House Calendar

Thursday, March 13, 2014

66th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

TABLE OF CONTENTS

Favorable with Amendment

Consent Calendar

ORDERS OF THE DAY

ACTION CALENDAR
Action Postponed Until March 13, 2014
Third Reading

H. 799

An act relating to the importation of untreated firewood

Amendment to be offered by Rep. Buxton of Tunbridge to H. 799

In Sec. 1, 10 V.S.A. § 2681, in subsection (b), as follows:

First: After "the rules shall" and before the colon by striking "address"

Second: In subdivisions (b)(1)-(3) before "whether" by inserting address

Third: In subdivision (b)(3), by striking "and" at the end of the subdivision

Fourth: By adding a new subdivision (b)(4) to read:

(4) include a process under which the Commissioner may declare a statewide or regional shortage of firewood supply and waive requirements or prohibitions under the rule related to the importation of firewood; and

and by renumbering the remaining subdivision to be numerically correct.

Amendment to be offered by Reps. Martin of Springfield, Bartholomew of Hartland, Connor of Fairfield, Lawrence of Lyndon, Michelsen of Hardwick, Partridge of Windham, Smith of New Haven, Stevens of Shoreham, Taylor of Barre City, Toleno of Brattleboro, and Zagar of Barnard to H. 799

Sec. 1. 10 V.S.A. chapter 83, subchapter 8 is added to read:

Subchapter 8. Importation of Firewood

§ 2681. IMPORTATION OF FIREWOOD; PROTECTION FROM INVASIVE PESTS

(a) Definitions. As used in this section:

(1) "Commissioner" means the Commissioner of Forests, Parks and Recreation.

(2) "Department" means the Department of Forests, Parks and Recreation.

(3) "Firewood" means untreated or treated wood processed for residential, recreational, or commercial use in any wood-burning appliance or fireplace, either indoor or outdoor, that is cut to a length less than 48 inches,

either split or unsplit. "Firewood" shall not mean wood chips, wood pellets, pulpwood, logs 48 inches or more in length, or other wood sold or transported for manufacturing purposes.

(4) "Invasive species" means:

(A) nonnative plant pests that are capable of spreading into the State and that threaten forest health; and

(B) native plant pests, designated by the Commissioner, that are present in the State, that are capable of spreading to new areas of the State, and that threaten forest health.

(5) "Plant pests" shall be defined as in 6 V.S.A. § 1030(12).

(6) "Treated firewood" means firewood that has been processed and treated in a manner sufficient to prevent invasive species from surviving.

(7) "Untreated firewood" means firewood that is not treated firewood.

(b) Rulemaking. On or before July 1, 2015, the Commissioner, after consultation with the Secretary of Agriculture, Food and Markets, shall adopt rules regulating the importation of untreated firewood into the State. The rules shall:

(1) address whether certain types of untreated firewood should be prohibited from importation due to the potential to spread invasive species;

(2) address whether a treatment certificate or some other form of approval shall be required to import firewood from one or more states;

(3) address whether persons who produce or sell firewood in the State shall be required to track purchases of untreated firewood from out of State in order to allow for identification of sources of invasive species;

(4) address whether the State should design and implement a voluntary certification for treated firewood;

(5) include a process under which the Commissioner may waive requirements or prohibitions under the rule related to the importation of firewood when the Commissioner determines that waiver is in the public interest and poses minimal threat to forest health; and

(6) address any other issue the Commissioner identifies as necessary for preventing the importation of invasive species into the State when importing firewood.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

NEW BUSINESS

Third Reading

H. 501

An act relating to operating a motor vehicle under the influence of alcohol or drugs

H. 584

An act relating to municipal regulation of parking lots and meters

H. 618

An act relating to exclusive jurisdiction over delinquency proceedings by the Family Division of the Superior Court

Favorable with Amendment

H. 661

An act relating to exhumation requirements and notice

Rep. Moran of Wardsboro, for the Committee on **General, Housing and Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5212 is amended to read:

§ 5212. PERMIT TO REMOVE DEAD BODIES; NOTICE

* * *

(b) An applicant for a removal permit shall publish notice of his or her intent to remove the remains. This notice shall be published for two successive weeks in a newspaper of general circulation in the municipality in which the body is interred or entombed. The notice shall include a statement that the spouse, child, parent, sibling, or descendant of the deceased, or that the ~~cemetery commissioner~~ Cemetery Commissioner or other municipal authority responsible for cemeteries in the municipality may object to the proposed removal by filing a complaint in the ~~probate division of the superior court~~ Probate Division of the Superior Court of the district in which the body is located as provided in section 5212a of this title. In addition to the published notice, an applicant for a removal permit shall notify directly, by certified mail, the town clerk in the municipality in which the body is interred or entombed and:

(1)(A) the surviving spouse of the deceased, if any;

(B) all surviving adult children of the deceased;

(C) all surviving parents of the deceased; and

(D) all surviving adult siblings of the deceased;

(2) any descendants of the deceased if the individuals listed in subdivisions (1)(A)-(D) of this subsection are nonexistent.

* * *

Sec. 2. 18 V.S.A. § 5212a is amended to read:

§ 5212a. REMOVAL; OBJECTIONS

(a) Unless removal is otherwise authorized by law, a spouse, child, parent, or sibling of the deceased may, after receipt of the certified mail as required under section 5212 of this title or within 30 days after the date notice was last published under section 5212 of this title, object to the proposed removal by filing a complaint in the ~~probate division of the superior court~~ Probate Division of the Superior Court of the district in which the body is interred or entombed. A copy of the complaint shall be filed with the clerk of the town where the body is interred or entombed.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 8-0-0)

H. 823

An act relating to encouraging growth in designated centers and protecting natural resources

Rep. Ellis of Waterbury, for the Committee on **Natural Resources and Energy,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Amendments to 10 V.S.A. chapter 151 (Act 250) * * *

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives,

condominiums, or dwellings, or construction or maintenance of mobile homes or ~~trailer~~ mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) 275 or more, in a municipality with a population of 15,000 or more;

(bb) 150 or more, in a municipality with a population of 10,000 or more but less than 15,000;

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; and

(ff) notwithstanding subdivisions (aa) through (ee) of this subdivision (iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(B)~~(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793c or~~, entirely within a downtown development district

~~designated pursuant to 24 V.S.A. § 2793, "development" means:~~

~~(I) Construction of mixed income housing with 200 or more housing units or a mixed use project with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units or a mixed use project with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units or a mixed use project with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units or a mixed use project with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units or a mixed use project with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or, will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.~~

~~(ii) Mixed Income Housing Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing and is located entirely within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a neighborhood development area as defined in 24 V.S.A. § 2791(16), "development" means:~~

~~(I) Construction of mixed income housing with 200 or more housing units, in a municipality with a population of 15,000 or more.~~

~~(II) Construction of mixed income housing with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.~~

~~(III) Construction of mixed income housing with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.~~

~~(IV) Construction of mixed income housing with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.~~

~~(V) Construction of mixed income housing with 25 or more housing units, in a municipality with a population of less than 3,000.~~

~~(VI) Historic Buildings. Construction of 10 or more units of mixed income housing where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.~~ [Repealed.]

(C) For the purposes of determining jurisdiction under ~~subdivisions~~ subdivision (3)(A) ~~and (3)(B)~~ of this section, the following shall apply:

(i) ~~Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area.~~ [Repealed.]

(ii) ~~Five-Year, Five-Mile Radius Jurisdiction Analysis. Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district, designated growth center, designated Vermont~~

~~neighborhood, or designated neighborhood development area and within a five-mile radius in accordance with subdivision (3)(A)(iv) of this section~~. [Repealed.]

(iii) ~~Discrete Housing Projects in Designated Areas and Exclusive Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19) of this section, jurisdiction shall be determined exclusively by counting housing units constructed by a person within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area, provided that the housing units are part of a discrete project located on a single tract or multiple contiguous tracts of land.~~ [Repealed.]

* * *

(16) ~~"Rural growth areas" means lands which are not natural resources referred to in subdivisions 6086(a)(1)(A) through (F), subdivision 6086(a)(8)(A) and subdivisions 6086(a)(9)(B), (C), (D), (E) and (K) of this title.~~

(A) "Existing settlement" means an area that constitutes one of the following:

(i) a designated center; or

(ii) an existing community center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the center; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.

(B) Strip development outside an area described in subdivision (A)(i) or (ii) of this subdivision (16) shall not constitute an existing settlement.

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price

which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;

(B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing units that ~~is~~ are rented ~~by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development for use with the Housing Credit Program under Section 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual household income as defined at Section 42(g)(2)(C), and with~~ constitute affordable housing and have a duration of affordability of no less than ~~30~~ 20 years.

(28) "Mixed use" means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. "Mixed use" does not include industrial use.

(29) "Affordable housing" means either of the following:

(A) Housing that is owned by its occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees, is not more than 30 percent of the gross annual household income.

(B) Housing that is rented by the occupants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the gross annual household income.

(30) "Designated ~~growth~~ center" means a ~~growth center designated by the Vermont Downtown Development Board under the provisions of 24 V.S.A. chapter 76A~~ downtown development district, village center, new town center, growth center, Vermont neighborhood, or neighborhood

development area designated under 24 V.S.A. chapter 76A.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center; designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

(36) "Strip development" means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, limited accessibility for pedestrians, and lack of coordination with surrounding land uses in terms of design, signs, lighting, and parking. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or subdivision is to be located.

* * *

Sec. 2. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the ~~district commission~~ District Commission shall find that the subdivision or development:

* * *

(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.

(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. This subdivision (B) shall not require an applicant to construct an improvement on a tract that the applicant does not own or control. However, the District Commission may require an applicant to contribute to

the cost of constructing such an improvement.

* * *

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a ~~district commission~~ District Commission.

* * *

(L) ~~Rural growth areas. A permit will be granted for the development or subdivision of rural growth areas when it is demonstrated by the applicant that in addition to all other applicable criteria provision will be made in accordance with subdivisions (9)(A) "impact of growth," (G) "private utility service," (H) "costs of scattered development" and (J) "public utility services" of subsection (a) of this section for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage.~~ Settlement patterns. To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that in addition to all other applicable criteria, the development or subdivision:

(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure;

(ii) is designed in a manner consistent with the planning goals set forth in 24 V.S.A. § 4302(c)(1);

(iii) will conform to the land use element, map, and resource protection policies included in the municipal and regional plans applicable to the proposed location of the development or subdivision;

(iv) will not establish, extend, or contribute to a pattern of strip development along public highways;

(v) if the development or subdivision will be located in an area that already constitutes strip development, incorporates infill as defined in 24 V.S.A. § 2791 and is designed to avoid or minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title; and

(vi) if the development or subdivision will be adjacent to an area that already constitutes strip development, is designed to avoid or minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.

* * *

Sec. 3. 10 V.S.A. § 6086b is added to read:

§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS

Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the Board, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086 (a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (historic sites and rare and irreplaceable natural areas only) (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

(2) The request shall be complete as to the criteria listed in subdivision (1) of this subsection and need not address other criteria of subsection (a) of this section.

(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title, except that the filing shall be with the Board, and the requestor shall provide a copy of the request to each agency and department listed in subdivision (3) of this section.

(B) Within five days of the request's filing, the Chair of the Board shall determine whether the request is complete. Within five days of the date the Chair determines the request to be complete, the Board shall provide notice of the complete request to each person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on its web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.

(3) Within 30 days of receiving notice of a complete request:

(A) The State Historic Preservation Officer or designee shall submit a written determination on whether the improvements will have an undue adverse effect on any historic site.

(B) The Commissioner of Public Service or designee shall submit a written determination on whether the improvements will meet or exceed the

applicable energy conservation and building energy standards under subdivision 6086(a)(9)(F) of this title.

(C) The Secretary of Transportation or designee shall submit a written determination on whether the improvements will have a significant impact on any highway, transportation facility, or other land or structure under the Secretary's jurisdiction.

(D) The Commissioner of Buildings and General Services or designee shall submit a written determination on whether the improvements will have a significant impact on any adjacent land or facilities under the Commissioner's jurisdiction.

(E) The Secretary of Natural Resources or designee shall submit a written determination on whether the improvements will have a significant impact on any land or facilities under its jurisdiction or on any important natural resources, other than primary agricultural soils. In this subdivision (E), "important natural resources" shall have the same meaning as under 24 V.S.A. § 2791.

(F) The Secretary of Agriculture, Food and Markets or designee shall submit a written determination on whether the improvements will reduce or convert primary agricultural soils and on whether there will be appropriate mitigation for any reduction in or conversion of those soils.

(4) Any person may submit written comments or ask for a hearing within 30 days of the date on which the Board issues notice of a complete request. If the person asks for a hearing, the person shall include a petition for party status in the submission. The petition for party status shall meet the requirements of subdivision 6085(c)(2) of this title, except that it shall be filed with the Board.

(5) The Board shall not hold a hearing on the request unless it determines that there is a substantial issue under one or more applicable criteria that requires a hearing. The Board shall hold any hearing within 20 days of the end of the comment period specified in subdivisions (3) and (4) of this section.

(A) The Board shall conduct the hearing as a contested case under the Vermont Administrative Procedure Act.

(B) Subdivisions 6085(c)(1)–(5) of this title shall govern participation in a hearing under this section.

(6) The Board shall issue a decision within 60 days of issuing notice of a complete request under this section or, if it holds a hearing, within 15 days of adjourning the hearing. The Board shall send a copy of the decision to the

District Commission in whose district the development or subdivision is located, to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for the municipality, and to each person that submitted a comment, requested a hearing, or participated in the hearing, if any. The decision may include conditions that meet the standards of subsection 6086(c) of this title.

(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the Board, or other persons. Such a waiver shall extend the applicable and subsequent time periods by the amount of time waived.

(8) The record of a proceeding under this section shall consist of the request, each written determination issued under subdivision (3) of this section, each comment and request for hearing submitted under subdivision (4) of this section, each document submitted for introduction into evidence at the hearing, an audio or audiovisual recording of the hearing, and the decision of the Board.

