden.

(g) A request for a public record produced or acquired by a quasi-public agency shall be submitted to the public records officer of the public agency by or through which the quasi-public agency is funded. A person aggrieved by a denial of a request for a public record produced or acquired by a quasi-public agency may seek against the public agency that funded the quasi-public agency enforcement under section 319 of this title of the requirements of this subchapter.

Sec. 5. 1 V.S.A. § 319 is amended to read:

§ 319. ENFORCEMENT

(a) Any person aggrieved by the denial of a request for public records under this subchapter may apply to the civil division of the superior court in the county in which the complainant resides, or has his or her personal place of business, or in which the public records are situated, or in the civil division of the superior court of Washington County, to enjoin the public agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case, the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in section 317 of this title, and the burden is of proof shall be on the public agency to sustain its action.

(b) Except as to cases the court considers of greater importance, proceedings before the civil division of the superior court, as authorized by this section, and appeals there from, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(c) If the public agency can show the court that exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(d) The court ~~may~~ shall assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed, except that if an attorney who enters an appearance on behalf of the public agency concedes that a contested record or records are public within 10 business days of entering an appearance, the court, in its discretion, may award attorney's fees to the substantially prevailing party.

Sec. 6. 1 V.S.A. § 320(b) is amended to read:

(b) In the event of noncompliance with the order of the court, the civil division of the superior court may punish for contempt the responsible employee or official, and in the case of a uniformed service, the responsible member.

Sec. 7. 3 V.S.A. § 117(g) is amended to read:

(g) In fulfilling the duties of the state archives and records administration program, the state archivist shall:

(1) establish and administer a records management program for the application of effective and efficient methods to the creation, utilization, maintenance, reformatting, retention, destruction, and preservation of public records;

(2) cooperate with the heads of state agencies or public bodies to establish and maintain a program for the appraisal and scheduling of public records;

(3) analyze, develop, establish, and coordinate standards, procedures, and techniques for the creation of, preservation of, and access to public records;

(4) take custody of archival records in accordance with record schedules approved by the state archivist;

(5) maintain a record center to hold inactive records in accordance with records schedules approved by the state archivist;

(6) arrange, describe, and preserve archival records, and promote their use by government officials and the public;

(7) permit the public to inspect, examine, and study the archives, provided that any record placed in the keeping of the office of the secretary of state under special terms or conditions of law restricting their use shall be made accessible only in accord with those terms and conditions;

(8) cooperate with and assist to the extent practicable state institutions, departments, agencies, municipalities, and other political subdivisions and individuals engaged in the activities in the ~~field~~ management of public records, archives, manuscripts, and history;

(9) accept for filing copies of land records submitted in microfilm, electronic media, or similar compressed form by municipal or county clerks;

(10) receive grants, gifts, aid, or assistance, of any kind, from any source, public or private, for the purpose of managing or publishing public records; ~~and~~



(11) serve on the Vermont historical records advisory board, as described in 44 U.S.C. § 2104, to encourage systematic documentation in Vermont and the collecting of archival records;

(12) have the authority, on its own motion, to issue advisory opinions as to whether a particular type of record is public and available for inspection and copying;

(13) provide municipal public agencies and members of the public information and advice regarding the requirements of the public records act, including an informational website and a toll-free telephone number during the regular business hours of the office;

(14) establish a training program for the public records officers of public agencies regarding the requirements of the public records act and the procedure and process for responding to requests to inspect or copy a public record.

Sec. 8. 1 V.S.A. § 313(a)(6) is amended to read:

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of ~~subsection~~ section 317**(b)** of this title. Discussion or consideration of the excepted record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

Sec. 9. 3 V.S.A. § 218(d) is amended to read:

(d) The head of each state agency or department shall designate a member of his or her staff as the records officer for his or her agency or department, and shall notify the Vermont state archives and records administration in writing of the name and title of the person designated, and shall post the name and contact information of the person on the agency or department website, if one exists. The public records officer shall manage the agency's compliance with the requirements of this section and with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3, regarding receipt and response to requests for public records. A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

Sec. 10. 24 V.S.A. chapter 33, subchapter 14 is added to read:

Subchapter 14. Municipal Public Records Officer

§ 1146. MUNICIPAL PUBLIC RECORDS OFFICER

(a) On or before January 1, 2012, the legislative body of a municipality shall appoint, and determine the term of service for, a municipal public records officer.

