

# Journal of the House

**Tuesday, April 6, 2010**

At ten o'clock in the forenoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Rev. Mark Pitton of Bethany Church, Montpelier, VT.

## **Pledge of Allegiance**

**Page Meaghan Williams of Bradford** led the House in the Pledge of Allegiance.

## **Bill Read Second Time; Third Reading Ordered**

**H. 791**

**Rep. Condon of Colchester** spoke for the committee on Ways and Means.

House bill entitled

An act relating to the tax expenditure budget

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

## **Bill Amended; Third Reading Ordered**

**H. 760**

**Rep. Consejo of Sheldon**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the repeal or revision of certain boards and commissions

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 2504(a) is amended to read:

(a) The secretary of the agency of agriculture, food and markets and the secretary of the agency of commerce and community development, ~~in consultation with the market Vermont board,~~ shall develop categories and standards designed to identify those Vermont goods, services, and experiences which best portray and promote Vermont's reputation for high standards of quality.

Sec. 2. 10 V.S.A. § 647 is amended to read:

§ 647. ANNUAL REPORT

Annually, on or before March 1, the board of directors of the Vermont film corporation shall submit a report to the department of tourism and marketing and to the ~~general assembly~~ house and senate committees on government operations for the prior 12-month period. The report shall describe activities of the board during the preceding year and shall also include an accounting of revenues received by and expenditures of the board and plans to minimize future state funding of the corporation's activities.

Sec. 3. 10 V.S.A. § 2606a(b) is amended to read:

(b) ~~Specific sites.~~

~~(1) Mountaintop designation. The state-owned mountaintops to which this section shall apply are: Ascutney Mountain North Peak and Ascutney Mountain South Peak, Burke Mountain, Okemo Mountain, and Killington Mountain. Before any applicable permitting process is commenced regarding Okemo Mountain, the Okemo Mountain technical site committee, created by subdivision (2) of this subsection, shall hold a public hearing in the Town of Ludlow before authorizing any use of the Okemo Mountain site for communications purposes. Upon a request for use or other indication of need for establishing additional communications facilities by either public or private parties, additional mountaintop communications sites may be designated by the department when consistent with long range management plans for state-owned land and subject to public input. Such designations shall be by rule adopted pursuant to chapter 25 of Title 3.~~

\* \* \*

Sec. 4. 16 V.S.A. § 216(b) is amended to read:

(b) The commissioner with the approval of the state board shall establish an advisory council on wellness and comprehensive health which shall include at least three members associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in the pursuit of their duties relating to wellness and comprehensive health programs. The council shall assist the department of education in planning, coordinating, and encouraging wellness and comprehensive health programs in the public schools.

Sec. 5. 18 V.S.A. § 4702(a) is amended to read:

(a) The department of health, ~~in collaboration with the opiate addiction treatment advisory committee~~, shall develop by rule comprehensive guidelines for a regional system of opiate addiction treatment.

Sec. 6. 18 V.S.A. § 5212b(c) is amended to read:

(c) The commissioner of housing and community affairs may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites in accordance with a process approved by the commissioner. The commissioner shall approve any process developed through consensus or agreement of the interested parties, including the municipality, the ~~governor's advisory~~ Vermont commission on Native American affairs, and private property owners of property on which there are known or likely to be unmarked burial sites, provided the commissioner determines that the process is likely to be effective, and includes all the following:

\* \* \*

Sec. 7. 21 V.S.A. § 1306(a) is amended to read:

(a) The governor shall appoint a state department of labor advisory council composed of eight members from the general public to include four employer representatives and four employee representatives who may fairly be regarded as employees because of their vocations, employment, and affiliations. Appointment of the four employee representatives, at least one of whom shall have experience in workers' compensation law and one of whom shall be a member of a building trade, shall be made from a list of qualified individuals submitted by the Vermont state labor council, the Vermont state employees' association, and the Vermont national education association. Appointment of the four employer representatives shall be made from a list of qualified individuals submitted by the Vermont chamber of commerce, associated general contractors of Vermont, and Vermont businesses for social responsibility. The council members shall be appointed for staggered terms of four years. The council shall meet at least ~~six~~ three times a year.

Sec. 8. 23 V.S.A. § 3310(a) is amended to read:

(a) The ~~state board~~ commissioner of forests, parks and recreation or a municipality in administering a swimming beach or waterfront program may designate a swimming area in front of the beach or land which the state or a municipality owns or controls and may make rules pertaining to the area. The rules may provide that no person, except a lifeguard on duty and other authorized personnel, may operate any boat, canoe, or water vehicle of any sort within the designated swimming area.