Sec. 4. 10 V.S.A. § 6081(v) is added to read:

(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the Board has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the Board under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the Board has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change.

Sec. 5. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

Appeals of any act or decision of a ~~district commission~~ District Commission under this chapter or the Natural Resources Board under ~~section~~ subsection 6007(d) of this title or under section 6086b of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the chair of a ~~district commission~~ District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the ~~district commission~~ District Commission.

Sec. 6. 10 V.S.A. § 6093 is amended to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

(a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

(1) Project located in ~~growth center~~ certain designated areas. This subdivision (1) applies to projects located in the following areas designated under 24 V.S.A. chapter 76A: a downtown development district, a growth center, a new town center designated on or before January 1, 2014, and a neighborhood development area associated with a designated downtown development district. If the project tract is located in ~~a designated growth center~~ one of these designated areas, an applicant who complies with subdivision 6086(a)(9)(B)(iv) of this title shall deposit an offsite mitigation fee into the Vermont ~~housing and conservation trust fund~~ Housing and Conservation Trust Fund established under section 312 of this title for the purpose of preserving primary agricultural soils of equal or greater value with the highest priority given to preserving prime agricultural soils as defined by the U.S. Department of Agriculture. Any required offsite mitigation fee shall be derived by:

(A) ~~determining~~ Determining the number of acres of primary agricultural soils affected by the proposed development or subdivision~~;~~.

(B) ~~multiplying~~ Multiplying the number of affected acres of primary agricultural soils by a factor resulting in a ratio established as follows:

(i) ~~for~~ For development or subdivision within a designated ~~growth center~~ area described in this subdivision (a)(1), the ratio shall be 1:1~~;~~.

(ii) ~~for~~ For residential construction that has a density of at least eight units of housing per acre, of which at least eight units per acre or at least 40 percent of the units, on average, in the entire development or subdivision, whichever is greater, meets the definition of affordable housing established in this chapter, no mitigation shall be required, regardless of location in or outside a designated area described in this subdivision (a)(1). However, all affordable housing units shall be subject to housing subsidy covenants, as defined in 27 V.S.A. § 610, that preserve their affordability for a period of 99 years or longer. ~~For purposes of~~ As used in this section, housing that is rented shall be considered affordable housing when its inhabitants have a gross annual household income that does not exceed 60 percent of the county median income or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area.

(C) ~~multiplying~~ Multiplying the resulting product by a "price-per-acre" value, which shall be based on the amount that the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets

has determined to be the recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision.

(2) Project located outside certain designated ~~growth center~~ areas. If the project tract is not located in a designated ~~growth center~~ area described in subdivision (a)(1) of this section, mitigation shall be provided on site in order to preserve primary agricultural soils for present and future agricultural use, with special emphasis on preserving prime agricultural soils. Preservation of primary agricultural soils shall be accomplished through innovative land use design resulting in compact development patterns which will maintain a sufficient acreage of primary agricultural soils on the project tract capable of supporting or contributing to an economic or commercial agricultural operation and shall be enforceable by permit conditions issued by the ~~district commission~~ District Commission. The number of acres of primary agricultural soils to be preserved shall be derived by:

(A) ~~determining~~ Determining the number of acres of primary agricultural soils affected by the proposed development or subdivision~~; and~~.

(B) ~~multiplying~~ Multiplying the number of affected acres of primary agricultural soils by a factor based on the quality of those primary agricultural soils, and other factors as the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may deem relevant, including the soil's location; accessibility; tract size; existing agricultural operations; water sources; drainage; slope; the presence of ledge or protected wetlands; the infrastructure of the existing farm or municipality in which the soils are located; and the N.R.C.S. rating system for Vermont soils. This factor shall result in a ratio of no less than 2:1, but no more than 3:1, protected acres to acres of impacted primary agricultural soils.

(3) Mitigation flexibility.

(A) Notwithstanding the provisions of subdivision (a)(1) of this ~~subsection~~ section pertaining to a development or subdivision on primary agricultural soils within ~~a~~ certain designated ~~growth center~~ areas, the ~~district commission~~ District Commission may, in appropriate circumstances, require onsite mitigation with special emphasis on preserving prime agricultural soils if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. In this situation, the approved plans must designate specific soils that shall be preserved inside ~~growth centers~~ a designated area described in subdivision (a)(1) of this section. For projects located within such a designated ~~growth center~~ area, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of 1:1.

(B) Notwithstanding the provisions of subdivision (a)(2) of this ~~subsection~~ section pertaining to a development or subdivision on primary agricultural soils outside a designated ~~growth center~~ area described in subdivision (a)(1) of this section, the ~~district commission~~ District Commission may, in appropriate circumstances, approve off-site mitigation or some combination of onsite and off-site mitigation if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. For projects located outside such a designated ~~growth center~~ area, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection (a), subject to a ratio of no less than 2:1, but no more than 3:1.

* * *

Sec. 7. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(10) 10 V.S.A. chapter 151, relating to land use, and including findings and conclusions issued by the Board under section 6086b of this title;

* * *

* * * Appeal of Downtown Development Findings * * *

Sec. 8. 10 V.S.A. § 8504 is amended to read:

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

(a) Act 250 and agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, the Natural Resources Board, or a district commission under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

* * *

(h) De novo hearing. The Environmental Division, applying the substantive standards that were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues which have been appealed, except in the case of:

(1) ~~a~~ A decision being appealed on the record pursuant to 24 V.S.A. chapter 117~~;~~.

(2) ~~a~~ A decision of the Commissioner of Forests, Parks and Recreation under section 2625 of this title being appealed on the record, in which case the court shall affirm the decision, unless it finds that the Commissioner did not have reasonable grounds on which to base the decision.

(3) An act or decision of the Natural Resources Board under section 6086b of this title (downtown development; findings), which shall be reviewed on the record created by the Board. The Environmental Division shall uphold the Board unless the Division determines that the Board abused its discretion or made factual determinations not supported by substantial evidence when the record is viewed as a whole. The Division shall not consider an appellant's objection that was not urged before the Board, unless the failure or neglect to urge the objection is excused by extraordinary circumstances.

* * *

* * * Agency of Natural Resource Rule Revisions * * *

Sec. 9. MUNICIPAL POLLUTION CONTROL PRIORITY SYSTEM

(a) In the Environmental Protection Rules of the Agency of Natural Resources, chapter 2 (municipal pollution control priority system), subchapter 500 (definitions), the definition of "designated growth center" is struck and a new definition of "designated center" is inserted in lieu thereof to read:

"Designated center" shall mean a downtown development district, village center, new town center, growth center, Vermont neighborhood, or neighborhood development area designated under 24 V.S.A. chapter 76A.

(b) On or before August 1, 2014, the Secretary of Natural Resources shall conform the published version of the rules described in this section to the requirements of subsection (a) of this section. Provided that the only revision to those rules is the change required by subsection (a) of this section, the rulemaking procedures of the Vermont Administrative Procedure Act shall not apply to the publication of this conformed version of the rules. However, on publication, the Secretary shall send a copy of the conformed version of the rules to the Office of the Secretary of State and the Legislative Committee on Administrative Rules.

Sec. 10. 10 V.S.A. § 1571 is amended to read:

§ 1571. DEFINITIONS

As used in this chapter:

* * *

(10) "Designated center" means a downtown development district, village center, new town center, growth center, Vermont neighborhood, or neighborhood development area designated under 24 V.S.A. chapter 76A.

Sec. 11. 10 V.S.A. § 1628 is amended to read:

§ 1628. PRIORITIES

The ~~department~~ Department shall make awards under this chapter to eligible municipal projects on the basis of urgency of need as determined according to a system of priorities adopted by the ~~department~~ Department and to the extent appropriate funds are available. The system of priorities shall include increased priority to eligible municipal projects in designated centers. The ~~department~~ Department shall assure that projects sponsored by a town school district, or incorporated school district shall be given increased priority for purposes of the receipt of engineering planning advances awarded under section 1593 of this chapter. The total amount of the engineering planning advances made and still outstanding during a period for this purpose shall not exceed 30 percent of the bond issue or appropriation voted for construction grant funds by the ~~general assembly~~ General Assembly for the period in which the award is made.

Sec. 12. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

(a) Except as provided in this section and sections 1974 and 1978 of this title, a person shall obtain a permit from the Secretary before:

(1) subdividing land;

(2) creating or modifying a campground in a manner that affects a potable water supply or wastewater system or the requirements for providing potable water and wastewater disposal;

(3) constructing, replacing, or modifying a potable water supply or wastewater system;

(4) using or operating a failed supply or failed system;

(5) constructing a new building or structure;

(6) modifying an existing building or structure in a manner that increases the design flow or modifies other operational requirements of a potable water supply or wastewater system;

(7) making a new or modified connection to a new or existing potable water supply or wastewater system; or

(8) changing the use of a building or structure in a manner that increases the design flows or modifies other operational requirements of a potable water supply or wastewater system.

* * *

(f)(1) The Secretary shall give deference to a certification by a licensed designer with respect to the engineering design or judgment exercised by the designer in order to minimize agency review of certified designs. Nothing in this section shall limit the responsibility of the licensed designer to comply with all standards and rules, or the authority of the Secretary to review and comment on design aspects of an application or to enforce agency rules with respect to the design or the design certification.

(2) The Secretary shall issue a permit for a new or modified connection to a water main and a sewer main or indirect discharge system from a building or structure in a designated downtown development district upon submission of an application under subsection (b) of this section that consists solely of the certification of a licensed designer, in accordance with subsection (d) of this section, and a letter from the owner of the water main and sewer main or indirect discharge system allocating the capacity needed to accommodate the new or modified connection. However, this subdivision (2) shall not apply if the Secretary finds one of the following:

(A) The Secretary has prohibited the system that submitted the allocation letter from issuing new allocation letters due to a lack of capacity.

(B) As a result of an audit of the application performed on a random basis or in response to a complaint, the system is not designed in accordance with the rules adopted under this chapter.

* * *

Sec. 13. WASTEWATER RULES; AMENDMENT

On or before December 1, 2014, the Agency of Natural Resources shall amend its form under 10 V.S.A. § 1973 and its rules under 10 V.S.A. § 1978 to conform to the provisions of Sec. 12 of this act.

* * * Inclusionary Zoning * * *

Sec. 14. 24 V.S.A. § 4414(7) is amended to read:

(7) Inclusionary zoning. In order to provide for affordable housing, bylaws may require that a certain percentage of housing units in a proposed subdivision ~~or~~, planned unit development, or multi-unit development meets defined affordability standards, which may include lower income limits than contained in the definition of "affordable housing" in subdivision 4303(1) of

this title and may contain different affordability percentages than contained in the definition of "affordable housing development" in subdivision 4303(2) of this title. These provisions, at a minimum, shall comply with all the following:

* * *

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section and Sec. 9 (municipal pollution control priority system) shall take effect on passage.

(b) The remainder of this act shall take effect on June 1, 2014.

(Committee Vote: 9-2-0)

Action Under Rule 52

H.R. 16

House resolution reaffirming the friendly bilateral relationships between Taiwan and both the United States and Vermont and the important role of Taiwan in the international community

(For text see House Journal 3/12/2014)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 871

An act relating to miscellaneous pension changes.

(Rep. Devereux of Mount Holly will speak for the Committee on **Government Operations.)**

Favorable with Amendment

H. 413

An act relating to the Uniform Collateral Consequences of Conviction Act

Rep. Wizowaty of Burlington, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 231 is added to read:

CHAPTER 231. UNIFORM COLLATERAL CONSEQUENCES OF CONVICTION

§ 8001. SHORT TITLE

This act may be cited as the Uniform Collateral Consequences of Conviction Act.

§ 8002. DEFINITIONS

As used in this chapter:

(1) "Collateral consequence" means a mandatory sanction or a discretionary disqualification.

(2) "Conviction" includes an adjudication for delinquency for purposes of this chapter only, unless otherwise specified. "Convicted" has a corresponding meaning.

(3) "Court" means the Criminal Division of the Superior Court.

(4) "Decision-maker" means the state acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees or a government contractor, including a subcontractor, made subject to this chapter by contract, by law other than this chapter, or by ordinance.

(5) "Discretionary disqualification" means a penalty, disability, or disadvantage that an administrative agency, governmental official, or court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction of an offense. Discretionary disqualifications do not encompass charging decisions, such as the imposition of pre-charge diversion or intervention programs.

(6) "Mandatory sanction" means a penalty, disability, or disadvantage imposed on an individual as a result of the individual's conviction of an offense which applies by operation of law whether or not the penalty, disability, or disadvantage is included in the judgment or sentence. The term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(7) "Offense" means a felony, misdemeanor, or delinquent act under the laws of this State, another state, or the United States.

(8) "Incarceration" means confinement in jail or prison.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

§ 8003. LIMITATION ON SCOPE

(a) This chapter does not provide a basis for:

(1) invalidating a plea, conviction, or sentence;

(2) a cause of action for money damages;

(3) a claim for relief from or defense to the application of a collateral consequence based on a failure to comply with this chapter; or

(4) seeking relief from a collateral consequence imposed by another state or the United States or a subdivision, agency, or instrumentality thereof, unless the law of such jurisdiction provides for such relief.

(b) This chapter shall not affect:

(1) the duty an individual's attorney owes to the individual;

(2) a claim or right of a victim of an offense; or

(3) a right or remedy under law other than this chapter available to an individual convicted of an offense.

§ 8004. IDENTIFICATION, COLLECTION, AND PUBLICATION OF LAWS REGARDING COLLATERAL CONSEQUENCES

(a)(1) The Attorney General shall:

(A) identify or cause to be identified any provision in this State's Constitution, statutes, and administrative rules which imposes a mandatory sanction or authorizes the imposition of a discretionary disqualification and any provision of law that may afford relief from a collateral consequence;

(B) prepare or compile from available sources a collection of citations to, and the text or short descriptions of, the provisions identified under subdivision (a)(1)(A) of this section not later than November 1, 2014; and

(C) update the collection provided under subdivision (B) of this subdivision (1) annually by July 1.