(b) A municipal public records officer shall manage the municipality's compliance with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3. The municipal public records officer shall provide guidance to any agency, board, committee, department, branch, instrumentality, commission, or authority of the municipality regarding compliance with the requirements of the public records act.

(c) The name, title, and contact information for the municipal public records officer shall be posted on the municipality's website, if one exists, and in a prominent location in the municipal offices or office of the municipal clerk.

(d) A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

(e) As used in this section, "municipality" shall mean a city, town, or village of the state and shall mean a school district, as that term is defined in 16 V.S.A. § 11(a)(10).

Sec. 11. 9 V.S.A. § 4113(b) is amended to read:

(b) Reports filed pursuant to this section shall be an exempt record and confidential pursuant to ~~subdivision 317(b)(1) of Title 1~~ 1 V.S.A. § 317(c)(1) and shall be maintained for the sole and confidential use of the commissioner, except that the reports may be disclosed to the federal government or to the appropriate energy agency or department of another state with substantially similar confidentiality statutes for regulations with respect to such reports. However, the commissioner shall make available to appropriate committees of the general assembly statistical information derived from the reports required by this section, provided that this may be done in a manner which preserves the confidentiality of the reports submitted by particular persons.

Sec. 12. 17 V.S.A. § 2154(b) is amended to read:

(b) A registered voter's month and day of birth, driver's license number, the last four digits of the applicant's Social Security number, and street address if different from the applicant's mailing address shall not be considered a public record as defined in ~~subsection 317(b) of Title 1~~ 1 V.S.A. § 317(a)(2). Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to chapter 65 of

Title 13, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the secretary of state.

Sec. 13. 32 V.S.A. § 3755(e) is amended to read:

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of ~~subdivision 317(a)(6) of Title 1~~ 1 V.S.A. § 317(c)(6).

Sec. 14. PUBLIC RECORDS LEGISLATIVE STUDY COMMITTEE

(a) There is established a legislative study committee to review the requirements of the public records act and the numerous exemptions to that act in order to assure the integrity, viability, and the ultimate purposes of the act. The review committee shall consist of:

(1) Three members of the house of representatives, appointed by the speaker of the house; and

(2) Three members of the senate, appointed by the committee on committees.

(b) The review committee shall review the exemptions set forth in 1 V.S.A. § 317 or elsewhere in the Vermont Statutes Annotated to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Prior to each legislative session, the committee shall submit to the house and senate committees on government operations and the house and senate committees on judiciary recommendations concerning whether the public records act and exemptions under the act from inspection and copying of a public record should be repealed, amended, or remain unchanged. The report of the committee may take the form of draft legislation.

(c) In reviewing and making a recommendation under subsection (b) of this section, the study committee may review:

(1) Whether the public records act requires revision;

(2) Whether an exemption to inspection or copying under the public records act is necessary, antiquated, or in need of revision;

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible; and

(4) Any other criteria that assist the review committee in determining the value of an exemption as compared to the public's interest in the record

protected by the exemption.

(d) In developing recommendations authorized under subsection (a) of this section, the study committee shall consult with the secretary of administration, the secretary of state, the office of the attorney general, representatives of municipal interests, representatives of school or education interests, representatives of the media, and advocates for access to public records.

(e) The study committee shall elect co-chairs from among its members. For attendance at a meeting when the general assembly is not in session, legislative members of the commission shall be entitled to the same per diem compensation and reimbursement for actual and necessary expenses as provided members of standing committees under 2 V.S.A. § 406. The study committee is authorized to meet no more than three times each year during the interim between sessions of the general assembly.

(f) Legislative council shall provide legal and administrative services to the study committee. The study committee may utilize the legal, research, and administrative services of other entities, such as educational institutions and, when necessary for the performance of its duties, the Vermont state archives and records administration.