Sec. 9. 24 V.S.A. § 4345a(16) is amended to read:

(16) ~~Before requesting review by the council of regional commissioners or the services of a mediator pursuant to section 4305 of this title, with~~ With respect to a conflict that has arisen between adopted or proposed plans of two or more regions or two or more municipalities located in different regions, appoint a joint interregional commission, in cooperation with other affected regional commissions for the purpose of negotiating differences.

Sec. 10. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

\* \* \*

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the ~~chairperson~~ chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the department of housing and community affairs within the agency of commerce and community development; and

(4) ~~the council of regional commissions; and~~

~~(5)~~ business, conservation, low income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

\* \* \*

(f) A regional plan or amendment shall be adopted by not less than a 60 percent vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission, and immediately submitted to the legislative bodies of the municipalities that comprise the region. The plan or amendment shall be considered duly adopted and shall take effect 35 days after the date of adoption, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed plan or amendment. In case of such a veto, the plan or amendment

shall be deemed rejected. ~~A plan or amendment that has become effective or has been rejected shall be transmitted promptly to the council of regional commissions.~~

\* \* \*

Sec. 11. 28 V.S.A. § 121 is amended to read:

§ 121. COMMUNITY HIGH SCHOOL OF VERMONT AND OFFENDER WORK PROGRAMS BOARD

(a) ~~A board is established for the purpose of advising the education supervisor of the independent school established in section 120 of this title. The community high school of Vermont and offender work programs board shall have supervision over~~ is established to recommend policy formation for the independent school, community high school of Vermont and offender work programs to the commissioner of corrections, except as otherwise provided, shall recommend school policy to the commissioner of corrections, shall advise the education supervisor, oversee local advisory boards of the school, and shall perform such other duties as requested from time to time by the commissioner of education or of corrections.

(b) The board shall consist of nine members, each appointed by the governor for a three-year term subject to the advice and consent of the senate, in such a manner that no more than three terms shall expire annually, as follows:

(1) ~~Six~~ Five representatives from the membership of local advisory boards serving the school sites, not to include more than one member from any advisory board.

(2) ~~Three members-at-large~~ Three representatives of public sector and private nonprofit organization customers of the products and services of offender work programs.

(3) One member-at-large.

(c) The board shall appoint a chair and vice chair, each of whom shall serve for one year or until a successor is appointed by the board.

(d) The board shall report on its activities at least annually to the state board of education and the commissioner of corrections.

(e) ~~The board may, with the approval of the commissioner of corrections, appoint the education supervisor of the independent school. The board shall review plans submitted by the director of offender work programs, conduct public hearings regarding potentially affected private businesses and labor~~

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groups, evaluate the impact on private sector business, and provide its recommendations to the commissioner of corrections.

Sec. 12. 28 V.S.A. § 751b is amended to read:

§ 751b. GENERAL PROVISIONS GOVERNING OFFENDER WORK

\* \* \*

(d) The labor, work product, or time of an offender may be sold, contracted, or hired out by the state only:

(1) To the federal government.

(2) To any state or political subdivision of a state, or to any nonprofit organization which is exempt from federal or state income taxation, subject to federal law, to the laws of the recipient state and to the rules of the department. ~~Five~~ Two of the three members of the community high school of Vermont and offender work programs board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any nonprofit organization and ~~such~~ the vote shall be binding on the department.

(3) To any private person or enterprise not involving the provision of the federally authorized Prison Industries Enhancement Program, provided that the community high school of Vermont and offender work programs board shall first determine that the offender work product in question is not otherwise produced or available within the state. ~~Five~~ Two of the three members of the ~~such~~ board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any person or entity not involving the provisions of the federally authorized Prison Industries Enhancement Program and such vote shall be binding on the department.

\* \* \*

(e) Offender work programs managers shall seek to offset production, service and related costs from product and service sales; however, this financial objective of offsetting the costs to the department of servicing and supervising offender work programs shall not be pursued to the detriment of accomplishing the purposes of offender work programs set out in subsection (a) of this section or to the detriment of private businesses as safeguarded by ~~section 761~~ subsection 121(e) of this title.

