

Journal of the House

Friday, February 20, 2009

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. David Hall of Christ Episcopal Church, Montpelier, VT.

House Bills Introduced

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

H. 252

By Reps. French of Randolph, Ancel of Calais, Andrews of Rutland City, Branagan of Georgia, Burke of Brattleboro, Davis of Washington, Donahue of Northfield, Edwards of Brattleboro, Evans of Essex, Fisher of Lincoln, Haas of Rochester, Howrigan of Fairfield, Keenan of St. Albans City, Klein of East Montpelier, Lanpher of Vergennes, McCullough of Williston, Milkey of Brattleboro, Miller of Shaftsbury, Mook of Bennington, Moran of Wardsboro, Pugh of South Burlington, Shand of Weathersfield, Spengler of Colchester, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne, Zenie of Colchester and Zuckerman of Burlington,

An act relating to exclusion of approved school construction costs and of amounts deposited into a construction reserve fund from the calculations of the maximum inflation amount ;

To the committee on Education.

H. 253

By Reps. Wizowaty of Burlington and Donovan of Burlington,

An act relating to provision of services for incarcerated women;

To the committee on Corrections and Institutions.

H. 254

By Reps. Scheuermann of Stowe, Ainsworth of Royalton, Branagan of Georgia, Brennan of Colchester, Clark of Vergennes, Clerkin of Hartford, Consejo of Sheldon, Corcoran of Bennington, Dickinson of St. Albans Town, Evans of Essex, Flory of Pittsford, Howrigan of Fairfield, Hube of Londonderry, Hubert of Milton, Komline of Dorset, Krawczyk of Bennington,

Larocque of Barnet, Marcotte of Coventry, McNeil of Rutland Town, Morley of Barton, Morrissey of Bennington, Myers of Essex, Potter of Clarendon, Reis of St. Johnsbury, Rodgers of Glover, Smith of Mendon, Turner of Milton, Wilson of Manchester and Zenie of Colchester,

An act relating to the Vermont business reinvestment act;

To the committee on Commerce and Economic Development.

H. 255

By Reps. Consejo of Sheldon, Devereux of Mount Holly, Hubert of Milton, Scheuermann of Stowe and Townsend of Randolph,

An act relating to bad checks;

To the committee on Judiciary.

H. 256

By Reps. Evans of Essex and Myers of Essex,

An act relating to appropriating funds for a bike path to the Essex Middle School;

To the committee on Transportation.

H. 257

By Reps. Zenie of Colchester, Ancel of Calais, Atkins of Winooski, Bissonnette of Winooski, Bohi of Hartford, Bray of New Haven, Browning of Arlington, Consejo of Sheldon, Copeland-Hanzas of Bradford, Fisher of Lincoln, Haas of Rochester, Jewett of Ripton, Lenes of Shelburne, Leriche of Hardwick, Macaig of Williston, Milkey of Brattleboro, Moran of Wardsboro, Mrowicki of Putney, Ram of Burlington, South of St. Johnsbury, Spengler of Colchester, Stevens of Shoreham, Taylor of Barre City, Townsend of Randolph, Waite-Simpson of Essex, Weston of Burlington and Zuckerman of Burlington,

An act relating to prohibitions on state employee position eliminations;

To the committee on Government Operations.

H. 258

By Reps. Stevens of Shoreham, Ainsworth of Royalton, Lawrence of Lyndon, Malcolm of Pawlet, Martin of Springfield, Masland of Thetford, McAllister of Highgate, McNeil of Rutland Town, Moran of Wardsboro, Pellett of Chester, Stevens of Waterbury, Taylor of Barre City and Toll of Danville,

An act relating to strengthening Vermont's statewide food system;

To the committee on Agriculture .

H. 259

By Reps. Deen of Westminster, Head of South Burlington and Pugh of South Burlington,

An act relating to stormwater discharges to impaired waters;

To the committee on Fish, Wildlife & Water Resources.

Senate Bill Referred

S. 29

Senate bill, entitled

An act relating to legislative committee subpoena power

Was taken up, read the first time and referred to the committee on Judiciary.

Joint Resolution Placed on Calendar

J.R.H. 9

Joint resolution designating December 10, 2009 as Human Rights Day

Offered by: Representatives Wilson of Manchester, Ancel of Calais, Andrews of Rutland City, Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal, Clarkson of Woodstock, Frank of Underhill, French of Shrewsbury, French of Randolph, Gilbert of Fairfax, Head of S. Burlington, Hooper of Montpelier, Jerman of Essex, Leriche of Hardwick, Lorber of Burlington, Maier of Middlebury, Malcolm of Pawlet, Manwaring of Wilmington, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, Milkey of Brattleboro, Miller of Shaftsbury, Mook of Bennington, Nease of Johnson, Nuovo of Middlebury, O'Brien of Richmond, Partridge of Windham, Pearce of Richford, Perley of Enosburg, Potter of Clarendon, Pugh of S. Burlington, Scheuermann of Stowe, Shand of Weathersfield, Sharpe of Bristol, Smith of Mendon, Spengler of Colchester, Stevens of Waterbury, Sweaney of Windsor, Till of Jericho, Turner of Milton, Waite-Simpson of Essex, Weston of Burlington and Wizowaty of Burlington

