

Journal of the House

Thursday, April 2, 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 Rep. William Aswad of Burlington, VT.

Senate Bills Referred

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

S. 38

Senate bill, entitled

An act relating to requiring the Department of Finance and Management to annually publish on its website a report on grants issued by executive branch agencies

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

S. 125

Senate bill, entitled

An act relating to expanding the sex offender registry

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

House Resolution Adopted

H.R. 11

House resolution, entitled

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

Which was read and adopted.

Message from the Senate No. 29

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 bills of the following titles:

S. 19. An act relating to extension of filing deadlines for homestead declarations and property tax adjustment claims.

S. 28. An act relating to the regulation of landscape architects.

S. 58. An act relating to electronic payment of wages.

S. 109. An act relating to brominated flame retardants.

S. 128. An act relating to workers' compensation benefits and misclassification.

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

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

And has accepted and adopted the same on its part.

Bill Read Second Time; Consideration Interrupted by Recess

H. 441

Rep. Heath of Westford spoke for the committee on Appropriations.

House bill entitled

An act making appropriations for the support of government

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Recess

At twelve o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until two o'clock and fifteen minutes in the afternoon.

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

Consideration Resumed; Bill Amended and Third Reading Ordered**H. 441**

Consideration resumed on House bill entitled

An act making appropriations for the support of government.

Rep. Heath of Westford moved to amend the bill 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.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Donovan of Burlington** moved to amend the bill as follows:

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) 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.

(d) 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 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).

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

(8) 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.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Hube of Londonderry** moved to recommit the bill to the committee on Appropriations.

Pending the question, Shall the bill be recommitted to the committee on Appropriations? **Rep. Komline of Dorset** 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 recommitted to the committee on Appropriations? was decided in the negative. Yeas, 45. Nays, 101.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Baker of West Rutland
Branagan of Georgia
Canfield of Fair Haven
Clark of Vergennes

Clerkin of Hartford
Devereux of Mount Holly
Dickinson of St. Albans
Town
Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City

Flory of Pittsford
Helm of Castleton
Higley of Lowell
Hube of Londonderry
Hubert of Milton
Johnson of Canaan
Kilmartin of Newport City

Koch of Barre Town	McNeil of Rutland Town	Savage of Swanton
Komline of Dorset	Morley of Barton	Scheuermann of Stowe
Krawczyk of Bennington	Morrissey of Bennington	Turner of Milton
Larocque of Barnet	Myers of Essex	Wheeler of Derby
Lawrence of Lyndon	O'Donnell of Vernon	Wilson of Manchester
Lewis of Derby	Pearce of Richford	Winters of Williamstown
Marcotte of Coventry	Peaslee of Guildhall	Wright of Burlington
McAllister of Highgate	Perley of Enosburg	
McDonald of Berlin	Reis of St. Johnsbury	

Those who voted in the negative are:

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

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

Brennan of Colchester	Trombley of Grand Isle	Westman of Cambridge
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Pending the question, Shall the bill be read a third time? **Rep. Komline of Dorset** 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 read a third time? was decided in the affirmative. Yeas, 93. Nays, 53.

Those who voted in the affirmative are:

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

Those who voted in the negative are:

Acinapura of Brandon	Corcoran of Bennington	Fagan of Rutland City
Adams of Hartland	Crawford of Burke	Flory of Pittsford
Ainsworth of Royalton	Davis of Washington	Greshin of Warren
Baker of West Rutland	Devereux of Mount Holly	Helm of Castleton
Branagan of Georgia	Dickinson of St. Albans Town	Higley of Lowell
Canfield of Fair Haven	Donaghy of Poultney	Hube of Londonderry
Clark of Vergennes	Donahue of Northfield	Hubert of Milton
Clerkin of Hartford		Johnson of Canaan

Kilmartin of Newport City *	McFaun of Barre Town	Rodgers of Glover
Koch of Barre Town	McNeil of Rutland Town	Savage of Swanton
Komline of Dorset	Morley of Barton	Scheuermann of Stowe
Krawczyk of Bennington	Morrissey of Bennington	Stevens of Shoreham
Larocque of Barnet	Myers of Essex	Turner of Milton
Lawrence of Lyndon	O'Donnell of Vernon	Wheeler of Derby
Lewis of Derby	Pearce of Richford	Wilson of Manchester
Marcotte of Coventry	Peaslee of Guildhall	Winters of Williamstown
McAllister of Highgate	Perley of Enosburg	Wright of Burlington
McDonald of Berlin	Reis of St. Johnsbury	Zuckerman of Burlington *

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

Brennan of Colchester Trombley of Grand Isle Westman of Cambridge

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

No to an unbalanced budget! No to an unknown increase in the already crushing tax burdens under which Vermonters are groaning. Government must make the same cuts in expenditures that we are forced to make in our lives. To do otherwise will drown us in debt.”

