

# House Calendar

Friday, March 14, 2014

67th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Third Reading**

**H. 661**

An act relating to exhumation requirements and notice

**H. 823**

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

**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: 9-1-1)**

### **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 ~~ease-by-ease~~ 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~~ 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 ~~40~~ 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:

<del>\$0.01-0.11</del>	\$0.01
<del>0.12-0.22</del>	0.02
<del>0.23-0.33</del>	0.03
<del>0.34-0.44</del>	0.04
<del>0.45-0.55</del>	0.05
<del>0.56-0.66</del>	0.06
<del>0.67-0.77</del>	0.07
<del>0.78-0.88</del>	0.08
<del>0.89-1.00</del>	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:

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

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. § ~~644~~ 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 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. 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 (e)(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)**

**NOTICE CALENDAR**  
**Committee Bill for Second Reading**

**H. 873**

An act relating to making technical amendments to tax increment financing laws.

**(Rep. Ancel of Calais will speak for the Committee on Ways and Means.)**

**Favorable with Amendment**

**H. 225**

An act relating to a statewide policy on the use of and training requirements for electronic control devices

**Rep. Hubert of Milton**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2367 is added to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

REPORTING

(a) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt this policy. The policy shall include the following provisions:

(1) Electronic control devices are less-lethal alternatives to lethal force.

(2)(A) Officers may deploy an electronic control device:

(i) in response to an actively resistant subject, if there is reason to believe that using another compliance technique will result in a greater risk of injury to the officer, the subject, or a third party; and

(ii) in response to an assaultive subject when lethal force does not appear to be objectively reasonable.

(B) Neither an officer, a subject, or a third party has to actually suffer an injury before an officer is permitted to use an electronic control device, and officers are not required to use alternatives that increase the danger to themselves or the public.

(C) When it is safe to do so, officers should attempt to deescalate

situations by their presence or through the use of verbal persuasion, and should provide a warning prior to deploying an electronic control device.

(3) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resistance subjects. The act of fleeing or destroying evidence, in and of itself, does not justify the use of an electronic control device.

(4) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.

(5) The use of electronic control devices shall include recognition of the potential additional risks that can result from situations in which subjects have cognitive disabilities or are in emotional crises that interfere with the ability to understand consequences of action. Special consideration should be given to whether other types of force are reasonably available to effectuate custody of or facilitate control over a member of one of these special populations while still preserving the safety of that person, third parties, and the responding officer.

(6) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive animals that threaten the safety of officers or others.

(b) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(c) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.

(d) Every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(e) As used in this section:

(1) "Electronic control device" means a device primarily designed to disrupt an individual's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an

individual's voluntary motor responses.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer, state's attorney, capitol police officer, state game warden, state police officer, or certified law enforcement officer of the Department of Motor Vehicles, the Agency of Natural Resources, or the Department of Liquor Control.

## Sec. 2. REPORTS

(a) On or before December 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary on the progress made implementing the rules, training, and certification standards required by this act.

(b) On or before December 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and Judiciary on the adequacy of funding to support the requirements of this act.

(c) On March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy of training and certification requirements, and the adequacy of funding for mental health collaboration.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

### **H. 575**

An act relating to lottery ticket sales

**Rep. Stevens of Waterbury**, 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. 31 V.S.A. § 654 is amended to read:

#### § 654. POWERS AND DUTIES

The ~~commission~~ Commission shall ~~promulgate~~ adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3, governing the establishment and operation of the ~~state lottery~~ State Lottery. The rules may include, ~~but shall not be limited to,~~ the following:

\* \* \*

(7) ~~Ticket sales~~ Lottery product sales locations, which may include ~~state~~ State liquor stores and liquor agencies; private business establishments, except establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and ~~state~~ State fairs, race tracks and other sporting arenas;

\* \* \*

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

( **Committee Vote: 8-0-0** )

### H. 585

An act relating to prohibiting the creation and renewal of State Police contracts with municipalities to provide police services

**Rep. Hubert of Milton**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. LEGISLATIVE STUDY; LAW ENFORCEMENT STRUCTURE IN THE STATE

(a) Creation. There is created a Legislative Law Enforcement Study Committee to review various issues related to the structure of law enforcement in the State.

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

(1) four current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House. Two of these members shall be from the Committee on Government Operations and two of whom shall be from the Committee on Judiciary; and

(2) four current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees. Two of these members shall be from the Committee on Government Operations and two of whom shall be from the Committee on Judiciary.

