

House Calendar

THURSDAY, APRIL 2, 2009

86th DAY OF BIENNIAL SESSION

House Convenes at 9:30 A. M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Committee Bill for Second Reading

H. 441 Making Appropriations for the Support of Government.....	818
Rep. Heath for Appropriations	
Rep. Heath Amendment.....	818
Rep. Donovan Amendment.....	818
Rep. Fisher et al Amendment.....	821

Favorable with Amendment

S. 115 Relating to Civil Marriage.....	822
Rep. Lippert for Judiciary	
Rep. Donahue Amendment.....	828
Rep. Helm et al Amendment.....	830

For Action Under Rule 52

H.R. 11 Requesting Regulatory Officials to Work Cooperatively	830
--	-----

Action Postponed Until Tuesday, April 7, 2009

For Action Under Rule 52

J.R.H. 16 Designating April as Fair Housing Month in VT.....	830
---	-----

Favorable with Amendment

H. 147 Operation of Motor Vehicle by Junior Operators/Seat Belts.....	830
--	-----

ORDERS OF THE DAY

ACTION CALENDAR

Committee Bill for Second Reading

H. 441

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

(Rep. Heath of Westford will speak for the Committee on Appropriations.)

Amendment to be offered by Rep. Heath of Westford to H. 441

Moves that the bill be amended as follows:

In Sec.B.813, lines 17 and 21, by striking the figure “\$17,933,436” and inserting the figure \$21,933,436 and in line 19 by striking the figure “\$6,326,622” and inserting the figure \$10,326,662.

Amendment to be offered by Rep. Donovan of Burlington to H. 441

Moves that the bill be amended by adding two new sections to be Secs. E.500.1 and E.500.2 to read:

Sec. E.500.1 THE AMERICAN RECOVERY AND INVESTMENT ACT OF 2009; EDUCATION

(a) The American Recovery and Reinvestment Act of 2009.

(1) The American Recovery and Reinvestment Act of 2009 (ARRA) provides billions of dollars in federal funds to stimulate the economy in the short term and to invest in education and other essential public services necessary to ensure the long-term economic health of the nation.

(2) Four principles guide distribution of ARRA funds:

(A) Spend funds quickly to save and create jobs.

(B) Improve student achievement through school reform.

(C) Ensure transparency, reporting, and accountability.

(D) Invest one-time ARRA funds thoughtfully to minimize unsustainable recurring costs in the future.

(b) Title VIII of the ARRA. In Title VIII, the ARRA appropriates additional funding to supervisory unions and school districts through existing federal programs, such as Title I of the Elementary and Secondary Education Act (Title I) and the Individuals with Disabilities Education Act (IDEA), to enhance and develop educational practices and outcomes for students who are

disadvantaged or disabled, to provide supports for the lowest performing schools, and to promote innovation and improvement in education for all students.

(c) Title XIV of the ARRA. In Title XIV, the ARRA provides funding for education purposes through the newly created State Fiscal Stabilization Fund (SFSF).

(1) The ARRA requires “assurances” that SFSF funds are used for:

(A) College- and career-ready standards and high quality, valid, and reliable assessments for all students, including English language learners and students with disabilities.

(B) Teacher effectiveness and equitable distribution of effective teachers.

(C) Pre-K to higher education data that meet the principles in the America COMPETES Act.

(D) Intensive support and effective interventions for lowest-performing schools.

(2) Local Education Agencies (LEAs) may use SFSF funds for any activity authorized under Title I, IDEA, and other federal education programs, including for the modernization of school facilities and the payment of salaries to avoid teacher layoffs.

(3) LEAs are encouraged to use funds for activities that advance progress on the assurances set out in subdivision (1) of this subsection and that drive lasting results without creating unsustainable recurring costs.

(4) SFSF education funds for elementary and secondary schools must run through the state’s primary funding formula.

