

BILL AS INTRODUCED
1989 (0137B)

ORIGINAL

H.137
Page 1

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H.137

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Introduced by Representatives Stokes of Williston, Bassett of

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Burlington, Conant of Colchester, Emmons of

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Springfield, Fortna of Warren, Luginbuhl of South

5

Burlington, Mendicino of Essex, Parizo of Essex and Van

6

Zandt of Springfield

7

Referred to Committee on *Education*

8

Date: *January 24, 1989*

9

Subject: Libraries; public libraries

10

Statement of purpose: This bill proposes to update the laws relating

11

to public libraries by defining public libraries and by providing for

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confidentiality of library records, protection of library property

13

and requiring municipalities to provide for library services for

14

their residents.

15

AN ACT RELATING TO PUBLIC LIBRARIES

16

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. DECLARATION OF POLICY

The General Assembly hereby declares it to be the policy of the state of Vermont that free public libraries are essential to the general enlightenment of citizens in a democracy and that every citizen of the state of Vermont should have access to the educational, cultural, recreational, informational and research benefits of a free public library.

Sec. 2. 1 V.S.A. § 317(b)(19) is added to read:

(19) Records relating to the identity of library patrons or the identity of library patrons in regard to the circulation of library materials.

Sec. 3. 12 V.S.A. § 5782 is added to read:

§ 5782. LIBRARIES

A person employed by a library with or without compensation shall not be held personally liable for damages resulting from:

- (1) information contained in any library materials; or
- (2) library services provided to library patrons in the course of his or her duties.

Sec. 4. 22 V.S.A. § 101 is amended to read:

§ 101. *[GENERAL AUTHORITY]* DEFINITIONS

[Trustees to whom real or personal property is devised, bequeathed, granted, conveyed or donated for the foundation and establishment of a free public library, may, unless otherwise provided by the deviser, grantor or donor of such property, in order to promote the better establishment, maintenance and management of such library, cause a corporation to be formed under the provisions of sections 102 and 103 of this title.]

As used in this chapter,

(1) "Municipality" means a town, city or incorporated village only and shall not include school districts, incorporated school or fire districts or any other governmental incorporated units.

(2) "Public library" means any library established and maintained by a municipality or by a private association, corporation or group to provide basic library services free of

charge to all residents of a municipality or a community and which receives its annual financial support in whole or in part from public funds.

Sec. 5. 22 V.S.A. § 102 is amended to read:

§ 102. GENERAL AUTHORITY; PROCEDURE

(a) Trustees to whom real or personal property is devised, bequeathed, granted, conveyed or donated for the foundation and establishment of a public library, may, unless otherwise provided by the deviser, grantor or donor of the property, in order to promote the establishment, maintenance and management of the library, form a corporation under the provisions of this section and section 103 of this title.

[a] (b) The trustees may make, sign and acknowledge and file in the office of the secretary of state a statement in writing setting forth the intent of the trustees to form a corporation, a copy of the will or instrument by which the endowment of such library is provided, the name adopted for the corporation, which shall not be the name of a corporation already existing, and the name of the *[town or village]* municipality in which *[such]* the library and the principal place of business of *[such]* the corporation will be located, the *[number of]* managers who may be *[denominated]* designated trustees, managers or directors of such corporation, and the names of the trustees, managers or directors who are to constitute the original board and who shall hold office until their successors are *[respectively]* elected and qualified as provided in section 106 of this title.

[(b)] (c) The secretary of state *[shall forthwith, upon the finding of such]* shall, upon receipt of the statement, issue to the incorporators, under *[his hand and]* seal, a certificate of which *[such]* the statement shall be a part, declaring that the organization of the corporation is perfected. The incorporators shall *[forthwith cause such certificate to be recorded]* record the certificate in the office of the county clerk of the county in which *[such]* the library is to be located *[*; and thereupon]* . Upon recording of the certificate, the corporation shall be deemed fully

organized and may proceed to carry out its corporate purposes and receive by conveyance from the trustees the property provided for the endowment of *[such library, and]* the library. The corporation may hold the *[same]* property in whatever form it *[may have been]* was received or conveyed by *[such]* the trustees, until *[such form shall be]* that form is changed by action of *[such]* the corporation.