(c) Powers and duties. The Committee shall study the structure of law enforcement in the State, including the following issues:

(1) the overall mission of the State Police;

(2) the overall missions of all other law enforcement entities in the State;

(3) the manner in which the State can be provided with the best law

enforcement coverage statewide during all hours of every day and with improved law enforcement response times, including whether:

(A) the size of the State Police should be increased due to increased need and in order to reduce workload;

(B) State Police contracts with municipalities improve statewide law enforcement coverage;

(C) certain municipalities should be required to establish municipal police departments or to expand their municipal police department coverage to include additional towns;

(D) the State should be separated into regions with the requirement that there be regional policing within each region and if so, by which law enforcement entities; and

(E) the State should be separated into regions for the purpose of dispatch services;

(4) the manner in which special teams within the State Police can perform at the highest level;

(5) the retention of law enforcement officers prior to the age of retirement;

(6) whether there should be created an Agency of Public Safety and if so, which types of law enforcement officers should be under the jurisdiction of that Agency;

(7) whether the State's capability to perform in-state blood testing in criminal matters should be enhanced in order to avoid using out-of-state blood testing services;

(8) the role of the Vermont Criminal Justice Training Council and the Vermont Police Academy; and

(9) any other issues identified in the latest Law Enforcement Advisory Board report.

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

(e) Report. On or before December 31, 2014, the Committee shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Speaker of the House and the President Pro Tempore of the Senate shall call the first meeting of the Committee to occur on or before July 30, 2014.

(2) The Committee shall select two co-chairs from among its members at the first meeting, one of whom shall be a member of the House and one of whom shall be a member of the Senate.

(3)(A) A majority of the members of the 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.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on December 31, 2014.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to a study of law enforcement structure in the State".

**( Committee Vote: 11-0-0)**

## **H. 656**

An act relating to professions and occupations regulated by the Office of Professional Regulation

**Rep. Evans of Essex**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* General Provisions \* \* \*

Sec. 1. 3 V.S.A. § 122 is amended to read:

### § 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards



or professions are attached to the Office of Professional Regulation:

\* \* \*

(11) ~~Board of Examiners for~~ Nursing Home Administrators

(12) ~~Board of Examiners of~~ Opticians

\* \* \*

(17) Board of ~~Radiological~~ Radiologic Technology

\* \* \*

(20) ~~Veterinary~~ Board of Veterinary Medicine

(21) Motor Vehicle Racing ~~Commission~~

(22) Boxing-

\* \* \*

(27) ~~[Deleted.]~~ Tattooists and Body Piercers

\* \* \*

(33) ~~[Deleted.]~~ Respiratory Care Practitioners

\* \* \*

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

\* \* \*

(g) The Office of Professional Regulation shall create a process for:

(1) accepting education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure or certification;

(2) creating a process for educational institutions under the supervision of a licensing board to award educational credits to a member of the U.S. Armed Forces for courses taken as part of the member's military training or service that meet the standards of the American Council on Education; and

(3) expediting the issuance of a professional license to a person:

(A) who is certified or licensed in another state;

(B) whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and

(C) who left employment to accompany his or her spouse to

Vermont.

Sec. 3. 3 V.S.A. § 128 is amended to read:

§ 128. DISCIPLINARY ACTION TO BE REPORTED TO THE BOARD

(a) Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the appropriate board, along with supporting information and evidence, any disciplinary action taken by it or its staff, after an initial investigation or hearing in which the licensee has been afforded the opportunity to participate, which limits or conditions the licensee's privilege to practice or leads to suspension or expulsion from the institution. The report shall be made within ten days of the date such disciplinary action was taken, regardless of whether the action is the subject of a pending appeal, and in the case of a licensee who is employed by, or under contract with, a community mental health center, a copy of the report shall also be sent to the ~~Commissioner of Mental Health and Mental Retardation~~ Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation, separation from service, or changes in privileges which are unrelated to:

\* \* \*

\* \* \* Barbers and Cosmetologists \* \* \*

Sec. 4. 26 V.S.A. § 281 is amended to read:

§ 281. POSTSECONDARY SCHOOL OF BARBERING AND COSMETOLOGY; REGISTRATION CERTIFICATE OF APPROVAL

(a) No school of barbering or cosmetology shall be granted ~~registration a certificate of approval~~ unless the school:

(1) Is a postsecondary school operating a program of professional education.

(2) Employs and maintains a sufficient number of competent instructors and has apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum.

~~(2)~~(3) Maintains a daily record of the attendance of each student and regular class and instruction hours, establishes grades, and holds examinations before issuing diplomas.

~~(3)~~(4) Requires a school term of training,:

(A) in the case of a school of barbering, of not less than 1,000 hours

for a complete course which includes all or the majority of the practices of barbering, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and electrical appliances, consistent with the practical and theoretical requirements applicable to barbering or any practice of barbering; and

(B) in the case of a school of cosmetology, requires a school term of training of not less than 1,500 hours for a complete course which includes all or the majority of the practices of cosmetology, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of cosmetology.

(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without ~~certification by a certificate of approval from the board~~ Board, and ~~state~~ State correctional facilities may offer courses of instruction in barbering without ~~certification by a certificate of approval from the board~~ Board; however, credits for licensing will only be given for courses that meet the ~~board's~~ Board's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the Board.

(c) A school of barbering or cosmetology shall not require, as a condition of training for licensure, that a person enter into a covenant not to compete with the training organization or an affiliate.