(d) Department of education. The general assembly recognizes that, if it has the capacity, the department of education shall help supervisory unions and school districts to use IDEA, Title I, and other federal stimulus funds, both within and among these entities, in coordinated, fiscally prudent ways that advance the educational purposes of the ARRA. Therefore, it is the intent of the general assembly to ensure that the department has the positions and funding that it needs to help supervisory unions and school districts. Examples of departmental assistance include:

(1) Developing, coordinating, or providing professional development models to assist implementation of evidence-based strategies to:

(A) Increase student participation and achievement levels, such as through responsiveness to intervention (RTI), positive behavioral supports

(PBS), differentiated instruction (DI), the Vermont integrated instructional model (VIIM), and the formative assessment project.

(B) Provide effective prevention and intervention strategies to support students at risk of not completing high school.

(C) Promote secondary school transformation.

(D) Support early intervention and early childhood education.

(2) Coordinating early intervention and early education services statewide.

(3) Aiding school districts to provide assistive technology equipment not otherwise available to them through existing funding sources.

(e) Supervisory unions and school districts. It is the intent of the general assembly that federal IDEA, Title I, and any other federal stimulus funds received by supervisory unions or school districts are used in fiscally prudent ways to advance the purposes of the ARRA as it relates to education without creating unsustainable recurring costs, such as:

(1) To provide intensive professional development opportunities in special education and general education that focus on implementing innovative, evidence-based, schoolwide strategies in reading, math, and science and in the use of positive behavioral interventions and supports.

(2) To establish a system to identify and train highly effective teachers to serve as instructional leaders and mentors.

(3) To implement innovative, flexible, evidence-based programs and practices to identify and support students who are at risk of not completing high school.

(4) To implement student progress monitoring systems to assist teachers and administrators to collect and use data to improve instruction and learning for all students.

(5) To provide intensive training and coaching to teachers, administrators, and para-educators to improve services provided to students with disabilities, including autism and emotional behavioral disorders.

(6) To save existing jobs and create new Pre-K–12 positions by, among other things, paying salaries of teachers and other school employees.

(7) To provide additional intervention services for children with disabilities who are eligible for early childhood education as that term is defined in 16 V.S.A. § 11(a)(31).

(8) To support the training and certification of early childhood educators working in a program offered by or through a school district.

(9) To increase the federal share of special education costs.

Sec. E.500.2 FIVE LIMITED SERVICE POSITIONS WITHIN THE DEPARTMENT OF EDUCATION

(a) Five limited service positions are authorized within the department of education to support implementation of Sec. E.500.1 of this act, including one exempt attorney position to specialize in special education law, one program coordinator I position, and three education consultant II positions.

(b) The sum of \$325,000.00 is appropriated to the department of education from the special fund created in subsection 2959a(b) of Title 16 through an allocation made pursuant to subsection 2959a(f) of that title.

Amendment to be offered by Reps. Fisher of Lincoln, Jewett of Ripton, Lanpher of Vergennes, Maier of Middlebury, Nuovo of Middlebury, Sharpe of Bristol and Stevens of Shoreham to H. 441

Move to amend the bill by adding Secs. E.343 and E.344 to read:

Sec. E.343 3 V.S.A. § 4005(c) is added to read:

(c) Notwithstanding any other provisions of law to the contrary or any action of the secretary of administration pursuant to section 704 of Title 32, any change in the current organization or functions of the administrative districts and offices of the agency of human services, as set forth in sections 4001 and 4002 of Title 3, shall only be made by enactment by the general assembly.

Sec. E.344 32 V.S.A. § 704(h) is added to read:

(h) Notwithstanding any part of this section to the contrary, no expenditure reduction plan under this section shall involve a change in the current organization or functions of the administrative districts and offices of the agency of human services, as set forth in sections 4001 and 4002 of Title 3.

Favorable with Amendment

S. 115

An act relating to civil marriage.

Rep. Lippert of Hinesburg, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act may be referred to and cited as “An Act to Protect Religious Freedom and Promote Equality in Civil Marriage.”

Sec. 2. PURPOSE

The purpose of this act is to promote legal equality in the civil marriage laws and to protect the religious freedom of clergy and religious societies authorized to solemnize civil marriages.