Rep. Pugh of South Burlington explained her vote as follows:

“Mr. Speaker:

I vote yes. This budget is both responsible and protective of essential state government services. It cuts a million more dollars than the Governor’s budget did from the base general fund budget; it does not shift \$63 million dollars onto the backs of property taxpayers and it keeps VParM, the critical prescription drug coverage for our senior citizens and Vermonters with disabilities.”

Rep. Zuckerman of Burlington explained his vote as follows:

“Mr. Speaker:

I vote no. While I believe the committee has done yeopersons work within the parameters given to them, I do not believe in balancing the budget by using frontline Vermont state workers as a political football.”

Consideration Interrupted by Recess

S. 115

Rep. Lippert of Hinesburg, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to civil marriage

Reported in favor of its passage in concurrence with proposal of amendment when 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)
	GRADES 1-8	GRADES 9-12
		COLLEGE (1-5+)
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 UNION PARTNER		
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	GRADES 9-12
		COLLEGE (1-5+)	
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 UNION PARTNER		
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.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Donahue of Northfield** moved to amend the recommendation of proposal of amendment offered by the committee on Judiciary, 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.

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Donahue of Northfield** moved to amend the recommendation of proposal of amendment as follows:

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

Second: In Sec. 2, by striking the word “promote” and inserting in lieu thereof “recognize”

Third: 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.

Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **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,** moved to amend the recommendation of proposal of amendment offered by the committee on Judiciary, as follows:

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?

Pending the question, Shall the amend the recommendation of proposal of amendment offered by the committee on Judiciary as recommended by **Reps. Helm of Castleton, et al?** **Rep. Helm of Castleton** 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 amend the recommendation of proposal of amendment offered by the committee on Judiciary as recommended by **Reps. Helm of Castleton, et al?** was decided in the negative. Yeas, 52. Nays, 96.

Those who voted in the affirmative are:

Acinapura of Brandon	Fagan of Rutland City	McFaun of Barre Town
Adams of Hartland	Flory of Pittsford	McNeil of Rutland Town
Ainsworth of Royalton	Helm of Castleton	Morley of Barton
Andrews of Rutland City	Higley of Lowell	Morrissey of Bennington
Audette of South Burlington	Howrigan of Fairfield	Myers of Essex
Baker of West Rutland	Hube of Londonderry	O'Donnell of Vernon
Bissonnette of Winooski	Hubert of Milton	Pearce of Richford
Branagan of Georgia	Johnson of Canaan	Peaslee of Guildhall
Brennan of Colchester	Kilmartin of Newport City	Perley of Enosburg
Canfield of Fair Haven	Koch of Barre Town	Reis of St. Johnsbury
Clark of Vergennes	Komline of Dorset	Savage of Swanton
Clerkin of Hartford	Krawczyk of Bennington	Scheuermann of Stowe
Consejo of Sheldon	Larocque of Barnet	Stevens of Shoreham
Crawford of Burke	Lawrence of Lyndon	Turner of Milton
Devereux of Mount Holly	Lewis of Derby	Wheeler of Derby
Dickinson of St. Albans Town	Marcotte of Coventry	Winters of Williamstown
Donaghy of Poultney	McAllister of Highgate	Wright of Burlington
	McDonald of Berlin	

Those who voted in the negative are:

Ancel of Calais	Courcelle of Rutland City	Greshin of Warren
Aswad of Burlington	Davis of Washington	Haas of Rochester
Atkins of Winooski	Deen of Westminster	Head of South Burlington
Bohi of Hartford	Donahue of Northfield	Heath of Westford
Botzow of Pownal	Donovan of Burlington	Hooper of Montpelier
Bray of New Haven	Edwards of Brattleboro	Howard of Rutland City
Browning of Arlington *	Emmons of Springfield	Jerman of Essex
Burke of Brattleboro	Evans of Essex	Jewett of Ripton
Cheney of Norwich	Fisher of Lincoln	Johnson of South Hero
Clarkson of Woodstock	Frank of Underhill	Keenan of St. Albans City
Condon of Colchester	French of Shrewsbury	Kitzmiller of Montpelier
Conquest of Newbury	French of Randolph	Klein of East Montpelier
Copeland-Hanzas of Bradford	Geier of South Burlington	Lanpher of Vergennes
Corcoran of Bennington	Gilbert of Fairfax	Larson of Burlington
	Grad of Moretown	Lenes of Shelburne