#### Sec. 15. LEGISLATIVE COUNCIL; LIST OF PUBLIC RECORDS ACT

##### EXEMPTIONS

The legislative council, under its statutory revision authority set forth in 2 V.S.A. § 421, shall compile a list of all known Vermont statutory exemptions to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Legislative council shall publish the list of exemptions compiled under this section as a statutory revision note to 1 V.S.A. § 317 and shall update the list as necessary.

#### Sec. 16. REPEAL

1 V.S.A. § 321 (public records legislative study committee) is repealed on January 15, 2015.

#### Sec. 17. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

**Rep. Keenan of St. Albans City**, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Government Operations.

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

Pending the question, Shall the House amend the bill as recommended by the committee on Government Operations? **Rep. Hubert of Milton** moved to amend the report of the committee on Government Operations, as follows:

First: In Sec. 3, 1 V.S.A. § 317, by striking subsection (a) in its entirety and inserting in lieu thereof the following:

(a) As used in this subchapter,:

(1) “~~public~~ Public agency” or “agency” means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state.

(2) “Public record” or “public document” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying.

Second: In Sec. 4, 1 V.S.A. § 318(g), by striking subsection (g) in its entirety

Third: In Sec. 14, by striking subsection (c) in its entirety and inserting in lieu thereof the following:

(c) In reviewing and making a recommendation under subsection (b) of this section, the study committee may review:

(1) Whether the public records act requires revision;

(2) Whether an exemption to inspection or copying under the public records act is necessary, antiquated, or in need of revision;

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible;

(4) Whether the public records act should be amended to clarify application of the act to contracts between a public agency and a private entity for the performance of a governmental function; and

(5) Any other criteria that assist the review committee in determining the value of an exemption as compared to the public’s interest in the record protected by the exemption.

Which was agreed to.

Pending the question, Shall the House amend the bill as recommended by

the committee on Government Operations, as amended? **Rep. Donahue of Northfield** moved to amend the report of the committee on Government Operations as follows:

In Sec. 14 by striking out subdivision (c)(3) in its entirety and inserting in lieu thereof the following:

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible, including the need to clarify the term “personal documents” referenced in 1 V.S.A. § 317(c)(7) in order to ensure that it does not unintentionally limit access to public records that are not personnel records; and

Which was agreed to.

Pending the question, Shall the House amend the bill as recommended by the committee on Government Operations, as amended? **Rep. Marek of Newfane** moved to amend the report of the committee on Government Operations as follows:

In Sec. 5, 1 V.S.A. § 319, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) ~~The~~ Except as provided in subdivision (2) of this section, the court may shall assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(2) The court may, in its discretion, award attorney’s fees to a complainant that has substantially prevailed if a public agency, within 10 business days of entering an appearance:

(A) concedes that a contested record or records are public; and

(B) provides the record or records to the complainant.

Which was agreed to, and the report of the committee on Government Operations, as amended was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Leriche of Hardwick** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 134. Nays, 5.

Those who voted in the affirmative are:

Acinapura of Brandon  
Ancel of Calais

Andrews of Rutland City  
Atkins of Winooski

Bartholomew of Hartland  
Batchelor of Derby

Bissonnette of Winooski	Haas of Rochester	Mrowicki of Putney
Bohi of Hartford	Head of South Burlington	Munger of South Burlington
Botzow of Pownal	Heath of Westford	Myers of Essex
Bouchard of Colchester	Hebert of Vernon	Nuovo of Middlebury
Branagan of Georgia *	Helm of Fair Haven	O'Brien of Richmond
Brennan of Colchester	Higley of Lowell	Olsen of Jamaica
Browning of Arlington	Hooper of Montpelier	Partridge of Windham
Burke of Brattleboro	Howard of Cambridge	Pearce of Richford
Buxton of Royalton	Hubert of Milton	Pearson of Burlington
Campion of Bennington	Jerman of Essex	Peaslee of Guildhall
Canfield of Fair Haven	Jewett of Ripton	Peltz of Woodbury
Cheney of Norwich	Johnson of South Hero	Perley of Enosburgh
Christie of Hartford	Johnson of Canaan	Potter of Clarendon
Condon of Colchester	Keenan of St. Albans City	Pugh of South Burlington
Conquest of Newbury	Kitzmiller of Montpelier	Ralston of Middlebury
Consejo of Sheldon	Klein of East Montpelier	Ram of Burlington
Copeland-Hanzas of Bradford	Komline of Dorset	Savage of Swanton
Corcoran of Bennington	Krebs of South Hero	Scheuermann of Stowe
Courcelle of Rutland City	Kupersmith of South Burlington	Shand of Weathersfield
Crawford of Burke	Lanpher of Vergennes	Sharpe of Bristol
Dakin of Chester	Larocque of Barnet	Shaw of Pittsford
Deen of Westminster	Larson of Burlington	Smith of New Haven
Degree of St. Albans City	Lawrence of Lyndon	South of St. Johnsbury
Devereux of Mount Holly	Lenes of Shelburne	Spengler of Colchester
Dickinson of St. Albans Town	Leriche of Hardwick	Stevens of Waterbury
Donaghy of Poultney	Lewis of Derby	Stevens of Shoreham
Donahue of Northfield	Lippert of Hinesburg	Strong of Albany
Donovan of Burlington	Lorber of Burlington	Stuart of Brattleboro
Eckhardt of Chittenden	Macaig of Williston	Sweaney of Windsor
Edwards of Brattleboro	Malcolm of Pawlet	Taylor of Barre City
Ellis of Waterbury	Manwaring of Wilmington	Till of Jericho
Emmons of Springfield	Marcotte of Coventry	Toll of Danville
Evans of Essex	Marek of Newfane	Townsend of Randolph
Fagan of Rutland City	Martin of Springfield	Trieber of Rockingham
Fisher of Lincoln	Martin of Wolcott	Waite-Simpson of Essex
Font-Russell of Rutland City	Masland of Thetford	Webb of Shelburne
Frank of Underhill	McCullough of Williston	Weston of Burlington
French of Shrewsbury	McFaun of Barre Town	Wilson of Manchester
French of Randolph	McNeil of Rutland Town	Wizowaty of Burlington
Gilbert of Fairfax	Miller of Shaftsbury	Woodward of Johnson
Grad of Moretown	Mitchell of Barnard	Wright of Burlington
Greshin of Warren	Mook of Bennington	Yantachka of Charlotte
	Moran of Wardsboro	Young of Albany

Those who voted in the negative are:

Davis of Washington	Lewis of Berlin *	Turner of Milton
Kilmartin of Newport City *	McAllister of Highgate	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Howrigan of Fairfield	Reis of St. Johnsbury
Burditt of West Rutland	Koch of Barre Town	Winters of Williamstown
Clark of Vergennes	Morrissey of Bennington	
Clarkson of Woodstock	Poirier of Barre City	

**Rep. Branagan of Georgia** explained her vote as follows:

“Mr. Speaker:

The protection of our local town officials is important, especially the insuring of their privacy, safety and their rights as citizens of the town. I’m concerned about malicious actions by townspeople or by anyone, as these actions are exactly the kind of thing this bill is designed to prevent. I look forward to an amendment on third reading.”

**Rep. Kilmartin of Newport City** explained his vote as follows:

“Mr. Speaker:

I vote “no”. This bill is going to intimidate public officials in dishonoring exemptions. It denies public employees privacy, it increases the risks of cunning and abusive litigators which will drive public officials from office and make innocent taxpayers pay for abuse by their fellow citizens or people from away who have no legitimate interest or connections with a particular town. It is a lawyer’s dream come true. It says “Give them anything they want or we will be paying our lawyers and theirs.” ”

**Rep. Lewis of Berlin** explained her vote as follows:

“Mr. Speaker:

I believe we need revisions regarding transparencies, however, as Rep. Kilmartin explained, this could place due financial liability on the municipality. I commend the Government Operations committee for their thoughtful work on this bill.”

**Rep. Lewis of Derby** explained his vote as follows:

“Mr. Speaker:

I vote yes, although I have concerns about issues that have been raised, I more firmly believe in open transparency.”

### **Consideration Interrupted by Recess**

#### **H. 56**

House bill, entitled

An act relating to the Vermont Energy Act of 2011



Was taken up and pending third reading of the bill, **Rep. Cheney of Norwich** moved to amend the bill as follows:

First: By striking Secs. 12 through 17 (clean energy development fund; clean energy development board; transition; term expiration; ARRA energy moneys; clean energy support charge; notice; recodification; redesignation) in their entirety and inserting in lieu thereof “Secs. 12–17. [Deleted.]”