Sec. 3. 15 V.S.A. § 1a is added to read:

§ 1a. PERSON FORBIDDEN TO MARRY A RELATIVE

No person shall marry his or her parent, grandparent, child, grandchild, sibling, sibling’s child, or parent’s sibling.

Sec. 4. 15 V.S.A. § 4 is amended to read:

§ 4. MARRIAGE CONTRACTED WHILE ONE IN FORCE

Marriages contracted while either party ~~has a living spouse or a living party to a civil union~~ is legally married or joined in civil union to a living person other than the party to that marriage shall be void.

Sec. 5. 15 V.S.A. § 8 is amended to read:

§ 8. MARRIAGE DEFINITION

Marriage is the legally recognized union of ~~one man and one woman~~ two people. When used in this chapter or in any other statute, the word “marriage” shall mean a civil marriage. Terms relating to the marital relationship or familial relationships shall be construed consistently with this section for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law.

Sec. 6. 15 V.S.A. § 1202(2) is amended to read:

(2) Be of the same sex ~~and therefore excluded from the marriage laws of this state.~~

Sec. 7. 18 V.S.A. § 5131(a) is amended to read:

(a)(1) Upon application in a form prescribed by the department, a town clerk shall issue to a person a civil marriage license in the form prescribed by the department and shall enter thereon the names of the parties to the proposed marriage, fill out the form as far as practicable and retain in the clerk’s office a copy thereof.

(2) The department shall prescribe forms that allow each party to a marriage to be designated “bride,” “groom,” or “spouse,” as he or she chooses, and the application shall be in substantially the following form:

VERMONT DEPARTMENT OF HEALTH

APPLICATION FOR VERMONT LICENSE OF CIVIL MARRIAGE

FEE FOR CIVIL MARRIAGE LICENSE: \$45.00, FEE FOR CERTIFIED COPY \$10.00

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)		
SEX	DATE OF BIRTH (e.g., July 1, 2009)	AGE
BIRTHPLACE		EDUCATION (Circle No. Yrs. Completed)
	GRAD ES	GRAD ES COLLEG E
RESIDENCE (No. and Street)		
CITY OR TOWN	COUNTY	STATE
RACE – White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino (Specify)		
FATHER’S NAME (First, Middle, Last)		
FATHER’S BIRTHPLACE (State or Foreign Country)	MOTHER’S BIRTHPLACE (State or Foreign Country)	
MOTHER’S MAIDEN NAME (First, Middle, Maiden Surname)		
NO. OF THIS MARRIAGE (1st, 2nd, etc.)	NO. OF CIVIL UNIONS	IF PREVIOUSLY IN MARRIAGE OR CIVIL UNION, LAST RELATIONSHIP WAS 1. MARRIAGE 2. CIVIL UNION
Date last marriage or civil union ended _____ Month Year		

LAST RELATIONSHIP ENDED BY:	
1. <input type="checkbox"/> DEATH	2. <input type="checkbox"/> DISSOLUTION
3. <input type="checkbox"/> ANNULMENT	
4. <input type="checkbox"/> PREVIOUS CIVIL UNION DID NOT END. MARRYING CIVIL PARTNER	UNION
Does either party have a legal guardian _____ Yes	
No	

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)			
SEX	DATE OF BIRTH (e.g., July 1, 2009)		AGE
BIRTHPLACE		EDUCATION (Circle No. Yrs. Completed)	
		GRADES 1-8	GRAD ES COLLEG E
RESIDENCE (No. and Street)			
CITY OR TOWN		COUNTY	STATE
RACE – White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino (Specify)			
FATHER’S NAME (First, Middle, Last)			
FATHER’S BIRTHPLACE (State or Foreign Country)		MOTHER’S BIRTHPLACE (State or Foreign Country)	
MOTHER’S MAIDEN NAME (First, Middle, Maiden Surname)			
NO. OF THIS MARRIAGE (1st, 2nd, etc.)	NO. OF CIVIL UNIONS	IF PREVIOUSLY IN MARRIAGE OR CIVIL UNION, LAST RELATIONSHIP WAS 1. MARRIAGE 2. CIVIL UNION	

