

Journal of the Senate

FRIDAY, MARCH 27, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mr. Regis Cummings of Montpelier.

President Assumes the Chair

Message from the House No. 38

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 25. Joint resolution relating to weekend adjournment.

And has passed the same in concurrence.

Message from the House No. 39

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 34. An act relating to automated external defibrillators.

H. 287. An act relating to Uniform Prudent Management of Institutional Funds Act.

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

The House has adopted joint resolution of the following title:

J.R.H. 14. Joint resolution relating to the closure and rehabilitation of the Vilas Bridge.

In the adoption of which the concurrence of the Senate is requested.

Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

S. 89. An act relating to a maximum retail price for milk.

S. 130. An act relating to premium changes to allow enhanced Medicaid match in fiscal year 2009.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 131.

By Senators Carris and Mullin,

An act relating to advance directive on health coverage forms.

To the Committee on Health and Welfare.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 132.

By the Committee on Agriculture,

An act relating to agricultural funding education and outreach.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 133.

By Senator White,

An act relating to eliminating the public oversight commission.

To the Committee on Health and Welfare.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 134.

By the Committee on Government Operations,

An act relating to the reduction and consolidation of certain nonstanding legislative committees.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 135.

By Senator White,

An act relating to the creation of planned unit development distributed generation systems.

To the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 34.

An act relating to automated external defibrillators.

To the Committee on Judiciary.

H. 287.

An act relating to Uniform Prudent Management of Institutional Funds Act.

To the Committee on Finance.

H. 348.

An act relating to the Interstate Pest Control Compact.

To the Committee on Agriculture.

H. 427.

An act relating to making miscellaneous amendments to education law.

To the Committee on Education.

Joint Resolution Placed on Calendar**J.R.S. 26.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Maynard, Ayer, Brock, Carris, Choate, Cummings, Giard, Hartwell, Illuzzi, Kittell, MacDonald, McCormack and Scott,

J.R.S. 26. Joint resolution relating to the legalization of industrial hemp.

Whereas, industrial hemp refers to the nondrug oilseed and fiber varieties of *Cannabis* which have less than three-tenths of one percent (0.3%) tetrahydrocannabinol (THC) and which are cultivated exclusively for fiber, stalk, and seed, and

Whereas, industrial hemp is genetically distinct from drug varieties of *Cannabis* (also known as marijuana), and the flowering tops of industrial hemp cannot produce any drug effect when smoked or ingested, and

Whereas, Congress never intended to prohibit the production of industrial hemp when restricting the production, possession and use of marijuana, and

Whereas, the legislative history of the Marijuana Tax Act of 1937 (50 Stat. 551), the statutory source for the federal definition of marijuana, shows that industrial hemp farmers and manufacturers of industrial hemp products were assuaged by the Federal Bureau of Narcotics commissioner, that the proposed legislation bore no threat to hemp-related activities, and

Whereas, the United States Court of Appeals for the Ninth Circuit ruled in Hemp Industries v. Drug Enforcement Administration, 357 F.3d 1012 (9th Cir. 2004), that the federal Controlled Substances Act of 1970 (21 U.S.C. Sec. 812(b)) explicitly excludes nonpsychoactive industrial hemp from the definition of marijuana, and the federal government declined to appeal that decision, and

Whereas, the Controlled Substances Act of 1970 specifies the findings to which the government must attest in order to classify a substance as a Schedule I drug, and those findings include that the substance has a high potential for abuse, has no accepted medical use, and has a lack of accepted safety for use, none of which applies to industrial hemp, and

Whereas, Article 28, § 2 of the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, states that, “This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes,” and

Whereas, industrial hemp is commercially produced in more than 30 countries, including Australia, Canada, China, Great Britain, France, Germany and Romania, without undue restriction or complications, and

Whereas, American companies are forced to import million of dollars' worth of hemp seed and fiber products, denying American farmers the opportunity to compete for and share in profits for cultivating hemp, and

Whereas, nutritious hemp foods can be found in grocery stores nationwide, and strong durable hemp fibers can be found in the interior parts of millions of American cars, and

Whereas, buildings are being constructed of a hemp and lime mixture that sequesters carbon, and

Whereas, retail sales of hemp products in this country are estimated to be \$365 million annually, and

Whereas, industrial hemp is a high-value low-input crop that is not genetically modified, requires little or no pesticides, can be dry-land farmed, and uses less fertilizer than wheat or corn, and

Whereas, the reluctance of the United States Drug Enforcement Administration to permit industrial hemp farming is denying agricultural producers in this country the ability to benefit from a high-value low-input crop, which can provide significant economic benefits to producers and manufacturers, and

