

# Journal of the House

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Wednesday, February 1, 2017

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

## Devotional Exercises

Devotional exercises were conducted by the Speaker.

## House Bills Introduced

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

### H. 164

By Rep. Beck of St. Johnsbury,

House bill, entitled

An act relating to reducing over time the cap on property tax adjustments;

To the committee on Education.

### H. 165

By Rep. Willhoit of St. Johnsbury,

House bill, entitled

An act relating to the repeal of the crime of obtaining maps while at war;

To the committee on General, Housing and Military Affairs.

### H. 166

By Reps. Masland of Thetford, Briglin of Thetford and Yantachka of Charlotte,

House bill, entitled

An act relating to shared parental rights and responsibilities and equal parent-child contact;

To the committee on Judiciary.

### H. 167

By Reps. Grad of Moretown, Burditt of West Rutland, Colburn of Burlington and Conquest of Newbury,

House bill, entitled

An act relating to establishing drug possession thresholds to distinguish misdemeanor and felony crimes;

To the committee on Judiciary.

**H. 168**

By Rep. Beck of St. Johnsbury,

House bill, entitled

An act relating to special education reimbursement and weighted long-term membership;

To the committee on Education.

**H. 169**

By Reps. Till of Jericho, Brumsted of Shelburne, Christie of Hartford, Connor of Fairfield, Dunn of Essex, Jickling of Brookfield, Joseph of North Hero, Parent of St. Albans Town, Sibilia of Dover, Smith of Derby, Tate of Mendon, Troiano of Stannard, Willhoit of St. Johnsbury and Yacavone of Morristown,

House bill, entitled

An act relating to creating a property tax exemption for all veterans;

To the committee on Ways and Means.

**H. 170**

By Reps. Grad of Moretown, Conquest of Newbury and Burditt of West Rutland,

House bill, entitled

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

To the committee on Judiciary.

**H. 171**

By Reps. Grad of Moretown, Burditt of West Rutland, Conquest of Newbury, Lalonde of South Burlington and Morris of Bennington,

House bill, entitled

An act relating to expungement;

To the committee on Judiciary.

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**H. 172**

By Reps. Canfield of Fair Haven, Gamache of Swanton, McFaun of Barre Town and Strong of Albany,

House bill, entitled

An act relating to health insurance coverage for bone marrow testing;

To the committee on Health Care.

**Bill Referred to Committee on Ways and Means****H. 85**

House bill, entitled

An act relating to captive insurance companies

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

**Joint Resolution Adopted in Concurrence****J.R.S. 12**

By Senator Ashe,

**J.R.S. 12.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Friday, February 3, 2017, it be to meet again no later than Tuesday, February 7, 2017.

Was taken up read and adopted in concurrence.

**Judicial Nominating Board Elected**

Pursuant to 4 V.S.A. § 601, the Speaker nominated as a committee to the Judicial Nominating Board the following named members:

**Rep. Grad of Moretown**

**Rep. Morris of Bennington**

**Rep. Myers of Essex**

**Rep. Burditt of West Rutland** moved the election of the candidates, as nominated by the Speaker, which was agreed to.

**Vermont Child Poverty  
Council Announced**

Pursuant to Act No. 68 of 2007, Sec. 1(b), the Chair hereby announces the following members of the Vermont Child Poverty Council:

**Rep. Lanpher of Vergennes**

**Rep. Sharpe of Bristol**

**Rep. Wood of Waterbury**

**Government Accountability Committee Appointed**

Pursuant to 2 V.S.A. § 970, the Chair hereby appoints the following members to the Government Accountability Committee:

**Rep. Beck of St. Johnsbury**

**Rep. Brumsted of Shelburne**

**Rep. Scheu of Middlebury**

**Rep. Townsend of South Burlington**

**Joint Energy Committee Appointed**

Pursuant to 2 V.S.A. § 601, the Chair hereby appoints the following members to Joint Energy Committee:

**Rep. McCormack of Burlington**

**Rep. Lefebvre of Newark**

**Rep. Sullivan of Burlington**

**Rep. Van Wyck of Ferrisburgh**

**Joint Legislative Justice Oversight  
Committee Appointed**

Pursuant to 2 V.S.A. § 801, the Chair hereby appoints the following members to the Joint Legislative Oversight Committee:

**Rep. Emmons of Springfield**

**Rep. Grad of Moretown**

**Rep. Haas of Rochester**

**Rep. Hooper of Montpelier**

**Rep. Shaw of Pittsford**

**Public Transit Advisory Council Appointed**

Pursuant to 24 V.S.A. § 5084, the Chair hereby appoints the following member to the Public Transit Advisory Council:

**Rep. Burke of Brattleboro**

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**Vermont Information Technology Leaders Inc. (VITL)  
Board Of Directors Appointed**

Pursuant to 18 V.S.A. § 9352, the Chair hereby appoints the following member to the Vermont Information Technology Leaders Inc. Board of Directors:

**Rep. Houghton of Essex**

**Vermont Citizens Advisory Committee On  
Lake Champlain's Future Appointed**

Pursuant to 10 V.S.A. § 1960, the Chair hereby appoints the following member to the Vermont Citizens Advisory Committee on Lake Champlain's Future:

**Rep. Ode of Burlington**

**Access Board Announced**

Pursuant to 20 V.S.A. § 2901, the Chair hereby announces the following member of the Access Board:

**Rep. Emmons of Springfield**

**Message from the Senate No. 14**

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

Madam Speaker:

I am directed to inform the House that:

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

**S. 17.** An act relating to the qualifications of candidates for Adjutant and Inspector General.

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

**Third Reading; Bill Passed**

**H. 53**

House bill, entitled

An act relating to permitting planting projects in flood hazard areas

Was taken up, read the third time and passed.