Second: In Sec. 7, 30 V.S.A. § 8002 (definitions), in subdivision (10) (definition of “board”), by striking “, except when used as part of the phrase ‘clean energy development board’ or when the context clearly refers to the latter board”

Third: By striking Sec. 21 in its entirety and inserting in lieu thereof a new Sec. 21 to read:

Sec. 21. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) The following shall take effect on passage:

(1) Sec. 1 of this act (net metering), except that 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) shall take effect on January 1, 2012. Sec. 2(d) of this act shall govern the date by which an electric distribution company shall implement the following provisions contained in Sec. 1 of this act: 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(2) Secs. 2 (implementation; retroactive application), 3 (self-managed energy efficiency programs), 4 (retroactive application), 6 (renewable energy goals), 7 (definitions, renewable energy chapter), 9 (implementation; board proceedings), 10 (penalties), and 20 (payment of utility bills by credit or debit card) of this act.

(3) Sec. 8 (SPEED program) of this act, except that Sec. 9 (board proceedings) of this act shall govern the date on which the availability of the standard offer revision described in Sec. 9(c) (existing hydroelectric plants) shall commence.

(c) The following shall take effect on July 1, 2011: Secs. 5 (new gas and electric purchases); 11 (baseload renewable power portfolio requirement); 18 (statutory revision); and 19 (heating oil) of this act, except for 10 V.S.A. § 585(c) (heating oil; biodiesel requirement).

(d)(1) In Sec. 19 of this act, 10 V.S.A. § 585(c) (heating fuel; biodiesel requirement) shall take effect on the later of the following:

(A) July 1, 2012.

(B) The date on which, through legislation, rule, agreement, or other binding means, the last of the surrounding states has adopted requirements that are substantially similar to or more stringent than the requirements contained in 10 V.S.A. § 585(c). The attorney general shall determine when this date has occurred.

(2) For the purpose of this subsection, the term “surrounding states” means the states of Massachusetts, New Hampshire, and New York, and the term “last” requires that all three of the surrounding states have adopted a substantially similar or more stringent requirement.

Pending the question, Shall the House amend the bill as recommended by Rep. Cheney of Norwich?

### **Recess**

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

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

### **Consideration Resumed; Bill Amended and Passed**

#### **H. 56**

Consideration resumed on House bill, entitled

An act relating to the Vermont Energy Act of 2011;

Pending the question, Shall the bill be amended as recommended by Rep. Cheney of Norwich? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Cheney of Norwich? was decided in the affirmative. Yeas, 134. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon  
Ancel of Calais  
Andrews of Rutland City  
Atkins of Winooski  
Bartholomew of Hartland  
Batchelor of Derby

Bissonnette of Winooski  
Bohi of Hartford  
Botzow of Pownal  
Bouchard of Colchester  
Branagan of Georgia  
Brennan of Colchester

Browning of Arlington  
Burke of Brattleboro  
Buxton of Royalton  
Campion of Bennington  
Canfield of Fair Haven  
Cheney of Norwich