Whereas, the United States Drug Enforcement Administration has the authority under the Controlled Substances Act to allow this state to regulate industrial hemp farming under existing laws and without requiring individual federal applications and licenses, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to:

- 1) Recognize industrial hemp as a valuable agricultural commodity;
- 2) Define industrial hemp in federal law as a nonpsychoactive and genetically identifiable species of the genus *Cannabis*;
- 3) Acknowledge that allowing and encouraging farmers to produce industrial hemp will improve the balance of trade by promoting domestic sources of industrial hemp; and
- 4) Assist United States producers by removing barriers to state regulation of the commercial production of industrial hemp, *and be it further*

Resolved: That the United States Drug Enforcement Administration allow the states to regulate industrial hemp farming without federal applications, licenses or fees, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Administrator of the United States Drug Enforcement Administration, United States Secretary of Agriculture Tom Vilsack, and the Vermont Congressional delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

J.R.H. 14

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to the closure and rehabilitation of the Vilas Bridge.

Offered by: Representatives Obuchowski of Rockingham, Partridge of Windham, Deen of Westminster and Mrowicki of Putney

Whereas, the Connecticut River divides the communities of Walpole, New Hampshire and Bellows Falls, Vermont, and

Whereas, the Vilas Bridge, with the state of New Hampshire owning 93 percent and the state of Vermont seven percent, is a 635-foot span that joins these municipalities into a single social and economic community within the Connecticut River Valley, and

Whereas, constructed in 1930, the Vilas Bridge was listed on the National Register of Historic Places in 1989 and is the only remaining three-span open spandrel reinforced concrete arch bridge in New Hampshire, and

Whereas, a May 1994 memorandum of agreement to which the Federal Highway Administration, the New Hampshire department of transportation, and the New Hampshire state historic preservation office were each a party commits the state of New Hampshire to restore the bridge in accordance with that state's ten-year highway program, and

Whereas, according to the New Hampshire department of transportation, an average of 4,600 vehicles cross the bridge each day, and

Whereas, over 20 years ago, the New Hampshire department of transportation placed the Vilas Bridge on the state's red or danger list, finding the bridge to be structurally insufficient, and assigned it a sufficiency rating of 3.1 percent out of a possible 100 percent, and

Whereas, the New Hampshire department of transportation's Ten Year Plan had previously proposed a rehabilitation of the Vilas Building in 2010, and a more recent version of the plan delayed that date until 2015, and

Whereas, on March 31, 2006, the Vermont General Assembly adopted a resolution urging the state of New Hampshire to expedite the rehabilitation of the Vilas Bridge, a vital roadway for the residents of Bellows Falls and Walpole, New Hampshire, and

Whereas, the danger of driving or walking across the Vilas Bridge has now become so acute that the New Hampshire department of transportation closed the span to all vehicular and pedestrian traffic on March 19, 2009, following a semiannual inspection that found, to no one's surprise, that the bridge was absolutely unsafe for either mode of transportation, and

Whereas, the closure of the Vilas Bridge will block direct access from Walpole, New Hampshire into downtown Bellows Falls, forcing traffic to flow instead across the new arch bridge located approximately one mile to the north, and

Whereas, the diverting of traffic to the new arch bridge will cause excessive pressure on this span and connecting roads and potentially deprive Bellows Falls of severely needed consumer dollars, and

Whereas, the Vilas Bridge is currently ranked 18th on the New Hampshire department of transportation's priority replacement list, which is indefensible given the traffic congestion and economic hardship its closure may precipitate and the department's ranking of this span on its danger list for over two decades, and

Whereas, in Vermont, the Richmond Bridge, which is also a severely deteriorated bridge that serves as a community's economic lifeline was raised on the state's priority replacement list after Congressman Welch secured federal stimulus funding for its rehabilitation, and the rehabilitation work on this span has already commenced, and

Whereas, a comparable effort on the part of the New Hampshire Congressional Delegation might produce a similar result, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly implores the New Hampshire Congressional Delegation, New Hampshire Governor John Lynch, the New Hampshire Executive Council, and the New Hampshire General Court to make every possible effort to seek federal economic stimulus money to finance the rehabilitation of the Vilas Bridge as expeditiously as possible, and be it further

Resolved: That the General Assembly strongly urges the state of New Hampshire in the alternative to reprioritize upward the replacement ranking of the Vilas Bridge and to finance this project from either other federal transportation funds designated for the state of New Hampshire or state gasoline tax revenue, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the New Hampshire Congressional Delegation, New Hampshire Governor John Lynch, the New Hampshire Executive Council, New Hampshire Commission of Transportation George Campbell Jr., the chairs of the House and Senate transportation committees of the New Hampshire General Court, Vermont Secretary of Transportation David Dill, and the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Message from the Governor Appointment Referred

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

Benning, Joseph C., Esq. of Lyndonville - Chair of the Human Rights Commission, - from March 5, 2009, to February 28, 2014.