(2) In complying with subdivision (a)(1) of this section, the Attorney General may rely on or incorporate the summary of this State's mandatory sanctions, discretionary disqualifications, and relief provisions prepared by the National Institute of Justice described in Section 510 of the Court Security Improvement Act of 2007, Pub. L. No. 110 -177, § 510, 121 Stat. 2534 (2008) as it exists and as it may be amended.

(b) The Attorney General shall include or cause to be included the following statements in a prominent manner at the beginning of the collection required by subsection (a) of this section:

(1) This collection has not been enacted into law and does not have the force of law.

(2) An error or omission in this collection or any reference work cited in this collection is not a reason for invalidating a plea, conviction, or sentence or for not imposing a mandatory sanction or authorizing a discretionary disqualification.

(3) The laws of other jurisdictions that impose additional mandatory sanctions and authorize additional discretionary disqualifications are not included in this collection.

(4) This collection does not include any law or other provision regarding the imposition of or relief from a mandatory sanction or a discretionary disqualification enacted or adopted after [insert date the collection was prepared or last updated].

(c) The Attorney General shall publish or cause to be published the collection prepared and updated as required by subsection (a) of this section.

(d) The Attorney General shall publish or cause to be published as part of the collection the title and Internet address, if available, of the most recent collection of:

(1) the collateral consequences imposed by federal law; and

(2) any provision of federal law that may afford relief from a collateral consequence.

(e) An agency that adopts a rule pursuant to 3 V.S.A. §§ 836–844 which implicates collateral consequences to a conviction shall forward a copy of the rule to the Attorney General.

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES IN PRETRIAL PROCEEDING

(a) When an individual receives formal notice that the individual is charged with an offense, the Court shall provide either oral or written notice substantially similar to the following to be communicated to the individual:

(1) If you plead guilty or are convicted of an offense, you may suffer additional legal consequences beyond jail or prison, home confinement, probation, and fines. These consequences may include:

(A) being unable to get or keep some licenses, permits, or jobs;

(B) being unable to get or keep benefits such as public housing or education;

(C) receiving a harsher sentence if you are convicted of another offense in the future;

(D) having the government take your property;

(E) being unable to serve in the military or on a jury;

(F) being unable to possess a firearm; and

(G) being unable to exercise your right to vote if you move to another state.

(2) If you are not a United States citizen, a guilty plea or conviction may also result in your deportation, removal, exclusion from admission to the United States, or denial of citizenship.

(3) The law may provide ways to obtain some relief from these consequences.

(4) Further information about the consequences of conviction is available on the Internet at [insert Internet address of the collection of laws published under this chapter].

(b) Before the Court accepts a plea of guilty or nolo contendere from an individual, the Court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(E) that conviction of a crime in this State does not prohibit an individual from voting in this State.

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(5) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

§ 8007. AUTHORIZATION REQUIRED FOR MANDATORY SANCTION; AMBIGUITY

(a) A mandatory sanction may be imposed only by statute or ordinance or by a rule adopted in the manner provided in 3 V.S.A. §§ 836–844. A law or rule shall impose unambiguously a collateral consequence in order for a court to impose a collateral consequence.

(b) A law creating a collateral consequence that is ambiguous as to whether it imposes an automatic mandatory sanction or whether it authorizes a decision-maker to disqualify a person based upon his or her conviction shall be construed as authorizing a discretionary disqualification.

§ 8008. DECISION TO DISQUALIFY

In deciding whether to impose a discretionary disqualification, a decision-maker shall undertake an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual. In making that decision, the decision-maker may consider, if substantially related to the benefit or opportunity at issue, the particular facts and circumstances involved in the offense and the essential elements of the offense. A conviction itself may not be considered except as having established the elements of the offense. The decision-maker shall also consider other relevant information, including the effect on third parties of granting the benefit or opportunity and whether the individual has been granted relief such as an order of limited relief or a certificate of restoration of rights.

§ 8009. EFFECT OF CONVICTION BY ANOTHER STATE OR THE UNITED STATES; RELIEVED OR PARDONED CONVICTION

(a) For purposes of authorizing or imposing a collateral consequence in this State, a conviction of an offense in a court of another state or the United States is deemed a conviction of the offense in this state with the same elements. If there is no offense in this State with the same elements, the conviction is deemed a conviction of the most serious offense in this State which is established by the elements of the offense. A misdemeanor in the jurisdiction of conviction may not be deemed a felony in this State, and an offense lesser than a misdemeanor in the jurisdiction of conviction may not be deemed a conviction of a felony or misdemeanor in this State.

(b) For purposes of authorizing or imposing a collateral consequence in this State, a juvenile adjudication in another state or the United States may not be deemed a conviction of a felony, misdemeanor, or offense lesser than a misdemeanor in this State, but may be deemed a juvenile adjudication for the delinquent act in this State with the same elements. If there is no delinquent act in this State with the same elements, the juvenile adjudication is deemed an adjudication of the most serious delinquent act in this State which is established by the elements of the offense.

(c) A conviction that is reversed, overturned, or otherwise vacated by a court of competent jurisdiction of this State, another state, or the United States on grounds other than rehabilitation or good behavior may not serve as the basis for authorizing or imposing a collateral consequence in this State.

(d) A pardon issued by another state or the United States has the same effect for purposes of authorizing, imposing, and relieving a collateral consequence in this State as it has in the issuing jurisdiction.

(e) A conviction that has been relieved by expungement, sealing, annulment, set-aside, or vacation by a court of competent jurisdiction of another state or the United States on grounds of rehabilitation or good behavior, or for which civil rights are restored pursuant to statute, has the same effect for purposes of authorizing or imposing collateral consequences in this State as it has in the jurisdiction of conviction. However, such relief or restoration of civil rights does not relieve collateral consequences applicable under the law of this State for which relief could not be granted under section 8012 of this title or for which relief was expressly withheld by the court order or by the law of the jurisdiction that relieved the conviction. An individual convicted in another jurisdiction may seek relief under section 8010 or 8011 of this title from any collateral consequence for which relief was not granted in the issuing jurisdiction, other than those listed in section 8012 of this title, and the Court shall consider that the conviction was relieved or civil rights restored

in deciding whether to issue an order of limited relief or certificate of restoration of rights.

(f) A charge or prosecution in any jurisdiction which has been finally terminated without a conviction and imposition of sentence based on successful participation in a deferred adjudication or diversion program may not serve as the basis for authorizing or imposing a collateral consequence in this State. This subsection does not affect the validity of any restriction or condition imposed by law as part of participation in the deferred adjudication or diversion program, before or after the termination of the charge or prosecution.

§ 8010. ORDER OF LIMITED RELIEF

(a) An individual convicted of an offense may petition for an order of limited relief from one or more mandatory sanctions related to employment, education, housing, public benefits, or occupational licensing. The individual seeking an order of relief shall provide the prosecutor's office with notice of his or her petition. After notice, the petition may be presented to the sentencing court at or before sentencing or to the Superior Court at any time after sentencing. If the petition is filed prior to sentencing, it shall be treated as a motion in the criminal case. If the petition is filed after sentencing, it shall be treated as a post-judgment motion.

(b) Except as otherwise provided in section 8012 of this title, the Court may issue an order of limited relief relieving one or more of the mandatory sanctions described in this chapter if, after reviewing the petition, the individual's criminal history record, any filing by a victim under section 8014 of this title, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) granting the petition will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits, or occupational licensing;

(2) the individual has substantial need for the relief requested in order to live a law-abiding life; and

(3) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.

(c) The order of limited relief shall specify:

(1) the mandatory sanction from which relief is granted; and

(2) any restriction imposed pursuant to subsection 8013(a) and (b) of this title.

(d) An order of limited relief relieves a mandatory sanction to the extent provided in the order.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in subsection 8008 of this title.

§ 8011. CERTIFICATE OF RESTORATION OF RIGHTS

(a) An individual convicted of an offense may petition the Court for a certificate of restoration of rights relieving mandatory sanctions not sooner than five years after the individual's most recent conviction of a felony or misdemeanor in any jurisdiction, or not sooner than five years after the individual's release from incarceration pursuant to a criminal sentence in any jurisdiction, whichever is later. The individual seeking restoration of rights shall provide the prosecutor's office with notice of his or her petition.

(b) Except as otherwise provided in section 8012 of this title, the Court may issue a certificate of restoration of rights if, after reviewing the petition, the individual's criminal history, any filing by a victim under section 8015 of this title or a prosecuting attorney, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) the individual is engaged in or seeking to engage in a lawful occupation or activity, including employment, training, education, or rehabilitative programs, or the individual otherwise has a lawful source of support;

(2) the individual is not in violation of the terms of any criminal sentence or that any failure to comply is justified, excused, involuntary, or insubstantial;

(3) a criminal charge is not pending against the individual; and

(4) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or to any individual.

(c) A certificate of restoration of rights must specify any restriction imposed and mandatory sanction from which relief has not been granted under section 8013 of this title.

(d) A certificate of restoration of rights relieves all mandatory sanctions, except those listed in section 8012 of this title and any others specifically excluded in the certificate.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in section 8008 of this title.

§ 8012. MANDATORY SANCTIONS NOT SUBJECT TO ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS

An order of limited relief or certificate of restoration of rights may not be issued to relieve the following mandatory sanctions:

(1) requirements imposed by chapter 167, chapter 3 of this title (sex offender registration; law enforcement notification);

(2) a motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to Title 23 for which restoration or relief is available;

(3) ineligibility for employment by law enforcement agencies, including the Office of the Attorney General, State's Attorney, police departments, sheriff's departments, State Police, or the Department of Corrections; or

(4) ineligibility for jury service, or loss of the right of any person to possess a firearm.

§ 8013. ISSUANCE, MODIFICATION, AND REVOCATION OF ORDER OF LIMITED RELIEF AND CERTIFICATE OF RESTORATION OF RIGHTS

(a) When a petition is filed under section 8010 or 8011 of this title, including a petition for enlargement of an existing order of limited relief or certificate of restoration of rights, the Court shall notify the office that prosecuted the offense giving rise to the collateral consequence from which relief is sought and, if the conviction was not obtained in a court of this State, the Attorney General. The Court may issue an order or certificate subject to restriction or condition.

(b) The Court may restrict an order of limited relief or certificate of restoration of rights if it finds just cause by a preponderance of the evidence. Just cause includes subsequent conviction of a related felony in this State or of an offense in another jurisdiction that is deemed a felony in this State. An order of restriction may be issued:

(1) on motion of the Court, the prosecuting attorney who obtained the conviction, or a government agency designated by that prosecutor;

(2) after notice to the individual and any prosecutor that has appeared in the matter; and

(3) after a hearing if requested by the individual or the prosecutor that made the motion or any prosecutor that has appeared in the matter.

(c) The Court shall order any test, report, investigation, or disclosure by the individual it reasonably believes necessary to its decision to issue or modify an

order of limited relief or certificate of restoration of rights. If there are material disputed issues of fact or law, the individual and any prosecutor notified under subsection (a) of this section or another prosecutorial agency designated by a prosecutor notified under subsection (a) of this section may submit evidence and be heard on those issues.

(d) The Court shall maintain a public record of the issuance and modification of orders of limited relief and certificates of restoration of rights. A criminal history record as defined in 20 V.S.A. § 2056a and a criminal conviction record as defined in 20 V.S.A. § 2056c shall include issuance and modification of orders and certificates.

(e) The Court may adopt rules for application, determination, modification, and revocation of orders of limited relief and certificates of restoration of rights.

(f) If the Court grants in part or denies a petition under section 8010 or 8011 of this title, the Court may order that the person not petition for relief for that particular offense under either section for a period not to exceed five years.

§ 8014. RELIANCE ON ORDER OR CERTIFICATE AS EVIDENCE OF DUE CARE

In a judicial or administrative proceeding alleging negligence or other fault, an order of limited relief or a certificate of restoration of rights may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the order was issued, if the person knew of the order or certificate at the time of the alleged negligence or other fault.

§ 8015. VICTIM'S RIGHTS

A victim of an offense may participate in a proceeding for issuance of an order of limited relief or a certificate of restoration of rights in the same manner as at a sentencing proceeding pursuant to section 5321 of this title to the extent permitted by rules adopted by the court.

§ 8016. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 8017. SAVINGS AND TRANSITIONAL PROVISIONS

(a) This chapter applies to collateral consequences whenever enacted or

imposed, unless the law creating the collateral consequence expressly states that this chapter does not apply.

(b) This chapter does not invalidate the imposition of a mandatory sanction on an individual before July 1, 2014, but a mandatory sanction validly imposed before July 1, 2014 may be the subject of relief under this chapter.

Sec. 2. EFFECTIVE DATES

This act shall take effect on November 1, 2014, except that in Sec. 1:

(1) 13 V.S.A. §§ 8010 (order of limited relief), 8012 (mandatory sanctions not subject to relief), 8013 (issuance, modification, and revocation of relief), 8014 (reliance on order or certificate as evidence of due care), and 8015 (victim's rights) shall take effect on January 1, 2015; and

(2) 13 V.S.A. § 8011 (certificate of restoration of rights) shall take effect on July 1, 2015.

(Committee Vote: 10-0-1)

H. 586

An act relating to improving the quality of State waters

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Agricultural Water Quality;

Small Farm Certification and Inspection * * *

Sec. 1. 6 V.S.A. § 4858a is added to read:

§ 4858a. SMALL FARM CERTIFICATION

(a) Rulemaking; small farm certification. On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule a requirement that all small farms in the State submit to the Secretary a certification of compliance with the accepted agricultural practices. The rules required by this subsection shall be adopted as part of the accepted agricultural practices under section 4810 of this title.