Whereas, in the aftermath of the brutality inflicted on millions of civilians during the Second World War, the recently established United Nations turned its attention to the topic of human rights, and

Whereas, after much intensive work, including a determined effort on the part of former first lady Eleanor Roosevelt who served as a member of the United Nations Commission on Human Rights, the drafting of the Universal Declaration of Human Rights was completed, and

Whereas, a momentous event occurred on December 10, 1948 when the United Nations General Assembly formally adopted the Universal Declaration of Human Rights, and

Whereas, the preamble of the declaration provides in part “it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,” and

Whereas, it further provides that “the peoples of the United Nations have in the Charter (of the United Nations) reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,” and

Whereas, the declaration states “all human beings are born equal” and that “everyone is entitled to all the rights and freedoms set forth in this Declaration,” and

Whereas, among the fundamental rights enumerated in the declaration are the rights to life, liberty, and security, equality before the law, freedom of movement, to own property, freedom of expression, to peaceful assembly and association, and to a standard of living adequate for his or her well-being, and

Whereas, during the last century, governments have killed over 150 million persons, and

Whereas, in a world in which these rights, over 60 years after the declaration’s adoption, are still not universally observed, it is important to reaffirm the principles which the declaration set forth, and

Whereas, setting aside a day to honor the declaration’s adoption, and to promote educational programs that inform the public, especially young persons, of its continuing importance is a worthy endeavor for Vermonters and people everywhere, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates December 10, 2009 as Universal Declaration of Human Rights Day in Vermont.

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

Joint Resolution Referred to Committee

J.R.S. 21.

By Senate Committee on Agriculture,

Joint resolution in support of the United States dairy industry.

Whereas, the dairy industry is a keystone industry which not only supports rural communities but enhances other sections of agriculture and provides open space for recreation, sports and tourism, and

Whereas, the dairy industry provides an economic impact of an estimated \$14,000 per cow per year, primarily in local economies, and

Whereas, the lack of stable dairy product prices, concentration of process and capacity, outdated regulations, and labor shortages are creating a crisis in the industry, and

Whereas, in the past few weeks, the price that milk processors pay farmers for their milk has dropped as much as 50 percent, and

Whereas, the legal vehicle for assisting farmers when the price of milk drops precipitously is the Milk Loss Contract (MLC) payment program established in the 2002 Farm Bill, and

Whereas, the amount of funding included in the 2008 Farm Bill for the MLC payment program did not anticipate this sudden decline in the price that farmers receive from the processors, and

Whereas, the MLC payment program is targeted primarily at smaller dairy farms of the size typical in Vermont, and

Whereas, without additional funding in the FY 2009 Agriculture Appropriations Bill for the MLC payment program, a large number of dairy farmers, possibly including many in Vermont, will cease operations permanently, and

Whereas, a significant loss of capacity would create a dependence on imported milk and other dairy products and reduce our nation's food security, and

Whereas, the federal 2008 Farm Bill creates a review process for federal milk marketing orders, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly of the State of Vermont urges the President, Congress and the United States Department of Agriculture to acknowledge the importance of the dairy industry nationwide as well as the unique aspects of the dairy industry region-by-region through:

- 1) Providing for increased funding in the FY 2009 Agriculture appropriations bill for the MLC payment program;
- 2) Funding and implementing the federal milk marketing order study as outlined in the 2008 Farm Bill, with regional representation from producers, processors and state policy-makers;

- 3) Implementation of fair tariffs on imported dairy solids;
- 4) Setting regional prices to reflect accurately and realistically the cost of production; and
- 5) Addressing the problems of labor shortages within the dairy industry by providing more opportunity for training and education as well as a sensible approach to imported labor, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Secretary of State be directed to send copies of this resolution to President Barack Obama, United States Secretary of Agriculture Tom Vilsack, to United States Senator Patrick Leahy, to United States Senator Bernard Sanders, and to United States Representative Peter Welch.

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

Recess

At nine o'clock and fifty minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and fifteen minutes in the forenoon, the Speaker called the House to order.

Consideration Interrupted by Recess

H. 232

House bill, entitled

An act relating to fiscal year 2009 budget adjustment

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

By adding a new Sec. 128 to read:

Sec. 128. FY 2009 LEGISLATIVE SALARIES

Legislative compensation for all members under 32 V.S.A. § 1051 and 1052 for the period beginning with the date of passage of this act through June 30, 2009 shall be reduced by five percent.

And by renumbering the remaining section to be numerically correct.

Thereupon, **Rep. Marek of Newfane** moved to substitute an amendment for that offered by Rep. Ainsworth of Royalton, as follows:

By adding Sec. 128. to read:

Sec. 128. TEMPORARY REDUCTION IN COMPENSATION FOR STATEWIDE ELECTED OFFICERS AND CERTAIN SENIOR APPOINTED OFFICIALS

(a) Beginning with the first pay period starting after the effective date of this act through the final pay period ending in fiscal year 2009, each statewide elected officer, agency secretary and deputy secretary, and each departmental commissioner and deputy commissioner shall be compensated at the same weekly pay rate as provided for members of the general assembly in 32 V.S.A. § 1052(a).

and by renumbering the remaining section to be numerically correct.