To the Committee on Judiciary.

Consideration Postponed

Senate bills entitled:

S. 94.

An act relating to licensing state forestland for maple sugar production.

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

S. 109.

An act relating to brominated flame retardants.

S. 126.

An act relating to digital forensic specialists.

S. 128.

An act relating to workers' compensation benefits and misclassification.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 5. An act relating to accidents involving an on-duty law enforcement officer, firefighter, or emergency medical personnel.

Bill Amended; Bill Passed**S. 47.**

Senate bill entitled:

An act relating to salvage yards.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sears, Carris and Illuzzi moved to amend the bill by adding a new section to be numbered Sec. 19 to read as follows:

Sec. 19. REPEAL OF SUNSET OF SCRAP METAL PROCESSOR REQUIREMENTS

Sec. 12 of No. 195 of the Acts of the 2007 Adj. Sess. (2008) (sunset of scrap metal processor requirements for identification of persons selling scrap metal) is repealed.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Snelling moved to amend the bill by striking out Sec. 15 in its entirety and inserting in lieu thereof the following:

Sec. 15. AGENCY OF NATURAL RESOURCES REPORT ON THE REGULATION OF SALVAGE YARDS

On or before January 15, 2010, the agency of natural resources shall report to the senate and house committees on natural resources and energy, the senate and house committees on transportation, and the senate and house committees on government operations with recommendations for regulating additional

activities in the state as salvage yards and for additional operational requirements for existing salvage yards. The report shall include:

(1) Recommended rules, requirements, or methods for regulating the owners of property who store or keep outdoors less than seven salvage motor vehicles on their property, including rules, requirements, or methods for preventing environmental contamination from property on which less than seven salvage motor vehicles are stored outdoors.

(2) Recommended rules, requirements, or methods for regulating as salvage yards property that does not qualify for a solid waste facility certification under 10 V.S.A. chapter 159 on which is stored outdoors salvage materials other than salvage motor vehicles. The recommendations shall include threshold levels under which the outdoor storage of certain salvage materials, which may include snowmobiles, all-terrain vehicles, all forms of appliances, and boats, shall trigger regulation as a salvage yard. Such threshold levels shall be provided as equivalent units of a salvage motor vehicle.

(3) Recommended rules or requirements for salvage yards to install or construct fencing that is of an adequate size and construction in order to prohibit entry or access to the salvage yard during nonbusiness hours.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Consideration Postponed

House bill entitled:

H. 11.

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Bills Amended; Third Readings Ordered

S. 38.

Senator Brock, for the Committee on Government Operations, to which was referred 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.

Reported recommending that the bill be amended by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 and Secs. 3, 4, and 5 to read as follows:

Sec. 2. 32 V.S.A. § 313 is added to read:

§ 313. GRANT REPORT

(a) Annually, beginning January 31, 2010, the department of finance and management shall publish on its website a report on all grants of federal monies made by each executive branch agency in the preceding calendar year. The report shall be formatted as a table and shall include, for each grant issued after October 1, 2008:

(1) An identification number or code for each federal grant issued by an agency;

(2) The name and address of the subrecipient of the federal grant;

(3) A description of the purpose or use of the grant;

(4) The amount of the grant; and

(5) The Catalog of Federal Domestic Assistance (CFDA) number for each federal grant.

(b) Grant reports issued under this section shall be public records available for inspection and review.

(c) For the purposes of this section, “grant” means a legally enforceable agreement between an agency (grantor) and a recipient or subrecipient (grantee) to carry out a purpose as defined in that agreement.

Sec. 3. 32 V.S.A. § 314 is added to read:

§ 314. GRANT REPORT

(a) Annually, beginning January 31, 2015, the department of finance and management shall publish on its website a report on all grants of federal and state monies made by each executive branch agency in the preceding calendar year. The report shall be formatted as a table and shall include, for each grant:

(1) An identification number or code for each federal or state grant issued by an agency;

(2) The name and address of the recipient or subrecipient of the state or federal grant;

(3) A description of the purpose or use of the grant;

(4) The amount of the grant; and

(5) The Catalog of Federal Domestic Assistance (CFDA) number for each federal grant.

(b) Grant reports issued under this section shall be public records available for inspection and review.

(c) For the purposes of this section, “grant” means a legally enforceable agreement between an agency (grantor) and a recipient or subrecipient (grantee) to carry out a purpose as defined in that agreement.