\* \* \* Funeral Services \* \* \*

Sec. 5. 26 V.S.A. § 1211 is amended to read:

#### § 1211. DEFINITIONS

(a) The following words as used in this chapter, unless a contrary meaning is required by the context, shall have the following meanings:

(1) "Crematory establishment" means a ~~place of business~~ registered with the Board conducted at a specific street address or location devoted to the disposition of dead human bodies by means of cremation, alkaline hydrolysis, or any other type of human reduction acceptable to the Board of Funeral Service as established by Board rule.

(2) "Funeral director" means a licensed person who is the owner, co-owner, employee, or manager of a licensed funeral establishment and who, for compensation, engages in the practice of funeral service.

(3) "Funeral establishment" means a ~~place of business~~ registered with the Board conducted at a specific street address or location devoted to the practice of funeral service, and includes a limited services establishment.

(4) "Practice of funeral service" means arranging, directing, or providing for the care, preparation, or disposition of dead human bodies for a fee or other compensation. This includes, ~~but is not limited to:~~

(A) meeting with the public to select a method of disposition or funeral observance and merchandise;

(B) entering into contracts, either at-need or pre-need, for the provision of dispositions, funeral observances, and merchandise;

(C) arranging, directing, or performing the removal or transportation of a dead human body;

(D) securing or filing certificates, permits, forms, or other documents;

(E) supervising or arranging a funeral, memorial, viewing, or graveside observance;

(F) holding oneself out to be a licensed funeral director by using the words or terms "funeral director," "mortician," "undertaker," or any other words, terms, title, or picture that, when considered in context, would imply that such person is engaged in the practice of funeral service or is a licensed funeral director.

(5) "Removal" means the removal of dead human bodies from places of death, hospitals, institutions, or other locations, for a fee or other compensation.

(b) Nothing in this section shall prohibit:

(1) cemetery owners, associations, or their employees from engaging in any functions normally performed by them in the course of their everyday affairs as allowed by 18 V.S.A. chapter 121;

(2) the University of Vermont from engaging in functions normally performed by it in the course of receiving anatomical gifts for research or education, provided that embalming and removal of dead human remains are performed by persons licensed or registered under this chapter;

(3) immediate family members of the deceased from providing for the care, preparation, or disposition of dead human bodies; or

(4) religious or spiritual persons directly authorized by the immediate family members of the deceased from providing for the care or preparation of dead human bodies without compensation.

(c) Notwithstanding this section, crematory owners and their personnel may engage in the listed activities in subsection (a) of this section only to the

extent such functions are necessary to the performance of their duties. Specifically, crematory personnel may:

(1) provide for the disposition of dead human bodies by cremation, and meet with the public to arrange and provide for the disposition;

(2) enter into contracts, without taking prepaid funds, for the provision of dispositions by cremation;

(3) arrange, direct, or perform the removal or transportation of a dead human body, so long as removals are performed by licensed removal personnel; and

(4) secure and file certificates, permits, forms, or other documents.

Sec. 6. 26 V.S.A. § 1252 is amended to read:

#### § 1252. APPLICATION; QUALIFICATIONS

\* \* \*

(d) Crematory establishment. A person, partnership, corporation, association, or other organization desiring to operate a crematory establishment shall apply, in writing, to the ~~board of funeral service~~ Board of Funeral Service for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the establishment and who is registered with the Board under subsection (e) of this section. The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the ~~board~~ Board, and the applicant shall furnish information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.

(e) Crematory personnel. Any person who desires to engage in direct handling, processing, identification, or cremation of dead human remains within a licensed crematory establishment shall register with the Board of Funeral Service and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed crematory establishment. The Board may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in programs approved by the Board.

(f) Removal personnel. Any person who desires to engage in removals shall register with the ~~board of funeral service~~ Board of Funeral Service and pay the fee established in subsection 1256(d) of this ~~title~~ chapter. The applicant shall have attained the age of majority and be directly employed by a

licensed funeral or crematory establishment, or the University of Vermont for removals related to the University's anatomical gift program. The ~~board~~ Board may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the ~~board~~ Board. Registrants under this section are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals so long as they have been instructed in handling and precautionary procedures prior to the call.

(g) Limited services establishment.

(1) The Board of Funeral Service may adopt rules for the issuance of limited service establishment licenses in accordance with this chapter. Limited service establishment licensees are authorized to perform only disposition services without arranging, directing, or performing embalming, public viewings, gatherings, memorials, funerals, or related ceremonies. Disposition services under this subsection (d) include direct cremation, direct alkaline hydrolysis, immediate burial, or direct green burial.

(2) Limited services shall be overseen by a funeral director licensed under this chapter who is employed by the limited service establishment.

(3) Each limited service arrangement shall include a mandatory written disclosure providing notice to the purchaser that limited services do not include embalming, public viewings, gatherings, memorials, funerals, or related ceremonies.

(4) A funeral director associated with a funeral establishment licensed under subsection (c) of this section may provide limited services so long as the mandatory disclosure described under subdivision (3) of this subsection is provided to the purchaser.