Leriche of Hardwick	Mrowicki of Putney	Spengler of Colchester
Lippert of Hinesburg	Nease of Johnson	Stevens of Waterbury
Lorber of Burlington	Nuovo of Middlebury	Sweaney of Windsor
Macaig of Williston	O'Brien of Richmond	Taylor of Barre City
Maier of Middlebury	Obuchowski of Rockingham	Till of Jericho
Malcolm of Pawlet	Orr of Charlotte	Toll of Danville *
Manwaring of Wilmington	Partridge of Windham	Townsend of Randolph
Marek of Newfane	Pellett of Chester	Trombley of Grand Isle
Martin of Springfield	Peltz of Woodbury	Waite-Simpson of Essex
Martin of Wolcott	Poirier of Barre City	Webb of Shelburne
Masland of Thetford	Potter of Clarendon	Weston of Burlington
McCullough of Williston	Pugh of South Burlington	Wilson of Manchester
Milkey of Brattleboro	Ram of Burlington	Wizowaty of Burlington
Miller of Shaftsbury	Rodgers of Glover	Young of St. Albans City
Minter of Waterbury	Shand of Weathersfield	Zenie of Colchester
Mitchell of Barnard	Sharpe of Bristol	Zuckerman of Burlington
Mook of Bennington	Smith of Mendon	
Moran of Wardsboro	South of St. Johnsbury	

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

Westman of Cambridge

Rep. Toll of Danville explained her vote as follows:

“Mr. Speaker:

I voted no on this amendment because I believe the residents in my district do have the opportunity to be heard on this and any other issue that may come before this body.

I respond personally to emails, phone calls, messages left at the Sergeant at Arms office, mailed letters and personal conversations. In a state the size of Vermont, Representatives, Senators and yes, even our Governor, are all easily accessible.

The opinions of those who live in Cabot, Danville and Peacham are the greatest importance to me, not the opinions of those who live outside of our state’s borders..”

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I voted against the amendment to put the Same-Sex marriage question to a public referendum despite the fact that I expect to vote against the underlying legislation.

There is already an excellent and effective public referendum that occurs every two years on election day.

We do not need to delay our proceedings to enter into all the potential

pitfalls of using public referendum questions to guide our decision.”

Recess

At six o'clock and fifteen minutes in the evening, the Speaker declared a recess until seven o'clock and fifteen minutes in the evening.

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

Consideration Resumed; Proposal of Amendment Agreed to; Third Reading Ordered

S. 115

Consideration resumed on Senate bill, entitled

An act relating to civil marriage;

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Reps. Adams of Hartland, O'Donnell of Vernon, Clark of Vergennes and Ainsworth of Royalton**, moved to amend the recommendation of proposal of amendment offered by the committee on Judiciary, as follows:

By striking all after the enacting clause and inserting in lieu thereof:

Sec. 1. BARRIERS TO EQUALITY IN FEDERAL LAW

The General Assembly notes that current Federal law contains legal barriers to allowing rights and benefits for civil union couples which would be equal to rights and benefits for married couples, and therefore, the General Assembly by this act requests Congress to enact legislation which would remove barriers to equal rights and benefits for civil union couples.

Sec. 2. TRANSMISSION OF ACT TO THE PRESIDENT AND TO CONGRESS

The Clerk of the House and the Secretary of the Senate are directed, immediately after enactment of this legislation, jointly to send a copy of this act to President Obama, Senators Leahy and Sanders, and Congressman Welch.

Thereupon, **Rep. Nease of Johnson** moved to substitute an amendment for that offered by Reps. Adams of Hartford, et al, as follows:

By adding two new sections to read as follows:

Sec. 12b. BARRIERS TO EQUALITY IN FEDERAL LAW

The general assembly notes that current federal law contains legal barriers to allowing rights and benefits for married same-sex couples and civil union couples which would be equal to rights and benefits for married opposite-sex couples, and therefore, the general assembly by this act requests Congress to enact legislation which would remove barriers to equal rights and benefits for married same-sex couples and civil union couples.

