

# Journal of the House

## Special Session

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**Tuesday, June 19, 2018**

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

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Pledge of Allegiance**

The pledge of allegiance was conducted by the Speaker.

### **Message from the Senate No. 3**

#### **SPECIAL SESSION**

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

Madam Speaker:

I am directed to inform the House that:

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

**S. 4.** An act relating to miscellaneous judiciary procedures.

**S. 5.** An act relating to the mitigation of systemic racism.

**S. 6.** An act relating to short-term rentals.

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

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

**H. 7.** An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

**H. 8.** An act relating to boards and commissions.

**H. 9.** An act relating to the fair repair of consumer electronic devices.

**H. 10.** An act relating to transportation network companies.

**H. 13.** An act relating to making appropriations for the support of government.

And has passed the same in concurrence.

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**Senate Bills Referred**

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

**S. 4**

Senate bill, entitled

An act relating to miscellaneous judiciary procedures;

To the committee on Judiciary.

**S. 5**

Senate bill, entitled

An act relating to the mitigation of systemic racism;

To the committee on Government Operations.

**S. 6**

Senate bill, entitled

An act relating to short-term rentals;

To the committee on General, Housing, and Military Affairs.

**Message from the Senate No. 4****SPECIAL SESSION**

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 considered House proposal of amendment to Senate bill of the following title:

**S. 1.** An act relating to co-payment limits for chiropractic care and physical therapy.

And has concurred therein.

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

**H.C.R. 1.** House concurrent resolution in memory of Valley Voice publisher Cheryl N. White of Bridport.

**Message from the Governor**

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A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the fourteenth day of June, 2018,, he returned without signature and *vetoed* a bill originating in the House of Representatives of the following title:

**H. 13      An act relating to making appropriations for the support of government**

**Governor's Veto Letter**

“June 14, 2018

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

Dear Mr. MaGill:

I appreciate that the new budget sets the homestead “yield” at the current level, and that some effort was made to separate the remaining areas of disagreement from the budget. I also appreciate that several amendments to H.13, though they were not adopted, were introduced by both Democrats and Republicans in the House and Senate. These amendments, if they had passed, would have either removed a \$23 million tax rate increase set to occur on July 1<sup>st</sup> or set the non-residential rate for fiscal year 2019 at the current level. Either of these approaches could lead to a reasonable and timely compromise.

As you know, as a matter of principle, I believe Vermonters deserve a break and the opportunity to keep more of what they earn. I also believe employers need a more stable and predictable environment in which they can invest, grow and create more good jobs. I understand, and respect, not everyone in the Legislature shares this point of view.

Nevertheless, our large and growing surplus (\$55.5 million since the January 2018 consensus forecast), combined with other unanticipated revenue, allows us to craft a budget and tax bill that fully funds school budgets, keeps statewide property tax rates level and makes a significant payment towards the unfunded teachers’ retirement debt.

Unfortunately, as the Administration and others have noted, H.13 leaves in place an automatic \$23 million (5.5 cent) property tax rate increase on non-residential payers – our rental property owners and renters, camp owners, and employers.

Without a commitment from legislative leaders that we can achieve level

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property tax rates, or an amendment that would prevent the automatic 5.5 cent property tax rate increase on non-residential payers, I cannot support H.13. As a result, pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.13, *An act relating to making appropriations for the support of government*, without my signature because of my objections described herein.

As noted, I do understand that many members of the Legislature do not share my view on avoiding tax increases. If the Legislature does not agree with my reasoning, the Constitution provides a mechanism – a veto override vote – to resolve the disagreement.

If my decision is sustained, there is ample time for the Legislature to work with the Administration to pass a budget and tax bill I can support.

One easy solution to resolve the budget debate would be to send me a new bill that prevents the automatic increase in the non-residential rate. This would ensure we have a budget in place long before July 1 and require us to work together, on a level playing field, to resolve our remaining differences in the tax bill.