Thereupon, **Rep. Marek of Newfane** asked and was granted leave of the House to withdraw his substitute amendment.

Thereupon, **Rep. Leriche of Hardwick** moved to substitute an amendment for that offered by Rep. Ainsworth of Royalton, as follows:

By adding a new Sec. 128 to read:

Sec. 128. Sec. 2.029 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.029. Legislature

Personal services	4,014,859	<u>3,784,585</u>
Operating expenses	<u>3,419,474</u>	<u>3,410,748</u>
Total	<u>7,434,333</u>	<u>7,195,333</u>
Source of funds		
General fund	7,434,333	<u>7,195,333</u>

and by renumbering the remaining section to be numerically correct.

Thereupon, **Rep. Leriche of Hardwick** asked and was granted leave of the House to withdraw her substitute amendment.

Pending the question, Shall the bill be 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 bill be amended as offered by Rep. Ainsworth of Royalton? was decided in the negative. Yeas, 50. Nays, 88.

Those who voted in the affirmative are:

Acinapura of Brandon	Branagan of Georgia	Clerkin of Hartford
Ainsworth of Royalton	Brennan of Colchester	Condon of Colchester
Andrews of Rutland City *	Browning of Arlington	Conquest of Newbury
Baker of West Rutland	Canfield of Fair Haven	Crawford of Burke
Bissonnette of Winooski	Clark of Vergennes	Devereux of Mount Holly

Dickinson of St. Albans Town	Johnson of Canaan	Morrissey of Bennington
Donaghy of Poultney	Kilmartin of Newport City	Myers of Essex
Donahue of Northfield	Koch of Barre Town	Pearce of Richford
Fagan of Rutland City	Komline of Dorset	Peaslee of Guildhall
Flory of Pittsford	Lawrence of Lyndon	Perley of Enosburg
Greshin of Warren	Manwaring of Wilmington	Reis of St. Johnsbury
Haas of Rochester	Marcotte of Coventry	Savage of Swanton
Helm of Castleton	McAllister of Highgate	Scheuermann of Stowe
Higley of Lowell	McDonald of Berlin	Stevens of Shoreham
Hube of Londonderry	McFaun of Barre Town	Westman of Cambridge
Hubert of Milton	McNeil of Rutland Town	Wheeler of Derby
	Morley of Barton	Winters of Williamstown

Those who voted in the negative are:

Aswad of Burlington	Johnson of South Hero	Partridge of Windham
Atkins of Winooski	Keenan of St. Albans City	Pellett of Chester
Bohi of Hartford	Kitzmiller of Montpelier	Peltz of Woodbury
Botzow of Pownal	Klein of East Montpelier	Poirier of Barre City
Bray of New Haven	Lanpher of Vergennes	Potter of Clarendon
Burke of Brattleboro	Larocque of Barnet	Pugh of South Burlington
Clarkson of Woodstock	Larson of Burlington	Ram of Burlington
Consejo of Sheldon	Lenes of Shelburne	Rodgers of Glover *
Copeland-Hanzas of Bradford	Leriche of Hardwick	Shand of Weathersfield
Corcoran of Bennington	Lippert of Hinesburg	Sharpe of Bristol
Courcelle of Rutland City	Macaig of Williston	Smith of Mendon
Deen of Westminster	Maier of Middlebury	South of St. Johnsbury
Donovan of Burlington	Malcolm of Pawlet	Spengler of Colchester
Edwards of Brattleboro	Marek of Newfane	Stevens of Waterbury
Emmons of Springfield	Martin of Springfield	Sweaney of Windsor
Evans of Essex	Martin of Wolcott	Taylor of Barre City
Fisher of Lincoln	Masland of Thetford	Till of Jericho
Frank of Underhill	McCullough of Williston	Toll of Danville
French of Shrewsbury	Milkey of Brattleboro	Townsend of Randolph
French of Randolph	Miller of Shaftsbury	Trombley of Grand Isle
Geier of South Burlington	Minter of Waterbury	Turner of Milton *
Gilbert of Fairfax	Mitchell of Barnard	Waite-Simpson of Essex
Grad of Moretown	Mook of Bennington	Webb of Shelburne
Head of South Burlington	Moran of Wardsboro	Weston of Burlington
Heath of Westford	Mrowicki of Putney	Wilson of Manchester
Hooper of Montpelier	Nease of Johnson *	Wizowaty of Burlington
Howrigan of Fairfield	Nuovo of Middlebury	Young of St. Albans City
Jerman of Essex	O'Brien of Richmond	Zenie of Colchester
Jewett of Ripton	Obuchowski of Rockingham	Zuckerman of Burlington
	Orr of Charlotte	

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

Adams of Hartland	Davis of Washington	Lorber of Burlington
Ancel of Calais	Howard of Rutland City	O'Donnell of Vernon
Audette of South Burlington	Krawczyk of Bennington	Wright of Burlington
Cheney of Norwich	Lewis of Derby	

Rep. Jewett of Ripton in Chair.

Rep. Andrews of Rutland City explained her as follows:

“Mr. Speaker:

I believe in Vermont's citizen legislature and the need for adequate compensation so everyone can serve. I would not jeopardize this over the long-term. Today, I voted yes for a temporary reduction in my pay during these extraordinary times out of respect for the people I serve in a community that has lost hundreds of jobs in the past couple of years.