(b) Content of rules. The rules for small farm certification shall:

(1) Define what constitutes a small farm for the purposes of certification.

(2) Require a small farm to be certified in order to operate in the State.

(3) Require the owner or operator of a small farm to certify to the

Secretary of Agriculture, Food and Markets at least every five years that the owner or operator complies with the accepted agricultural practices adopted under section 4810 of this title. The certification shall identify the farm subject to the certification and the person or persons who own or operate the farm. The owner or operator of the farm shall certify compliance with the accepted agricultural practices, including that:

(A) The farm does not directly discharge wastes into the surface waters from a discrete conveyance such as a pipe, ditch, or conduit without a permit under 10 V.S.A. § 1258.

(B) Manure stacking sites, fertilizer storage, and other nutrient source storage on the farm are not located within 100 feet of private wells.

(C) Manure is not stacked or stored on lands subject to annual overflow from adjacent waters.

(D) Manure is not field stacked on unimproved sites within 100 feet of a surface water.

(E) Barnyards, waste management systems, animal holding areas, and production areas shall be constructed, managed, and maintained to prevent runoff of waste to surface water, to groundwater, or across property boundaries.

(F) Nutrient application on the farm is based on soil testing by field and is consistent with university recommendations, standard agricultural practices, or a Secretary-approved nutrient management plan for the farm.

(G) Manure on the farm is not applied within 25 feet of an adjoining surface water, is not applied within 10 feet of a ditch, or is applied in such a manner as to enter surface water.

(H) Fertigation and chemigation equipment is operated only with an adequate anti-siphon device between the system and the water source.

(I) Cropland on the farm is cultivated in a manner that results in an average soil loss of less than or equal to the soil loss tolerance for the prevalent soil, known as 1T, as calculated through application of the Revised Universal Soil Loss Equation, or through the application of similarly accepted models.

(J) A vegetative buffer zone of perennial vegetation is maintained between annual croplands and the top of the bank of adjoining surface waters in a manner that complies with requirements of the accepted agricultural practices.

(K) Manure, fertilizer, pesticide storage structures, and farm structures are not located within a floodway area as presented on National

Flood Insurance Maps on file with town clerks or within a Fluvial Erosion Hazard Zone as designated by municipal bylaw or ordinance.

(4) Require the Secretary to visit small farms in the State for purposes of assessing compliance with the accepted agricultural practices and for consistency with a certification issued under this section. The Secretary may prioritize visits to small farms in the State based on identified water quality issues posed by a farm.

(c)(1) Identification; ranking of water quality needs. During a visit to a small farm required under subsection (b) of this section, the Secretary shall identify areas where the farm could benefit from capital, structural, or technical assistance in order to improve or come into compliance with the accepted agricultural practices.

(2) Annually, the Secretary shall establish a priority ranking system for small farms according to the degree of assistance required for compliance with the accepted agricultural practices if the identified capital, structural, or technical needs on the farm are not addressed.

(3) Notwithstanding the requirements of section 4823 of this title, farms identified under subdivision (2) of this subsection in the greatest level of need in order to come into compliance with the accepted agricultural practices shall be given first priority for State financial assistance under subchapter 3 of this chapter, provided that the Secretary may give first priority for financial assistance to any farm other than one identified under subdivision (2) of this subsection when the Secretary determines that a farm needs assistance to address a water quality issue that requires immediate abatement.

Sec. 2. 6 V.S.A. § 4860 is amended to read:

§ 4860. REVOCATION; ENFORCEMENT

(a) The ~~secretary~~ Secretary may revoke coverage under a general permit ~~or~~, an individual permit, or a small farm certification issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The ~~secretary~~ Secretary may also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title from any person who fails to comply with any permit provision as required by this subchapter or who violates the terms or conditions of coverage under any general permit ~~or~~, any individual permit, or any small farm certification issued under this subchapter. However, notwithstanding provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed $5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct

violations of this chapter shall not exceed $50,000.00.

(b) Any person who violates any provision of this subchapter or who fails to comply with any order or the terms of any permit or certification issued in accordance with this subchapter shall be fined not more than $10,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.

(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, certification, or other document filed or required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter shall upon conviction be punished by a fine of not more than $5,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.

Sec. 3. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, and shall implement and enforce agricultural land use practices in order to reduce the amount of agricultural pollutants entering the waters of the ~~state~~ State. These agricultural land use practices shall be created in two categories, pursuant to subdivisions (1) and (2) of this subsection.

(1) "Accepted Agricultural Practices" (AAPs) shall be standards to be followed in conducting agricultural activities in this ~~state~~ State. These standards shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the ~~state~~ State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. The AAPs shall include, as well as promote and encourage, practices for farmers in preventing pollutants from entering the groundwater and waters of the ~~state~~ State when engaged in~~, but not limited to,~~ animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow these practices shall be presumed to be in compliance with water quality standards. AAPs shall be practical and cost effective to implement. The AAPs for

groundwater shall include a process under which the ~~agency~~ Agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner.

(2) "Best Management Practices" (BMPs) may be required by the ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. Before requiring BMPs, the ~~secretary~~ Secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs. BMPs shall be practical and cost effective to implement.

(b) Cooperation and coordination. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall develop a memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Public Law 92-500. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the ~~state~~ State agricultural water quality requirements for large, medium, and small farms under chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall be consistent with the ~~secretary's~~ Secretary's duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Public Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural Resources shall be the ~~state~~ State lead person in applying for federal funds under Public Law 92-500, but shall consult with the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other

programs for competitive watershed projects funded from federal funds. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the federal Clean Water Act as amended. In addition, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm.

(c) On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the accepted agricultural practices required under this section to include requirements for the certification of small farms under section 4858a of this title. The rules adopted under this section shall be at least as stringent as the requirements of section 4858a of this title.

* * * Agricultural Water Quality; Corrective Actions * * *

Sec. 4. 6 V.S.A. § 4812 is amended to read:

§ 4812. CORRECTIVE ACTIONS

(a) When the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the ~~practices defined by~~ requirements of this chapter or rules adopted under this subchapter, the ~~secretary~~ Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. ~~The warning shall include a brief description of the alleged violation, identification of this statute and applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and state assistance programs which may be utilized by the person to remedy the violation and a request for an abatement schedule from the person according to which the practice shall be altered.~~ The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices ~~in order to protect water quality~~, the ~~secretary~~ Secretary may act pursuant to subsection (b) of this section in order to protect water quality.

(b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:

(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and

(2) institute appropriate proceedings on behalf of the ~~agency~~ Agency to enforce this subchapter.

(c) Whenever the ~~secretary~~ Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the ~~agency~~ Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.

(d) ~~The secretary may assess administrative penalties in accordance with sections 15, 16, and 17 of this title against any farmer who violates a cease and desist order or other order issued under subsection (b) of this section.~~ [Repealed.]

(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the ~~secretary~~ Secretary may appeal to the ~~superior court~~ Superior Court within 30 days of the decision. The administrative judge may specially assign an ~~environmental~~ Environmental judge to ~~superior court~~ Superior Court for the purpose of hearing an appeal.

* * * Agricultural Water Quality; Livestock Exclusion * * *

Sec. 5. 6 V.S.A. chapter 215, subchapter 8 is added to read:

Subchapter 8. Livestock Exclusion

§ 4971. DEFINITIONS

As used in this subchapter:

(1) "Livestock" means cattle, sheep, goats, equines, fallow deer, red deer, American bison, swine, water buffalo, poultry, pheasant, Chukar partridge, Coturnix quail, camelids, ratites, and, as necessary, other animals designated by the Secretary by rule.

(2) "Waters" shall have the same meaning as in 10 V.S.A. § 1251(13).

§ 4972. PURPOSE

The purpose of this subchapter is to authorize the Secretary of Agriculture, Food and Markets to require exclusion of livestock from a water of the State where continued access to the water by livestock poses a high risk of violating the accepted agricultural practices.

§ 4973. LIVESTOCK EXCLUSION; PERMIT CONDITION

As a condition of a small farm certification, an animal waste permit, or a large farm permit issued under this chapter, the Secretary of Agriculture, Food and Markets may require exclusion of livestock from a water of the State where continued access to the water by livestock poses a high risk of violating the accepted agricultural practices.

* * * Seasonal Exemption for Manure Application * * *

Sec. 6. 6 V.S.A. § 4816 is added to read:

§ 4816. SEASONAL APPLICATION OF MANURE

(a) A person shall not apply manure to land in the State:

(1) between December 15 and April 1 of any calendar year, unless authorized under subsection (b) of this section; or

(2) between December 1 and December 15 and between April 1 and April 30 of any calendar year when prohibited under subsection (c) of this section.

(b) Seasonal exemption.

(1) The Secretary of Agriculture, Food and Market may authorize an exemption to the prohibition on the application of manure to land in the State between December 15 and April 1 of any calendar year. An exemption issued under this section may authorize land application of manure on a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in the State provided that the requirements of subdivision (2) of this subsection are complied with.

(2) Any exemption issued under this subsection shall:

(A) prohibit application of manure:

(i) in areas with established channels of concentrated stormwater runoff to surface water, including ditches and ravines;

(ii) in nonharvested permanent vegetative buffers;

(iii) in a nonfarmed wetland, as that term is defined in 10 V.S.A. § 902(5);

(iv) within 50 feet of a potable water supply, as that term is defined in 10 V.S.A. § 1972(6);

(v) to fields exceeding tolerable soil loss; and

(vi) to saturated soils;

(B) establish requirements for the application of manure when frozen or snow-covered soils prevent effective incorporation at the time of application;

(C) require manure to be applied according to a nutrient management plan; and

(D) establish the maximum tons of manure that may be applied per acre during any one application.

(c) Restriction on application. The Secretary of Agriculture, Food and Markets may by procedure prohibit the application of manure to land in the State between December 1 and December 15 and April 1 and April 30 of any calendar year when the Secretary determines that due to weather conditions, soil conditions, or other limitations, application of manure to land would pose a significant potential of discharge or runoff to State waters.

* * * Agricultural Water Quality; Training * * *

Sec. 7. 6 V.S.A. chapter 215, subchapter 9 is added to read:

Subchapter 9. Agricultural Water Quality Certification Training

§ 4981. AGRICULTURAL WATER QUALITY CERTIFICATION TRAINING; RULEMAKING

(a) On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for training classes or programs for owners or operators of small farms, medium farms, or large farms certified or permitted under this chapter regarding:

(1) the prevention of discharges, as that term is defined in 10 V.S.A. § 1251(3); and

(2) the mitigation and management of stormwater runoff, as that term is defined in 10 V.S.A. § 1264, from farms.

(b) Any training required by rules under this section shall:

(1) address the existing statutory and regulatory requirements for operation of a large, medium, or small farm in the State; and

(2) address the management practices and technical and financial resources available to assist in compliance with statutory or regulatory agricultural requirements.

* * * Agricultural Water Quality;

Certification of Custom Applicators * * *

Sec. 8. 6 V.S.A. chapter 215, subchapter 10 is added to read:

Subchapter 10. Certification of Custom Manure Applicators

§ 4987. DEFINITIONS

As used in this subchapter:

(1) "Custom manure applicator" means a person who applies manure, nutrients, or sludge to land and who charges for the service.

(2) "Manure" means livestock waste that may also contain bedding, spilled feed, water, or soil.

(3) "Sludge" means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

§ 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

(a) On or before January 1, 2015, the Secretary of Agriculture, Food and Markets shall adopt by procedure a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete 16 hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure, nutrients, or sludge to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure, nutrients, or sludge to waters of the State.

(b) Beginning January 1, 2016, a custom applicator shall not apply manure, nutrients, or sludge unless certified by the Secretary of Agriculture, Food and Markets.

* * * Agricultural Stream Alteration * * *

Sec. 9. 6 V.S.A. § 4810a is added to read:

§ 4810a. AGRICULTURAL ACTIVITIES; STREAMS

(a) As used in this section:

(1) "Berm" means a linear fill of earthen material on or adjacent to the bank of a watercourse that constrains waters from entering a flood hazard area or river corridor, as those terms are defined in 10 V.S.A. §§ 752(3) and (11).

(2) "Instream material" means:

(A) all gradations of sediment from silt to boulders;

(B) ledge rock; or

(C) large woody debris in the bed of a watercourse or within the banks of a watercourse.

(3) "Intermittent stream" means any stream or stream segment of significant length that is not a perennial stream.

(4) "Large woody debris" means any piece of wood within a watercourse with a diameter of 10 or more inches and a length of 10 or more feet that is detached from the soil where it grew.

(5) "Perennial stream" means a watercourse or portion, segment, or reach of a watercourse, generally exceeding 0.5 square miles in watershed size, in which surface flows are not frequently or consistently interrupted during normal seasonal low flow periods. Perennial streams that begin flowing subsurface during low flow periods, due to natural geologic conditions, remain defined as perennial. "Perennial stream" shall not mean standing waters in wetlands, lakes, and ponds.

(6) "Secretary" means the Secretary of Agriculture, Food and Markets.

(7) "Stream" means a current of water that flows at any time at a rate of less than 1.5 cubic feet per second and exhibits evidence of sediment transport. A stream shall include the full length and width, including the bed and banks of any watercourse, including rivers, streams, creeks, brooks, and branches, which experience perennial flow. "Stream" shall not include swales, roadside ditches, ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private infrastructure, excepting such ditches or conveyances that are connected directly with a stream or river at either end.

(b) On or before January 1, 2016, the Secretary shall amend the accepted agricultural practices to include requirements for agricultural activities that alter or impact streams in the State. The accepted agricultural practices for stream activities shall:

(1) prohibit the discharge or deposit of manure, milk house waste, compost, or other discarded substances in a stream or a ditch or ravine that are connected to a stream;

(2) require authorization from the Secretary, prior to any change, alteration, or modification of the course, current, or cross section of a perennial stream in this State either by movement, fill, or excavation of 10 cubic yards or more of instream material in any year; and

(3) require authorization from the Secretary to establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in 10 V.S.A. § 752(3) and (11).