Sec. 7. 26 V.S.A. § 1256 is amended to read:

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

\* \* \*

(d) Applicants and persons regulated under this chapter shall pay the following fees:

- |                                 |           |
|---------------------------------|-----------|
| (1) Application for license     | \$ 70.00  |
| (2) Biennial renewal of license |           |
| (A) Funeral director            | \$ 300.00 |
| (B) Embalmer                    | \$ 300.00 |

(C) Funeral establishment	\$ 540.00
(D) Crematory establishment	\$ 540.00
(E) <u>Crematory personnel</u>	\$ 85.00
(F) Removal personnel	\$ 85.00
(G) <u>Limited services establishment license</u>	\$ 540.00

\* \* \*

Sec 8. 26 V.S.A. § 1271 is amended to read:

§ 1271. PREPAID ARRANGEMENTS

A funeral ~~director, who~~ establishment that sells services or merchandise which that is not to be delivered or provided within 30 days of sale; has entered into a prepaid funeral arrangement and shall comply with the requirements of this subchapter.

\* \* \* Pharmacy \* \* \*

Sec. 9. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(26) “Prescription” means an order for a regulated drug made by a physician, physician assistant, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and, unless electronically prescribed, shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form. If a prescription is communicated orally, it shall be reduced promptly to writing by the pharmacist.

\* \* \*

Sec. 10. 18 V.S.A. § 4215b is amended to read:

§ 4215b. IDENTIFICATION

Only a patient for whom a prescription was written, the owner of an animal for which a prescription was written, or a bona fide representative of the patient or animal owner, as defined by the Board of Pharmacy by rule after consultation with the Commissioner of Health, may pick up a prescription for a Schedule II, III, or IV controlled substance. Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, ~~a to a patient not personally known to the pharmacist,~~ the pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 11. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

\* \* \*

(19) “Collaborative practice” means a licensed pharmacist providing certain patient care under a written agreement with a Vermont licensed practitioner pursuant to rules adopted by the Board of Pharmacy.

Sec. 12. 26 V.S.A. § 2042a is amended to read:

§ 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR REGISTRATION

No person shall perform the duties of a pharmacy technician unless registered with the ~~board~~ Board. To obtain a registration as a pharmacy technician, an applicant shall:

(1) not have engaged in acts which affect the ability of the applicant to practice as a pharmacy technician; ~~and~~

(2) be certified or eligible for certification by a national pharmacy technician certification authority pursuant to rules adopted by the Board; and

(3) have paid the fee specified in section 2046 of this ~~title~~ chapter.

\* \* \* Real Estate Brokers and Salespersons \* \* \*

Sec. 13. 26 V.S.A. § 2211 is amended to read:



§ 2211. DEFINITIONS

(a) When used in this chapter, the following definitions shall have the following meanings except where the context clearly indicates that another meaning is intended:

(1) “Commission” means the Vermont ~~real estate commission~~ Real Estate Commission.

\* \* \*

Sec. 14. 26 V.S.A. § 2214 is amended to read:

§ 2214. TRUST AND ESCROW ACCOUNTS

\* \* \*

(b) If a deposit is reasonably expected to earn a substantial amount of interest, the broker shall, at the request of the person or persons making the deposit, place the deposit in an individual interest-bearing trust or escrow account for the benefit of the beneficial owner. In regard to individual interest-bearing trust and escrow accounts:

\* \* \*

Sec. 15. 26 V.S.A. § 2255 is amended to read:

§ 2255. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

(A) Broker license	\$ 50.00
(B) Salesperson license	\$ 50.00
(C) Brokerage firm registration	<u>\$50.00</u>
<del>(i) Corporation or partnership</del>	<del>\$ 50.00</del>
<del>(ii) Sole proprietor</del>	<del>\$ 0.00</del>
(D) Branch office registration	\$ 50.00

(2) Biennial renewal of broker or salesperson license \$175.00

(3) Biennial brokerage firm or branch office

registration renewal	<u>\$75.00</u>
<del>(A) Corporation or partnership</del>	<del>\$ 75.00</del>
<del>(B) Sole proprietor</del>	<del>\$ 0.00</del>

- |                                 |          |
|---------------------------------|----------|
| (4) Temporary permit            | \$ 25.00 |
| (5) Transfer of license         | \$ 10.00 |
| (6) Transfer to inactive status | \$ 25.00 |

~~(b) A sole proprietor of a brokerage firm shall only pay the sole proprietor application and renewal fees pursuant to this section, provided the brokerage firm has no other persons licensed under this chapter providing professional services within the brokerage firm.~~

Sec. 16. 26 V.S.A. § 2291 is amended to read:

§ 2291. GENERAL PROVISIONS

(a) A real estate license shall not be authority for more than one person to perform the activities listed in section 2211 of this ~~title~~ chapter.

~~(b) A person, firm, partnership, association, or corporation registered brokerage firm shall designate in its application the individual who is to serve as the principal broker under the license brokerage firm registration.~~

(c) Every applicant for licensure shall have attained the age of majority.