Rep. Nease of Johnson explained his as follows:

“Mr. Speaker:

I hope that Vermonters will take notice and check to make sure that all of those who voted yes here today, have already placed their names on the list of people who voluntarily took a cut in pay.”

Rep. Rodgers of Glover explained his as follows:

“Mr. Speaker:

Symbolism does little to solve our fiscal problems. When everyone who is paid by State tax dollars come to the table and agrees to share the pain equally we will have achieved something of substance.”

Rep. Turner of Milton explained his as follows:

“Mr. Speaker:

I voted no today because I believe in the citizen legislature and feel that this is a personal decision and that we have wasted far too much time on this issue for the symbolic projected savings.”

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

First: By adding a new Sec. 101a to read:

Sec. 101a. STATE EMPLOYEE POSITIONS

Except as set forth in this act or as a result of appropriation reductions pursuant to section 704 of Title 32, the elimination of classified state employee positions, laying-off of classified state employees, or any other reductions in force shall be prohibited until the governor approves the act making appropriations for state government for fiscal year 2010. The prohibition set forth in this section shall only apply to positions identified for the purpose of meeting reductions in appropriations approved by the general assembly for fiscal year 2010.

Second: In Sec. 127, by adding a new subsection (d) to read:

(d) Sec. 101a shall take effect upon passage and shall apply retroactively to January 1, 2009 and prospectively to July 1, 2009.

Recess

At twelve o'clock and thirty minutes in the afternoon, the Speaker declared a recess one o'clock and thirty minutes in the afternoon.

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

Consideration Resumed: Bill Amended; Read the Third Time and Passed; Rules Suspended and the Bill was Ordered Messaged to the Senate Forthwith

H. 232

Consideration resumed on House bill, entitled

An act relating to fiscal year 2009 budget adjustment

Pending the question, Shall the House amend the House proposal of amendment as recommended by Rep. Zuckerman of Burlington? **Rep. Ancel of Calais** moved to substitute an amendment for that offered by Rep. Zuckerman of Burlington as follows:

First: By adding a new Sec. 101a to read:

Sec. 101a. STATE EMPLOYEE POSITIONS; CURRENT COLLECTIVE BARGAINING AGREEMENT

The general assembly urges the administration and the Vermont State Employees' Association to explore options for achieving savings for fiscal year 2010, including a limited reopener of the current collective bargaining agreement as soon as possible. The general assembly also urges the administration to wait until the completion of the fiscal year 2010 budget process before implementing further layoffs, reductions in force, or the elimination of state employee positions or programs.

Second: In Sec. 127, by adding a new subsection (e) to read:

(e) Sec. 101b shall take effect upon passage.

Which was agreed to.

Rep. Johnson of Canaan asked that the question be divided and the Speaker ruled that the question was not divisible.

Thereupon, the recommendation of amendment offered by Rep. Ancel of Calais was agreed to.

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

First: In Sec. 34 by striking

“Grants 40,298,530 45,437,952” and

inserting in lieu thereof

“Grants 40,298,530 45,387,952”

And striking

“General fund 13,815,723 15,950,049”

And inserting in lieu thereof

“General fund 13,815,723 15,900,049”

And striking

“Total 40,298,530 45,437,952”

And inserting in lieu thereof

“ Total 40,298,530 45,387,952”

Second: By striking Secs. 105 and 106 in their entirety

Third: By inserting a new Sec. 126a to read:

Sec. 126a. Sec. 26 of No. 30 of the Acts of 2007, as amended by Sec. 5.902 of No. 192 of the Acts of 2008, is amended to read:

Sec. 26. EFFECTIVE DATES; IMPLEMENTATION

* * *

(b) The amendments to 33 V.S.A. chapter 11 contained in Secs. 2-13 (Reach Up), 14 (solely state-funded programs), and 16 (Reach Up transitions) of this act shall take effect immediately when the rule changes necessary to implement the sections become final, but no later than April 1, 2008. Until the time that the rule modifications are final, the Reach Up program shall operate under current law. Any provisions in these sections relating to Reach Ahead shall take effect on ~~April 1, 2009~~ October 1, 2010.

* * *

(d) Reach First established in Sec. 1 of this act shall be implemented no later than April 1, 2008. Reach Ahead established in Sec. 18 shall be implemented for families who leave Reach Up on or after ~~April 1, 2009~~ October 1, 2010 as provided for in 33 V.S.A. § 1203(1). Subject to appropriation, Reach Ahead shall be implemented for all other families as provided for in 33 V.S.A. § 1203 no later than ~~July 1, 2009~~ January 1, 2011.

Which was disagreed to.