(c) The Secretary shall authorize an agricultural activity that alters or impacts streams in the State if the activity:

(1) will not adversely affect the public safety by increasing flood or fluvial erosion hazards;

(2) will not significantly damage fish life or wildlife;

(3) will not significantly damage the rights of riparian owners; and

(4) in case of any waters designated as outstanding resource waters, will not adversely affect the values sought to be protected by designation.

(d) Prior to issuing an authorization under subdivisions (b)(2) and (3) of this section, the Secretary shall consult with the Secretary of Natural Resources regarding appropriate management measures to be used in conducting any authorized activity.

* * * Stormwater Management * * *

Sec. 10. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(b) The ~~secretary~~ Secretary shall prepare a plan for the management of collected stormwater runoff found by the ~~secretary~~ Secretary to be deleterious to receiving waters. The plan shall recognize that the runoff of stormwater is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows and natural degradation of the receiving water quality at the time of discharge. The plan shall be cost effective and designed to minimize any adverse impact of stormwater runoff to waters of the ~~state~~ State. By no later than February 1, 2001, the ~~secretary~~ Secretary shall prepare an enhanced stormwater management program and report on the content of that program to the ~~house committees on fish, wildlife and water resources and on natural resources and energy and to the senate committee on natural resources and energy~~ House Committees on Fish, Wildlife and Water Resources and on Natural Resources and Energy and to the Senate Committee on Natural Resources and Energy. In developing the program, the ~~secretary~~ Secretary shall consult with ~~the board,~~ affected municipalities, regional entities, other ~~state~~ State and federal agencies, and members of the public. The ~~secretary~~ Secretary shall be responsible for implementation of the program. The ~~secretary's~~ Secretary's stormwater management program shall include, at a minimum, provisions that:

* * *

(12) Encourage municipal governments to utilize existing regulatory and planning authority to implement improved stormwater management by providing technical assistance, training, research and coordination with respect to stormwater management technology, and by preparing and distributing a model local stormwater management ordinance or bylaw. Beginning on July 1, 2014, the Secretary annually shall provide municipalities with outreach and education through published materials or training courses regarding the environmental and municipal benefits of adoption of a local stormwater management ordinance or bylaw. The stream alteration training and education activities required under subsection 1023(d) of this title and any education and outreach conducted under this subdivision (12) shall inform municipalities of model stormwater management ordinances or bylaws that are available in the State.

* * *

* * * Water Quality Data Coordination * * *

Sec. 11. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

(a) To facilitate attainment or accomplishment of the purposes of this chapter, the Secretary shall coordinate and assess all available data and science regarding the quality of the waters of the State, including:

(1) light detection and ranging information data (LIDAR) identifying water quality issues;

(2) stream gauge data;

(3) stream mapping, including fluvial erosion hazard maps;

(4) water quality monitoring or sampling data;

(5) cumulative stressors on watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and

(6) any other data available to the Secretary.

(b) After coordination of the data required under subsection (a) of this section, the Secretary shall:

(1) assess where additional data are needed and the best methods for collection of such data;

(2) identify and map on a regional basis areas of the State that are significant contributors to water quality problems or are in critical need of water quality remediation or response.

(c) The Secretary shall post all data compiled under this section on the website of the Agency of Natural Resources.

* * * Shoreland Contractor Certification * * *

Sec. 12. VOLUNTARY SHORELAND EROSION CONTROL CERTIFICATION PROGRAM

(a) Definitions. As used in this section:

(1) "Impervious surface" shall have the same meaning as in section 1264 of this title.

(2) "Lake" means a body of standing water, including a pond or a reservoir, which may have natural or artificial water level control. Private ponds shall not be considered lakes.

(3) "Mean water level" means the mean water level of a lake as defined in the Mean Water Level Rules of the Agency of Natural Resources adopted under 29 V.S.A. § 410.

(4) "Shoreland area" means all land located within 250 feet of the mean water level of a lake that is greater than 10 acres in surface area.

(b) Voluntary certification. The Agency of Natural Resources, in consultation with the Associated General Contractors of Vermont, shall develop an optional shoreland erosion control certification program to begin on January 1, 2015. The program shall include training related to the disturbance of soil, clearance of vegetation, and construction of impervious surfaces of more than 1,000 square feet in a shoreland area. The voluntary certification program shall end on January 1, 2018.

(c) Report. On or before January 1, 2017, the Agency of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources regarding the voluntary shoreland erosion control certification program created in subsection (b) of this section. The report shall include:

(1) a general summary of the program's success, including an overview of shoreland projects constructed by certified persons;

(2) the number of persons certified under the certification program;

(3) a recommendation of whether the State should continue the voluntary certification program, including whether to make the program mandatory; and

(4) any other recommendations for improving the program.

(d) The requirements of this section shall not apply to the owner or

operator of a farm conducting agricultural activities on the farm that comply with the rules adopted by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215, regarding agricultural water quality, including accepted agricultural practices, best management practices, animal waste permits, and large farm permits. The requirements of this section shall apply to a person, other than an employee of the owner or operator of the farm, who charges for the service of tillage, harvesting, or other agricultural activity that disturbs soil, clears vegetation, or constructs impervious surface of more than 500 square feet in a shoreland area.

* * * Forestry Practices * * *

Sec. 13. DEPARTMENT OF FORESTS, PARKS AND RECREATION; FORESTRY; PORTABLE SKIDDER PROJECT

In addition to any other funds appropriated to the Department of Forests, Parks and Recreation in fiscal year 2015 there is appropriated in fiscal year 2015 from the General Fund to the Department:

(1) $100,000.00 for the purpose of providing technical assistance to persons engaged in silvicultural practices regarding improved stream crossing practices; and

(2) $20,000.00 for the purchase or construction of portable skidder bridges.

* * * Town Road and Bridge Standards * * *

Sec. 14. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover ~~10~~ five percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge

standards to the ~~secretary~~ Secretary, in which event the local match shall be sufficient to cover ~~20~~ 15 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of $175,000.00.

* * *

* * * Best Management Practices Income Tax Credit * * *

Sec. 15. 32 V.S.A. § 5930mm is added to read:

§ 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT

(a) A taxpayer of this State who is engaged in the business of farming or who is implementing a nutrient management plan approved by the Secretary of Agriculture, Food and Markets may claim a credit against his or her income taxes imposed by this chapter in an amount equal to 25 percent of the first $70,000.00 expended by the taxpayer for an agricultural best management practice approved by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215, provided that that the credit shall not exceed the liability of the taxpayer under this chapter for the year in which the credit is claimed.

(b) Best management practices eligible for the credit under this section shall include approved activities to:

(1) manage the waste from livestock, as that term is defined in 6 V.S.A. § 761;

(2) control soil erosion;

(3) nutrient and sediment filtration and detention;

(4) nutrient management planning; and

(5) pest and pesticide handling.

(c) After completion of the best management practice, the Secretary shall certify the practice as approved and completed, and eligible for credit. The taxpayer shall forward the certification of completion to the Department of Taxes on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from his or her own funds.

(d) The credit under this section shall be available only for the tax year in which the funds were expended, as certified by the Secretary of Agriculture, Food and Markets. Any taxpayer claiming a credit under this section shall not

claim a credit under any similar State law for costs related to the same eligible practices.

(e) The amount of any credit claimed under this section attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

(f) As used in this section, "engaged in the business of farming" means a taxpayer earns at least one-half of his or her annual gross income from the business of farming, as that term is defined in the Internal Revenue Code, 26 C.F.R. § 1.175-3

* * * Water Quality Restoration; Financing Report * * *

Sec. 16. AGENCY OF NATURAL RESOURCES REPORT ON WATER QUALITY FINANCING

On or before January 15, 2015, the Secretary of Natural Resources, after consultation with the Joint Fiscal Office, shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Fish, Wildlife and Water Resources, and the Senate and House Committees on Appropriations a report that provides recommendations for establishing a financing mechanism that assesses property owners in the State based on the property's impact on water quality. The report shall include:

(1) at least two alternative financing mechanisms;

(2) a summary of how each recommended financing mechanism would be implemented, including administration and enforcement; and

(3) an estimated amount of revenue that each recommended financing proposal would generate.

* * * Rooms and Meals Tax; Ecosystem Restoration Program * * *

Sec. 17. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine and one-quarter percent of the rent of each occupancy.

(b) An operator shall collect a tax on the sale of each taxable meal at the rate of nine and one-quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with ~~the following~~ a formula developed and published by the Department of Taxes~~:~~

~~$0.01-0.11~~	~~$0.01~~
~~0.12-0.22~~	~~0.02~~
~~0.23-0.33~~	~~0.03~~
~~0.34-0.44~~	~~0.04~~
~~0.45-0.55~~	~~0.05~~
~~0.56-0.66~~	~~0.06~~
~~0.67-0.77~~	~~0.07~~
~~0.78-0.88~~	~~0.08~~
~~0.89-1.00~~	~~0.09~~

(c) An operator shall collect a tax on each sale of alcoholic beverages at the rate of 10 and one-quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with ~~the following~~ a formula developed and published by the Department of Taxes~~:~~

~~$ .01-.14~~	~~$.01~~
~~.15-.24~~	~~.02~~
~~.25-.34~~	~~.03~~
~~.35-.44~~	~~.04~~
~~.45-.54~~	~~.05~~
~~.55-.64~~	~~.06~~
~~.65-.74~~	~~.07~~
~~.75-.84~~	~~.08~~
~~.85-.94~~	~~.09~~
~~.95-1.00~~	~~.10~~

Sec. 18. 32 V.S.A. § 9242(c) is amended to read:

(c) A tax of nine and one-quarter percent of the gross receipts from ~~meals and~~ occupancies, nine and one-quarter percent of the gross receipts from meals, and 10 and one-quarter percent of the gross receipts from alcoholic beverages, exclusive of taxes collected pursuant to section 9241 of this title, received from occupancy rentals, taxable meals and alcoholic beverages by an operator, is hereby levied and imposed and shall be paid to the State by the operator as herein provided. Every person required to file a return under this chapter shall, at the time of filing the return, pay the Commissioner the taxes

imposed by this chapter as well as all other monies collected by him or her under this chapter; provided, however, that every person who collects the taxes on taxable meals and alcoholic beverages according to the tax bracket schedules of section 9241 of this title shall be allowed to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter as compensation for the keeping of prescribed records and the proper account and remitting of taxes.

Sec. 19. 32 V.S.A. § 435 is amended to read:

§ 435. GENERAL FUND

(a) There is established a General Fund which shall be the basic operating fund of the State. The General Fund shall be used to finance all expenditures for which no special revenues have otherwise been provided by law.

(b) The General Fund shall be composed of revenues from the following sources:

(1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

(2) [Repealed.]

(3) Electrical energy tax levied pursuant to chapter 213 of this title;

(4) Corporate income and franchise taxes levied pursuant to chapter 151 of this title;

(5) Individual income taxes levied pursuant to chapter 151 of this title;

(6) All corporation taxes levied pursuant to chapter 211 of this title;

(7) ~~Meals~~ 98 percent of the meals and rooms taxes levied pursuant to chapter 225 of this title;

(8) [Repealed.]

(9) Revenues from the Racing Fund consistent with 31 V.S.A. § ~~611~~ 609;

(10) 33 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title;

(11) 65 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;

(12) All other revenues accruing to the State not otherwise required by law to be deposited in any other designated fund or used for any other designated purpose.

* * * Rental Car Tax * * *

Sec. 20. 32 V.S.A. § 8903(d) is amended to read:

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this State, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the Commissioner. The amount of the tax shall be ~~nine~~ 10 percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this State for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section.

Sec. 21. 32 V.S.A. § 8912 is amended to read:

§ 8912. ALLOCATION OF FUNDS

The taxes collected under this chapter shall be paid into and accounted for in the Transportation Fund, except that 10 percent of the tax collected under subsection 8903(d) of this title on rental cars shall be paid into the Ecosystem Restoration Program Fund under 10 V.S.A § 1285.

* * * Ecosystem Restoration Program Fund * * *

Sec. 22. 10 V.S.A. § 1285 is added to read:

§ 1285. ECOSYSTEM RESTORATION PROGRAM FUND

(a) Creation of Fund. There is created a special fund in the State Treasury to be known as the "Ecosystem Restoration Program Fund" to be administered and expended by the Secretary to fund administration and implementation of the Ecosystem Restoration Program. Within the Fund, there shall be two accounts: the Capital Account and the Administrative Account.

(b) Deposits to accounts:

(1) Within the Capital Account, there shall be deposited:

(A) appropriations by the General Assembly to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund; and

(B) appropriations by the General Assembly to the Agency of Natural Resources for any other capital construction related to water pollution control.

(2) Within the Administrative Account, there shall be deposited:

(A) two percent of the meals and rooms tax levied pursuant to chapter 225 of this title;

(B) 10 percent of rental car tax under subsection 8903(d) of this title; and

(C) such sums as may be appropriated by the General Assembly.

(c) Disbursements from the Fund.

(1) The Secretary may authorize disbursement or expenditures from the Capital Account according to the requirements of 24 V.S.A. chapter 120 and the rules adopted thereunder or as authorized by the General Assembly.

(2) The Secretary may authorize disbursement or expenditures from the Administrative Account for administration of, education and outreach related to, monitoring, and implementation of the activities or projects under the Ecosystem Restoration Program.

(d) Interest. Interest earned by the Fund shall be credited and deposited to the Fund. All balances in the Fund at the end of the fiscal year shall be carried forward and remain a part of the Fund.

(e) Awards; priority. Except for grants or loans issues under 24 V.S.A. chapter 120, grants or loans from the Ecosystem Restoration Program shall be awarded in each fiscal year according to the following priorities:

(1) First priority shall be given to projects identified by the Secretary as significant contributors to water quality problems or in critical need of water quality remediation or response.