Sec. 17. 26 V.S.A. § 2293 is amended to read:  
§ 2293. RENEWAL OF LICENSE; LAPSED LICENSE

(a)(1) Licenses shall be renewed every two years without examination and on payment of the required fees, provided that the person applying for renewal completes at least ~~46~~ 24 hours of instruction for brokers and 16 hours of instruction for salespersons, approved by the ~~commission~~ Commission, during the preceding two-year period. Four hours of this continuing education instruction shall address legislation and other topics specified by the ~~real estate commission~~ Commission for each renewal period.

(2) In addition to the 16 hours of required continuing education for salespersons, within 90 days from the issuance of an initial salesperson license, the salesperson shall complete eight hours of instruction addressing topics specified by the Commission related to the salesperson's practice of the profession post-licensure.

(b) A broker or salesperson applying for reinstatement of a license that has lapsed shall be assessed both the renewal fee and late renewal penalty established by the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation and shall not be assessed renewal fees for the years during which the license was lapsed. Reinstatement shall not take place until the applicant completes the continuing education required for the previous renewal period.

(c) If a broker or salesperson's license has lapsed for greater than five consecutive years, the broker or salesperson shall apply for reinstatement in accordance with the initial licensure requirements as set forth in section 2292 of this ~~title~~ chapter, including a course of instruction and examination. The ~~commission~~ Commission may waive the reinstatement requirements based upon licensed practice in another state.

(d) The ~~commission~~ Commission may waive or postpone compliance with the instructional requirements of this section in cases of extreme hardship on the part of the licensee. No licensee, however, may receive a postponement or waiver for two successive two-year periods of licensure. The ~~commission~~ Commission may accept fewer hours of continuing education instruction for renewal of a license on a prorated basis following an initial licensing period of less than two years.

(e) [Repealed.]

Sec. 18. 26 V.S.A. § 2294 is amended to read:

§ 2294. CHANGE OF NAME OR LOCATION

(a) Whenever a licensed broker desires to be licensed under a different name, the broker shall pay the fee established under section 2255 of this ~~title~~ chapter. ~~A license shall not be issued to a broker in a name other than the broker's own, or transferred to a name other than the broker's own, unless he or she has complied with 11 V.S.A. chapter 15 relating to registration of business entities. If a licensee is a partnership, corporation, or association, notice~~ Notice of any change in the names and addresses of the ~~partners, officers, or associates~~ licensees shall be given to the ~~real estate commission~~ Commission within ~~ten~~ 30 days after the change becomes effective.

(b) Each licensee shall notify the ~~commission~~ Commission in writing of any change of the licensee's principal business location, and the ~~commission~~ Commission shall issue a new license with the new address for the fee established under section 2255. ~~Duplicate licenses may be obtained on payment of the fee established under section 2255 of this chapter.~~

(c) If a ~~broker~~ brokerage firm maintains more than one place of business within the ~~state~~ State, a branch office ~~license shall be issued to that broker~~ registration is required for each branch office so maintained. Branch offices shall ~~incorporate~~ use the same registered brokerage firm name as the main office and shall ~~have~~ designate a licensed broker in charge for each branch office.

Sec. 19. 26 V.S.A. § 2299 is amended to read:

§ 2299. DEATH OF BROKER; TEMPORARY LICENSE

In the event of the death of a licensed real estate broker, the ~~commission~~ Commission may, upon application by the broker's legal representative, issue without examination a temporary license to such legal representative or to an individual designated by the representative or the broker and approved by the ~~commission~~ Commission on payment of the prescribed fee established under section 2255 of this ~~title~~ chapter. Such temporary licensee may continue to transact said real estate business for a period not to exceed one year. A temporary licensee shall not ~~take new listings~~ enter into new brokerage service agreements.

\* \* \* Opticians \* \* \*

Sec. 20. 26 V.S.A. chapter 47, subchapter 2 is redesignated to read:

Subchapter 2. ~~State Board of Opticians~~ Administration

\* \* \*

\* \* \* Psychology \* \* \*

Sec. 21. 26 V.S.A. § 3001 is amended to read:

§ 3001. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

\* \* \*

~~(12) "Psychological trainee" means a person engaged in postdegree supervision who shall register with the board and be subject to its jurisdiction.~~

Sec. 22. 26 V.S.A. § 3010 is amended to read:

§ 3010. FEES; LICENSES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license	\$175.00
(2) Biennial renewal of license	\$150.00
<del>(3) Psychological trainee registration</del>	<del>\$75.00</del>
<del>(4) Biennial renewal of trainee registration</del>	<del>\$90.00</del>

Sec. 23. 26 V.S.A. § 3011a is amended to read:

§ 3011a. APPLICATIONS

\* \* \*

(b) A person engaged in supervised practice in Vermont, if not licensed as a clinical mental health counselor, marriage and family therapist, licensed

independent clinical social worker, or licensed master's social worker shall be registered on the roster of psychotherapists who are nonlicensed and noncertified.