It is important for Vermonters to know that there are many other options available to the Legislature to ensure government operations are not, in anyway, impacted by our discussions. As I have said many times, I do not want to see any disruption in government services, and I believe the Legislature shares this goal as well.

For this reason, I have directed my Administration to proceed with the full expectation that state government will be entirely operational on July 1<sup>st</sup>. Here is why:

First, our area of disagreement is very small and given our \$55 million surplus, which is expected to continue to grow, we do not need to increase statewide property tax rates to fully fund school budgets or reduce the debt in the teachers' retirement system.

Second, we have plenty of time to come to agreement well in advance of July 1<sup>st</sup>. I'm confident with more focus – and an earnest commitment to meet in open session to discuss how we come to agreement – we can resolve the one remaining area of disagreement in a short amount of time.

So, as I have noted above, my Administration will proceed with the full expectation that state government will be fully funded on July 1<sup>st</sup>, unless the Legislature decides otherwise.

We are four weeks into the Special Session, and I remain ready to work with the Legislature to achieve a consensus that will fully fund school budgets and strengthen our education system without raising property taxes in a year of

unprecedented surplus and unexpected revenue.

I have directed my staff to make meetings with the Legislature our top priority and we will make ourselves available to them every day, and every night if necessary, to reach a resolution on this important matter.

Sincerely,

Philip B. Scott

Governor”

### **Recess**

At ten o'clock and six minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

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

### **House Resolution Adopted**

#### **H.R. 2**

House resolution, entitled

House resolution recognizing and respecting the continuing professionalism and unbiased work of the Legislative Joint Fiscal Office

Offered by: Representatives Stevens of Waterbury, Donahue of Northfield, and Haas of Rochester

Whereas, the Joint Fiscal Committee’s staff, known as the Joint Fiscal Office, offers its fiscal analytical services with equality and equity and without partisan bias to all members and committees of the General Assembly, and

Whereas, for over four decades, the fiscal analyses of the Joint Fiscal Office have provided the General Assembly with the best available facts and figures that are based on the highest professional standards, and

Whereas, these documents help determine the fiscal viability of public policies that the General Assembly is developing on behalf of all Vermonters, and

Whereas, the staff members employed in the Joint Fiscal Office take great pride in providing nonbiased information, and they are fiscal analysts whose work represents a consistency and continuity based on long-term employment histories that have spanned changes in the leadership of the General Assembly and the Joint Fiscal Committee, and

Whereas, the General Assembly is most fortunate to have a fiscal research support operation for which institutional integrity is paramount, now

therefore be it

Resolved by the House of Representatives:

That this legislative body recognizes and respects the continuing professionalism and unbiased work of the Legislative Joint Fiscal Office, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Joint Fiscal Office and to Governor Philip B. Scott

Which was read and adopted.

**Governor's Veto Sustained**

**H. 13**

House bill, entitled

An act relating to making appropriations for the support of government

Appearing on the Calendar for action, was taken up.

Pursuant to Chapter 2, Section 11, of the Vermont Constitution the Clerk proceeded to call the roll and the question, Shall the bill pass the failure of the Governor to approve notwithstanding?

The Clerk proceeded to call the roll and the question, Shall the bill pass the failure of the Governor to sign notwithstanding? was decided in the negative. Yeas, 90. Nays, 51. A two thirds vote of 94 required to pass the bill.

Those who voted in the affirmative are:

Ancel of Calais *	Grad of Moretown	Pajala of Londonderry
Bartholomew of Hartland	Haas of Rochester	Partridge of Windham
Belaski of Windsor	Head of South Burlington	Poirier of Barre City
Bissonnette of Winooski	Hill of Wolcott	Potter of Clarendon
Bock of Chester	Hooper of Montpelier	Pugh of South Burlington
Botzow of Pownal	Hooper of Randolph	Rachelson of Burlington
Briglin of Thetford	Houghton of Essex	Read of Fayston
Browning of Arlington	Howard of Rutland City	Scheu of Middlebury
Brumsted of Shelburne	Jessup of Middlesex	Sharpe of Bristol
Burke of Brattleboro	Jickling of Randolph	Sheldon of Middlebury
Christensen of Weathersfield	Johnson of South Hero	Sibilia of Dover *
Christie of Hartford	Joseph of North Hero	Squirrell of Underhill
Cina of Burlington	Keenan of St. Albans City	Stevens of Waterbury
Colburn of Burlington	Kimbell of Woodstock	Sullivan of Dorset *
Conlon of Cornwall	Kitzmiller of Montpelier	Sullivan of Burlington
Connor of Fairfield	Krowinski of Burlington *	Taylor of Colchester
Conquest of Newbury	Lanpher of Vergennes	Till of Jericho *
Copeland-Hanzas of Bradford	Lippert of Hinesburg	Toleno of Brattleboro
Corcoran of Bennington	Long of Newfane	Toll of Danville *
	Lucke of Hartford	Townsend of South

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Dakin of Colchester	Macaig of Williston	Burlington
Deen of Westminster	Masland of Thetford	Trieber of Rockingham
Donovan of Burlington	McCormack of Burlington	Troiano of Stannard
Dunn of Essex	McCullough of Williston	Walz of Barre City
Emmons of Springfield	Miller of Shaftsbury	Webb of Shelburne
Fields of Bennington	Morris of Bennington	Weed of Enosburgh
Forguites of Springfield	Mrowicki of Putney	Wood of Waterbury *
Gannon of Wilmington	Murphy of Fairfax	Yacovone of Morristown
Gardner of Richmond	Noyes of Wolcott	Yantachka of Charlotte *
Giambatista of Essex	Ode of Burlington	Young of Glover
Gonzalez of Winooski	O'Sullivan of Burlington	

Those who voted in the negative are:

Ainsworth of Royalton	Graham of Williamstown	Myers of Essex
Bancroft of Westford	Harrison of Chittenden	Nolan of Morristown
Baser of Bristol	Hebert of Vernon	Norris of Shoreham
Batchelor of Derby	Helm of Fair Haven	Quimby of Concord
Beck of St. Johnsbury	Higley of Lowell	Rosenquist of Georgia
Beyor of Highgate	Juskiewicz of Cambridge	Savage of Swanton
Brennan of Colchester	Keefe of Manchester	Scheuermann of Stowe
Burditt of West Rutland	LaClair of Barre Town	Shaw of Pittsford
Canfield of Fair Haven	Lawrence of Lyndon	Smith of Derby
Cupoli of Rutland City	Lefebvre of Newark	Smith of New Haven
Devereux of Mount Holly	Lewis of Berlin	Strong of Albany
Donahue of Northfield *	Marcotte of Coventry	Terenzini of Rutland Town
Fagan of Rutland City	Martel of Waterford	Turner of Milton *
Feltus of Lyndon	Mattos of Milton	Van Wyck of Ferrisburgh
Frenier of Chelsea	McCoy of Poultney	Viens of Newport City
Gage of Rutland City	McFaun of Barre Town	Willhoit of St. Johnsbury *
Gamache of Swanton	Morrissey of Bennington	Wright of Burlington *

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

Buckholz of Hartford	Condon of Colchester	Parent of St. Albans Town
Carr of Brandon	Dickinson of St. Albans	Pearce of Richford
Chesnut-Tangerman of	Town	Stuart of Brattleboro
Middletown Springs	Lalonde of South Burlington	

**Rep. Ancel of Calais** explained her vote as follows:

“Madam Speaker:

H.13 reduces Vermonters taxes by almost \$30 million. It increases the social security exemption, it increases the Earned Income Tax Credit and it reduces tax rates for everyone. H13 does not, and I emphasize not, address the non-residential property tax rate in any way. In fact, there is nothing in this bill that the Governor has said he opposes. I am proud to support it.”