Sec. 6. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS

[Such] The trustees, managers or directors shall elect the officers of the corporation from their number and have the control and management of the affairs and property of the *[same,]* corporation, may accept donations and, in their discretion, hold the *[same]* donations in the form in which they are given for the purposes of science, literature and art germane to the objects and purposes of *[such]* the corporation. They may, in their discretion, receive by loan, books, manuscripts, *[and]* works of art, and other library materials and hold or circulate *[the same under such conditions as the owners thereof may specify. The provisions of sections 3731 and 3732 of Title 13 shall apply to the injury and removal of such books, manuscripts and works of art.]* them under the conditions specified by the owners.

Sec. 7. 22 V.S.A. § 110 is amended to read:

§ 110. MERGER

Two or more library corporations in the same *[town]* municipality or in different municipalities may, by a majority vote of the members of *[each of such]* all the corporations, at meetings *[thereof]* warned for that purpose, unite and assume the corporate name of *[either of such]* any one of the corporations. The plan of incorporation shall contain regulations necessary to carry out the provisions of this chapter.

Sec. 8. 22 V.S.A. § 111 is added to read:

§ 111. PROTECTION OF LIBRARY PROPERTY; PENALTIES

(a) A library may recover in a civil action damages for detained or damaged library property, together with costs and reasonable attorney fees.

(b) A person who wilfully damages or defaces or removes without authorization any recording, book or object available for public use or loan from a library or repository of public records or documents or who detains any library property for more than 30 days after a written notice to return the property has been mailed shall be fined not more than \$500.00 for each offense. Each piece of library property shall be a single offense.

Sec. 9. REDESIGNATION

Subchapter 3 of chapter 3 of Title 22 is redesignated as:

Subchapter 3. *[Town and Village]* Municipal Libraries

Sec. 10. 22 V.S.A. § 141 is amended to read:

§ 141. ESTABLISHMENT AND MAINTENANCE

(a) A *[town or incorporated village]* municipality may establish and maintain for the use of its *[inhabitants]* residents public *[libraries,]* libraries.

(b) A municipality may provide library services *[with or without branches, which may render service to other towns and the inhabitants thereof]* to the residents of other municipalities, upon terms to be agreed upon, and may annually contract with a library or library corporation to furnish *[books]* library materials to its *[inhabitants free,]* residents free of charge and may appropriate money *[therefor,]* for that purpose and may annually appropriate money for the maintenance, care, increase and support of a library held in trust for *[such town or incorporated village or the inhabitants thereof]* the residents of the municipality.

Sec. 11. 22 V.S.A. § 142 is amended to read:

§ 142. APPROPRIATIONS

A *[town or incorporated village]* municipality establishing and maintaining a library or contracting for library services may appropriate money as necessary for suitable *[rooms and buildings]* facilities and for the foundation of *[such]* a public library *, a sum not exceeding \$3.00 for each ratable poll in such town or village in the preceding year, and may also]* and shall appropriate money annually for the maintenance, care and increase *[thereof,]*

of the library *[such sum of money as such town or village may vote at its annual meeting, and may receive, hold and manage a devise, bequest or gift for a public library.]* in an amount voted at its annual meeting.

Sec. 12. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES

(a) *[A town or incorporated village]* Unless a municipality which has established or shall establish a public library *[may elect]* votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. The board shall consist of not less than five trustees who shall have full power to manage *[such public library]* the public library, make bylaws, elect officers, establish a library policy and *[to]* receive, control and manage property which shall come into the hands of *[such town or village]* the municipality by gift, purchase, devise or bequest for the use and benefit of *[such]* the library. The board may appoint a director for the efficient administration and conduct of the library.

(b) *[At the meeting when such]* When trustees are first chosen, they shall be elected *[for the following terms: one for one year, one for two years, one for three years, one for four years and one for five years, and until their respective successors are chosen]* or appointed for staggered terms. *[Annually thereafter such town or village shall elect one such trustee whose term of office shall be for five years from and including the date of such election.]*

Sec. 13. 22 V.S.A. § 144 is amended to read:

§ 144. ANNUAL REPORT

[Such] The trustees shall annually make a report to the annual meeting of the *[town or incorporated village]* municipality of the condition of the library and of the management and expenditure of *[such]* moneys as have come into their hands.