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

**H. 58**

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

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older

Reported in favor of its passage when amended as follows:

Sec. 1 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

(1) A Vermont resident ~~70~~ 66 years of age or older may receive one or all of the following licenses ~~at no cost~~ for \$60.00:

(A) a permanent fishing license;

(B) if the person qualifies for a hunting license, a permanent combination fishing and hunting license, which shall include all big game licenses, except for a moose license;

(C) if the person qualifies for a trapping license, a permanent trapping license; and

(D) if the person qualifies for an archery license, ~~an~~ a permanent archery license.

\* \* \*

Sec. 2. EFFECTIVE DATE; IMPLEMENTATION

This act shall take effect on passage, provided that the Commissioner of Fish and Wildlife shall not start collecting license fees for licenses issued under 10 V.S.A. § 4255(c)(1) until July 1, 2017.

and that after passage the title of the bill be amended to read: “An act relating to permanent licenses for persons 66 years of age or older”

**Rep. Canfield of Fair Haven**, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Natural Resources, Fish, & Wildlife and when further amended as follows:

that the bill be amended by striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

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This act shall take effect on January 1, 2018.

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

**Resolution Taken Up; Resolution Amended; Adopted**

**H.R. 8**

House resolution relating to conducting a recount in the election for the House of Representatives for the Orange-1 District

**Rep. Townsend of South Burlington**, spoke for the committee on Government Operations.

Pending the question Shall the resolution be adopted? **Rep. Townsend of South Burlington** moved to amend the resolution as follows:

First: By striking the fourth, fifth, and sixth resolved clauses.

Second: In the third, seventh, eighth and ninth resolved clauses after the word "Recount", by striking "Committee" where it severally appears and inserting in lieu thereof "Panel"

Third: By inserting a new fourth resolved clause to read:

Resolved: That temporary House Rule 90b. is established as follows:

90b. Special Recount Panel. The Panel shall be composed of 23 members. The leader of the Progressive Party caucus shall appoint six members, one of whom shall be a current member of the Committee on Government Operations who belongs to the Progressive Party caucus. The leader of the Democratic Party caucus shall appoint five members, each of whom shall be a current member of the Committee on Government Operations who belongs to the Democratic caucus. The leader of the Republican Party caucus shall appoint 11 members, four of whom shall be a current member of the Committee on Government Operations who belongs to the Republican caucus. If the leader of the Progressive, Republican, or Democratic caucus fails to appoint sufficient members, the Speaker of the House shall do so. In addition to these 22 members, the Chair of the Committee on Government Operations shall serve on the Special Recount Panel as presiding officer, and shall have the special assistance of the Republican and Progressive Party caucus leaders.

The panel shall have the power to review and count ballots in the matter of the contested election in District Orange-1. The policies and procedures governing this Panel shall be adopted by the Committee on Government

Operations. The Panel shall report its findings to the Committee on Government Operations. The Panel may conduct its business and members shall not be subject to the provisions of House Rules 10 and 27. Temporary Rule 90b shall be in effect until the Panel has completed its duties and this Rule shall be dissolved after the report of the Committee on Government Operations has been voted on by the House of Representatives.

Fourth: By striking the tenth resolved clause and inserting in lieu thereof the following:

Resolved: That the Committee on Government Operations shall report its findings and recommendations to the House of Representatives as to whether it recommends Robert Frenier or Susan Hatch Davis should be the duly elected and qualified Representative for the Orange-1 District in the House of Representatives upon which the House of Representatives will take a final vote.

Pending the question, Shall the resolution be amended as recommended by Rep. Townsend of South Burlington? **Rep. LaClair of Barre Town** 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 resolution be amended as recommended by Rep. Townsend of South Burlington? was decided in the affirmative. Yeas, 83. Nays, 57. Abstain, 1.

Those who voted in the affirmative are:

Ancel of Calais	Gannon of Wilmington	Noyes of Wolcott
Bartholomew of Hartland	Gardner of Richmond	Ode of Burlington
Belaski of Windsor	Giambatista of Essex	O'Sullivan of Burlington
Bock of Chester	Gonzalez of Winooski	Partridge of Windham
Botzow of Pownal	Grad of Moretown	Poirier of Barre City
Briglin of Thetford	Haas of Rochester	Potter of Clarendon
Browning of Arlington	Head of South Burlington	Rachelson of Burlington
Brumsted of Shelburne	Hill of Wolcott	Scheu of Middlebury
Buckholz of Hartford	Hooper of Montpelier	Sharpe of Bristol
Burke of Brattleboro	Hooper of Brookfield	Sheldon of Middlebury
Carr of Brandon	Howard of Rutland City	Squirrell of Underhill
Chesnut-Tangerman of Middletown Springs	Jessup of Middlesex	Stevens of Waterbury
Christensen of Weathersfield	Joseph of North Hero	Stuart of Brattleboro
Christie of Hartford	Keenan of St. Albans City	Sullivan of Burlington
Cina of Burlington	Kimbell of Woodstock	Taylor of Colchester
Colburn of Burlington	Kitzmiller of Montpelier	Till of Jericho
Conlon of Cornwall	Krowinski of Burlington	Toleno of Brattleboro
Connor of Fairfield	Lalonde of South Burlington	Toll of Danville
Conquest of Newbury	Lanpher of Vergennes	Townsend of South Burlington
Copeland-Hanzas of	Lippert of Hinesburg	Trieber of Rockingham
Dakin of Colchester	Long of Newfane	Troiano of Stannard
Deen of Westminster	Macaig of Williston	Walz of Barre City
	Masland of Thetford	