**Rep. Donahue of Northfield** explained her vote as follows:

“Madam Speaker:

Yelling fire in a crowded theater is not protected speech if there is no fire because people can get trampled and hurt. There is no fire here if we address the underlying tax dispute, instead of diverting the focus into a new debate on what the default tax rate should be if there is no compromise reached by July 1. If we truly believe there is a fire – and now, having wasted two weeks, we are closer to it becoming real – we could put that fire out today by passing this identical bill but removing a non-residential tax rate altogether. It is that easy to resolve in a completely neutral way. Either way, we need to get past this red herring so that the leadership of our state – on all sides – can get down to the real business at hand to resolve the actual areas in dispute.”

**Rep. Krowinski of Burlington** explained her vote as follows:

“Madam Speaker:

I voted yes to keep government open. It’s extremely frustrating to know we could have resolved this today. I will keep fighting to ensure Vermonters get the critical services they deserve.”

**Rep Sibilia of Dover** explained her vote as follows:

“Madam Speaker:

Vermont is undergoing massive education transformation through Act 46. Last year and this year we have pushed forward additional MAJOR reforms in special ed, weighting and considerations for teachers healthcare being negotiated at the state level. These are significant, difficult and cost containing state policy changes being implemented at the local level. I can not and will not willingly vote to undermine the work going on by communities and school districts by supporting a built in tax increase next year that will have absolutely nothing to do with educating Vermont's students as the Governor has proposed. This is what is holding up passing a state budget

**Rep. Sullivan of Dorset** explained her vote as follows:

“Madam Speaker:

I voted today to override Governor Scott’s veto of our budget.

I am not moved to so vote because it is a good bill. I do not think it to be a good bill in its current form.

I am moved only to avoid a Government shutdown – one that I fear will erode public confidence in our government and our Legislature. A shutdown that will unnecessarily hurt Vermonters. A shutdown that would occur without anyone coming forward with a solid explanation that identifies the plan that would be in place should such a monumental feat as a shutdown occur.



I underscore the word ‘unnecessarily.’

I know compromise could have been achieved. In my opinion, a compromise was not vigorously pursued. I thank both the Governor and the Speaker for their meetings with me and other Representatives individually to weigh in on recommended proposals that moved closer to compromise.

I am, however, constrained in the best interests of my constituents to vote reluctantly to override Governor’s Scott’s veto.”

**Rep. Till of Jericho** explained his vote as follows:

“Madam Speaker:

I voted yes. H.13 incorporates a budget that passed this body with tri-partisan support. A budget which increased less than the budgetary increase proposed by the Governor. H.13 holds homestead property taxes unchanged. It reflects the good work of our school boards holding statewide school budget increases to 1.7%, well below what the Governor had requested. H.13 prevents a shutdown of state government with all the negative effects on Vermonters and Vermont’s finances.

The disagreement is about whether to use \$39 million of one time revenue to artificially hold down non-residential property tax. If we do that, the projection is that next year we will need over \$49 million for the same thing. That is terrible and foolish fiscal policy, putting us right back here next year with a bigger fiscal hole to fill.”

**Rep. Toll of Danville** explained her vote as follows:

“Madam Speaker:

It is with great disappointment to see that the FY2019 budget has not been passed by this Chamber today. There has been tri-partisan support for the underlying budget and it is irresponsible to use our state budget as a pawn. Partisan politics should never come before the needs of our constituents. Vermonters rely on government for many aspects of their lives and we have let them all down today.”

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

“Madam Speaker:

My vote prevents a default property tax increase on hardworking Vermonters. My entire tenure in the legislature, Vermonters have been telling me that they can’t afford to pay higher property taxes. Today I vote ‘No’ on a proposed property tax increase. I stand with the Governor and hardworking Vermonters to oppose this unnecessary increase in property taxes. Thank you!”

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**Rep. Willhoit of St. Johnsbury** explained his vote as follows:

“Madam Speaker:

A no vote does not cause a government shutdown. It simply prevents an unnecessary tax increase . . . or no corn dog.