Sec. 14. 22 V.S.A. § 145 is amended to read:

§ 145. WHEN NO TRUSTEE ELECTED OR APPOINTED

When no trustees have been elected or appointed, moneys raised for a library shall be paid out by an agent to be appointed by the *[selectmen of a town, and trustees of an incorporated village or the mayor of a city]* governing body of the municipality until trustees are elected or appointed pursuant to section 143 of this title.

Sec. 15. 22 V.S.A. § 146 is amended to read:

§ 146. PUBLIC DOCUMENTS AND VOLUMES

(a) *[When a town has established a public library, at an annual meeting, such town]* The governing body of the municipality may vote to place in *[such]* the library a copy of *[such]* any documents and volumes *[theretofore]* received by *[such town]* the municipality *[for it or its town clerk's office, as it shall designate,]* and also a copy of *[such]* any documents and volumes *[thereafter to be]* received from the state, except *[the Vermont Reports and other books and documents]* library materials provided by law to be kept in the office of the town clerk, as it shall designate. *[Such]* These *[books]* materials shall remain the property of the *[town]* municipality, but their use shall be enjoyed by *[such]* the library until *[such town]* the governing body votes otherwise.

(b) The state librarian shall deliver to a *[town]* public library that has been voted *[by its town]* the use of *[books]* documents owned by *[such town]* the municipality, *[such]* the duplicate documents and volumes published or provided by the state *[, as can]* which, in the judgment of the board of libraries, can be delivered without prejudice to the department of libraries. *[Such documents and volumes shall be delivered on application stating what books have already been received from the town.]*
[Such] The documents and volumes shall remain the property of the state, but *[their use shall be enjoyed by such library,]* the library shall use them until the state librarian is directed by law to demand their return to the *[state library]* department of libraries.

1 ~~Sec. 1. DECLARATION OF POLICY~~

2 The General Assembly hereby declares it to be the policy of the
3 state of Vermont that free public libraries are essential to the
4 general enlightenment of citizens in a democracy; that every citizen
5 of the state of Vermont should have access to the many benefits of a
6 free public library; that free public libraries shall provide for the
7 educational, cultural, recreational, informational and research needs
8 of all citizens without charge; and that it is the responsibility of
9 government at all levels to provide adequate financial support for
10 free public libraries.

11 Sec. 2. 1 V.S.A. § 317(b)(19) is added to read:

12 (19) Records relating to the identity of library patrons or the
13 identity of library patrons in regard to the circulation of public
14 library materials.

15 Sec. 3. 12 V.S.A. § 5782 is added to read:

16 § 5782. LIBRARIES

17 A person employed by a library with or without compensation shall
18 not be held personally liable for damages resulting from:

19 (1) information contained in any library materials; or

20 (2) library services provided to library patrons in the normal
21 course of their duties.

1 ~~Sec. 4. 22 V.S.A. § 101 is amended to read:~~

2 § 101. *[GENERAL AUTHORITY]* DEFINITION

3 *[Trustees to whom real or personal property is devised, bequeathed,
4 granted, conveyed or donated for the foundation and establishment of
5 a free public library, may, unless otherwise provided by the deviser,
6 grantor or donor of such property, in order to promote the better
7 establishment, maintenance and management of such library, cause a
8 corporation to be formed under the provisions of sections 102 and 103
9 of this title.]*

10 A public library means any library established and maintained by a
11 municipality or by a private association, corporation or group to
12 provide basic library services free of charge to all residents of a
13 municipality or a community and which receives its annual financial
14 support in whole or in part from public funds.

15 Sec. 5. 22 V.S.A. § 102 is amended to read:

16 § 102. GENERAL AUTHORITY; PROCEDURE

17 (a) Trustees to whom real or personal property is devised,
18 bequeathed, granted, conveyed or donated for the foundation and
19 establishment of a public library, may, unless otherwise provided by
20 the deviser, grantor or donor of the property, in order to promote
21 the establishment, maintenance and management of the library, form a
22 corporation under the provisions of this section and section 103 of
23 this title.