\* \* \*

(g) Assembled products shall not be sold to any person, enterprise, or entity unless the community high school of Vermont and offender work programs board has first reviewed any such proposed sale, and ~~five~~ two of the three members of the board appointed under subdivision 121(b)(2) of this title have voted in favor of the proposal at a scheduled and warned meeting of the board.

\* \* \*

Sec. 13. 28 V.S.A. § 752 is amended to read:

§ 752. OFFENDER WORK PROGRAMS SPECIAL FUND

\* \* \*

(b) Any expenses incurred by offender work programs ~~and the offender work programs board~~ shall be defrayed by this fund.

\* \* \*

Sec. 14. 29 V.S.A. § 152(a)(3)(A) is amended to read:

(A) For which the legislature or the emergency board has made specific appropriations. In consultation with the department or agency concerned ~~and with the approval of the board of state buildings~~, the commissioner shall select sites, purchase lands, determine plans and specifications, and advertise for bids for the furnishing of materials and construction thereof and of appurtenances thereto. The commissioner shall determine the time for beginning and completing the construction. Any change orders occurring under the contracts let as the result of actions previously mentioned in this section shall not be allowed unless they have the approval of the secretary of administration.

Sec. 15. 29 V.S.A. § 152(a)(5) is amended to read:

(5) Inspect, appraise, and maintain a current appraisal schedule of all state-owned buildings, appendages, and appurtenances thereto based upon replacement value in the first instance and upon depreciated value in the second instance. ~~Such appraisals~~ Appraisals shall be furnished upon request to the secretary of administration, ~~the board of state buildings~~, the commissioner of buildings and general services, departments and agencies concerned, and appropriate committees of the general assembly.

Sec. 16. 32 V.S.A. § 1010(a) is amended to read:

(a) Except for those members serving ex officio or otherwise regularly employed by the state, the compensation of the members of the following boards shall be \$50.00 per diem:

- (1) Board of bar examiners

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- (2) Board of libraries
  - (3) Vermont milk commission
  - (4) Board of education
  - (5) State board of health
  - (6) Emergency board
  - (7) Liquor control board
  - (8) ~~{Repealed.}~~
  - ~~(9) Human services board~~
  - ~~(10) State board of forests, parks and recreation~~
  - ~~(11)~~(9) State fish and wildlife board
  - ~~(12)~~(10) State board of mental health
  - ~~(13) Vermont development advisory board~~
  - ~~(14) Vermont state water resources board~~
  - ~~(15)~~(11) Vermont employment security board
  - ~~(16)~~(12) Capitol complex commission
  - ~~(17)~~(13) Natural gas and oil resources board
  - ~~(18) Commission of the deaf and hearing impaired~~
  - ~~(19)~~(14) Transportation board
  - ~~(20) Health policy council~~
  - ~~(21) Certificate of need review board~~
  - ~~(22) Certificate of need appeals board~~
  - ~~(23)~~(15) Vermont veterans' home board of trustees
  - ~~(24)~~(16) Advisory council on historic preservation
  - ~~(25) Vermont whey pollution abatement authority~~
  - ~~(26)~~(17) The electricians' licensing board
  - ~~(27) The alternatives to incarceration board~~
  - ~~(28) Offender work programs board~~
  - ~~(29) Firefighters'~~ (18) Emergency personnel survivors benefit review  
board

~~(30)(19) Community high school of Vermont and offender work programs board~~

~~(31) Municipal land records commission.~~

Sec. 17. REPEAL

The following are repealed:

(1) Subchapter 1 of chapter 21 of Title 1 (commission on interstate cooperation).

(2) The following sections, subsections, and subdivisions in Title 3:

(A) § 2(3)(C) (commission on interstate cooperation);

(B) § 1101(b)(6) (council of regional commissions);

(C) § 2293 (development cabinet);

(D) § 2294 (technology advisory board);

(E) § 2503 (market Vermont advisory board);

(F) § 2873(f) (toxics technical advisory board);

(G) § 2873(h) (compliance advisory board);

(H) § 4020(b)(3) (council of regional commissions);

(3) The following chapters and subchapters in Title 10:

(A) Subchapter 1 of chapter 1 (Vermont business recruitment partnership);

(B) Chapter 4 (world trade office);

(C) Chapter 11A (Vermont qualifying facility contract mitigation authority);

(D) Chapter 24 (outdoor lighting);

(E) Chapter 28 (Vermont small business investment);

(F) Subchapter 5 of chapter 73 (forest resource advisory council).