Date last marriage or civil union ended _____ Month _____	
LAST RELATIONSHIP ENDED BY:	
1. <input type="checkbox"/> DEATH 2. <input type="checkbox"/> DISSOLUTION 3. <input type="checkbox"/> ANNULMENT	
4. <input type="checkbox"/> PREVIOUS CIVIL UNION DID NOT END. MARRYING CIVIL UNION	
Does either party have a legal guardian _____ Yes _____ No _____	
APPLICANTS	
We hereby certify that the information provided is correct to the best of our knowledge and belief and that we are free to marry under the laws of Vermont.	
SIGNATURE _____	
SIGNATURE _____	
Date signed: _____	Date signed: _____
Planned marriage date _____ Location (City or town) _____	
Officiant Name _____	& Address _____
Your mailing address _____	after wedding _____
Do you want a certified copy of your Marriage Certificate? (\$10.00)	
_____ Yes _____ No	

Date License issued _____ Clerk issuing License _____

This worksheet may be destroyed after marriage is registered.

(3) At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by the clerk of the town where either ~~the bride or groom~~ party resides or, if neither is a resident of the state, by any town clerk in the state.

Sec. 8. 18 V.S.A. § 5142 is amended to read:

§ 5142. RESTRICTIONS AS TO MINORS AND INCOMPETENT PERSONS

A clerk shall not issue a marriage license when either party to the intended marriage is:

(1) A person who has not attained his majority without the consent in writing of one of the parents if there is one competent to act; or the guardian of such minor;

(2) Nor with such consent when either party is under ~~sixteen~~ 16 years of age ~~unless furnished with a certificate of a probate, district or superior judge, of the district or county in which one of the applicants resides, if either applicant is a resident of the state, otherwise of the district or county in which the marriage is sought to be consummated, that the public good requires such license to be issued;~~

(3) Nor when either of the parties to the intended marriage is non compos mentis;

(4) Nor to a person under guardianship without the written consent of such guardian;

~~(5) Nor in any case when either party is under fourteen years of age.~~

Sec. 9. 18 V.S.A. § 5144 is amended to read:

§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

(a) Marriages may be solemnized by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace, an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate court of the district within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if such probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

(b) This section does not require a member of the clergy authorized to solemnize a marriage as set forth in subsection (a) of this section, nor societies of Friends or Quakers, the Christadelphian Ecclesia, or the Baha'i Faith to

solemnize any marriage, and any refusal to do so shall not create any civil claim or cause of action.

Sec. 10. 8 V.S.A. § 4501 is amended to read:

§ 4501. EXEMPTIONS

(a) Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

(b) The civil marriage laws shall not be construed to affect the ability of a society to determine the admission of its members as provided in section 4464 of this title, or to determine the scope of beneficiaries in accordance with section 4477 of this title, and shall not require a society that has been established and is operating for charitable and educational purposes and which is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the society's free exercise of religion, as guaranteed by the First Amendment to the Constitution of United States or by Chapter I, Article 3 of the Constitution of the State of Vermont.

Sec. 11. 9 V.S.A. § 4502 is amended to read:

§ 4502. PUBLIC ACCOMMODATIONS

* * *

(1) Notwithstanding any other provision of law, a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods, or privileges is related to the solemnization of a marriage or celebration of a marriage. Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this subsection shall not create any civil claim or cause of action. This subsection shall not be construed to limit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from selectively providing services, accommodations, advantages, facilities, goods, or privileges to some individuals with respect to the solemnization or celebration of a marriage but not to others.

Sec. 12. REPEAL

(a) The following sections in Title 15 are repealed:

- (1) § 1 (man forbidden to marry relatives);
- (2) § 2 (woman forbidden to marry relatives);
- (3) § 5 (marriage entered into in another state);
- (4) § 6 (marriage void in state of residence);
- (5) § 1201(4) (definition of marriage).