(2) Next priority shall be given to proposed projects to address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property.

(3) Next priority shall be given to proposed projects or programs to address areas of high risk of pollution or high loading of sediment to a water listed as impaired on the list of waters required by 33 U.S.C. § 1313(d).

(4) Next priority shall be given to other projects implementing a total maximum daily load plan in a water listed as impaired on the list of waters required by 33 U.S.C. § 1313(d).

(5) Next priority shall be given to projects or programs to address areas of high risk of pollution or high loading of sediment to an unimpaired water.

(f) Secretary discretion. The Secretary may award financial assistance under this section for a project or program that otherwise would not receive assistance under the priorities established by this section when the Secretary

determines a severe risk to water quality or risk of discharge exists which requires immediate abatement.

(g) Rule. The Secretary may adopt by rule additional priorities for the award of loans or grants in order to ensure equity in the distribution of awards under this section among service sectors or land use categories.

Sec. 23. REPORT ON ACCEPTED AGRICULTURAL PRACTICES UNDER USE VALUE APPRAISAL

On or before January 15, 2015, the Agency of Agriculture, Food and Markets (AAFM), after consultation with the Department of Forests, Parks and Recreation and the Division of Property Valuation and Review (PVR) at the Department of Taxes, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Ways and Means, the Senate Committee on Finance, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture a report regarding compliance with the accepted agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a requirement of eligibility for participation in the use value appraisal program. The report shall include:

(1) A proposed plan for implementing a requirement that an owner of agricultural land certify compliance with the AAPs in order to participate or continue participation in the use value appraisal program. The plan shall include:

(A) how the AAFM or PVR would record certifications of AAP compliance;

(B) how the AAFM or PVR would enforce compliance with the AAPs as a condition of participation in the use value appraisal program; and

(C) an estimate of the number of staff and other resources required by the AAFM or PVR to implement, administer, and enforce the requirement of compliance with AAPs as a condition of participation in the use value appraisal program.

(2) An estimate of how certification of compliance with the AAPs would impact the cost of the use value appraisal program to the State of Vermont, including whether fewer parcels would qualify for enrollment in the program.

Sec. 24. EFFECTIVE DATES

(a) This section and Secs. 1–3 (small farm certification rules), 4 (Agency of Agriculture, Food and Markets corrective action), 5 (livestock exclusion), 6 (seasonal exemption for application of manure), 8 (custom applicator

certification), 9 (agricultural stream alteration), 10 (stormwater model bylaw), 11 (water quality data coordination), 12 (shoreland contractor certification), , 13 (financing; technical assistance for forestry), 15 (agricultural best management practices tax credit), and 23 (AAP; use value appraisal report) shall take effect on passage.

(b) Sec. 7 (agricultural water quality certification) shall take effect on January 1, 2015.

(c) Secs. 14 (town road and bridge standards), 16 (Ecosystem Restoration fee), 17–19 (meals and rooms tax), 20–21 (rental car tax), and 22 (Ecosystem Restoration Program Fund) shall take effect on July 1, 2015.

(Committee Vote: 7-1-1)

H. 645

An act relating to workers' compensation

Rep. Kitzmiller of Montpelier, for the Committee on **Commerce and Economic Development,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 632 is amended to read:

§ 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~ BURIAL AND FUNERAL EXPENSES

If death results from the injury, the employer shall pay to the persons entitled to compensation or, if there is none, then to the personal representative of the deceased employee, the actual burial and funeral expenses ~~in the amount of $5,500.00~~ not to exceed $10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed ~~$1,000.00~~ $5,000.00. The employer shall also pay to or for the benefit of the following persons, for the periods prescribed in section 635 of this title, a weekly compensation equal to the following percentages of the deceased employee's average weekly wages. The weekly compensation payment herein allowed shall not exceed the maximum weekly compensation or be lower than the minimum weekly compensation:

* * *

Sec. 2. 21 V.S.A. § 639 is amended to read:

§ 639. DEATH, PAYMENT TO DEPENDENTS

In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be

made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, but ~~not exceeding $5,500.00 for burial and funeral expenses~~ no more than the actual burial and funeral expenses not to exceed $10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed ~~$1,000.00~~ $5,000.00, shall be paid in a lump sum to the proper person.

Sec. 3. 21 V.S.A. § 640c is added to read:

§ 640c. OPIOID AND OPIATE USAGE DETERRENCE

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription abuse while maintaining a balance between the employee's health and the employee's expedient return to work.

(b) As it pertains to workers' compensation, the Commissioner, in consultation with the Department of Health, the State Pharmacologist, the Vermont Board of Medical Practice, and the Vermont Medical Society, shall adopt rules, consistent with the best practices, governing the prescription of opioids and opiates, including appropriate diagnoses that require opioid and opiate treatment, opioid and opiate dosage amounts, patient screening, and drug screening for patients prescribed opioids and opiates for chronic pain. In adopting rules, the Commissioner shall consider guidelines and standards published by the American College of Occupational and Environmental Medicine and other medical authorities with expertise in the treatment of chronic pain. The rules shall be aligned with the standards and guidelines provided under 18 V.S.A. § 4289.

Sec. 4. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

* * *

(e)(1) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly that, following a workplace accident, an employee returns to work as soon as possible but remains cognizant of the limitations imposed by the employee's medical condition.

(2) The Commissioner shall adopt rules promoting development and implementation of cost-effective, early return-to-work programs.

Sec. 5. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer

shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer ~~not already filed, shall be filed with the notice~~ shall be provided to the injured worker. With the notice of discontinuance, the employer shall file only evidence relevant to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner. The liability for the payments shall continue for seven days after the notice is received by the Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the seven-day limit. The Commissioner may grant an extension up to seven days. The request for an extension shall be specific as to the reason for the extension and must be received by the Commissioner prior to the end of the seven-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 6. 21 V.S.A. § 691a is added to read:

§ 691a. POSTING OF SAFETY RECORDS

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to

improve the safety experience in the workplace.

(b) An employer subject to the provisions of this chapter shall post a notice in the employer's place of business to advise employees of where they may review the employer's record of workplace safety, including workplace injury and illness data, in accordance with rules adopted by the Commissioner. The employer's record of workplace safety, including workplace injury and illness data, shall be available for review by employees at the employer's place of business and the Commissioner, but shall not otherwise be public information. The posting shall be in a format approved by the Commissioner. The posting may be in a format provided by the Commissioner.

Sec. 7. 21 V.S.A. § 696 is amended to read:

§ 696. CANCELLATION OF INSURANCE CONTRACTS

A policy or contract shall not be cancelled within the time ~~limited~~ specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the ~~commissioner~~ Commissioner and provided to the employer. The notice shall be filed with the Commissioner in accordance with rules adopted by the Commissioner and provided to the employer by certified mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.

Sec. 8. 21 V.S.A. § 697 is amended to read:

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

An insurance carrier who does not intend to renew a workers' compensation insurance policy ~~of workers' compensation insurance~~ or guarantee contract covering the liability of an employer under the provisions of this chapter~~, 45 days prior to the expiration of the policy or contract,~~ shall give notice of ~~the~~ its intention to the ~~commissioner of labor~~ Commissioner and ~~to~~ the covered employer at least 45 days prior to the expiration date stated in the policy or contract. The notice shall be given to the employer by certified mail ~~or certificate of mailing~~. An insurance carrier who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days from the day the notice is received by the ~~commissioner~~ Commissioner and the employer. However, ~~this latter provision shall not apply~~ if, ~~prior to such expiration date,~~ on or before the expiration of the existing insurance or guarantee contract the insurance carrier has, by delivery of a renewal contract or otherwise, offered to continue the insurance ~~beyond the date by delivery of a renewal contract or otherwise~~, or if the employer notifies the insurance carrier in writing that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687

of this title, ~~on or before the expiration of the existing insurance or guarantee contract~~ then the policy will expire upon notice to the Commissioner.

Sec. 9. STATE POLICE ACADEMY STUDY

The Department of Labor and the Office of Risk Management, in consultation with the Vermont League of Cities and Towns and any other interested parties, shall conduct a study, to be submitted to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2015, to:

(1) analyze existing and frequently reoccurring injuries suffered by police officers while attending the State Police Academy;

(2) analyze preventative measures to avoid injuries;

(3) recommend who should bear the financial burden of the workers' compensation premiums; and

(4) recommend preventative measures necessary to reduce injuries.

Sec. 10. WORKPLACE SAFETY RANKING STUDY

The Department of Labor, the *National Council on Compensation Insurance*, and the Department of Financial Regulation shall study whether information may be made available to employers to allow an employer to compare its workplace safety and workers' compensation experience with that of employers in similar industries or *North American Industry Classification System* codes.

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 9, and 10 shall take effect on passage.

(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.

(Committee Vote: 11-0-0)

H. 681

An act relating to the professional regulation for veterans, military service members, and military spouses and to credit for military service in retirement

Rep. Higley of Lowell, for the Committee on **Government Operations,** recommends the bill be amended as follows:

First: In Sec. 1 (professional regulatory entities; military service licensure requirements), in subsection (a), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4)(A) "Professional regulatory entity" means any State agency,

department, office, or subdivision thereof that licenses or otherwise regulates individuals to practice a profession or occupation in this State and includes:

(i) the Office of Professional Regulation;

(ii) the Department of Health, including the Emergency Medical Services Division;

(iii) the Agency of Education;

(iv) the Vermont Criminal Justice Training Council;

(v) the Vermont Fire Service Training Council;

(vi) the Department of Public Safety; and

(vii) the Department of Environmental Conservation.

(B) "Professional regulatory entity" shall not include the Board of Medical Practice, the Board of Bar Examiners, or the Department of Financial Regulation.

Second: By striking out Sec. 3 (amending 3 V.S.A. § 477a) in its entirety and inserting in lieu thereof "[Deleted]".

Third: In Sec. 4 (effective dates), in subsection (b), at the beginning of the sentence, by striking out "Secs. 2 and 3" and inserting in lieu thereof "Sec. 2"

and that after passage the title of the bill be amended to read: "An act relating to the professional regulation for veterans, military service members, and military spouses".

(Committee Vote: 11-0-0)

H. 690

An act relating to the definition of serious functional impairment

Rep. Myers of Essex, for the Committee on **Corrections and Institutions,** recommends the bill be amended as follows:

By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 905 is added to read:

§ 905. LEGISLATIVE INTENT

It is the intent of the General Assembly that the serious functional impairment designation apply solely to individuals residing in a correctional facility and not to individuals reentering the community after incarceration.

(Committee Vote: 9-0-2)

H. 728

An act relating to developmental services' system of care

Rep. French of Randolph, for the Committee on **Human Services,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A. DEVELOPMENTAL DISABILITIES ACT

* * *

§ 8722. DEFINITIONS

As used in this chapter:

* * *

(2) "Developmental disability" means a severe, chronic disability of a person that is manifested before the person reaches ~~the age of~~ 18 years of age and results in:

(A) ~~mental retardation~~ intellectual disability, autism, or pervasive developmental disorder; and

(B) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparison group.

* * *

§ 8723. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; DUTIES

The ~~department~~ Department shall plan, coordinate, administer, monitor, and evaluate ~~state~~ State and federally funded services for people with developmental disabilities and their families within Vermont. The ~~department of disabilities, aging, and independent living~~ Department shall be responsible for coordinating the efforts of all agencies and services, government and private, on a statewide basis in order to promote and improve the lives of individuals with developmental disabilities. Within the limits of available resources, the ~~department~~ Department shall:

(1) ~~Promote~~ promote the principles stated in section 8724 of this title and shall carry out all functions, powers, and duties required by this chapter by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the ~~state.~~ State;

(2) ~~Develop and~~ develop, maintain, and monitor an equitably and

efficiently allocated statewide system of community-based services that reflect the choices and needs of people with developmental disabilities and their families.;

(3) Acquire and acquire, administer, and exercise fiscal oversight over funding for these community-based services and identify needed resources and legislation., including the management of State contracts;

(4) identify resources and legislation needed to maintain a statewide system of community-based services;

(5) Establish establish a statewide procedure for applying for services.;

(5)(6) Facilitate facilitate or provide pre-service or in-service training and technical assistance to service providers consistent with the system of care plan.;

(6)(7) Provide quality assessment and quality improvement support for the services provided throughout the state. maintain a statewide system of quality assessment and assurance for services provided to people with developmental disabilities and provide quality improvement support to ensure that the principles of service in section 8724 of this title are achieved;

(7)(8) Encourage encourage the establishment and development of locally administered and locally controlled nonprofit services for people with developmental disabilities based on the specific needs of individuals and their families.;

(8)(9) Promote promote and facilitate participation by people with developmental disabilities and their families in activities and choices that affect their lives and in designing services that reflect their unique needs, strengths, and cultural values.;

(9)(10) Promote promote positive images and public awareness of people with developmental disabilities and their families.;

(10)(11) Certify certify services that are paid for by the department. Department; and

(11)(12) Establish establish a procedure for investigation and resolution of complaints regarding the availability, quality, and responsiveness of services provided throughout the state State.

* * *

§ 8725. SYSTEM OF CARE PLAN

* * *

(d) The department Notwithstanding 2 V.S.A. § 20(d), on or before

January 15 of each year, the Department shall report ~~annually~~ to the ~~governor~~ Governor and the ~~general assembly~~ committees of jurisdiction regarding implementation of the plan ~~and shall make annual revisions as needed~~, the extent to which the principles of service set forth in section 8724 of this title are achieved, and whether people with developmental disabilities have any unmet service needs, including the number of people on waiting lists for developmental services.

* * *

Sec. 2. SYSTEM OF CARE STUDY COMMITTEE

(a) Creation. There is created a System of Care Study Committee to examine the process by which people with developmental disabilities and their families receive State-funded services, including the manner in which the System of Care Plan is created and reviewed prior to taking effect.