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Donovan of Burlington	McCormack of Burlington	Webb of Shelburne
Dunn of Essex	McCullough of Williston	Weed of Enosburgh
Emmons of Springfield	Miller of Shaftsbury	Wood of Waterbury
Fields of Bennington	Morris of Bennington	Yacavone of Morristown
Forguites of Springfield	Mrowicki of Putney	Yantachka of Charlotte
		Young of Glover

Those who voted in the negative are:

Ainsworth of Royalton	Graham of Williamstown	Nolan of Morristown
Bancroft of Westford	Greshin of Warren	Parent of St. Albans Town
Baser of Bristol	Hebert of Vernon	Pearce of Richford
Beck of St. Johnsbury	Helm of Fair Haven	Quimby of Concord
Beyor of Highgate	Higley of Lowell	Rosenquist of Georgia
Bissonnette of Winooski	Hubert of Milton	Savage of Swanton
Brennan of Colchester	Jickling of Brookfield	Scheuermann of Stowe
Burditt of West Rutland	Juskiewicz of Cambridge	Shaw of Pittsford
Canfield of Fair Haven	LaClair of Barre Town	Sibilia of Dover
Condon of Colchester	Lawrence of Lyndon	Smith of Derby
Corcoran of Bennington	Lefebvre of Newark	Smith of New Haven
Cupoli of Rutland City	Lewis of Berlin	Strong of Albany
Devereux of Mount Holly	Marcotte of Coventry	Sullivan of Dorset
Dickinson of St. Albans	Martel of Waterford	Tate of Mendon
Donahue of Northfield	McCoy of Poultney	Terenzini of Rutland Town
Fagan of Rutland City	McFaun of Barre Town	Turner of Milton
Feltus of Lyndon	Morrissey of Bennington	Van Wyck of Ferrisburgh
Gage of Rutland City	Murphy of Fairfax	Willhoit of St. Johnsbury
Gamache of Swanton	Myers of Essex	Wright of Burlington

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

Batchelor of Derby	Keefe of Manchester	Pugh of South Burlington
Houghton of Essex	Lucke of Hartford	Viens of Newport City
	Olsen of Londonderry	

Those members abstaining:

Frenier of Chelsea

Pending the question, Shall the resolution be adopted? **Rep. Haas of Rochester** moved to amend the resolution as follows:

In the first resolved clause by striking out “, except for 14 ballots previously determined to be defective,” and after the words “shall be conducted, and” by inserting “all ballots shall be inspected, and”

Pending the question, Shall the resolution be amended as offered by Rep. Haas of Rochester? **Rep. Willhoit of St. Johnsbury** moved to substitute an amendment for the amendment offered by **Rep. Haas of Rochester** as follows:

In the last resolved clause after the word “vote”, by inserting the following: “, and be it further”

Resolved: Given that the House of Representatives believes that any election result is properly in dispute when the number of defective ballots in an election is less than the number separating the winning and losing candidates, the House shall conduct a recount of every general election for the House of Representatives held in 2016 in which the difference between the number of votes received by a candidate who was deemed to have won a seat and a candidate for the same House District who did not win a seat is less than the total number of defective ballots in the same election.

Thereupon **Rep. Willhoit of St. Johnsbury** asked and was granted leave of the house to withdraw the amendment.

Pending the question, Shall the resolution be amended as offered by Rep. Haas of Rochester? **Rep. McCoy of Poultney** 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 resolution be amended as offered by Rep. Haas of Rochester? was decided in the negative. Yeas, 11. Nays, 125. Abstained, 1.

Those who voted in the affirmative are:

Burke of Brattleboro	Colburn of Burlington	McCormack of Burlington
Chesnut-Tangerman of Middletown Springs	Gonzalez of Winooski	Poirier of Barre City
Cina of Burlington *	Haas of Rochester	Sullivan of Burlington
	Howard of Rutland City	Weed of Enosburgh

Those who voted in the negative are:

Ainsworth of Royalton	Gardner of Richmond	Nolan of Morristown
Ancel of Calais	Giambatista of Essex	Noyes of Wolcott
Bancroft of Westford	Grad of Moretown	Ode of Burlington
Bartholomew of Hartland	Graham of Williamstown	O'Sullivan of Burlington
Beck of St. Johnsbury	Greshin of Warren	Parent of St. Albans Town
Belaski of Windsor	Head of South Burlington	Partridge of Windham
Beyor of Highgate	Hebert of Vernon	Pearce of Richford
Bissonnette of Winooski	Helm of Fair Haven	Potter of Clarendon
Bock of Chester	Higley of Lowell	Quimby of Concord
Botzow of Pownal	Hill of Wolcott	Rachelson of Burlington
Brennan of Colchester	Hooper of Montpelier	Rosenquist of Georgia
Briglin of Thetford	Hooper of Brookfield	Savage of Swanton
Browning of Arlington	Hubert of Milton	Scheu of Middlebury
Brumsted of Shelburne	Jessup of Middlesex	Scheuermann of Stowe
Buckholz of Hartford	Jickling of Brookfield	Shaw of Pittsford
Burditt of West Rutland	Joseph of North Hero	Sheldon of Middlebury
Canfield of Fair Haven	Juskiewicz of Cambridge	Sibilia of Dover
Carr of Brandon	Keenan of St. Albans City	Smith of Derby
Christensen of Weathersfield	Kimbell of Woodstock	Smith of New Haven
Christie of Hartford	Kitzmilller of Montpelier	Squirrell of Underhill
Condon of Colchester	Krowinski of Burlington	Stevens of Waterbury
Conlon of Cornwall	LaClair of Barre Town	Stuart of Brattleboro