Sec. 4. REPEAL

Sec. 2, 32 V.S.A. § 313 (department of finance and management report on federal grants), shall be repealed on July 1, 2014.

Sec. 5. EFFECTIVE DATE

Sec. 3 shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 125.

Senate committee bill entitled:

An act relating to expanding the sex offender registry.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senators Campbell, Cummings and Nitka, on behalf of the Committee on Judiciary, moved to amend the bill by striking out Sec. 10 in its entirety and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears, on behalf of the Committee on Judiciary, moved to amend the bill by adding Sec. 9a to read as follows::

Sec. 9a. 20 V.S.A. § 2061 is amended to read:

§ 2061. FINGERPRINTING

* * *

(m) The Vermont crime information center may electronically transmit fingerprints and photographs of accused persons to the Federal Bureau of Investigation (FBI) at any time after arrest, summons, or citation ~~for the sole purpose of identifying an individual. However, the Vermont crime information center shall not forward fingerprints and photographs to the FBI for the purpose of inclusion in the National Crime Information Center Database until after arraignment.~~ If the Vermont crime information center forwards fingerprints and photographs to the FBI ~~after arraignment~~ and the defendant is acquitted, the Vermont crime information center shall request the FBI to destroy the fingerprints and photographs. If the Vermont crime information center forwards fingerprints and photographs to the FBI ~~after arraignment~~ and all charges against the defendant are dismissed, the Vermont crime information center shall request the FBI to destroy the fingerprints and photographs, unless the attorney for the state can show good cause why the fingerprints and photographs should not be destroyed.

* * *

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears, on behalf of the Committee on Judiciary, moved to amend the bill by adding Secs. 9b and 9c to read as follows:

Sec. 9b. 28 V.S.A. § 204 is amended to read:

§ 204. -SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d) Any presentence report, pre-parole report, or supervision history prepared by any employee of the department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the department other than the judge or the parole board, except that the court or board may in its discretion permit the inspection of the report or parts thereof by the state's attorney, the defendant or inmate or his or her attorney, or other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

* * *

(f) Except as otherwise provided by law, reports and records subject to this section may be inspected by a state or federal prosecutor as part of a criminal investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 9c. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to inmates at the facility. Except as otherwise provided by law, the contents of an inmate's file may be inspected by a state or federal prosecutor as part of a criminal investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears, on behalf of the Committee on Judiciary, moved to amend the bill by adding Sec. 9d to read as follows:

Sec. 9d. 28 V.S.A. § 856 is added to read:

§ 856. SPECIAL MANAGEMENT MEALS

(a) When an inmate misuses bodily waste or fluids, food, or eating utensils, the supervising officer of the facility or his or her designee may order that the inmate be served special management meals in lieu of regular inmate meals pursuant to this section.

(b)(1) When it appears to the supervising officer that an inmate may be subject to an order to receive special management meals, the officer shall

notify the inmate in writing of the reason for the determination and the facility's evidence for it.

(2)(A) Before being served special management meals, the inmate shall be provided an opportunity to meet with a member of the facility's staff not involved in the incident. The purpose of the meeting shall be to serve as an initial check against mistaken decisions and to determine whether there are reasonable grounds to believe that the inmate misused bodily waste or fluids, food, or eating utensils.

(B) At a meeting between an inmate and a staff member held pursuant to this subdivision, the inmate may identify any disagreement he or she has with the facility's version of the facts, identify witnesses who support his or her defense, identify any mitigating circumstances which should be considered, and offer any other arguments that may be appropriate. The inmate shall not have the right to cross-examine witnesses or to call witnesses to testify on his or her behalf.

(c) If the officer determines that there are reasonable grounds to believe that the inmate misused bodily waste or fluids, food, or eating utensils, the officer may order that the inmate be served special management meals in lieu of regular inmate meals for a maximum of seven consecutive days.

(d) When the supervising officer orders that an inmate be served special management meals, a hearing officer designated by the officer shall conduct a fact-finding hearing within 48 hours pursuant to the following procedure:

(1) Notice of the charge and of the hearing shall be given to the inmate.

(2) The inmate shall have an opportunity, subject to reasonable rules, to confront the person bringing the charge.

(3) The inmate shall have the right to be present and heard at the hearing subject to reasonable rules of conduct.

(4) The hearing officer shall summon to testify any available witness or other persons with relevant knowledge of the incident, subject to reasonable rules. The inmate charged may be permitted to question any person who testifies pursuant to this subdivision.

(5) If the inmate so requests, he or she may be assisted in the preparation and presentation of his or her case by an assigned employee of the facility if the supervising officer determines in his or her discretion that the requested employee is reasonably available.