Christie of Hartford	Howard of Cambridge	Munger of South Burlington
Condon of Colchester	Hubert of Milton	Myers of Essex
Conquest of Newbury	Jerman of Essex	Nuovo of Middlebury
Consejo of Sheldon	Jewett of Ripton	O'Brien of Richmond
Copeland-Hanzas of Bradford	Johnson of South Hero	Partridge of Windham
Corcoran of Bennington	Johnson of Canaan	Pearce of Richford
Courcelle of Rutland City	Keenan of St. Albans City	Pearson of Burlington
Crawford of Burke	Kilmartin of Newport City	Peaslee of Guildhall
Dakin of Chester	Kitzmiller of Montpelier	Peltz of Woodbury
Davis of Washington	Klein of East Montpelier	Perley of Enosburgh
Deen of Westminster	Komline of Dorset	Potter of Clarendon
Degree of St. Albans City	Krebs of South Hero	Pugh of South Burlington
Devereux of Mount Holly	Kupersmith of South Burlington	Ralston of Middlebury
Dickinson of St. Albans Town	Lanpher of Vergennes	Ram of Burlington
Donaghy of Poultney	Larocque of Barnet	Savage of Swanton
Donahue of Northfield	Lawrence of Lyndon	Scheuermann of Stowe
Donovan of Burlington	Lenes of Shelburne	Shand of Weathersfield
Eckhardt of Chittenden	Leriche of Hardwick	Sharpe of Bristol
Edwards of Brattleboro	Lewis of Berlin	Shaw of Pittsford
Ellis of Waterbury	Lewis of Derby	Smith of New Haven
Emmons of Springfield	Lippert of Hinesburg	South of St. Johnsbury
Evans of Essex	Lorber of Burlington	Spengler of Colchester
Fagan of Rutland City	Macaig of Williston	Stevens of Waterbury
Fisher of Lincoln	Malcolm of Pawlet	Stevens of Shoreham
Font-Russell of Rutland City	Manwaring of Wilmington	Sweaney of Windsor
Frank of Underhill	Marcotte of Coventry	Taylor of Barre City
French of Shrewsbury	Marek of Newfane	Till of Jericho
French of Randolph	Martin of Springfield	Toll of Danville
Gilbert of Fairfax	Martin of Wolcott	Townsend of Randolph
Grad of Moretown	Masland of Thetford	Trieber of Rockingham
Greshin of Warren	McAllister of Highgate	Turner of Milton
Haas of Rochester	McCullough of Williston	Waite-Simpson of Essex
Head of South Burlington	McFaun of Barre Town	Webb of Shelburne
Heath of Westford	McNeil of Rutland Town	Weston of Burlington
Hebert of Vernon	Miller of Shaftsbury	Wilson of Manchester
Helm of Fair Haven	Mitchell of Barnard	Wizowaty of Burlington
Higley of Lowell	Mook of Bennington	Wright of Burlington *
Hooper of Montpelier	Moran of Wardsboro	Yantachka of Charlotte
	Mrowicki of Putney	Young of Albany

Those who voted in the negative are:

none

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Clarkson of Woodstock	Larson of Burlington
Burditt of West Rutland	Howrigan of Fairfield	Morrissey of Bennington
Clark of Vergennes	Koch of Barre Town	Olsen of Jamaica

Poirier of Barre City  
Reis of St. Johnsbury

Strong of Albany  
Stuart of Brattleboro

Winters of Williamstown  
Woodward of Johnson

**Rep. Wright of Burlington** explained his vote as follows:

“Mr. Speaker:

The 55 cent charge to fill the clean energy development fund was never popular, but it was a compromise supported by the administration. Perhaps a better idea will emerge. Today at the 11<sup>th</sup> hour the Governor abandoned a proposal he had supported, totally disrespecting the work of two committees in the process. The onus is on Him to come up with a proposal now, that everyone supports.”

Pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the bill as follows:

In Sec. 20 by striking the second sentence in its entirety and inserting in lieu thereof:

In its report, the board shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company’s cost of service, including the extent to which allowing inclusion of such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company; shall quantify on a statewide basis the expected cost impacts of requiring all ratepayers to bear the cost of these fees and expenses, including the amount, if any, of cross-subsidy that would occur from customers who do not pay utility bills by credit or debit card to customers who do pay utility bills by credit or debit card; and shall propose a draft statute or a statutory amendment to effect the board’s recommendation.

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 132. Nays, 4.

Those who voted in the affirmative are:

Acinapura of Brandon  
Ancel of Calais  
Andrews of Rutland City  
Atkins of Winooski  
Bartholomew of Hartland  
Batchelor of Derby  
Bissonnette of Winooski

Bohi of Hartford  
Botzow of Pownal  
Branagan of Georgia  
Brennan of Colchester  
Browning of Arlington  
Burke of Brattleboro  
Buxton of Royalton

Campion of Bennington  
Cheney of Norwich  
Christie of Hartford  
Condon of Colchester  
Conquest of Newbury  
Consejo of Sheldon