Pending third reading of the bill, **Reps. Pugh of South Burlington, Andrews of Rutland City, Donahue of Northfield, Fisher of Lincoln, Frank of Underhill, French of Randolph, Haas of Rochester, McFaun of Barre Town, Mrowicki of Putney, O'Donnell of Vernon, and Orr of Charlotte**, moved to amend the bill as follows:

By striking Sec. 105 and inserting a new Sec. 105 to read:

Sec. 105. REACH AHEAD IMPLEMENTATION STATUS REPORT

No later than February 1, 2010, the department for, children and families shall provide a status report on the Reach Ahead post-employment program to the house committees on appropriations and on human services and the senate committees on appropriations and on health and welfare. The status report shall include:

(1) information by month on caseloads, spending, and cost estimates, including:

(A) actual caseload data and trends since implementation;

(B) actual spending for the program; and

(C) a revised cost estimate for maintaining the program based on actual caseload and the take-up rate for the program;

(2) an analysis of improved employment stability and child well-being of families in Reach Ahead, including:

(A) the impact of the food assistance in providing additional financial resources to the family;

(B) the number of families in Reach Ahead who are employed as of December 31, 2009 and the length of time each family was employed; and

(C) an estimate of the reduction in the number of individuals who return to the Reach Up program after participating in Reach Ahead and an estimate of the resulting savings to the Reach Up program; and

(3) the impact on the state's work participation rate in federal fiscal years 2009 and 2010, including the impact on avoiding federal fiscal sanctions.

Which was agreed to.

Rep. Nease of Johnson in Chair.

Pending third reading of the bill, **Reps. Jewett of Ripton and Fisher of Lincoln** moved to amend the bill as follows:

By inserting a new Sec. 126a to read:

Sec. 126a. DEPARTMENT OF CORRECTIONS; PROBATION OFFICES

In order to ensure adequate supervision of high-risk offenders on probation, it is important to locate offices throughout the state. Therefore, the department of corrections shall not close any probation offices that were open for business on January 1, 2009. If any offices that were open on that date were closed before passage of this act, they shall be immediately reopened. If the department wishes to close any of these offices prior to January 1, 2014, it shall do so only with the approval of the senate committee on judiciary and the house committee on corrections and institutions or, if the legislature is not in session, with the approval of the corrections oversight committee.

Thereupon, **Rep. Jewett of Ripton** asked and was granted leave of the House to withdraw his amendment and the bill was read a third time.

Speaker back in Chair.

Pending the question, Shall the bill pass? **Rep. Johnson of South Hero** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 107. Nays, 28.

Those who voted in the affirmative are:

Acinapura of Brandon	French of Shrewsbury	Malcolm of Pawlet
Ancel of Calais	French of Randolph	Manwaring of Wilmington
Andrews of Rutland City	Gilbert of Fairfax	Marcotte of Coventry
Atkins of Winooski	Grad of Moretown	Marek of Newfane
Bissonnette of Winooski	Greshin of Warren	Martin of Springfield
Bohi of Hartford	Haas of Rochester	Martin of Wolcott
Browning of Arlington	Head of South Burlington	Masland of Thetford
Burke of Brattleboro	Heath of Westford	McCullough of Williston
Canfield of Fair Haven	Helm of Castleton	McFaun of Barre Town
Clarkson of Woodstock	Hooper of Montpelier	Milkey of Brattleboro
Conquest of Newbury	Howrigan of Fairfield	Miller of Shaftsbury
Consejo of Sheldon	Jerman of Essex	Minter of Waterbury
Copeland-Hanzas of Bradford	Jewett of Ripton	Mitchell of Barnard
Corcoran of Bennington	Johnson of South Hero	Mook of Bennington
Courcelle of Rutland City	Keenan of St. Albans City	Moran of Wardsboro
Crawford of Burke	Kitzmiller of Montpelier	Morley of Barton
Deen of Westminster	Klein of East Montpelier	Morrissey of Bennington
Donahue of Northfield	Koch of Barre Town	Mrowicki of Putney
Donovan of Burlington	Lanpher of Vergennes	Myers of Essex
Edwards of Brattleboro	Larson of Burlington	Nease of Johnson
Emmons of Springfield	Lenes of Shelburne	Nuovo of Middlebury
Evans of Essex	Leriche of Hardwick	O'Brien of Richmond
Fagan of Rutland City *	Lippert of Hinesburg	Orr of Charlotte
Fisher of Lincoln	Lorber of Burlington	Pearce of Richford
Frank of Underhill	Macaig of Williston	Peaslee of Guildhall
	Maier of Middlebury	Pellett of Chester

Peltz of Woodbury	South of St. Johnsbury	Webb of Shelburne
Poirier of Barre City	Spengler of Colchester	Westman of Cambridge
Potter of Clarendon	Stevens of Waterbury	Weston of Burlington
Pugh of South Burlington	Stevens of Shoreham	Wheeler of Derby
Ram of Burlington	Sweaney of Windsor	Wilson of Manchester
Reis of St. Johnsbury	Taylor of Barre City	Wizowaty of Burlington
Rodgers of Glover	Toll of Danville	Wright of Burlington
Shand of Weathersfield	Townsend of Randolph	Young of St. Albans City
Sharpe of Bristol	Trombley of Grand Isle	Zenie of Colchester
Smith of Mendon	Waite-Simpson of Essex	Zuckerman of Burlington

Those who voted in the negative are:

Ainsworth of Royalton	Flory of Pittsford	McDonald of Berlin
Baker of West Rutland	Higley of Lowell	McNeil of Rutland Town
Branagan of Georgia	Hube of Londonderry	Obuchowski of Rockingham
Brennan of Colchester	Hubert of Milton	Partridge of Windham
Clark of Vergennes	Johnson of Canaan	Perley of Enosburg
Clerkin of Hartford	Kilmartin of Newport City	Savage of Swanton
Devereux of Mount Holly	Komline of Dorset	Scheuermann of Stowe
Dickinson of St. Albans	Larocque of Barnet	Turner of Milton
Town	Lawrence of Lyndon	Winters of Williamstown
Donaghy of Poultney	McAllister of Highgate	