(c) In exceptional cases, the ~~board~~ Board may waive any requirement of this section if in its judgment the applicant demonstrates appropriate qualifications.

\* \* \* Private Investigative and Security Services \* \* \*

Sec. 24. 26 V.S.A. § 3162 is amended to read:

§ 3162. POWERS AND DUTIES

The ~~board~~ Board may:

\* \* \*

(7)(A) Adopt rules establishing a security guard or private investigator training program, consisting of not fewer than 40 hours of training, as a prerequisite to registration.

(B) Full-time employees shall complete the training program prior to being issued a permanent registration.

(C)(i) Part-time employees shall complete not fewer than eight hours of training prior to being issued a part-time employee temporary registration, which shall be valid for not more than 180 days from the date of issuance. The remaining training hours for part-time employees shall be completed within the temporary registration period of 180 days or before the employee has worked 500 hours, whichever occurs first. The part-time employee temporary registration may be issued only once and shall expire after 180 days or 500 hours.

(ii) ~~For the purposes of~~ As used in this section subdivision (C), "part-time employee" means an employee who works no more than 80 hours per month.

(iii) The ~~board~~ Board may prioritize training subjects to require that certain subject areas are covered in the initial eight hours of training required for part-time employees.

\* \* \*

\* \* \* Social Workers \* \* \*

Sec. 25. 26 V.S.A. chapter 61 is redesignated to read:

CHAPTER 61. ~~CLINICAL~~ SOCIAL WORKERS

Sec. 26. 26 V.S.A. § 3201 is amended to read:

§ 3201. DEFINITIONS

As used in this chapter:

~~(1) “Clinical social work” is defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work principles and methods includes, but is not restricted to assessment, diagnosis, prevention, and amelioration of adjustment problems and emotional and mental disorders of individuals, families, and groups. The scope of practice for licensed clinical social workers includes the provision of psychotherapy.~~ “Director” means the Director of the Office of Professional Regulation.

~~(2) “Clinical social worker” means a person who practices clinical social work in some or all of its aspects and is licensed to practice clinical social work in this state.~~ “Licensed independent clinical social worker” means a person licensed under this chapter to practice independent clinical social work, which includes providing social work and psychotherapy services. Licensed independent clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), and other diagnostic classification systems used in diagnosis and other activities.

~~(3) “Disciplinary action” or “disciplinary cases” includes any action taken by the secretary of state or an administrative law officer established by 3 V.S.A. § 129(j) against a licensed clinical social worker or applicant premised on a finding of unprofessional conduct by the licensed clinical social worker or applicant. It includes all sanctions of any kind, refusal to grant or renew a license, suspension or revocation of a license, issuing warnings, and other similar sanctions.~~ “Licensed master’s social worker” means a person licensed under this chapter who practices social work. Psychotherapy is not within the scope of practice of a licensed master’s social worker.

~~(4)~~ “Office” means the Office of Professional Regulation.

~~(4)(5)(A)~~ “Psychotherapy” means the provision of treatment, diagnosis, evaluation, or counseling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders.

(B) “Psychotherapy” involves the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship or attitudinal conflicts, or modify behavior which interferes with effective emotional, social, or mental functioning.

(C) “Psychotherapy” follows a systematic procedure of psychotherapeutic intervention which takes place on a regular basis over a period of time, or, in the case of evaluation and brief psychotherapies, in a single or limited number of interventions.

(D) If a person is employed by or under contract with the ~~agency of human services~~ Agency of Human Services, this definition does not apply to persons with less than a master’s degree, to persons providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry, and to develop community awareness, or interactions of employees or contracted individuals with clients whose job description or contract specifications do not specifically mention “psychotherapy” as a job responsibility or duty.

(6) “Social work” is defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work principles and methods includes assessment, diagnosis, prevention, and amelioration of adjustment problems and emotional and mental disorders of individuals, families, and groups.

Sec. 27. TRANSITIONAL PROVISION; PERSONS CURRENTLY LICENSED AS CLINICAL SOCIAL WORKERS

A person licensed as a clinical social worker on the effective date of Sec. 26, 26 V.S.A. § 3201 (definitions), of this act shall be deemed to be licensed at the level of a licensed independent clinical social worker, as that term is defined in that section, and may within the limits of his or her education, training, and experience practice all aspects of social work without restriction.

Sec. 28. 26 V.S.A. § 3202 is amended to read:

§ 3202. PROHIBITION, OFFENSES

(a) No person shall practice or attempt to practice licensed independent clinical social work or licensed master’s social work, nor shall any person use in connection with the person’s name any letters, words, or insignia indicating or implying that the person is a licensed independent clinical social worker or a licensed master’s social worker unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of subsection (a) of this section shall be subject to the penalties provided in ~~3 V.S.A. § 127(e)~~

3 V.S.A. § 127.

Sec. 29. 26 V.S.A. § 3203 is amended to read:

§ 3203. DIRECTOR OF THE OFFICE OF PROFESSIONAL  
REGULATION; DUTIES

(a) The ~~director of professional regulation~~ Director shall:

(1) explain appeal procedures to ~~licensed clinical social workers~~ licensees and applicants and complaint procedures to the public;

(2) administer fees collected under this chapter;

(3) provide general information to applicants for licensure as licensed independent clinical social workers and licensed master's social workers;

(4) receive applications for licensing, license applicants qualified under this chapter, or renew, revoke, reinstate, and condition ~~licensing~~ licenses as ordered by an administrative law officer; and

(5) adopt by rule criteria for licensing independent clinical social workers and licensed master's social workers who have five years' licensed or certified practice experience in another jurisdiction of the United States or Canada.