(b) Membership. The Study Committee shall be composed of the following 12 members:

(1) a representative of the House Committee on Appropriations, who shall be appointed by the Speaker of the House;

(2) a representative of the House Committee on Human Services, who shall be appointed by the Speaker of the House;

(3) a representative of the Senate Committee on Appropriations, who shall be appointed by the Committee on Committees;

(4) a representative of the Senate Committee on Health and Welfare, who shall be appointed by the Committee on Committees;

(5) the Commissioner of Disabilities, Aging, and Independent Living or a designee;

(6) the Director of the Department of Disabilities, Aging, and Independent Living's Developmental Disabilities Services Division;

(7) a representative of the Vermont Developmental Disabilities Council;

(8) a representative of the Vermont Council on Developmental and Mental Health Services;

(9) a representative of the Green Mountain Self Advocates;

(10) a representative of Vermont Family Network;

(11) a consumer or family member representing the State Program Standing Committee for Developmental Disabilities, who shall be appointed by the Standing Committee; and

(12) a nongovernmental member of the Developmental Disabilities Services Imagine the Future Task Force, who shall be appointed by the Task Force and who shall ensure that the findings and recommendations of the Task Force are included in the discussions of the Study Committee.

(c) Powers and duties. The Study Committee shall examine the process by which people with developmental disabilities and their families receive State-funded services, including the following tasks:

(1) review 18 V.S.A. chapter 204A;

(2) assess how Vermont's existing developmental disability service system compares with other programs administered by the Agency of Human Services in terms of prioritizing who receives services among the population of eligible recipients;

(3) identify concerns or shortcomings in the existing process for serving people with developmental disabilities and their families, if any;

(4) identify opportunities during the development of the System of Care Plan to augment community participation, legislative participation, or both, as necessary; and

(5) identify specific legislative changes to 18 V.S.A. chapter 204A that would ensure equitable distribution of services to people with developmental disabilities and their families, if necessary.

(d) Assistance. The Study Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Recommended Legislation.

(1) On or before December 15, 2014, the Study Committee shall submit a report containing its findings and recommendations, including any proposed legislative changes to 18 V.S.A. chapter 204A, to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare.

(2) Any member or members of the Study Committee who do not support the report submitted by a majority of Study Committee members may prepare and submit a minority report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare.

(f) Meetings.

(1) The house member representing the Committee on Human Services shall call the first meeting of the Study Committee to occur on or before August 15, 2014.

(2) The Study Committee shall select a chair from among its legislative members at the first meeting.

(3)(A) A majority of the members of the Study Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(4) The Study Committee shall cease to exist on January 1, 2015.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings.

(2) Other members of the Study Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 10-0-1)

H. 790

An act relating to Reach Up eligibility

Rep. Trieber of Rockingham, for the Committee on **Human Services,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

(a) Financial assistance shall be given for the benefit of a dependent child to the relative or caretaker with whom the child is living unless otherwise provided. The amount of financial assistance to which an eligible person is entitled shall be determined with due regard to the income, resources, and maintenance available to that person and, as far as funds are available, shall provide that person a reasonable subsistence compatible with decency and health. The Commissioner may fix by regulation maximum amounts of financial assistance, and act to ~~insure~~ ensure that the expenditures for the

programs shall not exceed appropriations for them consistent with section 101 of this title. In no case may the Department expend State funds in excess of the appropriations for the programs under this chapter.

* * *

(c) The Commissioner shall adopt rules for the determination of eligibility for the Reach Up program and benefit levels for all participating families that include the following provisions:

(1) No less than the first ~~$200.00~~ $300.00 per month of earnings from an unsubsidized job and ~~25~~ 50 percent of the remaining unsubsidized earnings shall be disregarded in determining the amount of the family's financial assistance grant. The family shall receive the difference between countable income and the Reach Up payment standard in a partial financial assistance grant.

(2) No less than the first $90.00 per month of earnings from a subsidized job shall be disregarded in determining the amount of the family's financial assistance grant. The family shall receive the difference between countable income and the Reach Up payment standard in a partial financial assistance grant. Earnings from subsidized jobs shall qualify for federal and State earned income credit if the family is otherwise eligible for such credit.

(3) Each family development plan shall provide for an incentive payment to be paid to the participating family for completing a required activity or task.

(4) Education stipends, employment stipends, job training stipends, and incentive payments, as determined by the Commissioner, shall be excluded in calculating the financial assistance grant.

(5) ~~The~~ Up to $5,000.00 of the value of assets accumulated from the earnings of adults and children in participating families and ~~from~~ the value of any federal or Vermont earned income tax credit shall be excluded for purposes of determining continuing eligibility for the Reach Up program. ~~The asset limitation shall be increased from $1,000.00 to $2,000.00 for participating families for the purposes of determining continuing eligibility for the Reach Up program.~~

(6) Transitional medical assistance of up to 36 months shall be provided to families with a working adult who becomes ineligible for financial assistance due to increased earnings, unless family income exceeds 185 percent of the federal poverty level, and provided that federal financial participation is available for such transitional medical assistance.

(7) The equity value of one operable motor vehicle in a family with a

single parent or caretaker and of two operable motor vehicles in a two-parent family shall be excluded for purposes of determining eligibility for the Reach Up program. The Commissioner shall take all steps necessary to retain current resource protections under the Food Stamps program so that the rules under the Food Stamps program and the Reach Up program are compatible.

(8) An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

* * *

Sec. 2. 33 V.S.A. § 1107(a) is amended to read:

(a)(1) The Commissioner shall provide all Reach Up services to participating families through a case management model informed by knowledge of the family's home, community, employment, and available resources. Services may be delivered in the district office, the family's home, or community in a way that facilitates progress toward accomplishment of the family development plan. Case management may be provided to other eligible families. The case manager, with the full involvement of the family, shall recommend, and the Commissioner shall modify as necessary a family development plan established under the Reach First or Reach Up program for each participating family, with a right of appeal as provided by section 1132 of this title. A case manager shall be assigned to each participating family as soon as the family begins to receive financial assistance. If administratively feasible and appropriate, the case manager shall be the same case manager the family was assigned in the Reach First program. The applicant for or recipient of financial assistance~~,~~ under this chapter~~,~~ shall have the burden of demonstrating the existence of his or her condition.

(2) In addition to the services provided pursuant to subsection (b) of this section, the Commissioner shall provide for a mandatory case review for each participating family with a program director or the program director's designee when the family reaches 18 and 36 months of enrollment, respectively, in the Reach Up program to assess whether the participating family:

(A) is in compliance with a family development plan or work requirement;

(B) is properly claiming a deferment, if applicable; ~~and~~

(C) has any unaddressed barriers to self-sufficiency and, if so, how those barriers may be better addressed by the Department for Children and Families or other State programs; and

(D) has additional opportunities to achieve earned income through the program without a corresponding loss of benefits.

(3) The case manager shall meet with each participating family following any statutory or rule changes affecting the amount of the earned income disregard, asset limitations, or other eligibility or benefit criteria in the Reach Up program to inform the family of the changes and advise the family about ways to maximize the opportunities to achieve earned income without a corresponding loss of benefits.

Sec. 3. 33 V.S.A. § 1204 is amended to read:

§ 1204. FOOD ASSISTANCE

(a) An eligible family shall receive monthly food assistance equal to ~~$100.00~~ $50.00 to be applied to the family's electronic benefit transfer (EBT) food account ~~for the first six months after the family has become eligible for Reach Ahead. For the seventh through 12th months, the family shall receive a monthly food assistance of $50.00~~ while the family is eligible for Reach Ahead.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 9-1-1)

H. 852

An act relating to improving workforce education and training

Rep. Kupersmith of South Burlington, for the Committee on **Commerce and Economic Development,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Investment Board:

(A) Advise the Governor on the establishment of an integrated system of workforce education and training for Vermont.

(B) Create and maintain an inventory of all existing workforce education and training programs and activities in the State.

(C) Use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs.

(D) Develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible.

(E) Ensure coordination and non-duplication of workforce education and training activities.

(F) Identify best practices and gaps in the delivery of workforce education and training programs.

(G) Design and implement criteria and performance measures for workforce education and training activities.

(H) Establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description;

(E) employment status of trainees

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

§ 541. ~~WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE INVESTMENT BOARD; MEMBERS, TERMS~~

~~(a) The Workforce education and training Council is created as the successor to and the continuation of the Governor's Human Resources Investment Council and shall be the State Workforce Investment Board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The Council shall consist of the members required under the federal act and the following: the President of the University of Vermont or designee; the Chancellor of the Vermont State Colleges or designee; the President of the Vermont Student Assistance corporation or designee; the President of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the Governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont State Employees Association; one representative of the low income community appointed by the Governor; two members of the Senate appointed by the Senate Committee on Committees; and two members of the house appointed by the speaker. In addition, the Governor shall appoint enough other members who are representatives of business or employers so that one-half plus one of the members of the council are representatives of business or employers. At least one-third of those appointed by the Governor as representatives of business or employers shall be chosen from a list of names submitted by the regional technical centers. As used in this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy-making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the Governor shall decide who shall be the member of the Council.~~

~~(b) Appointed members, except legislative appointees, shall be appointed for three-year terms and serve at the pleasure of the Governor.~~

~~(c) A vacancy shall be filled for the unexpired term in the same manner as the initial appointment.~~

~~(d) The Governor shall appoint one of the business or employer members to chair the council for a term of two years. A member shall not serve more than three consecutive terms as chair.~~

~~(e) Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406, and other members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.~~

~~(f) The Department of Labor shall provide the Council with administrative support.~~

~~(g) The Workforce education and training Council shall be subject to 1 V.S.A. chapter 5, subchapters 2 and 3, relating to public meetings and access to public records.~~

~~(h) [Repealed.]~~

~~(i) The Workforce education and training Council shall:~~

~~(1) Advise the Governor on the establishment of an integrated network of workforce education and training for Vermont.~~

~~(2) Coordinate planning and services for an integrated network of workforce education and training and oversee its implementation at State and regional levels.~~

~~(3) Establish goals for and coordinate the State's workforce education and training policies.~~

~~(4) Speak for the workforce needs of employers.~~

~~(5) Negotiate memoranda of understanding between the Council and agencies and institutions involved in Vermont's integrated network of workforce education and training in order to ensure that each is working to achieve annual objectives developed by the Council.~~

~~(6) Carry out the duties assigned to the State Workforce Investment Board, as required for a single-service delivery state, under P.L. 105-220, the Workforce Investment Act of 1998, and any amendments that may be made to it.~~ [Repealed.]

§ 541a. STATE WORKFORCE INVESTMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 2821, the Governor shall establish a State Workforce Investment Board to assist the Governor in the execution of his or her duties under the Workforce Investment Act of 1998 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process. In order to inform its decision-making and to provide effective assistance under subsection (a) of this section, the Board shall:

(1) Conduct an ongoing public engagement process throughout the State at which Vermonters have the opportunity to provide feedback and information concerning their workforce education and training needs.

(2) Maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the state plan required under the Workforce Investment Act of 1998, with economic development planning processes occurring in the State, as appropriate.

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at his or her pleasure, unless otherwise indicated:

(1) two Members of the Vermont House of Representatives appointed by the Speaker of the House;

(2) two Members of the Vermont Senate appointed by the Senate Committee on Committees;

(3) the President of the University of Vermont or his or her designee;

(4) the Chancellor of the Vermont State Colleges or his or her designee;

(5) the President of the Vermont Student Assistance Corporation or his or her designee;

(6) a representative of an independent Vermont college or university;

(7) the Secretary of Education or his or her designee;

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

(10) two representatives of labor organizations who have been nominated by State labor federations;

(11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 2801(52);

(12) two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 2801(51);

(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 2841(b), or if no official has that responsibility, a representative in the State with expertise relating to these programs and activities;

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

(16) the Secretary of Human Services or his or her designee;

(17) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and

(18) a number of appointees sufficient to constitute a majority of the Board who:

(A) are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

(A) Members of the State Board who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(B) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(2) Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision (c)(18) of this section.

(3) Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

(4) Work groups; task forces. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members to work groups to carry out the work of the Board; and

(B) appoint one or more members of the Board, or non-members of the Board, or both, to one or more task forces for a discrete purpose and duration.

(5) Quorum; meetings; voting.

(A) A majority of the sitting members of the Board shall constitute a quorum, and to be valid any action taken by the Board shall be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(B) The Board may permit one or more members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(C) The Board shall deliver electronically the minutes for each of its meetings to each member of the Board and to the Chairs of the House Committees on Education and on Commerce and Economic Development, and to the Senate Committees on Education and on Economic Development, Housing and General Affairs.

(6) Reimbursement. Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a member of the Board shall be eligible for per diem compensation of $50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid by the Department of Labor solely from funds available for that purpose under the Workforce Investment Act of 1998.

(7) Conflict of interest. A member of the Board shall not:

(A) vote on a matter under consideration by the Board:

(i) regarding the provision of services by the member, or by an entity that the member represents; or

(ii) that would provide direct financial benefit to the member or the immediate family of the member; or

(B) engage in any activity that the Governor determines constitutes a conflict of interest as specified in the State Plan required under 29 U.S.C. § 2822.

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the Workforce Investment Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor, including the development and implementation of the state plan for workforce education and training required under the Workforce Investment Act of 1998.

§ 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND TRAINING

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development, and in consultation with the Workforce ~~education and training Council~~ Investment Board, is authorized to issue performance grants to one or more persons to perform workforce education and training activities in a region.

(b) Each grant shall specify the scope of the workforce education and training activities to be performed and the geographic region to be served, and shall include outcomes and measures to evaluate the grantee's performance.

(c) The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop a grant process and eligibility criteria, as well as an outreach process for notifying potential participants of the grant program. The Commissioner of Labor shall have final authority to approve each grant.

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created a Workforce Education and Training Fund in

the ~~department of labor~~ Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Fund shall be used exclusively for the following ~~two~~ purposes:

(1) training ~~to improve the skills of~~ for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another; and

(2) internships to provide students with work-based learning opportunities with Vermont employers; and

(3) apprenticeship-related instruction.