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Connor of Fairfield	Lalonde of South Burlington	Sullivan of Dorset
Conquest of Newbury	Lanpher of Vergennes	Tate of Mendon
Copeland-Hanzas of	Lawrence of Lyndon	Taylor of Colchester
Corcoran of Bennington	Lefebvre of Newark	Terenzini of Rutland Town
Cupoli of Rutland City	Lewis of Berlin	Till of Jericho
Dakin of Colchester	Lippert of Hinesburg	Toleno of Brattleboro
Deen of Westminster	Long of Newfane	Toll of Danville
Devereux of Mount Holly	Macaig of Williston	Townsend of South
Dickinson of St. Albans	Marcotte of Coventry	Burlington
Donahue of Northfield	Martel of Waterford	Trieber of Rockingham
Donovan of Burlington	Masland of Thetford	Troiano of Stannard
Dunn of Essex	McCoy of Poultney	Turner of Milton
Emmons of Springfield	McCullough of Williston	Van Wyck of Ferrisburgh
Fagan of Rutland City	McFaun of Barre Town	Webb of Shelburne
Feltus of Lyndon	Miller of Shaftsbury	Willhoit of St. Johnsbury
Fields of Bennington	Morris of Bennington	Wood of Waterbury
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Gage of Rutland City	Mrowicki of Putney	Yacavone of Morristown
Gamache of Swanton	Murphy of Fairfax	Yantachka of Charlotte
Gannon of Wilmington	Myers of Essex	Young of Glover

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

Baser of Bristol	Keefe of Manchester	Sharpe of Bristol
Batchelor of Derby	Lucke of Hartford	Strong of Albany
Houghton of Essex	Olsen of Londonderry	Viens of Newport City
	Pugh of South Burlington	Walz of Barre City

Those members abstaining:

Frenier of Chelsea

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

“Mr. Speaker:

If a recount is going to be conducted, then every ballot ought to be re-inspected as part of that process. We have a responsibility to the people of Vermont to ensure that we count every valid vote in an election.”

Pending the question, Shall the resolution be adopted? **Rep. Donahue of Northfield** moved to amend the resolution as follows:

In the fourth resolved clause after the words “governing this Panel shall be adopted by the Committee on Government Operations”, by inserting the following: “and shall be approved by the House of Representatives”

Which was agreed to.

Pending the question, Shall the resolution be adopted as amended? **Rep. Bancroft of Westford** moved to amend the resolution as follows:

By striking all after the title and inserting in lieu thereof the following:

Whereas, Chapter I, Article 8 of the Vermont Constitution provides that voters have the right to elect and to be elected into office agreeably to the regulations of the Constitution, and

Whereas, Chapter II, § 14 provides that the House of Representatives shall have the power to “judge of the elections and qualifications” of its members, and

Whereas, on November 8, 2016, the general election was held for the Orange-1 House District, with four candidates competing for two House seats, and

Whereas, Rodney Graham won the most votes, 2,018, and, as a result, his election to one of the seats is not in dispute, and

Whereas, Robert Frenier received the second highest number of votes, 1,853, and Graham and Frenier were therefore declared the winners of the two House seats for this district, and

Whereas, Susan Hatch Davis, who had received 1,845 votes, eight less than Robert Frenier, requested a recount pursuant to 17 V.S.A. § 2601(b), and

Whereas, the recount was held on November 28, 2016, and three questionable ballots were submitted to the Superior Court for a final decision in accordance with law, and

Whereas, on November 29, 2016, and on December 12, 2016, Susan Hatch Davis moved in Superior Court for a hearing and second recount, and

Whereas, on December 19, 2016, the Superior Court conducted a hearing and ruled on the three disputed ballots, and issued a Judgment that Robert Frenier had received 1,852 votes, seven more than Susan Hatch Davis’ 1,845 votes, and

Whereas, on December 22, 2016, Susan Hatch Davis petitioned the House of Representatives challenge the election request that the House conduct another recount, and

Whereas, the petition of Susan Hatch Davis was referred to the Committee on Government Operations, and

Whereas, the Committee on Government Operations heard testimony from witnesses, including Petitioner, Susan Hatch Davis; Petitioner’s attorney; Respondent, Representative Frenier; Respondent’s attorney; multiple town clerks; representatives from the Office of the Secretary of State; a representative from the Office of the Attorney General; and a former Democratic Representative who had participated in a recount in another

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election, and

Whereas, Petitioner and Petitioner's attorney presented numerous claims in the Petition and in their testimony before the Committee, and those claims can be broken into three groups: claims concerning the conduct of the election, claims concerning the rulings of the Superior Court, and claims concerning the conduct of the recount, and

Whereas, as to Petitioner's first group of claims, concerning the election, Petitioner's most important allegation was that early voter absentee ballots were not handled consistently by all clerks and that early voter absentee ballots that should have been counted were improperly deemed defective and therefore not counted by certain clerks, and

Whereas, after hearing the testimony of all six town clerks, it appears that all clerks properly and consistently followed the applicable law and guidance of the Secretary of State's office, and

Whereas, as a result, the Committee on Government Operations voted to no longer consider or discuss ballots that had been deemed defective by election officials, including the defective early absentee voter ballots, and

Whereas, as to Petitioner's second group of claims, regarding the rulings of the Superior Court, Petitioner argued that the court had misinterpreted statute, and thereby improperly prevented Petitioner from presenting evidence, and

Whereas, the proper avenue for such a claim, concerning a legal issue, would have been an appeal to the Supreme Court of Vermont, but Petitioner opted not to pursue an appeal, and the Committee on Government Operations did not consider this claim, and