(4) The following sections and subdivisions in Title 10:

(A) § 2604 (state board of forests, parks and recreation);

(B) § 2606a(b)(2)–(5) (technical site committees, duties, leases, administration).

(5) Subchapter 3 of chapter 125 of Title 16 (benefits under higher education facilities act of 1963).

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- (6) The following sections and subsections in Title 16:
- (A) § 15 (council on civics education);
  - (B) § 132 (comprehensive health education advisory council);
  - (C) § 2958(b) and (c) (residential placement review team).
- (7) The following sections and subsections in Title 18:
- (A) § 104b(c) and (d) (community health and wellness grant committee);
  - (B) § 4703 (opiate addiction treatment advisory committee);
- (8) The following subsections in Title 20:
- (A) § 2673(d) (assistance of the state HAZMAT emergency operation team);
  - (B) § 2681(b) and (c) (state HAZMAT emergency operation team).
- (9) Chapter 14 of Title 21 (youth in agriculture, natural resources, and food production).
- (10) 21 V.S.A. § 229 (VOSHA advisory councils).
- (11) 23 V.S.A. § 735 (motorcycle training advisory committee).
- (12) The following chapters in Title 24:
- (A) Chapter 133 (Vermont independent school finance authority);
  - (B) Chapter 135 (Vermont municipal land records commission).
- (13) The following sections and subdivisions in Title 24:
- (A) § 4305 (council on regional commissions);
  - (B) § 4348(i) (review of regional plans);
  - (C) § 4476 (formal review of regional planning commission decisions).
- (14) 28 V.S.A. § 761 (offender work programs board).
- (15) The following sections in Title 29:
- (A) § 156 (composition of the board of state buildings);
  - (B) § 158 (land and office building development plan).
- (16) The following chapters in Title 30:
- (A) Chapter 85 (West River Basin energy authority);

(B) Chapter 90 (Vermont hydro-electric power authority);

(17) The following sections in Title 31:

(A) § 641 (Vermont breeder's stake board);

(B) § 642 (Vermont standard-bred development special fund).

(18) 32 V.S.A. § 203 (committee on coordination).

(19) Chapter 61 of Title 33 (Vermont independence fund).

(20) 33 V.S.A. § 806 (alcohol and drug abuse advisor appointees).

(21) Sec. 1 of No. 204 of the Acts of the 2005 Adj. Sess. (2006) (commission to develop the next generation initiative) is repealed.

**Rep. Winters of Williamstown**, for the committee on Appropriations, recommended the bill ought to pass when amended as recommended by the committee on Government Operations.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Government Operations and Appropriations agreed to and third reading ordered.

### **Bill Amended; Third Reading Ordered**

#### **H. 778**

**Rep. Hubert of Milton** spoke for the committee on Government Operations.

**Rep. Heath of Westford**, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to amending miscellaneous provisions in Vermont's public retirement systems

Reported in favor of its passage when amended as follows:

By striking out Sec. 3 and inserting new Secs. 3, 3a and 5 to read:

Sec. 3. 24 V.S.A. § 5064(b) is amended to read:

(b) Member savings. Contributions deducted from the compensation of members together with any member contributions transferred from a predecessor system shall be accumulated in the fund and separately recorded for each member. Contributions shall be made by group A members at the rate of three percent of earnable compensation. Contributions shall be made by group B members at the rate of five percent of earnable compensation. Contributions shall be made by group C and group D members at a rate of 11

percent of earnable compensation. Additionally, if an employee remains in group C and is employed by an employer who elects to revoke its group C membership in accordance with subsection 5068(f) of this title, the rate established in this subsection will be adjusted. This adjustment shall be determined by subtracting the group B rate, or if not applicable, the group A rate determined in subdivision (c)(1) of this section from the group C rate determined in subdivision (c)(1) of this section. ~~Notwithstanding the provisions of this subsection, for the period July 1, 2000 through June 30, 2010, contributions shall be made by group A members at the rate of two and one half percent of earnable compensation, by group B members at the rate of four and one half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.~~

\* \* \*

#### Sec. 3a. VERMONT MUNICIPAL RETIREMENT FUND

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2010 through June 30, 2011, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine and one-half percent of earnable compensation.

#### Sec. 5. EFFECTIVE DATES

This Sec. 5 shall take effect upon passage; Secs. 1 and 2 (pension investment committee), Sec. 3 (municipal pension contribution rates) and Sec. 3a (municipal retirement fund session law) of this act shall take effect July 1, 2010; and Sec. 4 (state teachers' retirement) of this act shall take effect July 1, 2009.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Appropriations agreed to and third reading ordered.