(b) The following sections in Title 18 are repealed:

- (1) § 5160 (issuance of civil union license; certification; return of civil union certificate);
- (2) § 5161 (issuance of license);
- (3) § 5162 (proof of legal qualifications of parties to a civil union; penalty);
- (4) § 5163 (restrictions as to minors and incompetent persons);
- (5) § 5164 (persons authorized to certify civil unions);
- (6) § 5164a (temporary officiant for civil unions);
- (7) § 5165 (civil union license required for certification; failure to return).

Sec. 13. EFFECTIVE DATE

This act shall take effect September 1, 2009.

(Committee vote: 8-2-1)

Amendment to be offered by Rep. Donahue of Northfield to S. 115

Moves that the bill be amended as follows:

First: In Sec. 1, by striking the word “Promote” and inserting in lieu thereof “Recognize”

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. PURPOSE

The purpose of this act is to recognize the right to equality under the laws of civil marriage and to ensure that clergy and religious societies are recognized as having marriage rites or rituals that are distinct from civil marriage and that are protected by the right to freedom of religion.

Third: By striking Sec. 9 in its entirety and inserting in lieu thereof the following:

Sec. 9. 18 V.S.A. § 5144 is amended to read:

§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE CIVIL MARRIAGE

~~Marriages~~ Civil marriages may be solemnized by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace, or an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, ~~a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate court of the district within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if such probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.~~

Fourth: By adding a Sec. 9a to read as follows:

Sec. 9a. 18 V.S.A. § 5147 is amended to read;

§ 5147. SOLEMNIZATION BY UNAUTHORIZED PERSON; PENALTY;

VALIDITY OF CIVIL MARRIAGE

* * *

(b) A civil marriage solemnized before a person professing to be a justice ~~or a minister of the gospel~~ shall not be void nor the validity thereof affected for want of jurisdiction or authority in such supposed justice ~~or minister~~, providing that the civil marriage is in other respects lawful and is consummated with a belief on the part of the persons so married, or either of them, that they were lawfully joined in civil marriage.

Fifth: By adding a Sec. 12a to read as follows:

Sec. 12a. STATUTORY REVISIONS

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes

Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words “civil marriage” for the word “marriage.” Such changes shall be made when new legislation is proposed, or there is a republication of a volume of the Vermont Statutes Annotated.

Amendment to be offered by Reps. Helm of Castleton, Clark of Vergennes, O’Donnell of Vernon, Acinapura of Brandon, Baker of West Rutland, Branagan of Georgia, Crawford of Burke, Donaghy of Poultney, Fagan of Rutland City, Higley of Lowell, Johnson of Canaan, Komline of Dorset, Larocque of Barnet, Lewis of Derby, McAllister of Highgate, McDonald of Berlin, Morley of Barton, and Savage of Swanton,

Move that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ADVISORY REFERENDUM

There shall be submitted to the voters of the state of Vermont on a ballot prepared by the secretary of state on March 2, 2010, the question:

Shall the General Assembly amend the laws of the state to allow couples of the same sex to marry?

For Action Under Rule 52

H. R. 11

House resolution requesting state government regulatory officials to work cooperatively with Vermont small businesses in the enforcement of rules and regulations.

(For text see House Journal April 1, 2009)

Action Postponed Until Tuesday, April 7, 2009

For Action Under Rule 52

J. R. H. 16

Joint resolution designating April as Fair Housing Month in Vermont.

(For text see House Journal Friday, March 27, 2009)

H. 147

An act relating to the operation of a motor vehicle by junior operators and primary safety belt enforcement.

Pending Action: Second reading of the bill

(For text see House Journal March 31, 2009; P. 756)

**House Appropriations Committee
Members' amendments to Fiscal Year 2010
Omnibus Appropriations Bill**

The House Appropriations Committee invites all members of the House, who intend to introduce amendments to the FY 2010 appropriations bill, to meet with the committee on Thursday, April 2, at 8:30 a.m., OR for third reading, Friday, April 3, at 8:30 a.m., in Room 42. If possible, please talk to Theresa Utton-Jerman 828-5970 or tutton@leg.state.vt.us to schedule a time.