My children on Father’s Day took me to brunch after church. One son, however, wanted a corn dog for lunch. The menu included many options, but not a corn dog. At first, he complained he couldn’t eat then (i.e. shutdown). However, after careful deliberation, he chose mac and cheese.

My hope for all of us is that good compromise and not politics will prevail.”

**Rep. Wood of Waterbury** explained her vote as follows:

“Madam Speaker:

My most conservative constituents have told me they believe the Governor has gone too far by vetoing the budget twice and I agree. They supported my vote to override the Governor’s veto.”

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

“Madam Speaker:

I voted to sustain the veto. The legislature has had plenty of chances to signal a real willingness to compromise. Instead we have wasted a monumental amount of time and sent the Governor not only mixed signals, but bad signals in regard to compromise. The same day that legislative leadership sent the Governor a letter, Friday June 8th, asking him to sign H.13 and ‘we will negotiate in good faith’ Ways and Means was passing a bill that raised the residential rate by 2 cents and the non-homestead rate by 4 cents. Any chance of the Governor signing H.13 was gone. Now, let’s finally get to work at real compromise and avoid a government shutdown.”

**Rep. Yantachka of Charlotte** explained his vote as follows:

“Madame Speaker:

A government shutdown will be bad for Vermont and for Vermonters. It is disconcerting to see that using this threat in place of good faith negotiating and willingness to compromise reflects the same kind of strategies that are we are seeing used in Washington, DC. We have failed to stand up for Vermont values by putting party politics ahead of the interests of all Vermonters.”

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**Favorable Report; Second Reading; Third Reading Ordered;  
Rules Suspended; Third Reading; Bill Passed  
H. 1**

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

An act relating to sexual exploitation of a person in law enforcement officer custody

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.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed

**Rules Suspended; Second Reading;  
Favorable Report; Third Reading Ordered;  
Rules Suspended; Third Reading; Passed in Concurrence  
S. 4**

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to miscellaneous judiciary procedures

Pending entry on the Calendar for notice, was taken up for immediate consideration.

**Rep. Jessup of Middlesex**, for the committee on Judiciary, to which had been referred the Senate bill reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time and third reading was ordered.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence.

**Rules Suspended; Second Reading;  
Favorable Report; Third Reading Ordered;  
Rules Suspended; Third Reading; Passed in Concurrence  
S. 5**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to the mitigation of systemic racism

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Gannon of Wilmington**, for the committee on Government Operations, to which had been referred the Senate bill reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time and third reading was ordered.

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence.

**Rules Suspended; Second Reading; Committee Bill  
Third Reading Ordered; Rules Suspended; Third Reading; Passed  
H. 16**

By the committee on Government Operations

An act relating to vital records;

Was introduced and read the first time.

Thereupon, on Motion of **Rep. Turner of Milton**, the rules were suspended and the bill was taken up for immediate consideration.

**Rep. Devereux of Mount Holly**, for the committee on Government Operations, to which had been referred reported in favor of its passage.

Thereupon, the bill was read the second time and third reading was ordered.

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed.

**Rules Suspended; Second Reading; Favorable Report;  
Third Reading Ordered  
S. 6**

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to short-term rentals

Pending entrance on the Calendar for notice, was taken up for immediate consideration.

**Rep. Head of South Burlington**, for the committee on General, Housing, and Military Affairs, to which had been referred the Senate bill reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time and third reading was ordered.

**Rules Suspended; Bills Messaged to Senate Forthwith**

On motion of **Rep. Turner of Milton**, the rules were suspended and the

following bills were ordered messaged to the Senate forthwith:

**H. 1**

House bill, entitled

An act relating to sexual exploitation of a person in law enforcement officer custody

**H. 16**

House bill, entitled

An act relating to vital records

**S. 4**

Senate bill, entitled

An act relating to miscellaneous judiciary procedures

**S. 5**

Senate bill, entitled

An act relating to the mitigation of systemic racism

**Adjournment**

At two o'clock and forty-seven minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Friday June 22, 2018 at nine o'clock and thirty minutes in the forenoon.