#### **Senate Proposal of Amendment Concurred in With a Further Amendment Thereto**

#### **H. 456**

The Senate proposed to the House to amend House bill, entitled  
An act relating to seasonal fuel assistance

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

Sec. 1. 33 V.S.A. § 2601 is amended to read:

§ 2601. POLICY AND PURPOSE

(a) It is the purpose of this chapter to secure the safety and health of low income Vermont households by providing needy Vermonters with assistance for the purchase of essential home heating fuel. To further this purpose, application acceptance, processing, and eligibility determination should as much as is practical be coordinated with other economic benefit programs administered by the agency of human services.

(b) This chapter establishes a home heating fuel assistance program in the agency of human services with both a seasonal fuel assistance component ~~for very low income households~~ and a crisis component ~~to supply fuel assistance to low income households in crisis situations.~~

Sec. 2. 33 V.S.A. § 2603 is amended to read:

§ 2603. HOME HEATING FUEL ASSISTANCE FUND

(a) There is created in the state treasury a fund to be known as the home heating fuel assistance fund.

(b) The fund shall consist of the receipts from any taxes dedicated to the fund and such other state funds as may be appropriated to it by the general assembly. ~~Funds from the home heating fuel assistance fund and the federal Low Income Home Energy Assistance Program (LIHEAP).~~ These funds shall be expended by the ~~director~~ secretary of human services or designee in accordance with this chapter, rules adopted pursuant to this chapter, and other relevant federal laws and rules adopted pursuant thereto law.

\* \* \*

(d) The secretary or designee may spend, in anticipation of federal receipts into the home heating fuel assistance fund established under this section, a sum no greater than 75 percent of the federal block grant funds allocated to Vermont for the current federal fiscal year under the Low Income Home Energy Assistance Program (LIHEAP), for the purpose of permitting preseason purchases of fuel and other cost-effective purchasing practices authorized by subsection 2602(c) of this title, in accordance with rules adopted by the secretary.

Sec. 3. 33 V.S.A. § 2604 is amended to read:

§ 2604. ELIGIBLE BENEFICIARIES; REQUIREMENTS

(a) Household income eligibility requirements. The secretary of human services or designee, by rule, shall establish household income ~~and asset~~

eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income ~~and assets~~ of all residents of the household.

(1) The income eligibility requirements shall require that households have a ~~net~~ gross household income no greater than ~~125~~ 185 percent of the federal poverty level in order to be potentially eligible for benefits. ~~Net income shall be derived by making the following deductions from gross income: 20 percent of household members' gross earned income; 100 percent of federal or state earned income credits received by household members; dependent care expenses that are within an allowable maximum, paid by a household member, and necessary to support a household member's employment or training for employment, according to criteria established by the secretary by rule; child support or alimony payments made by a household member on behalf of a nonhousehold member that meet criteria established by the secretary by rule; \$250.00 for each household member who is 60 years of age or older or disabled according to criteria established by the secretary by rule; any deductions or exclusions required by federal law or regulations; and any other deduction or exclusion established by the secretary by rule. To the extent allowed by federal law, the secretary of human services or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.~~

(2) ~~In order to be eligible, a household shall have net household assets no greater than \$5,000.00, or \$10,000.00 if one member of the household is 60 years of age or older. The secretary shall establish exclusions from the asset limit by rule.~~

(b) Fuel cost requirements. ~~The secretary shall adopt rules that specify the responsibility of the applicant households and their certified fuel supplier in providing the office of home heating fuel assistance with information that the office will use to establish an applicant household's heating fuel consumption for the previous year. The secretary of human services or designee shall by rule procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within such table shall closely approximate the actual home heating costs experienced by participants in the home heating fuel assistance program. Such table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the department of public service, and other industry sources to the office of home heating fuel assistance, as required by rule. The secretary shall also establish by rule minimum amounts of annual home heating fuel costs that vary based on the household's size and annual income.~~

(c) In determining heating fuel costs of households:

~~(1)(A) Households that make undesignated payments for energy for home heat in the form of rent and are not participating in a public, subsidized or Section 8 housing program shall be eligible for an annual home heating fuel assistance benefit in an amount equal to 30 percent of the benefit the household would have received if the household were purchasing energy for home heating fuel directly, or in the amount of \$50.00, whichever amount is greater.~~