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

Adams of Hartland	Cheney of Norwich	Krawczyk of Bennington
Aswad of Burlington	Condon of Colchester	Lewis of Derby
Audette of South Burlington	Davis of Washington	O'Donnell of Vernon
Botzow of Pownal	Geier of South Burlington	Till of Jericho
Bray of New Haven	Howard of Rutland City	

Rep. Fagan of Rutland City explained his as follows:

“Mr. Speaker:

I voted yes, but I would have preferred that Reach Ahead be delayed fifteen months in this Budget Adjustment Act.”

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Proposal of Amendment Agreed to;
Bill Read Third Time and Passed; Rules Suspended and the
Bill Ordered Messaged to the Senate Forthwith**

S. 13

Senate bill, entitled

An act relating to improving Vermont's sexual abuse response system

Was taken up and pending third reading of the bill, **Rep. Ainsworth of Royalton** moved to amend the House proposal of amendment as follows:

First: By adding a Sec. 29a to read as follows:

Sec. 29a. Rule 413 of the Vermont Rules of Evidence is added to read:

**RULE 413. EVIDENCE OF SIMILAR CRIMES IN PROSECUTIONS OF
SEXUAL CRIMES**

(a) In a criminal case in which the defendant is accused of a crime set forth in chapter 59 (lewdness and prostitution), chapter 64 (sexual exploitation of children), chapter 72 (sexual assault) of Title 13 or §§ 2802 (disseminating indecent material to a minor in the presence of the minor), 2802a (disseminating indecent material to a minor outside the presence of the minor) and 2804b (displaying obscene material to minors) of chapter 63 (obscenity) of Title 13, evidence of the defendant's commission of another offense may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the state intends to offer evidence under this rule, the prosecutor or attorney for the state shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule, "offense" means a crime or delinquent act, or attempt or conspiracy to commit any crime or delinquent act of this state or of any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal territory and crimes or delinquent acts that involve:

(1) any conduct proscribed by chapter 109A of Title 18, United States Code;

(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in subdivisions (d)(1)–(4) of this rule.

Second: In Sec. 53, in subsection (b), by striking “26–29 (depositions; hearsay exceptions; human services board hearings)” and inserting in lieu thereof “26–29a (depositions; hearsay exceptions; human services board hearings; prior bad acts)”

Thereupon, **Rep. Ainsworth of Royalton** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Reps. Haas of Rochester, Andrews of Rutland City, Clark of Vergennes, Donahue of Northfield, Donovan of Burlington, Fisher of Lincoln, Frank of Underhill, French of Randolph, Gilbert of Fairfax, McFaun of Barre Town, Mook of Bennington, Mrowicki of Putney, O’Donnell of Vernon, Orr of Charlotte, Pearce of Richford, Peltz of Woodbury, Perley of Enosburg, Pugh of South Burlington, Waite-Simpson of Essex, and Zenie of Colchester** moved to amend the House proposal of amendment by striking Sec. 9 and inserting a new Sec. 9 to read:

Sec. 9. 16 V.S.A. § 563a is added to read:

§ 563a. SCHOOL BOARDS; PREVENTION, IDENTIFICATION, AND REPORTING OF CHILD SEXUAL ABUSE AND SEXUAL VIOLENCE

The school board of a school district shall ensure that adults employed in the schools maintained by the district receive orientation, information, or instruction on the prevention, identification, and reporting of child sexual abuse, as defined in subdivision 4912(8) of Title 33, and sexual violence. This shall include information regarding the signs and symptoms of sexual abuse, sexual violence, grooming processes, recognizing the dangers of child sexual abuse in and close to the home, and other predatory behaviors of sex offenders. The school board shall also provide opportunities for parents, guardians, and other interested persons to receive the same information. The department of education and the agency of human services shall provide materials and technical support to any school board that requests assistance in implementing this section.

Which was agreed to.

Pending third reading of the bill, **Reps. Zuckerman of Burlington, Kilmartin of Newport City and Lorber of Burlington** moved to amend the House proposal of amendment as follows:

First: By striking Secs. 23-25 in their entirety

Second: In Sec. 27, after the word “shall” by inserting “be asked to”

Third: In Sec. 53, by striking subsection (d)

Thereupon, **Rep. Zuckerman of Burlington** asked that the question be divided and the Second recommendation of proposal of amendment be voted on first. Then **Rep. Lippert of Hinesburg** moved to substitute an amendment for the Second recommendation of proposal of amendment as follows:

By striking Sec. 27 in its entirety and inserting in lieu thereof:

Sec. 27. REPORT

The court administrator, the department of state's attorneys and sheriffs, the office of the defender general, and the center for crime victim services shall individually report and the Vermont bar association and the American Civil Liberties Union of Vermont are respectfully requested to individually report to the senate and house committees on judiciary in January 2011 on the impacts of Sec. 26 of this act as it relates to disposition of the cases addressed in Sec. 26.