Whereas, as to Petitioner's third group of claims, concerning the recount, Petitioner and Petitioner's attorney alleged multiple specific problems as to how the recount was conducted, including that candidates were consulted as to how to treat ballots and a counter reversed her position and sent a ballot to the Court to determine voter intent, and

Whereas, the Committee heard little testimony concerning these specific allegations, Petitioner and her attorney did not discuss or emphasize them during their testimony, and such unsubstantiated and conclusory allegations provide no basis to order yet another recount in this election, and

Whereas, concerning the recount, Petitioner and Petitioner's attorney also advanced a number of claims concerning vote tabulators, including that ballots were forced into the tabulators, transfer ballots were not created, some ballots were folded or stapled together, an appropriate tabulator memory card was not used when counting the votes of one town, and ballots were not manually

inspected before being inserted into the tabulator, and

Whereas, little or no testimony was taken concerning the accuracy of these claims or, even if true, whether any of these claims would have changed the outcome of the recount, and

Whereas, instead, the Committee heard at length the testimony of a former Democratic Representative, an attorney who had represented a Democratic candidate in a contested election for a different House district, and a current Republican Representative who had represented a Republican candidate in the same matter, and

Whereas, the former Democratic Representative, as he admitted, had not participated in or observed the election or recount in the Orange-1 House District, and

Whereas, the former Democratic Representative testified concerning how vote tabulators were used in the other contested election that he had participated in, how he believed tabulators did not always function properly, and how he believed that changes would be appropriate in how vote tabulators were used, and

Whereas, specifically, the former Democratic Representative told the Committee that in his opinion, during a recount, all ballots should be manually inspected before they are inserted into a vote tabulators, and that this procedure had been followed in the other contested election that he had participated in with the agreement of both parties, and

Whereas, the former Democratic Representative's opinion that ballots should be manually inspected before they are inserted into a vote tabulator is a procedure that appears to be contrary to 17 V.S.A. § 2602f(a)(1), which states that during a recount, all tabulator-readable ballots shall be fed through a tabulator and that any ballots that cannot be read, such as damaged ballots, shall be collected and the voter's choices transferred onto blank ballots, which will then be fed through the tabulator, and to 17 V.S.A. § 2602f(b), which states that only after all ballots have been tabulated by a vote tabulator will the recount team print the tape and examine the ballots to find write-in names and markings of voter intent that were not tabulator-readable, and count those, and

Whereas, the Secretary of State has not specifically authorized in rule or in other guidance the procedure recommended by the former Representative, and

Whereas, it is apparent that one of the main, or the main, reason that the Committee on Government Operations is recommending yet another recount be conducted is based on speculation and vague concerns about the accuracy of vote tabulators, the testimony of a person who was not present for, and had nothing to do with, the recount in the Orange-1 District, and a desire to

conduct this new recount based on procedures that are contrary to statute and Secretary of State guidance, and

Whereas, it is also appears that Petitioner and her attorney have thrown forth as many allegations as possible in an effort to undermine public confidence in the election and in the hard work and competence of local election officials and the Secretary of State, now therefore be it

Resolved by the House of Representatives:

That this legislative body finds that Petitioner's first group of claims, concerning the election and in particular the treatment of early voter absentee ballots, were fully investigated by the Committee on Government Operations and found baseless, and as a result, these claims provide no basis to doubt the election result or any basis to conduct yet another recount, and be it further

Resolved: That the House of Representatives finds that Petitioner's second group of claims, concerning the rulings of the Superior Court, which supposedly prevented Petitioner from presenting evidence, could have been pursued in an appeal, and the Committee on Government Operations appropriately declined to consider these arguments based on petitioner's failure to pursue such an appeal, and as a result, these claims also provide no basis to doubt the election result or conduct another recount, and be it further

Resolved: That the House of Representatives finds that Petitioner's third group of claims, concerning the conduct of the recount, are speculative, based on generalized concerns about the accuracy and functioning of vote tabulators or based on opinions as to how election procedures might be improved in the future, but provide no basis to doubt the results of the recount as to the Orange-1 District, or any basis to conduct yet another recount in this district, and be it further

Resolved: That the House of Representatives therefore finds that Representative Robert Frenier is duly elected and qualified to continue to hold his seat representing the Orange-1 District.

Pending the question, Shall the resolution be further amended as proposed by Rep. Bancroft of Westford? **Rep. Bancroft of Westford** 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 amendment be further amended as proposed by Rep. Bancroft of Westford? was decided in the negative. Yeas, 52. Nays, 87. Abstain, 1.

Those who voted in the affirmative are:

Ainsworth of Royalton  
Bancroft of Westford  
Beck of St. Johnsbur

Graham of Williamstown  
Greshin of Warren  
Hebert of Vernon

Nolan of Morristown  
Parent of St. Albans Town  
Pearce of Richford

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Beyor of Highgate	Helm of Fair Haven	Quimby of Concord
Bissonnette of Winooski	Higley of Lowell	Rosenquist of Georgia
Brennan of Colchester	Hubert of Milton	Savage of Swanton
Burditt of West Rutland	Juskiewicz of Cambridge	Scheuermann of Stowe
Canfield of Fair Haven	LaClair of Barre Town	Shaw of Pittsford
Condon of Colchester	Lawrence of Lyndon	Smith of Derby
Corcoran of Bennington	Lefebvre of Newark	Smith of New Haven
Cupoli of Rutland City	Lewis of Berlin	Tate of Mendon
Devereux of Mount Holly	Marcotte of Coventry	Terenzini of Rutland Town
Dickinson of St. Albans	Martel of Waterford	Turner of Milton
Donahue of Northfield	McCoy of Poultney	Van Wyck of Ferrisburgh
Fagan of Rutland City	McFaun of Barre Town	Willhoit of St. Johnsbury
Feltus of Lyndon	Morrissey of Bennington	Wright of Burlington
Gage of Rutland City	Murphy of Fairfax	
Gamache of Swanton	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Gannon of Wilmington	Ode of Burlington
Bartholomew of Hartland	Gardner of Richmond	O'Sullivan of Burlington
Baser of Bristol	Giambatista of Essex	Partridge of Windham
Batchelor of Derby	Gonzalez of Winooski	Poirier of Barre City
Belaski of Windsor	Grad of Moretown	Potter of Clarendon
Bock of Chester	Haas of Rochester	Rachelson of Burlington
Botzow of Pownal	Head of South Burlington	Scheu of Middlebury
Briglin of Thetford	Hill of Wolcott	Sharpe of Bristol
Browning of Arlington	Hooper of Montpelier	Sheldon of Middlebury
Brumsted of Shelburne	Hooper of Brookfield	Sibilia of Dover
Buckholz of Hartford	Howard of Rutland City	Squirrell of Underhill
Burke of Brattleboro	Jessup of Middlesex	Stevens of Waterbury
Carr of Brandon	Jickling of Brookfield	Stuart of Brattleboro
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Sullivan of Dorset
Christensen of Weathersfield	Keenan of St. Albans City	Sullivan of Burlington
Christie of Hartford	Kimbell of Woodstock	Taylor of Colchester
Cina of Burlington	Kitzmilller of Montpelier	Till of Jericho
Colburn of Burlington	Krowinski of Burlington	Toleno of Brattleboro
Conlon of Cornwall	Lalonde of South Burlington	Toll of Danville
Connor of Fairfield	Lanpher of Vergennes	Townsend of South Burlington
Conquest of Newbury	Lippert of Hinesburg	Trieber of Rockingham
Copeland-Hanzas of	Long of Newfane	Troiano of Stannard
Dakin of Colchester	Macaig of Williston	Webb of Shelburne
Deen of Westminster	Masland of Thetford	Weed of Enosburgh
Donovan of Burlington	McCormack of Burlington	Wood of Waterbury
Dunn of Essex	McCullough of Williston	Yacavone of Morristown
Emmons of Springfield	Miller of Shaftsbury	Yantachka of Charlotte
Fields of Bennington	Morris of Bennington	Young of Glover
Forguites of Springfield	Mrowicki of Putney	
	Noyes of Wolcott	

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



Houghton of Essex  
Keefe of Manchester

Lucke of Hartford  
Olsen of Londonderry  
Pugh of South Burlington

Strong of Albany  
Viens of Newport City  
Walz of Barre City

Those members abstaining:

Frenier of Chelsea

Pending the question, Shall the resolution be adopted as amended? **Rep. Ainsworth of Royalton** moved to amend the resolution as follows:

First: By striking out in its entirety the second Resolved clause (regarding the requirement that the Committee on Government Operations adopt policies and procedures as to how the recount shall be conducted)

Second: In the fourth Resolved clause (adding temporary House Rule 90b), in the sixth sentence, following “In addition to these 22 members,” by striking out “the Chair of the Committee on Government Operations” and inserting in lieu thereof “the Speaker of the House”, and by striking out in its entirety the eighth sentence (“The policies and procedures governing this Panel shall be adopted by the Committee on Government Operations.”).

Third: By adding a fifth resolved clause to read:

Resolved: That the Special Recount Panel shall conduct its recount procedures in accordance with State law set forth in 17 V.S.A. chapter 51 (conduct of elections), subchapter 9 (recounts and contests of elections) to the fullest extent practicable in the context of the Special Recount Panel’s acting as the recount committee described in that subchapter. To wit, those recount procedures include the following:

(1) The Speaker of the House, with the special assistance of the Republican and Progressive Party caucus leaders, shall act as presiding officer and supervise the recount in place of the county clerk, as described in the subchapter.

(2) The Speaker shall assign duties to the members of the Special Recount Panel, securely store ballots, and provide the necessary materials for the recount in accordance with 17 V.S.A. § 2602b.

(3) Before the recount begins, the Speaker shall explain the recount procedures, answer questions relating to those procedures, and use volunteer town clerks to operate and instruct on the use of vote tabulators in accordance with 17 V.S.A. § 2602c(a).

(4) The Special Recount Panel shall inspect, number, and maintain the containers in accordance with 17 V.S.A. § 2602c(b)–(f).

(5) The Special Recount Panel shall examine the checklist and make a

determination regarding the number of voters who voted at a polling place in accordance with 17 V.S.A. § 2602d.

(6) The Special Recount Panel shall then feed through a vote tabulator the vote tabulator-readable ballots from each polling place in accordance with 17 V.S.A. § 2602f(a). The physical nature of a ballot shall determine whether a ballot is vote-tabulator readable. Any votes on a ballot that are unable to be read by a vote tabulator, such as a damaged or a plain paper ballot, shall be transferred to a blank vote tabulator-readable ballot, and these transfer ballots shall be fed into the vote tabulator after the original vote tabulator-readable ballots have been fed through, in accordance with that subsection.

(7) In accordance with 17 V.S.A. § 2602f(b):

(A) After all ballots from a polling place have been fed through a vote tabulator, the Special Recount Panel shall print the tabulator tape containing the results and document the results on a tally sheet.

(B) Members of this Panel shall then remove the ballots from the tabulator ballot box and divide the ballots among the members for them to then examine those ballots to find write-in names and markings of voter intent that were not vote tabulator-readable as outlined in the Secretary of State's vote tabulator guide and most recent elections procedures manual.