~~(B) Households that make undesignated payments for energy for home heat in the form of rent and are participating in a public, subsidized or Section 8 housing program shall be eligible for a nominal annual home heating fuel assistance benefit of \$5.00. This benefit amount is effective beginning with the 1999-2000 program year.~~

~~(C) Residents of the dwelling unit who make reasonable compensation in the form of room rent and who are not members of the same household shall be eligible for an annual home heating fuel assistance benefit in the amount of \$50.00.~~

(2) Residents of housing units subsidized by the federal, state, or local government shall be deemed to have incurred no annual home heating fuel costs, except to the extent required by any federal law or regulation if federal funds are utilized for the home heating fuel assistance program, and with the following additional exception. Housing unit residents who participate in Reach Up under chapter 11 of this title, or who receive Supplemental Security Income/Aid to the Aged, Blind, or Disabled (SSI/AABD), emergency assistance, or general assistance benefits that are used in whole or in part to pay for their housing or utility costs and do not receive other federal, state, or local government assistance targeted specifically to their housing or utility needs shall, with the exception of households for which the cost of heat is supplied by the landlord, be assumed to incur annual home heating fuel costs and their eligibility for annual heating fuel assistance shall not be limited by this subsection.

~~(3)~~(2) The annual heating fuel cost for a household unit shall be only for the cost of the primary heating fuel source of the unit, which may be for wood, electricity, or any other fuel source, but annual heating fuel costs shall be only for the cost of heat and not include the cost of the fuel for any other uses of the household.

Sec. 4. 33 V.S.A. § 2605 is amended to read:

§ 2605. BENEFIT AMOUNTS

~~(a) The secretary shall by rule establish a table that specifies for households for which the cost of heat is not supplied by the landlord, maximum annual home heating fuel assistance benefit amounts. The maximum benefit amounts contained within this table shall vary by household size and annual household income. The annual home heating fuel assistance benefit for households that make undesignated payments for energy for home heat in the form of rent, and for households that pay room rent and who are not members of the same household with other residents of the dwelling unit, shall be the amounts established in section 2604(e)(1) of this title.~~

~~(b)~~ The secretary of human services or designee shall by rule establish a table that specifies maximum percentages of applicant households' annual heating fuel costs, based on the proxy table established pursuant to section 2604(b) of this title, that can be authorized for payment as annual home heating fuel assistance benefits for the following year. The maximum percentages contained within this table shall vary by household size and annual household income. In no instance shall the percentage exceed 90 percent.

(b) The maximum percentages of annual heating fuel costs table established in subsection (a) of this section shall provide proportionally higher benefit percentages to households with a gross income of 154 percent of the federal poverty guidelines or less and proportionally lower benefit percentages to households with a gross income of 155 to 185 percent of the federal poverty guideline.

~~(c) Annually, based on the number of eligible households that have applied and for which the cost of heat is not supplied by the landlord, these households' individual incomes and individual annual heating fuel cost, based on the proxy table established pursuant to subsection 2604(b) of this title, the number of eligible households that have applied and for which the cost of heat is supplied by the landlord, the cost of benefits for these households, and the amount of funds available in the home heating fuel assistance fund for the purpose of providing annual home heating fuel assistance benefits or are projected to apply, and on the eligibility of households in the benefit categories established in this section, the secretary of human services or designee shall, by procedure, set the payment rate that shall be used to determine the amount of annual home heating fuel assistance for which each eligible household for which the cost of heat is not supplied by the landlord qualifies. In no event shall the payment rate be greater than 100 percent of the maximum percentage established by rule as required by subsection ~~(b)~~(a) of this section.~~

(d) In the case of a household for which the cost of heat is not supplied by the landlord, the household's annual home heating fuel assistance benefit is the household's annual heating fuel cost ~~for the previous year~~ as defined in section 2604(b) of this title, multiplied by the maximum percentage for that household found in the table established by subsection ~~(b)~~(a) of this section, multiplied by the payment rate established in subsection (c) of this section. ~~In no event, however, shall the benefit paid for these households exceed the maximum benefit for a household of its income and size as established by rule as required in subsection (a) of this section. The annual home heating fuel assistance benefit for households that make undesignated payments for energy for home heat in the form of rent, and for households that pay room rent and who are not members of the same household with other residents of the dwelling unit, shall be the amounts established in subdivision 2604(e)(1) of this title.~~

(e) ~~[Repealed.]~~ Households that make undesignated payments for energy for home heat in the form of rent and that are not participating in a public, subsidized, or Section 8 housing program shall be eligible for an annual home heating fuel assistance benefit in an amount equal to 30 percent of the benefit the household would have received if the household were purchasing energy for home heating fuel directly or in the amount of \$50.00, whichever amount is greater.