Which was agreed to and the recommendation of proposal of amendment, as substituted, was agreed to.

Pending the question, Shall the House proposal of amendment be further amended as offered by Rep. Zuckerman of Burlington in the first and third instances? **Rep. Zuckerman of Burlington** 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 House proposal of amendment be further amended as offered by Rep. Zuckerman of Burlington in the first and third instances? was decided in the negative. Yeas, 16. Nays, 117.

Those who voted in the affirmative are:

Ancel of Calais	Howrigan of Fairfield	Waite-Simpson of Essex
Atkins of Winooski	Kilmartin of Newport City	Weston of Burlington
Donahue of Northfield	Lorber of Burlington	Wizowaty of Burlington
Fisher of Lincoln	Mook of Bennington	Zuckerman of Burlington *
Greshin of Warren	Moran of Wardsboro	
Higley of Lowell	Ram of Burlington	

Those who voted in the negative are:

Acinapura of Brandon	Canfield of Fair Haven	Devereux of Mount Holly
Ainsworth of Royalton	Clark of Vergennes	Dickinson of St. Albans
Andrews of Rutland City	Clarkson of Woodstock	Town
Audette of South Burlington	Clerkin of Hartford	Donaghy of Poultney
Baker of West Rutland	Conquest of Newbury	Donovan of Burlington
Bissonnette of Winooski	Consejo of Sheldon	Edwards of Brattleboro
Bohi of Hartford	Copeland-Hanzas of	Emmons of Springfield
Branagan of Georgia	Bradford	Evans of Essex
Brennan of Colchester	Corcoran of Bennington	Fagan of Rutland City
Browning of Arlington	Crawford of Burke	Flory of Pittsford
Burke of Brattleboro	Deen of Westminster	Frank of Underhill

French of Shrewsbury	Manwaring of Wilmington	Perley of Enosburg
French of Randolph	Marcotte of Coventry	Poirier of Barre City
Gilbert of Fairfax	Marek of Newfane	Potter of Clarendon
Grad of Moretown	Martin of Springfield	Pugh of South Burlington
Haas of Rochester	Martin of Wolcott	Reis of St. Johnsbury
Head of South Burlington	Masland of Thetford	Rodgers of Glover
Heath of Westford	McAllister of Highgate	Savage of Swanton
Helm of Castleton	McCullough of Williston	Scheuermann of Stowe
Hooper of Montpelier	McDonald of Berlin	Shand of Weathersfield
Hube of Londonderry	McFaun of Barre Town	Sharpe of Bristol
Jerman of Essex	McNeil of Rutland Town	Smith of Mendon
Jewett of Ripton	Milkey of Brattleboro	South of St. Johnsbury
Johnson of South Hero	Miller of Shaftsbury	Spengler of Colchester
Johnson of Canaan	Minter of Waterbury	Stevens of Waterbury
Keenan of St. Albans City	Mitchell of Barnard	Stevens of Shoreham
Kitzmiller of Montpelier	Morley of Barton	Sweaney of Windsor
Klein of East Montpelier	Morrissey of Bennington	Taylor of Barre City
Koch of Barre Town	Mrowicki of Putney	Toll of Danville
Komline of Dorset	Myers of Essex	Townsend of Randolph
Lanpher of Vergennes	Nease of Johnson	Trombley of Grand Isle
Larocque of Barnet	Nuovo of Middlebury	Webb of Shelburne
Larson of Burlington	O'Brien of Richmond	Westman of Cambridge
Lawrence of Lyndon	Obuchowski of Rockingham	Wheeler of Derby
Lenes of Shelburne	Orr of Charlotte	Wilson of Manchester
Leriche of Hardwick	Partridge of Windham	Winters of Williamstown
Lippert of Hinesburg	Pearce of Richford	Wright of Burlington
Macaig of Williston	Peaslee of Guildhall	Young of St. Albans City
Maier of Middlebury	Pellett of Chester	Zenie of Colchester
Malcolm of Pawlet	Peltz of Woodbury	

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

Adams of Hartland	Courcelle of Rutland City	Lewis of Derby
Aswad of Burlington	Davis of Washington	O'Donnell of Vernon
Botzow of Pownal	Geier of South Burlington	Till of Jericho
Bray of New Haven	Howard of Rutland City	Turner of Milton
Cheney of Norwich	Hubert of Milton	
Condon of Colchester	Krawczyk of Bennington	

Rep. Zuckerman of Burlington explained his as follows:

“Mr. Speaker:

It's a sad day when political expediency trumps the Vermont Constitution.”