1 ~~*[a]* (b)~~ The trustees may make, sign and acknowledge and file in
2 the office of the secretary of state a statement in writing setting
3 forth the intent of the trustees to form a corporation, a copy of the
4 will or instrument by which the endowment of such library is
5 provided, the name adopted for the corporation, which shall not be
6 the name of a corporation already existing, and the name of the
7 ~~*[town or village]* municipality~~ in which ~~*[such]* the~~ library and
8 the principal place of business of ~~*[such]* the~~ corporation will be
9 located, the ~~*[number of]*~~ managers who may be ~~*[denominated]*~~
10 designated trustees, managers or directors of such corporation, and
11 the names of the trustees, managers or directors who are to
12 constitute the original board and who shall hold office until their
13 successors are ~~*[respectively]*~~ elected and qualified as provided in
14 section 106 of this title.

15 ~~*[(b)]* (c)~~ The secretary of state ~~*[shall forthwith, upon the~~
16 ~~finding of such]* shall, upon receipt of the~~ statement, issue to the
17 incorporators, under ~~*[his hand and]*~~ seal, a certificate of which
18 ~~*[such]* the~~ statement shall be a part, declaring that the
19 organization of the corporation is perfected. The incorporators
20 shall ~~*[forthwith cause such certificate to be recorded]*~~ record the
21 certificate in the office of the county clerk of the county in which
22 ~~*[such]* the~~ library is to be located ~~*[; and thereupon]*~~ . Upon
23 ~~recording of the certificate, the corporation shall be deemed fully~~

1 ~~organized and may proceed to carry out its corporate purposes and~~
2 receive by conveyance from the trustees the property provided for the
3 endowment of *[such library, and]* the library. The corporation may
4 hold the *[same]* property in whatever form it *[may have been]* was
5 received or conveyed by *[such]* the trustees, until *[such form
6 shall be]* that form is changed by action of *[such]* the
7 corporation.

8 Sec. 6. 22 V.S.A. § 105 is amended to read:

9 § 105. GENERAL POWERS

10 *[Such]* The trustees, managers or directors shall elect the
11 officers of the corporation from their number and have the control
12 and management of the affairs and property of the *[same,]*
13 corporation, may accept donations and, in their discretion, hold the
14 *[same]* donations in the form in which they are given for the
15 purposes of science, literature and art germane to the objects and
16 purposes of *[such]* the corporation. They may, in their discretion,
17 receive by loan, books, manuscripts, *[and]* works of art, and other
18 library materials and hold or circulate *[the same under such
19 conditions as the owners thereof may specify. The provisions of
20 sections 3731 and 3732 of Title 13 shall apply to the injury and
21 removal of such books, manuscripts and works of art.]* them under
22 the conditions specified by the owners.

1 ~~Sec. 7. 22 V.S.A. § 110 is amended to read:~~

2 § 110. MERGER

3 Two or more library corporations in the same *[town]* municipality
4 or in different municipalities may, by a majority vote of the members
5 of *[each of such]* all the corporations, at meetings *[thereof]*
6 warned for that purpose, unite and assume the corporate name of
7 *[either of such]* any one of the corporations.

8 Sec. 8. 22 V.S.A. § 111 is added to read:

9 § 111. PROTECTION OF LIBRARY PROPERTY; PENALTIES

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11 or damaged library property, together with costs and reasonable
12 attorney fees.

13 (b) A person who wilfully damages or defaces or removes without
14 authorization any recording, book or object available for public use
15 or loan from a library or repository of public records or documents
16 or who detains any library property for more than 30 days after a
17 written notice to return the property has been mailed shall be fined
18 not more than \$500.00 for each offense. Each piece of library
19 property shall be a single offense.

20 Sec. 9. REDESIGNATION

21 Subchapter 3 of chapter 3 of Title 22 is redesignated as:

22 ~~Subchapter 3. *[Town and Village]* Municipal Libraries~~

1 ~~Sec. 10. 22 V.S.A. § 141 is amended to read:~~

2 § 141. ESTABLISHMENT AND MAINTENANCE

3 (a) A *[town or incorporated village]* municipality may establish
4 and maintain for the use of its *[inhabitants]* residents public
5 *[libraries,]* libraries.