Sec. 12c. TRANSMISSION OF ACT TO THE PRESIDENT
AND TO CONGRESS

The clerk of the house and the secretary of the senate are directed, immediately after enactment of this legislation, jointly to send a copy of this act to President Obama, Senators Leahy and Sanders, and Congressman Welch.

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

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

Thereupon, the recommendation of proposal of amendment offered by the committee on Judiciary, as amended, was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Lippert of Hinesburg** 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 read a third time? was decided in the affirmative. Yeas, 95. Nays, 52.

Those who voted in the affirmative are:

Ancel of Calais	Edwards of Brattleboro	Johnson of South Hero
Andrews of Rutland City	Emmons of Springfield	Keenan of St. Albans City
Aswad of Burlington	Fisher of Lincoln	Kitzmiller of Montpelier
Bohi of Hartford	Frank of Underhill	Klein of East Montpelier
Botzow of Pownal	French of Shrewsbury	Komline of Dorset
Bray of New Haven	French of Randolph	Lanpher of Vergennes
Burke of Brattleboro	Geier of South Burlington	Larson of Burlington
Cheney of Norwich	Gilbert of Fairfax *	Lenes of Shelburne
Clarkson of Woodstock *	Grad of Moretown *	Leriche of Hardwick
Condon of Colchester	Greshin of Warren	Lippert of Hinesburg
Conquest of Newbury	Haas of Rochester	Lorber of Burlington
Copeland-Hanzas of Bradford	Head of South Burlington	Macaig of Williston
Courcelle of Rutland City	Heath of Westford	Maier of Middlebury
Davis of Washington	Hooper of Montpelier	Malcolm of Pawlet
Deen of Westminster	Howard of Rutland City	Manwaring of Wilmington
Donahue of Northfield	Hube of Londonderry	Marek of Newfane
Donovan of Burlington	Jerman of Essex	Martin of Springfield
	Jewett of Ripton	Martin of Wolcott

Masland of Thetford	Partridge of Windham	Sweaney of Windsor
McCullough of Williston	Pellett of Chester	Taylor of Barre City
Milkey of Brattleboro	Peltz of Woodbury	Till of Jericho
Miller of Shaftsbury	Poirier of Barre City	Toll of Danville
Minter of Waterbury	Pugh of South Burlington	Townsend of Randolph
Mitchell of Barnard	Ram of Burlington *	Trombley of Grand Isle
Mook of Bennington	Rodgers of Glover	Waite-Simpson of Essex
Moran of Wardsboro	Scheuermann of Stowe	Webb of Shelburne
Mrowicki of Putney	Shand of Weathersfield	Weston of Burlington
Nease of Johnson	Sharpe of Bristol	Wilson of Manchester
Nuovo of Middlebury	Smith of Mendon	Wizowaty of Burlington
O'Brien of Richmond	Spengler of Colchester	Wright of Burlington
Obuchowski of Rockingham	Stevens of Waterbury	Zenie of Colchester
Orr of Charlotte	Stevens of Shoreham	Zuckerman of Burlington *

Those who voted in the negative are:

Acinapura of Brandon	Dickinson of St. Albans Town	McAllister of Highgate
Adams of Hartland	Donaghy of Poultney	McDonald of Berlin
Ainsworth of Royalton	Evans of Essex	McFaun of Barre Town
Atkins of Winooski	Fagan of Rutland City	McNeil of Rutland Town
Audette of So. Burlington *	Flory of Pittsford	Morley of Barton
Baker of West Rutland	Helm of Castleton	Morrissey of Bennington
Bissonnette of Winooski	Higley of Lowell	Myers of Essex
Branagan of Georgia	Howrigan of Fairfield	Pearce of Richford
Brennan of Colchester	Hubert of Milton	Peaslee of Guildhall
Browning of Arlington	Johnson of Canaan	Perley of Enosburg
Canfield of Fair Haven	Kilmartin of Newport City *	Potter of Clarendon
Clark of Vergennes	Koch of Barre Town *	Reis of St. Johnsbury
Clerkin of Hartford	Krawczyk of Bennington	Savage of Swanton
Consejo of Sheldon	Larocque of Barnet	South of St. Johnsbury
Corcoran of Bennington	Lawrence of Lyndon	Turner of Milton *
Crawford of Burke	Lewis of Derby	Wheeler of Derby *
Devereux of Mount Holly	Marcotte of Coventry	Winters of Williamstown
		Young of St. Albans City