Pending third reading of the bill, **Rep. Higley of Lowell** moved to amend the House proposal of amendment as follows:

In Sec. 7 by striking the words “the safety of students in schools and offsite workplaces” and inserting in lieu thereof that students are not placed in situations where they may be vulnerable to sexual exploitation or abuse

Which was agreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Nease of Johnson** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 132. Nays, 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Flory of Pittsford	Manwaring of Wilmington
Ainsworth of Royalton	Frank of Underhill	Marcotte of Coventry
Ancel of Calais	French of Shrewsbury	Marek of Newfane
Andrews of Rutland City	French of Randolph	Martin of Springfield
Atkins of Winooski	Gilbert of Fairfax	Martin of Wolcott
Audette of South Burlington	Grad of Moretown	Masland of Thetford
Baker of West Rutland	Greshin of Warren	McAllister of Highgate
Bissonnette of Winooski	Haas of Rochester	McCullough of Williston
Bohi of Hartford	Head of South Burlington	McDonald of Berlin
Branagan of Georgia	Heath of Westford	McFaun of Barre Town
Brennan of Colchester	Helm of Castleton	McNeil of Rutland Town
Browning of Arlington	Higley of Lowell	Milkey of Brattleboro
Burke of Brattleboro	Hooper of Montpelier	Miller of Shaftsbury
Canfield of Fair Haven	Howrigan of Fairfield	Minter of Waterbury
Clark of Vergennes	Hube of Londonderry	Mitchell of Barnard
Clarkson of Woodstock	Jerman of Essex	Mook of Bennington
Clerkin of Hartford	Jewett of Ripton	Moran of Wardsboro
Conquest of Newbury	Johnson of South Hero	Morley of Barton
Consejo of Sheldon	Johnson of Canaan	Morrissey of Bennington
Copeland-Hanzas of Bradford	Keenan of St. Albans City	Mrowicki of Putney
Corcoran of Bennington	Kitzmiller of Montpelier	Myers of Essex
Courcelle of Rutland City	Klein of East Montpelier	Nease of Johnson
Crawford of Burke	Koch of Barre Town	Nuovo of Middlebury
Deen of Westminster	Komline of Dorset	O'Brien of Richmond
Devereux of Mount Holly	Lanpher of Vergennes	Obuchowski of Rockingham
Dickinson of St. Albans Town	Larocque of Barnet	Orr of Charlotte
Donaghy of Poultney	Larson of Burlington	Partridge of Windham
Donovan of Burlington	Lawrence of Lyndon	Pearce of Richford
Edwards of Brattleboro	Lenes of Shelburne	Peaslee of Guildhall
Edmons of Springfield	Leriche of Hardwick	Pellett of Chester
Evans of Essex	Lippert of Hinesburg	Peltz of Woodbury
Fagan of Rutland City	Lorber of Burlington	Perley of Enosburg
Fisher of Lincoln	Macaig of Williston	Poirier of Barre City
	Maier of Middlebury	Potter of Clarendon
	Malcolm of Pawlet	Pugh of South Burlington

Ram of Burlington	Stevens of Waterbury	Weston of Burlington
Reis of St. Johnsbury	Stevens of Shoreham	Wheeler of Derby
Rodgers of Glover	Sweaney of Windsor	Wilson of Manchester
Savage of Swanton	Taylor of Barre City	Winters of Williamstown
Scheuermann of Stowe	Toll of Danville	Wizowaty of Burlington
Shand of Weathersfield	Townsend of Randolph	Wright of Burlington
Sharpe of Bristol	Trombley of Grand Isle	Young of St. Albans City
Smith of Mendon	Waite-Simpson of Essex	Zenie of Colchester
South of St. Johnsbury	Webb of Shelburne	Zuckerman of Burlington
Spengler of Colchester	Westman of Cambridge	

Those who voted in the negative are:

Donahue of Northfield * Kilmartin of Newport City

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

Adams of Hartland	Condon of Colchester	Krawczyk of Bennington
Aswad of Burlington	Davis of Washington	Lewis of Derby
Botzow of Pownal	Geier of South Burlington	O'Donnell of Vernon
Bray of New Haven	Howard of Rutland City	Till of Jericho
Cheney of Norwich	Hubert of Milton	Turner of Milton

Rep. Clark of Vergennes explained his as follows:

“Mr. Speaker:

I know this bill will add great expense to our budget considerations but this bill is, even with its potential shortfalls, an investment the people of Vermont are demanding and deserve.”

Rep. Donahue of Northfield explained her as follows:

“Mr. Speaker:

We state today that sexual abuse of a child is more heinous than the premeditated murder of a child. We single out those accused - not convicted, but accused - of one crime only, as not worthy of the same rights. We invest millions to prosecute one crime, even as resources are draining away from the very supports that build stronger families, more able to protect their children; that protect abused and neglected children; and that treat and counsel both the victims of abuse and the abusers of tomorrow, who are all too often, one and the same.”

Rep. Mook of Bennington explained her as follows:

“Mr. Speaker:

I voted yes for this bill because there is nothing more important than the life a Vermont child, and that trumps my many concerns for the bill.

This bill should not be about licensure and background checks of educators, nor to create unfunded mandates for schools. This bill should be more about addressing this public health issue - recognizing that 95% of victims know and trust their predator.”

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Action on Bill Postponed

H. 3

House bill, entitled

An act relating to technical corrections to the public institutions and corrections statutes

Was taken up and pending the reading of the report of the committee on Corrections and Institutions, on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until the next legislative day.

Action on Bill Postponed

H. 95

House bill, entitled

An act relating to the approval of an amendment to the charter of the city of Burlington

Was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Atkins of Winooski**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 19

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

Mr. Speaker:

I am directed to inform the House that:

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

S. 12. An act relating to not requiring the physical presence of a defendant or offender at certain court proceedings.

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

Adjournment

At four o'clock and forty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 24, 2009, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 19.