(8) In accordance with 17 V.S.A. § 2602f(c), if one member of the Special Recount Panel does not agree on how a ballot should be counted, it shall be deemed a questionable ballot and the Speaker, with the special assistance of the Republican and Progressive Party caucus leaders, shall render a final decision on how that ballot shall be counted.

(9) In accordance with 17 V.S.A. § 2602h, after the totals for a polling place have been listed, the Speaker shall:

(A) Add them up in the presence of the Special Recount Panel and shall compare that number with the number of voters who voted at the polling place and shall note on the summary sheet the amount of any difference in those numbers.

(B) Return all ballots to their container, seal it, record the seal number on the summary sheet, and move the container to another side of the room.

(10) The Special Recount Panel shall repeat the tallying for each container until the results from each polling place within a town have been recounted, and then until the results from all towns have been recounted, in accordance with 17 V.S.A. § 2602h(c).

(11) The Speaker shall then add the totals on each summary sheet and

shall certify the results.

Pending the question, Shall the resolution be further amended as offered by Rep. Ainsworth of Royalton? **Rep. Ainsworth of Royalton** 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 resolution be further amended as offered by Rep. Ainsworth of Royalton? was decided in the negative. Yeas, 52. Nays, 84. Abstained, 1.

Those who voted in the affirmative are:

Ainsworth of Royalton	Graham of Williamstown	Nolan of Morristown
Bancroft of Westford	Greshin of Warren	Parent of St. Albans Town
Beck of St. Johnsbury	Hebert of Vernon	Pearce of Richford
Beyor of Highgate	Helm of Fair Haven	Quimby of Concord
Bissonnette of Winooski	Higley of Lowell	Rosenquist of Georgia
Brennan of Colchester	Hubert of Milton	Savage of Swanton
Burditt of West Rutland	Jickling of Brookfield	Scheuermann of Stowe
Canfield of Fair Haven	Juskiewicz of Cambridge	Shaw of Pittsford
Condon of Colchester	LaClair of Barre Town	Smith of Derby
Corcoran of Bennington	Lawrence of Lyndon	Smith of New Haven
Cupoli of Rutland City	Lefebvre of Newark	Tate of Mendon
Devereux of Mount Holly	Lewis of Berlin	Terenzini of Rutland Town
Dickinson of St. Albans	Marcotte of Coventry	Turner of Milton
Donahue of Northfield	Martel of Waterford	Van Wyck of Ferrisburgh
Fagan of Rutland City	McCoy of Poultney	Willhoit of St. Johnsbury
Feltus of Lyndon	McFaun of Barre Town	Wright of Burlington
Gage of Rutland City	Morrissey of Bennington	
Gamache of Swanton	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Gardner of Richmond	O'Sullivan of Burlington
Bartholomew of Hartland	Giambatista of Essex	Partridge of Windham
Belaski of Windsor	Gonzalez of Winooski	Poirier of Barre City
Bock of Chester	Grad of Moretown	Potter of Clarendon
Botzow of Pownal	Haas of Rochester	Rachelson of Burlington
Briglin of Thetford	Head of South Burlington	Scheu of Middlebury
Browning of Arlington	Hill of Wolcott	Sharpe of Bristol
Brumsted of Shelburne	Hooper of Montpelier	Sheldon of Middlebury
Buckholz of Hartford	Hooper of Brookfield	Sibilia of Dover
Burke of Brattleboro	Howard of Rutland City	Squirrell of Underhill
Carr of Brandon	Jessup of Middlesex	Stevens of Waterbury
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Stuart of Brattleboro
Christensen of Weathersfield	Keenan of St. Albans City	Sullivan of Dorset
Christie of Hartford	Kimbell of Woodstock	Sullivan of Burlington
Cina of Burlington	Kitzmiller of Montpelier	Taylor of Colchester
Colburn of Burlington	Krowinski of Burlington	Till of Jericho
Conlon of Cornwall	Lanpher of Vergennes	Toleno of Brattleboro
Connor of Fairfield	Lippert of Hinesburg	Toll of Danville
	Long of Newfane	

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Conquest of Newbury	Macaig of Williston	Townsend of South Burlington
Copeland-Hanzas of	Masland of Thetford	Trieber of Rockingham
Dakin of Colchester	McCormack of Burlington	Troiano of Stannard
Deen of Westminster	McCullough of Williston	Webb of Shelburne
Donovan of Burlington	Miller of Shaftsbury	Weed of Enosburgh
Dunn of Essex	Morris of Bennington	Wood of Waterbury
Emmons of Springfield	Mrowicki of Putney	Yacavone of Morristown
Fields of Bennington	Murphy of Fairfax	Yantachka of Charlotte
Forguites of Springfield	Noyes of Wolcott	Young of Glover
Gannon of Wilmington	Ode of Burlington	

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

Baser of Bristol	Keefe of Manchester	Pugh of South Burlington
Batchelor of Derby	Lalonde of South Burlington	Strong of Albany
Houghton of Essex	Lucke of Hartford	Viens of Newport City
	Olsen of Londonderry	Walz of Barre City

Those members abstaining:

Frenier of Chelsea

Pending the question, Shall the resolution be adopted as amended? **Rep. Savage of Swanton** 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 resolution be adopted as amended? was decided in the affirmative. Yeas, 76. Nays, 59. Abstained, 1.