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

O'Donnell of Vernon Westman of Cambridge

Rep. Gilbert of Fairfax explained his vote as follows:

“Mr. Speaker:

Simply because I, as an individual believe that marriage is a sacrament and chose to be married within a church, does not mean that everyone must have the same beliefs. Others may choose a civil marriage ceremony, a civil union, a different church, or nothing at all. These alternatives have absolutely no affect on my marriage, my faith, or my individual commitment to my wife and family. They cost me nothing. The choice to marry is a public declaration of a personal choice made by a couple that loves and is committed to care for

each other. As a person, I cannot deny the rights to others that I claim for myself. As a legislator, I must uphold the Vermont and U.S. Constitutions and my Oath of Office. I support this bill .”

Rep. Grad of Moretown explained her vote as follows:

“Mr. Speaker:

I vote yes for S. 115. As a member of your House Judiciary committee my goal is to promote justice for all Vermonters so they may attain equal access rights, benefits and privileges under the law.

Through testimony on this bill I learned that civil unions does not do this but creates a separate status for same sex couples and their children who are often discriminated against, stigmatized and marginalized.

Studies show that there is no credible scientific evidence that parenting effectiveness is related to parental sexual orientation, but instead is related to parenting styles.

In voting for this bill I vote for Vermont same-sex families and their children with the hope to begin to repair the wounds of discrimination they suffer and give all Vermont children a more tolerant world in which to grow.”

Rep. Audette of South Burlington explained his vote as follows:

“Mr. Speaker:

I voted no but I respect people for who they are and not their sexual orientation.”

Rep. Clarkson of Woodstock explained her vote as follows:

“Mr. Speaker:

I vote yes in support of a bill that furthers the cause of equality in Vermont and because anything that promotes love and commitment is wonderful and further promotes the common good.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

Marriage in all cultures throughout recorded history has been between a man and a woman and for good and indisputable reasons. There is a male father and female mother who carry the child to term. To give the title to same-sex couples does nothing but introduce confusion and chaos into the very nature of marriage and the family. The way the bill is structured, it denies individuals and mothers and fathers the exercise and practice their sincerely held beliefs and denies them their Constitutional rights to raise their own children according to the dictates of their conscience. The bill cleverly sets up

clergymen and religious institutions as those entitled to freedom of conscience while intentionally denying the individual citizens their constitutionally guaranteed rights.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

Due to the necessity of attending the wake of a close friend back home, the member from Vernon has asked me to note for the record that she would have voted no on this question.”

Rep. Ram of Burlington explained her vote as follows

“Mr. Speaker:

To say that Civil Unions offered the same rights as marriage is nothing less than saying once upon a time there are two drinking fountains that both dispense the same water. I vote yes to lift this final weight of off the shoulders of your otherwise free society.”

Rep. Turner of Milton explained his vote as follows

“Mr. Speaker:

Voting “no” tonight on this bill was a very difficult decision for me. Several of my family members and close friends are gay and I fully support their rights under the Civil Union laws of our state. I believe in and have performed many Civil Unions in the past. However, I just could not come to terms with redefining the term marriage. I fully respect the proponents position of this legislation and can understand and will respect my position on this issue. Thank you.”

Rep. Wheeler of Derby explained his vote as follows

“Mr. Speaker:

I found myself wishing when I came into this debate I had strong opinions one way or another, but I didn’t.

When I was a newspaper reporter covering the Civil Union debates it was far easier for me to know how I would vote on that issue, but probably only because I didn’t have to actually vote. In voting “no” I know that I have disappointed some people including, some dear friends. My vote came after much talking and listening to people on both sides of the issue. In voting “no”, which a huge percentage of my constituents asked me to do, I hope my gay and lesbian friends and colleagues don’t feel that I threw them under the bus, but on the other hand, I won’t blame them if they do. As a history writer I wonder if I voted on the right or wrong side of history – only time will tell. Will I look

back on my vote with disappointment? Only time will tell. I apologize for those who I have disappointed, and I thank everybody for keeping this process civil.”

Rep. Zuckerman of Burlington explains his vote as follows

“Mr. Speaker:

Nine years ago twenty-two members of this body voted for full equality. Today ninety-five members did. In and of itself, that is a huge victory. A huge majority has spoken.”

Adjournment

At nine o'clock and twenty-five minutes in the evening, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.