(b) The ~~director~~ Director, with the advice of two licensed independent clinical social workers appointed under section 3204 of this ~~title~~ chapter, may adopt rules necessary to enable the ~~director~~ Director to perform his or her duties under subsection (a) of this section.

Sec. 30. 26 V.S.A. § 3204 is amended to read:

§ 3204. ADVISOR APPOINTEES

(a) The ~~secretary of state~~ Secretary of State shall appoint two licensed independent clinical social workers to serve as advisors in matters relating to licensed ~~clinical~~ social workers. They shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the ~~secretary~~ Secretary. One of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years' experience as a licensed independent clinical social worker ~~certified or licensed under this chapter during the period immediately preceding appointment~~ and shall be actively engaged in the active practice of clinical social work in Vermont during incumbency.

(c) The ~~office of professional regulation~~ Director shall refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j).



(d) The ~~director~~ Director shall seek the advice of the ~~clinical social workers advisors~~ appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the ~~director~~ Director for this purpose.

Sec. 31. 26 V.S.A. § 3205 is amended to read:

§ 3205. LICENSED MASTER'S SOCIAL WORKER ELIGIBILITY

(a) To be eligible for licensing as a ~~clinical~~ licensed master's social worker an applicant ~~must~~ shall have:

(1) received a master's degree or ~~doctorate~~ doctoral degree from an accredited social work education program;

(2) ~~{Deleted.}~~ within five years prior to applying for licensure, passed the examinations designated by the Director; and

(3) completed ~~3,000~~ 1,200 hours of supervised practice of ~~clinical~~ social work as defined by rule under the supervision of a ~~licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed or certified in another state or Canada in one of these professions~~ as a licensed independent clinical social worker or a licensed master's social worker or their substantial equivalent.

(b) Persons engaged in ~~post-masters~~ post-master's degree supervised practice in Vermont to become licensed master's social workers shall ~~be entered on the roster of nonlicensed, noncertified psychotherapists; register with the Office as provided by rule.~~

(4) ~~submitted the names and addresses of three persons who can attest to the applicant's professional competence. Such person shall be a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed in another state or Canada in one of these professions; and~~

(5) ~~passed an examination to the satisfaction of the director of the office of professional regulation.~~

Sec. 32. 26 V.S.A. § 3205a is added to read:

§ 3205a. LICENSED INDEPENDENT CLINICAL SOCIAL WORKER ELIGIBILITY

(a) To be eligible for licensure as a licensed independent clinical social

worker, an applicant shall have:

(1) received a master's degree or doctoral degree from an accredited social work education program;

(2) within five years prior to applying for licensure, passed the examinations designated by the Director; and

(3) completed 3,000 hours of supervised practice of independent clinical social work as defined by rule under the supervision of a:

(A) licensed independent clinical social worker;

(B) licensed independent clinical mental health counselor;

(C) licensed psychologist; or

(D) a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent.

(b) Persons not licensed as master's social workers who engage in post-master's supervised practice in Vermont toward licensure as licensed independent clinical social workers shall be entered on the roster of nonlicensed, noncertified psychotherapists.

(c) Licensed master's social workers who engage in post-master's supervised practice to become licensed independent clinical social workers must first register with the Office as set forth by rule, if the supervised practice toward licensure as an independent clinical social worker is to occur within the State of Vermont.

Sec. 33. 26 V.S.A. § 3206 is amended to read:

#### § 3206. APPLICATION

A person who desires to be licensed ~~as a clinical social worker~~ under this chapter shall apply ~~to the secretary in writing on a~~ using an application form furnished by the secretary available from the Office, accompanied by payment of the specified fee.

Sec. 34. 26 V.S.A. § 3207 is amended to read:

#### § 3207. EXAMINATION

~~(a) The director of professional regulation shall conduct examinations under this chapter at least once a year at a time and place designated by it, provided, however, that examinations need not be conducted at times when there are no applicants requesting to be examined. Examinations shall be written. Each applicant shall be designated by a number so that his or her name is not disclosed to the director until the examination has been graded.~~

~~Examinations shall include questions in such theoretical and applied fields as the director deems most suitable to test an applicant's knowledge and competence to engage in the practice of clinical social work. The director of professional regulation, with the advice of the clinical social workers appointed under section 3204 of this title, shall establish by rule fixed criteria for passing an examination that shall apply to all persons taking the examination.~~

~~(b) Examinations administered by the director and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted a license if they demonstrate that they possess the minimal occupational qualifications which are consistent with the public health, safety, and welfare. They shall not be designed or implemented for the purpose of limiting the number of licenses issued.~~

~~(e) The director of the office of professional regulation~~ Director may contract with ~~clinical social workers or with~~ independent testing services for the preparation and administration of ~~the exam~~ examinations.