6 (b) A municipality may provide library service *[with or without
7 branches, which may render service to other towns and the inhabitants
8 thereof]* to the residents of other municipalities, upon terms to be
9 agreed upon, and may annually contract with a library or library
10 corporation to furnish books to its *[inhabitants free,]* residents
11 free of charge and may appropriate money *[therefor,]* for that
12 purpose and may annually appropriate money for the maintenance, care,
13 increase and support of a library held in trust for *[such town or
14 incorporated village or the inhabitants thereof]* the residents of
15 the municipality.

16 Sec. 11. 22 V.S.A. § 142 is amended to read:

17 § 142. APPROPRIATIONS

18 A *[town or incorporated village]* municipality establishing and
19 maintaining a library or contracting for library services may
20 appropriate money as necessary for suitable *[rooms and buildings]*
21 facilities and for the foundation of *[such]* a public library *[, a
22 sum not exceeding \$3.00 for each ratable poll in such town or village
23 ~~in the preceding year, and may also]* and shall appropriate money~~

1 ~~annually for the maintenance, care and increase *[thereof,]* of the~~
2 library *[such sum of money as such town or village may vote at its
3 annual meeting, and may receive, hold and manage a devise, bequest or
4 gift for a public library.]* in an amount voted at its annual meeting.


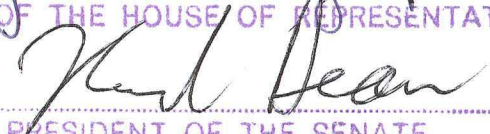
5 Sec. 12. 22 V.S.A. § 143 is amended to read:

6 § 143. TRUSTEES

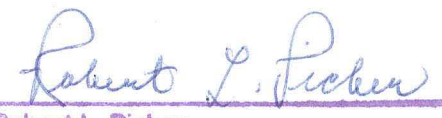
7 (a) A *[town or incorporated village]* municipality which has
8 established or shall establish a public library *[may elect]* shall
9 decide at its annual meeting to appoint or elect a board of trustees.
10 The appointment or election of the trustees shall continue in effect
11 until changed at an annual meeting of the municipality. The board
12 shall consist of not less than five nor more than nine trustees who
13 shall have full power to manage *[such public library]* the public
14 library, make bylaws, elect officers, establish a library policy and
15 *[to]* receive, control and manage property which shall come into the
16 hands of *[such town or village]* the municipality by gift, purchase,
17 devise or bequest for the use and benefit of *[such]* the library.
18 The board may appoint a director for the efficient administration and
19 conduct of the library.

20 (b) *[At the meeting when such]* When trustees are first chosen,
21 they shall be elected *[for the following terms: one for one year,
22 one for two years, one for three years, one for four years and one
23 ~~for five years, and until their respective successors are chosen]* or~~

(c) When a public library exists in a *[town]* municipality and is not established by it, *[such town]* the municipality may, at an annual meeting, by a two-thirds vote, make the provisions of subsection (a) *[in respect to use of books owned by the town,]* apply to *[such]* the library; and, in case of such vote, the provisions of subsection (b) shall apply to *[such]* the library the same as if it were established and maintained by *[such town]* the municipality.


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE,

ATTESTED TO:


Robert L. Picher
Clerk of the House of Representatives

 4/26/89
GOVERNOR

1 ~~appointed for staggered terms. *[Annually thereafter such town or~~
2 village shall elect one such trustee whose term of office shall be
3 for five years from and including the date of such election.]*

4 Sec. 13. 22 V.S.A. § 144 is amended to read:

5 § 144. --ANNUAL REPORT

6 *[Such]* The trustees shall annually make a report to the annual
7 meeting of the *[town or incorporated village]* municipality of the
8 condition of the library and of the management and expenditure of
9 *[such]* moneys as have come into their hands.

10 Sec. 14. 22 V.S.A. § 145 is amended to read:

11 § 145. WHEN NO TRUSTEE ELECTED

12 When no trustees have been elected or appointed, moneys raised for
13 a library shall be paid out by an agent to be appointed by the
14 *[selectmen of a town, and trustees of an incorporated village or the
15 mayor of a city]* governing body of the municipality until trustees
16 are elected or appointed pursuant to section 143 of this title.