Copeland-Hanzas of Bradford	Keenan of St. Albans City Kilmartin of Newport City	Partridge of Windham Pearce of Richford
Corcoran of Bennington	Kitzmiller of Montpelier	Pearson of Burlington
Courcelle of Rutland City	Klein of East Montpelier	Peaslee of Guildhall
Crawford of Burke	Komline of Dorset	Peltz of Woodbury
Dakin of Chester	Krebs of South Hero	Perley of Enosburgh
Davis of Washington	Kupersmith of South Burlington	Potter of Clarendon
Deen of Westminster	Lanpher of Vergennes	Pugh of South Burlington
Degree of St. Albans City	Larocque of Barnet	Ralston of Middlebury
Devereux of Mount Holly	Lawrence of Lyndon	Ram of Burlington
Dickinson of St. Albans Town	Lenes of Shelburne	Savage of Swanton
Donaghy of Poultney	Leriche of Hardwick	Scheuermann of Stowe
Donahue of Northfield	Lewis of Berlin	Shand of Weathersfield
Donovan of Burlington	Lewis of Derby	Sharpe of Bristol
Eckhardt of Chittenden	Lippert of Hinesburg	Shaw of Pittsford
Edwards of Brattleboro	Lorber of Burlington	Smith of New Haven
Ellis of Waterbury	Macaig of Williston	South of St. Johnsbury
Emmons of Springfield	Malcolm of Pawlet	Spengler of Colchester
Evans of Essex	Manwaring of Wilmington	Stevens of Waterbury
Fagan of Rutland City	Marcotte of Coventry	Stevens of Shoreham
Fisher of Lincoln	Marek of Newfane	Stuart of Brattleboro
Font-Russell of Rutland City	Martin of Springfield	Sweaney of Windsor
Frank of Underhill	Martin of Wolcott	Taylor of Barre City
French of Shrewsbury	Masland of Thetford	Till of Jericho
French of Randolph	McAllister of Highgate	Toll of Danville
Gilbert of Fairfax	McCullough of Williston	Townsend of Randolph
Grad of Moretown	McFaun of Barre Town	Trieber of Rockingham
Greshin of Warren	McNeil of Rutland Town	Turner of Milton *
Haas of Rochester	Miller of Shaftsbury	Waite-Simpson of Essex
Head of South Burlington	Mitchell of Barnard	Webb of Shelburne
Heath of Westford	Mook of Bennington	Weston of Burlington
Hooper of Montpelier	Moran of Wardsboro	Wilson of Manchester
Howard of Cambridge	Mrowicki of Putney	Wizowaty of Burlington
Hubert of Milton	Munger of South Burlington	Woodward of Johnson
Jerman of Essex	Myers of Essex	Wright of Burlington
Jewett of Ripton	Nuovo of Middlebury	Yantachka of Charlotte
Johnson of South Hero	O'Brien of Richmond	Young of Albany
Johnson of Canaan	Olsen of Jamaica	

Those who voted in the negative are:

Canfield of Fair Haven	Helm of Fair Haven
Hebert of Vernon	Higley of Lowell

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Clark of Vergennes	Koch of Barre Town
Bouchard of Colchester	Clarkson of Woodstock	Larson of Burlington
Burditt of West Rutland	Howrigan of Fairfield	Morrissey of Bennington

Poirier of Barre City  
Reis of St. Johnsbury

Strong of Albany  
Winters of Williamstown

**Rep. Turner of Milton** explained his vote as follows:

“Mr. Speaker:

We are grateful that the committees and the Governor recognized our concern with the new fee on rate payers and eliminated it as we had proposed to do in the Savage amendment listed on page 1128 of today’s Calendar.”

**Third Reading; Bill Passed**

**H. 439**

House bill, entitled

An act relating to the bill-back authority of the department of public service and the public service board

Was taken up, read the third time and passed.

**Third Reading; Bill Passed in Concurrence  
With Proposals of Amendment**

**S. 2**

Senate bill, entitled

An act relating to sexual exploitation of a minor and the sex offender registry

Was taken up, read the third time and passed in concurrence with proposals of amendment.

**Favorable Report; Third Reading Ordered**

**S. 12**

**Rep. Batchelor of Derby**, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to adding a member from the area agencies on aging to the governor’s commission on Alzheimer’s disease and related disorders

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Adjournment**

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