(c) Administrative Support. Administrative support for the grant award process shall be provided by the ~~Departments~~ Department of Labor ~~and of Economic Development~~. Technical~~, administrative, financial, and other~~ support shall be provided whenever appropriate and reasonable by the Workforce ~~Development Council~~ Investment Board and all other public entities involved in ~~Economic Development, workforce development and training, and education~~ economic development and workforce education and training.

(d) Eligible Activities. Awards from the Fund shall be made to employers and entities that offer programs that require collaboration between employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that offer education, training, apprenticeship, mentoring, or work-based learning activities, or any combination; that employ innovative intensive student-oriented competency-based or collaborative approaches to workforce education and training; and that link workforce education and economic development strategies. Training programs or projects that demonstrate actual increased income and economic opportunity for employees and employers may be funded for more than one year. Student internships and training programs that involve the same employer may be funded multiple times, provided that new students participate.

~~(e) Award Criteria and Process. The Workforce education and training Council, in consultation with the Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop criteria consistent with subsection (d) of this section for making awards under this section. The Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop a process for making awards.~~ [Repealed].

(f) Awards. ~~Based on guidelines set by the council, the~~ The Commissioner of ~~labor, and the Secretary of Education~~ Labor, in consultation with the Workforce Investment Board, shall ~~jointly~~ develop award criteria and may make awards to the following:

(1) Training Programs.

(A) Public, private, and nonprofit entities for existing or new innovative training programs~~. Awards may be made to programs~~ that ~~retrain~~ enhance the skills of Vermont ~~incumbent~~ workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available programs funded with public money;

(iii) articulate clear goals and demonstrate readily accountable, reportable, and measurable results; and

(iv) demonstrate an integrated connection between training and specific new or continuing employment opportunities.

(B) Awards under this subdivision shall be made to programs or projects that ~~do all the following~~:

~~(A)~~(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, mentoring, or any combination of these;

~~(B)~~(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed due to changing workplace demands by increasing productivity and developing new skills for incumbent workers; or

(iii) in the discretion of the Commissioner, otherwise serves the purposes of this chapter.

~~(C) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;~~

~~(D) do not duplicate, supplant, or replace other available programs funded with public money;~~

~~(E) articulate clear goals and demonstrate readily accountable,~~

~~reportable, and measurable results;~~

~~(F) demonstrate an integrated connection between training and specific employment opportunities, including an effort and consideration by participating employers to hire those who successfully complete a training program; and~~.

(2) Vermont Career Internship Program. Funding for eligible internship programs and activities under the Vermont Career Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(g) [Repealed.]

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop and implement a statewide Vermont Career Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students and recent graduates through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; and

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) ~~For the purposes of~~ As used in this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded postsecondary educational institutions, the Workforce ~~Development Council~~ Investment Board, and other ~~state~~ State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont Career Internship Program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont Career Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

Sec. 2. 10 V.S.A. chapter 22 is amended to read:

CHAPTER 22. ~~EMPLOYMENT~~ THE VERMONT

TRAINING PROGRAM

§ 531. ~~EMPLOYMENT~~ THE VERMONT TRAINING PROGRAM

(a)(1) The Secretary of Commerce and Community Development ~~may~~, in consultation with the Workforce Investment Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants ~~to any employer, consortium of employers, or providers of training, either individuals or organizations, as~~

~~necessary, to conduct training under the following circumstances:~~ to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

(2) The Secretary shall structure the Vermont Training Program to serve as a flexible, nimble, and strategic resource for Vermont businesses and workers across all sectors of the economy.

~~(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to where eligible facility is defined as in subdivision 212(6) of this title relating to the Vermont Economic Development Authority, or the employer or consortium of employers promises to open an eligible facility within the State which will employ persons, provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing; and~~

~~(2) training is required for potential employees, new employees, or long-standing employees in the methods, either singularly or in combination relating to pre-employment training, on-the-job training, upgrade training, and crossover training, or specialized instruction, either in-plant or through a training provider.~~

(b) Eligibility for grant. The Secretary of Commerce and Community Development may award a grant to an employer if:

(1) ~~the employer's new or expanded initiative will enhance employment opportunities for Vermont residents;~~ the training is for pre-employment, new employees, or incumbent employees in the methods, either singularly or in combination, relating to pre-employment training, on-the-job training, upgrade training, and crossover training, or specialized instruction, either on-site or through a training provider;

(2) the employer provides its employees with at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation; ~~and~~

(D) paid holidays;

~~(D)~~(E) child care;

~~(E)~~(F) other extraordinary employee benefits;

~~(F)~~(G) retirement benefits; ~~and~~

(H) other paid time off, including paid sick days;

(3) the training is directly related to the employment responsibilities of the trainee; and

(4) unless modified by the Secretary if warranted based on regional or occupational wages or economic reality, the training is expected to lead to a position for which the employee is compensated at least twice the State minimum wage, reduced by the value of any benefit package up to a limit of 30 percent of the employee's gross wage; provided that for each grant in which the Secretary modifies the compensation provisions of this subdivision, he or she shall identify in the records for that grant the basis and nature of the modification.

(c) ~~The employer promises as a condition of the grant to:~~

~~(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the Secretary of Commerce and Community Development in which the Secretary finds that the rate of unemployment is 50 percent greater than the average for the State, the wage rate under this subsection may be set by the Secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;~~

~~(2) employ persons who have completed the training provided for them and nominated as qualified for a reasonable period at the wages and occupations described in the contract, unless the employer reasonably finds the nominee is not qualified;~~

~~(3) provide its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits.~~

~~(4) submit a customer satisfaction report to the Secretary of Commerce and Community Development, on a form prepared by the Secretary for that purpose, no more than 30 days from the last day of the training program.~~

In the case of a grant to a training provider, the Secretary shall require as a condition of the grant that the provider shall disclose to the Secretary the name of the employer and the number of employees trained prior to final payment for the training.

(d) In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

~~(1) first~~ consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and training resources ~~offered by public or private workforce education and training partners~~;

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

(e) ~~The Secretary of Commerce and Community Development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money, or property donated for the purposes of this section. The Secretary may promote awareness of, and may give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, "Lean" systems, and ISO certification for expansion into new markets.~~ [Repealed.]

(f) Upon completion of the training program for any individual, the secretary of Commerce and Community Development shall review the records and shall award to the trainee, if appropriate, a certificate of completion for the training.

(g) ~~None of the criteria in subdivision (a)(1) of this section shall apply to a designated job development zone under chapter 29, subchapter 2 of this title.~~ [Repealed.]

(h) ~~The Secretary may designate the Commissioner of Economic Development to carry out his or her powers and duties under this chapter.~~ [Repealed.]

(i) ~~Program Outcomes.~~

~~(1) On or before September 1, 2011, the Agency of Commerce and Community Development, in coordination with the department of labor, and in consultation with the Workforce education and training Council and the legislative Joint Fiscal Office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the Workforce Education and Training Fund established in section 543 of this title, and shall collect employee-specific data on training outcomes regarding the performance measures; provided, however, that the Secretary shall redact personal identifying information from such data.~~

~~(2) On or before January 15, 2013, the Joint Fiscal Office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The Joint Fiscal Office shall submit its report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.~~

~~(3) The Secretary shall use information gathered pursuant to this subsection and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the Secretary's authority or, if beyond the scope of the Secretary's authority, to recommend necessary changes to the appropriate committees of the General Assembly.~~ [Repealed.]

(j) ~~Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the Secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to $250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The Secretary shall seek to provide these funds equitably throughout Vermont; however, the Secretary shall give priority to regions not currently served by apprenticeship programs offered through the Vermont Department of Labor pursuant to 21 V.S.A. chapter 13.~~ [Repealed].

(k) Annually on or before January 15, the Secretary shall submit a report to

the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. ~~summarizing~~ In addition to the reporting requirements under section 540 of this title, the report shall identify:

(1) all active and completed contracts and grants~~,~~;

(2) ~~the types of training activities provided,~~ from among the following, the category the training addressed:

(A) pre-employment training or other training for a new employee to begin a newly created position with the employer;

(B) pre-employment training or other training for a new employee to begin in an existing position with the employer;

(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;

(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;

(E) training for an incumbent employee to upgrade skills;

(3) for the training identified in subdivision whether the training is onsite or classroom-based;

(4) the number of employees served~~, and~~ ;

(5) the average wage by employer~~, and addressing~~ ;

(6) any waivers granted;

(7) the identity of the employer, or, if unknown at the time of the report, the category of employer;

(8) the identity of each training provider; and

(9) whether training results in a wage increase for a trainee, and the amount of increase.

Sec. 3. REPEAL

2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013 Acts and Resolves No. 81, Sec. 2, is repealed.

Sec. 4. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

On or before November 1, 2014:

(1) The Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 543 to reflect best practices and improve clarity in the administration of, and for applicants to, the grant program from the Workforce Education and Training Fund under that section.

(2) The Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 531 to reflect best practices and improve clarity in the administration of, and for applicants to, the Vermont Training Program under that section.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 11-0-0)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development** and when further amended as follows:

Sec. 1, in 10 V.S.A. § 541a, in subsection (d), by striking out subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read:

(6) Reimbursement.

(A) Legislative members of the Board shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406.

(B) Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a nonlegislative member of the Board shall be eligible for per diem compensation of $50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid by the Department of Labor solely from funds available for that purpose under the Workforce Investment Act of 1998.

(Committee Vote: 11-0-0)

S. 40

An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable

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

Sec. 1. INTERIM STUDY OF HIGHER EDUCATION FUNDING; REPORT

(a) The higher education subcommittee of the Prekindergarten-16 Council established in 16 V.S.A. § 2905 shall study and develop proposed policies to make the State Colleges and the University more affordable for Vermont residents by lowering costs and restoring the 1980 ratio of State funding to tuition costs.

(b) In addition to the members of the higher education subcommittee identified in 16 V.S.A. § 2905(d), the following individuals shall be members of the subcommittee solely for purposes of this interim study:

(1) one faculty member and one staff member of the University of Vermont to be appointed by United Professions American Federation of Teachers Vermont and the University of Vermont Staff Council, respectively;

(2) one faculty member and one staff member of the Vermont State Colleges to be appointed by United Professions American Federation of Teachers Vermont; and

(3) two students, one from the University of Vermont and one from the Vermont State Colleges, appointed by their respective student government associations.

(c) Powers and duties.

(1) The subcommittee shall develop proposed policies to:

(A) lower student and family costs and debt so that the State Colleges and the University are more affordable for Vermonters; and

(B) return to the 1980 level of State funding to student tuition support ratio.

(2) In developing the proposed policies, the subcommittee shall consider:

(A) higher education funding for state colleges and universities in other states, with a particular focus on tuition ratios and funding methods;

(B) the best policies for increasing the enrollment of Vermont students and keeping students in Vermont after they graduate from college;

(C) administrative as compared to instructional spending, and how institutional spending impacts student costs;

(D) the portability of Vermont Student Assistance Corporation funds;

(E) how to minimize the financial impact of living expenses on student costs; and

(F) any information available from the State Colleges and the University regarding the impact of Vermont State College and University of Vermont graduates on Vermont's economy and on job creation and retention.

(d) On or before January 15, 2015, the subcommittee shall report to the General Assembly on its findings and any recommendations for legislative action.

(e) The subcommittee may meet no more than six times between July 1, 2014 and January 15, 2015 for the purposes of this interim study. For attendance at meetings during adjournment of the General Assembly, legislative members of the subcommittee shall be entitled to compensation and reimbursement for expenses under 2 V.S.A. § 406, and other members of the subcommittee who are not employees of the State of Vermont may be reimbursed at the per diem rate under 32 V.S.A. § 1010 if not otherwise compensated or benefited.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 8-0-3)

(For text see Senate Journal 3/27/2013, 3/29/2013)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 255

House concurrent resolution in memory of Dr. Susanne Ehrentheil Learmonth of Corinth

H.C.R. 256

House concurrent resolution celebrating the preservation and reopening of the Vermont Marble Museum in Proctor

H.C.R. 257

House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters, and designating March 12, 2014 as Early Childhood Day

H.C.R. 258

House concurrent resolution honoring Ferrisburgh Town Clerk and Treasurer Chester Hawkins

H.C.R. 259

House concurrent resolution designating March as Vermont Women's History Month

H.C.R. 260

House concurrent resolution congratulating the Carving Studio & Sculpture Center on its 25th anniversary

H.C.R. 261

House concurrent resolution congratulating Dan Gandin on becoming Vermont's most winning high school basketball coach

H.C.R. 262

House concurrent resolution saluting the Vermonters who served in the Vietnam War, honoring the memory of those who died in this conflict, and designating March 29, 2014 as Vietnam Veterans Welcome Home Day in Vermont

H.C.R. 263

House concurrent resolution congratulating Chef Robert Barral on being named the Vermont Chamber of Commerce's 2013 Chef of the Year

H.C.R. 264

House concurrent resolution congratulating Tim Johnson on the 40th anniversary of his radio broadcasting career

Information Notice

Deadline for Introducing Bills

Pursuant to Rule 40(c) during the second year of the biennium, except with the prior consent of the Committee on Rules, no committee, except the Committees on Appropriations, Ways and Means or Government Operations, may introduce a bill drafted in standard form after the last day of March (March 31, 2014). The Committees on Appropriations and Ways and Means bill may be drafted in standard form at any time, and Government Operations bills pertaining to city or town charters, may be drafted in standard form at any time.

CROSSOVER DEADLINES

The Joint Rules Committee established the following Crossover deadlines:

(1) All House bills must be reported out of the last committee of reference on or before Friday, March 14, 2014, and filed with the House Clerk's Office so that they may be placed on the Calendar for Notice the next legislative day.

(2) All House bills referred pursuant to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before Friday, March 21, 2014, and filed with the House Clerk's Office so that they may be placed on the Calendar for Notice the next legislative day.