(e) If the hearing officer determines that a preponderance of the evidence does not establish that the inmate misused bodily waste or fluids, food, or

eating utensils, the supervising officer shall discontinue service of special management meals to the inmate.

(f) The service of special management meals shall not be construed as punishment and shall not be subject to the requirements of sections 851–853 of this title.

Which was agreed to.

Thereupon, the pending question, Shall the bill be read a third time?, was decided in the affirmative.

Consideration Postponed

S. 127.

Senate committee bill entitled:

An act relating to small school districts that pay tuition for their resident students.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator McCormack moved to amend the bill by striking out Sec. 7 [Effective Date] in its entirety and inserting in lieu thereof three new sections to read as follows:

Sec. 7. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; ~~FORM OF VOTE IF BUDGET EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE~~

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the commissioner.

~~(B) If the proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed was in excess of the statewide average district education spending per equalized pupil in that same fiscal year, as determined by the commissioner of education, then in lieu of any other statutory or charter form of budget adoption or budget vote, the board shall present the budget to the voters by~~

means of a divided question, in the form of vote provided in subdivision (ii) of this subsection.

(i) ~~“Maximum Inflation Amount” in this section means:~~

~~(I) the statewide average district education spending per equalized pupil, as defined in subdivision 4001(6) of this title, in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education, multiplied by the New England Economic Project Cumulative Price Index percentage change, as of November 15 preceding distribution of the proposed budget, for state and local government purchases of goods and services for the fiscal year for which the budget is proposed, plus one percentage point; plus the district’s education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education;~~

~~(II) multiplied by the higher of the following amounts as determined by the commissioner of education:~~

~~(aa) the district’s equalized pupil count in the fiscal year preceding the year for which the budget is proposed; or~~

~~(bb) the district’s equalized pupil count in the fiscal year for which the budget is proposed.~~

(ii) ~~Form of vote.~~

~~“School Budget Question #1:~~

~~Shall the voters of the _____ School District approve a total budget in the amount of [\$ _____], which includes the Maximum Inflation Amount of education spending?~~

~~“School Budget Question #2:~~

~~If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$ _____]?”~~

~~(C)(B)~~ At a school district’s annual meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district’s annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show

the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources and expenses, including as separate items any assessment for a union school district or a supervisory union of which it is a member, and any tuition to be paid to a technical center;

(ii) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;

(iii) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget; including those portions of the tax rate attributable to the union school and supervisory union assessments; and

(iv) in the case of a school district:

(I) other than a union school district, the definition of "education spending," the number of pupils and number of equalized pupils in the school district, and the district's education spending per equalized pupil in the proposed budget and in each of the prior three years; or

(II) in the case of a union school district, the amount of the assessment to each of the member districts and the amount of the assessments per equalized pupil in the proposed budget and for the past three years.

* * *

Sec. 8. REPEAL

Sec. 6 (effective date; a divided question is required when voting for school budgets that exceed the maximum inflation amount for fiscal years 2010 ((school year 2009-2010)) through 2014 ((school year 2013-2014))) of No. 82 of the Acts of 2007 is repealed.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage and shall apply to all proposed school budgets on which the electorate will vote after the effective date of this act.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator McCormack?, Senator McCormack requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, on motion of Senator Cummings consideration of the bill was postponed until the next legislative day.

Proposed Amendment to the Constitution Made Special Order

Proposed Amendment to the Constitution designated as Proposal 5, having appeared on the Calendar for seven legislative days pursuant to Rule 83,

Was taken up.

Thereupon, pending third reading of the Proposed Amendment, on motion of Senator White, Proposal 5 was made a Special Order for Friday, April 3, 2009, at nine o'clock in the forenoon.

Rules Suspended; Committee Relieved of Further Consideration; Bills Committed**H. 36.**

On motion of Senator White, the rules were suspended, and H. 36 was taken up for immediate consideration, for the purpose of relieving the Committee on Government Operations from further consideration of the bill. Thereupon, on motion of Senator White, the Committee on Government Operations was relieved of House bill entitled:

An act relating to repealing the charter of the Enosburg Falls Incorporated School District,

and the bill was committed to the Committee on Education.

S. 101.

On motion of Senator White, the rules were suspended, and S. 101 was taken up for immediate consideration, for the purpose of relieving the Committee on Finance from further consideration of the bill. Thereupon, on motion of Senator White, the Committee on Finance was relieved of Senate bill entitled:

An act relating to repeal of delinquent property tax penalty,

and the bill was committed to the Committee on Government Operations.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, March 31, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 25.