(f) Households that make undesignated payments for energy for home heat in the form of rent and are participating in a public, subsidized, or Section 8 housing program shall be eligible for a nominal annual home heating fuel assistance benefit of \$5.00.

(g) Residents of the dwelling unit who make reasonable compensation in the form of room rent and who are not members of the same household shall be eligible for an annual home heating fuel assistance benefit in the amount of \$50.00.

(h) Households receiving benefits from 3SquaresVT whose head of household is not otherwise eligible for a fuel benefit under this section shall be eligible for a nominal annual home heating fuel assistance benefit of \$3.00.

Sec. 5. 33 V.S.A. § 2606 is amended to read:

§ 2606. APPLICATION PERIOD; ASSISTANCE

(a) ~~In order to make a timely determination of benefit levels, there shall be an application period during which all beneficiaries shall apply for home heating fuel assistance for the ensuing heating season. The application period shall be from July 15 through August 31. The secretary of human services or designee may accept applications on an ongoing basis beginning on April 1,~~

2010. The secretary or designee may establish by rule the procedure for accepting applications and determining eligibility under this subsection.

~~(b) The secretary shall accept applications after the application period has closed, but no later than the last day of February. No qualified applicant shall be penalized through a reduction of benefits for a late-filed application, except that such applicant shall not be entitled to receive benefits for any period prior to the month of application.~~

~~(c) The director of home energy assistance~~ secretary of human services or designee shall supply or contract for staff to carry out application processing process applications and related tasks including assisting households in applying and providing required information, and locating and contacting fuel suppliers certified under section 2607 of this title.

~~(d) Notwithstanding subsections (a) and (b) of this section, the secretary may accept applications on an ongoing basis for the 2010-2011 heating season beginning on March 1, 2010 and may establish by rule the procedure for accepting applications and determining eligibility under this subsection. No later than January 15, 2010, the secretary shall provide draft legislation to modify the process for application, eligibility, and calculation and issuance of benefits under the seasonal fuel assistance program using a new eligibility system to the house committee on human services and the senate committee on health and welfare.~~

Sec. 6. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

(a) ~~The director~~ secretary of human services or designee shall certify fuel suppliers, excluding firewood and wood pellet suppliers, to be eligible to participate in the home heating fuel assistance program, ~~and beneficiaries.~~ Beneficiaries may obtain assistance for fuel deliveries use their seasonal fuel assistance benefit to obtain home heating fuel or energy only from a fuel supplier certified by the director, except that beneficiaries who heat with firewood or wood pellets may obtain their firewood or wood pellets from any supplier they choose.

(b) Certified fuel suppliers shall agree to conduct reasonable efforts in order to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, send periodic statements to customers receiving home heating fuel assistance informing them of their account's credit or debit balance as of the last statement, deliveries or usage since that statement and the charges for such, payments made or applied, indicating their source, since that statement, and the ending credit or debit

balance. Certified fuel suppliers shall also agree to provide the ~~director~~ secretary of human services or designee such information deemed necessary for the efficient administration of the program, including information required to pay beneficiary's benefits to the certified supplier after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

(c) Certified fuel suppliers shall not disclose the beneficiary status of recipients of home heating fuel assistance benefits, the names of recipients, or other information pertaining to recipients to anyone, except for purposes directly connected with administration of the home heating fuel assistance program or when required by law.

~~(d) A supplier of wood fuel may be certified by the director only if the supplier is, in the normal course of business, a supplier of wood fuel; maintains a Social Security number or a federal tax identification number for such business; and provides that number to the director.~~

~~(e)~~ Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or as the secretary of human services or designee may negotiate with certified fuel suppliers.