17 Sec. 15. 22 V.S.A. § 146 is amended to read:

18 § 146. PUBLIC DOCUMENTS AND VOLUMES

19 (a) When a *[town]* municipality has established a public library,
20 at an annual meeting, *[such town]* the municipality may vote to
21 place in *[such]* the library a copy of *[such]* any documents and
22 volumes *[theretofore]* received by *[such town]* the municipality
23 ~~for it or its town clerk's office, as it shall designate, and also a~~

1 ~~copy of *[such]* any documents and volumes *[thereafter to be]*~~
2 received from the state, except *[the Vermont Reports and other books
3 and documents]* library materials provided by law to be kept in the
4 office of the town clerk, as it shall designate. *[Such]* These
5 *[books]* materials shall remain the property of the *[town]*
6 municipality, but their use shall be enjoyed by *[such]* the library
7 until *[such town]* the municipality votes otherwise.

8 (b) The state librarian shall deliver to a *[town]* public library
9 that has been voted by its *[town]* municipality the use of *[books]*
10 documents owned by *[such town]* the municipality, such duplicate
11 documents and volumes published or provided by the state, as can, in
12 the judgment of the board of libraries, be delivered without
13 prejudice to the department of libraries. *[Such]* The documents and
14 volumes shall be delivered on application stating what *[books]*
15 documents have already been received from the *[town]* municipality.
16 *[Such]* The documents and volumes shall remain the property of the
17 state, but their use shall be enjoyed by *[such library,]* the
18 library until the state librarian is directed by law to demand their
19 return to the *[state library]* department of libraries.

20 (c) When a public library exists in a *[town]* municipality and is
21 not established by it, *[such town]* the municipality may, at an
22 annual meeting, by a two-thirds vote, make the provisions of
23 ~~subsection (a) in respect to use of *[books]* materials owned by the~~

1 ~~*[town]* municipality, apply to *[such]* the library; and, in case of~~
2 ~~such vote, the provisions of subsection (b) shall apply to *[such]*~~
3 ~~the library the same as if it were established and maintained by~~
4 ~~*[such town]* the municipality.~~

EDRC.

ORIGINAL

H.137

AN ACT RELATING TO PUBLIC LIBRARIES.

House of Representatives,

3/14, 1989

ENTERED ON THE CALENDAR FOR NOTICE.

Donald Melius

FIRST ASST CLERK

HOUSE OF REPRESENTATIVES

3/21, 1989

REP. FAV. WITH RECOM. OF

AMEND. BY C. ON

Education

REP. FAV. WITH RECOM. OF

AMEND. BY C. ON

RD 2nd T., RECOM. OF

AMEND. OF C. ON

AGREED TO RECOM. OF C. ON

AGREED TO AND 3rd RDG. ORDERED.

Donald Melius

FIRST ASST CLERK

House of Representatives,

3/22, 1989

READ THIRD TIME AND PASSED, AND TITLE

AMENDED.

Donald Melius

FIRST ASST CLERK

SENATE CHAMBER

4/6, 1989

ENTERED ON CALENDAR FOR NOTICE.

Al Branch

ASSISTANT - SECRETARY

SENATE CHAMBER

4/7, 1989

REPORTED FAVORABLY, READ THE
SECOND TIME AND THIRD READING
ORDERED.

Al Branch

ASSISTANT - SECRETARY

SENATE CHAMBER

4/11, 1989

READ THIRD TIME AND PASSED IN
CONCURRENCE.

Al Branch

ASSISTANT - SECRETARY

HOUSE OF REPRESENTATIVES

January 24, 1989

Introduced by Representatives Stokes
of Williston, Bassett of Burlington,
Conant of Colchester, Emmons of
Springfield, Fortna of Warren,
Luginbuhl of South Burlington,
Mendicino of Essex, Parizo of Essex
and Van Zandt of Springfield.

Read the first time and referred to
Committee on *Education*

SENATE CHAMBER

3/24, 1989

READ AND REFERRED TO

Senate

ON *Education* COMMITTEE

Al Branch

ASSISTANT - SECRETARY

Robert L. Parker

Clerk