Those who voted in the affirmative are:

Ancel of Calais	Gannon of Wilmington	Ode of Burlington
Bartholomew of Hartland	Gardner of Richmond	O'Sullivan of Burlington
Belaski of Windsor	Giambatista of Essex	Partridge of Windham
Bock of Chester	Gonzalez of Winooski	Poirier of Barre City
Botzow of Pownal	Grad of Moretown	Potter of Clarendon
Browning of Arlington	Haas of Rochester	Rachelson of Burlington
Brumsted of Shelburne	Head of South Burlington	Scheu of Middlebury
Buckholz of Hartford	Hill of Wolcott	Sharpe of Bristol
Burke of Brattleboro	Hooper of Montpelier	Sheldon of Middlebury
Carr of Brandon	Howard of Rutland City	Squirrell of Underhill
Chesnut-Tangerman of	Jessup of Middlesex	Stevens of Waterbury
Middletown Springs	Joseph of North Hero	Stuart of Brattleboro
Christensen of Weathersfield	Keenan of St. Albans City	Sullivan of Burlington
Christie of Hartford	Kimbell of Woodstock	Till of Jericho
Cina of Burlington	Kitzmiller of Montpelier	Toleno of Brattleboro
Colburn of Burlington	Krowinski of Burlington	Toll of Danville
Conlon of Cornwall	Lanpher of Vergennes	Townsend of South Burlington
Connor of Fairfield	Lippert of Hinesburg	Trieber of Rockingham
Conquest of Newbury	Long of Newfane	Troiano of Stannard
Copeland-Hanzas of	Macaig of Williston	Webb of Shelburne
Dakin of Colchester	McCormack of Burlington	Weed of Enosburgh
Deen of Westminster	McCullough of Williston	

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Donovan of Burlington	Miller of Shaftsbury	Wood of Waterbury
Dunn of Essex	Morris of Bennington	Yacavone of Morristown
Emmons of Springfield	Mrowicki of Putney	Yantachka of Charlotte
Fields of Bennington	Noyes of Wolcott	Young of Glover

Those who voted in the negative are:

Ainsworth of Royalton	Greshin of Warren	Nolan of Morristown
Bancroft of Westford	Hebert of Vernon	Parent of St. Albans Town
Beck of St. Johnsbury	Helm of Fair Haven	Pearce of Richford
Beyor of Highgate	Higley of Lowell	Quimby of Concord
Bissonnette of Winooski	Hooper of Brookfield	Rosenquist of Georgia
Brennan of Colchester	Hubert of Milton	Savage of Swanton
Briglin of Thetford	Jickling of Brookfield	Scheuermann of Stowe
Burditt of West Rutland	Juskiewicz of Cambridge	Shaw of Pittsford
Canfield of Fair Haven	LaClair of Barre Town	Sibilia of Dover
Condon of Colchester	Lawrence of Lyndon	Smith of Derby
Corcoran of Bennington	Lefebvre of Newark	Smith of New Haven
Cupoli of Rutland City	Lewis of Berlin	Sullivan of Dorset
Dickinson of St. Albans	Marcotte of Coventry	Tate of Mendon
Donahue of Northfield	Martel of Waterford	Taylor of Colchester
Fagan of Rutland City	Masland of Thetford	Terenzini of Rutland Town
Feltus of Lyndon	McCoy of Poultney	Turner of Milton *
Forguites of Springfield	McFaun of Barre Town	Van Wyck of Ferrisburgh
Gage of Rutland City	Morrissey of Bennington	Willhoit of St. Johnsbury
Gamache of Swanton	Murphy of Fairfax	Wright of Burlington
Graham of Williamstown *	Myers of Essex	

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

Baser of Bristol	Keefe of Manchester	Strong of Albany
Batchelor of Derby	Lalonde of South Burlington	Viens of Newport City
Devereux of Mount Holly	Lucke of Hartford	Walz of Barre City
Houghton of Essex	Olsen of Londonderry	
	Pugh of South Burlington	

Those members abstaining:

Frenier of Chelsea

**Rep. Bartholomew of Hartland** explained his vote as follows:

“Madam Speaker:

I represent three Vermont towns. One of these is small enough that votes still are hand counted. The other two towns now use vote tabulators, but the leadership for one of these, my home town, was extremely reluctant to embrace the use of this technology. One of their concerns related to the accuracy of results. These town officials will not be pleased to learn that the margin of error introduced by these devices may exceed the potential for errors when hand counting votes. My vote relates to the uncertainty introduced by

the tabulators. The election process is taken very seriously in my district. I feel certain that my constituents will agree that every reasonable effort be made to determine the intention of the voters to determine the winner in close elections. This is will only make our democracy stronger. This is why I voted for this resolution.”

**Rep. Graham of Williamstown** explained his vote as follows:

“Madam Speaker:

It’s a sad day in Vermont and our country when we elected officials cannot trust the many people we elected to oversee our elections and we cannot trust our Judiciary system overseeing recounts.”

**Rep. Mrowicki of Putney** explained his vote as follows:

“Madam Speaker:

Democracy is not easy. It is not clean and neat and especially in this instance it is not quick and expeditious. It does require a clean and clear result. My vote is for the process to play out until, we get to a clear resolution. Today not only are the voters served but the Constitution.”

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

“Madam Speaker:

Today I vote “no”! This Vermont House of Representatives voted on party lines to judge the election and qualifications of a member. However, it does not hold the power to override the democratic processes of the collective will of the people. Authorizing another recount of a settled election sets a problematic precedent and amounts to a shameful corruption of our legislative duty. It’s unfortunate that the majority is using Washington style partisan politics here in Vermont rather than resolving this issue the “Vermont way”. I’m very disappointed that the majority, by adopting this resolution has failed to reject what is a blatantly prejudiced effort to challenge the legitimacy of a democratically elected official, and the competence of the voters, town clerks and judiciary involved in the Orange-1 district election and recount.”

### **Adjournment**

At seven o'clock and seventeen minutes in the evening, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.