~~(f)~~(e) The ~~office of home heating fuel assistance~~ secretary of human services or designee shall provide each certified fuel supplier with a list of the households who are its customers and have been found eligible for annual home heating fuel assistance for the current year, the total amount of annual home heating fuel assistance that has been authorized for each household, and how the total amount has been allocated over the heating season. Each authorized amount shall function as a line of credit for each eligible household. The ~~office of home heating fuel assistance~~ secretary or designee shall disburse authorized home heating fuel assistance benefits to certified fuel suppliers on behalf of eligible households in accordance with the allocation schedule after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

~~(g) In the event that on April 30 of any year a credit balance exists in a certified fuel supplier's account for a household that has received annual home heating fuel assistance during the previous 12 months, that certified fuel supplier is required to pay the amount of this credit balance to the office of home heating fuel assistance no later than May 31 of the same year.~~

~~(h)~~(f) The ~~director~~ secretary of human services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing and, payment terms, and delivery methods possible for eligible households.

Sec. 7. 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES

Annually, the secretary of human services or designee shall determine ~~by rule~~ an appropriate amount of funds in the home heating fuel assistance fund to be set aside for expenditure for the crisis ~~reserve~~ fuel assistance component of the home heating fuel program. The secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis ~~reserve~~ funds, and to establish the income and asset eligibility requirements of households for receipt of crisis ~~reserve~~ home heating fuel assistance, provided that no household shall be eligible whose gross household income is greater than ~~150~~ 200 percent of the federal poverty level based on the income of all persons residing in the household. To the extent allowed by federal law, the secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 8. EXPEDITED RULES

Notwithstanding the provisions of chapter 25 of Title 3, the agency of human services shall adopt rules to implement this act pursuant to the following:

(1) The secretary of human services or designee shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841, after publication in three daily newspapers with the highest average circulation in the state of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The secretary of human services or designee shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review, and may approve or object to, the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The secretary of human services or designee may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary or designee:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to chapter 25 of Title 3. Rules filed by the secretary of human services or designee with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the secretary of human services or designee that the rule is required to meet the purposes of this section.

#### Sec. 9. IMPLEMENTATION

No later than September 1, 2011, the secretary of human services or designee shall implement a payment system to pay fuel benefits to certified fuel suppliers after the fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

#### Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

And the title shall be amended to read:

“An act relating to fuel assistance.”

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. McFaun of Barre Town** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

In Sec. 3, 33 V.S.A. § 2604(b), by adding a new last sentence to read: “The secretary or designee shall provide a draft of the table to the home energy assistance task force established pursuant to 33 V.S.A. § 2501a(c) and solicit input from the task force prior to finalizing the table.”

Which was agreed to.

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**Favorable Report; Third Reading Ordered****H. 774**

**Rep. Evans of Essex**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of South Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**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. 138.** An act relating to unfair business practices of credit card companies and fraudulent use of scanning devices and re-encoders.

**S. 247.** An act relating to bisphenol A.

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

The Senate has considered a bill originating in the House of the following title:

**H. 695.** An act relating to definition of premises for award of liquor license.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 59.** Joint resolution relating to weekend adjournment.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

**S.C.R. 47.** Senate concurrent resolution honoring Vermont Food Education Every Day (VT FEED) as an innovative partnership facilitating statewide farm to school programs emphasizing the importance of food and nutrition education for the health of our communities.

### **Adjournment**

At eleven o'clock and fifteen minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock and thirty minutes in the afternoon.

### **Concurrent Resolutions Adopted**

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

#### **H.C.R. 299**

House concurrent resolution congratulating the 2010 Albert D. Lawton Intermediate School Vermont MATHCOUNTS competition championship team;

#### **H.C.R. 300**

House concurrent resolution congratulating Representative Carolyn Branagan on being named the 2010 Vermont Mother of the Year;

#### **H.C.R. 301**

House concurrent resolution in memory of U.S. Army 2nd Lt. Joseph Douglas Fortin of St. Johnsbury;

#### **H.C.R. 302**

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots Division I championship boys' Nordic ski team;

#### **H.C.R. 303**

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots championship wrestling team;

#### **H.C.R. 304**

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots Division I championship girls' Nordic ski team;

**H.C.R. 305**

House concurrent resolution congratulating the 2010 Norwich University Cadets ECAC East women's ice hockey championship team;

**H.C.R. 306**

House concurrent resolution congratulating Craftsbury Academy student Mael Le Scouezec on winning the 2010 Vermont State Individual Spelling Bee;

**S.C.R. 47**

Senate concurrent resolution honoring Vermont Food Education Every Day (VT FEED) as an innovative partnership facilitating statewide farm to school programs emphasizing the importance of food and nutrition education for the health of our communities;

[The full text of the concurrent resolutions appeared in the House and Senate Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2010, seventieth Biennial session.]