Sec. 35. 26 V.S.A. § 3208 is amended to read:

§ 3208. RENEWALS

(a) Licenses shall be renewed every two years on a schedule determined by the Office and upon payment of the required fee.

(b) An application for ~~renewal~~ reinstatement of a license which has lapsed shall be accompanied by the renewal fee in addition to ~~the reinstatement fee~~ other fees set forth in 3 V.S.A. chapter 5. A person shall not be required to pay renewal fees for the years during which the license was lapsed.

~~(c) The director may, after notice and an opportunity for hearing, revoke a person's right to renew his or her license if such license has lapsed for five years. [Repealed.]~~

(d) As a condition of renewal, a licensee shall complete continuing education, approved by the ~~director~~ Director by rule, during the preceding two-year period. For purposes of this subsection, the ~~director~~ Director may require, as set forth by rule, not more than 20 hours of approved continuing social work education as a condition of renewal.

(e) The Director may by rule prescribe standards for persons wishing to resume practice after five years since holding an active license.

Sec. 36. 26 V.S.A. § 3209 is amended to read:

§ 3209. ~~LICENSING WITHOUT EXAMINATION~~ LICENSURE BY ENDORSEMENT

The ~~director of the office of professional regulation~~ Director may, upon payment of the required fee, grant a license without examination if the applicant:

(1) ~~is licensed~~ holds an active license to practice ~~clinical licensed master's social work or licensed independent clinical social work~~ in another state or Canadian jurisdiction; and

(2) the requirements for licensing in that state or jurisdiction are, in the judgment of the ~~director of the office of professional regulation~~ Director, ~~essentially~~ substantially equivalent to the requirements of this chapter.

Sec. 37. 26 V.S.A. § 3210 is amended to read:

#### § 3210. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person ~~licensed social worker~~ under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

(1) failing to use a correct title in professional activity;

(2) conduct which evidences unfitness to practice licensed independent clinical social work or licensed master's social work;

(3) engaging in any sexual conduct with a client, or with the immediate family member of a client, with whom the licensee has had a professional relationship within the previous two years;

(4) harassing, intimidating, or abusing a client or patient;

(5) practicing outside or beyond a ~~clinical social worker's area of licensee's education,~~ training, experience, or competence ~~without appropriate supervision~~;

(6) ~~engaging in conflicts~~ having a conflict of interest that ~~interfere~~ interferes with the exercise of the ~~clinical social worker's licensee's~~ professional responsibilities, discretion, and impartial judgment;

(7) failing to inform a client when a real or potential conflict of interest arises, and failing to take reasonable steps to resolve the issue in a manner that makes the client's interest primary and protects the client's interest to the greatest extent possible;

(8) taking unfair advantage of any professional relationship or exploiting others to further the ~~clinical social worker's licensee's~~ personal, religious, political, or business interests;

(9) engaging in dual or multiple relationships with a client or former

client in which there is a risk of exploitation or potential harm to the client;

(10) failing to take steps to protect a client and to set clear, appropriate, and culturally sensitive boundaries, in instances where dual or multiple relationships are unavoidable;

(11) failing to clarify with all parties which individuals will be considered clients and the nature of the ~~clinical social worker's~~ licensee's professional obligations to the various individuals who are receiving services, when a ~~clinical social worker~~ licensee provides services to two or more people who have a spousal, familial, or other relationship with each other;

(12) failing to clarify the ~~clinical social worker's~~ licensee's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients.

(b) After hearing, and upon a finding of unprofessional conduct, an administrative hearing officer may take disciplinary action against a ~~licensed clinical social worker~~ licensee or applicant.

Sec. 38. 26 V.S.A. § 3212 is amended to read:

#### § 3212. EXEMPTIONS

(a) The provisions of this chapter shall not apply to persons while engaged in the course of their customary duties as clergy, licensed physicians, nurses, osteopaths, optometrists, dentists, lawyers, psychologists, mental health counselors, certified marriage and family therapists and psychoanalysts, rostered psychotherapists, or licensed educators when performing their duties consistent with the accepted standards of their respective professions; provided, however, that they do not describe themselves to the public by any other title or description stating or implying that they are licensed independent clinical social workers or ~~are licensed to practice clinical social work~~ master's social workers.

\* \* \*

(c) ~~Notwithstanding the provisions of subsections (a) and (b) of this section, the provisions of this chapter shall apply to any person licensed as a clinical social worker under this chapter. [Repealed.]~~

Sec. 39. 26 V.S.A. § 3213 is amended to read:

#### § 3213. DISCLOSURE OF INFORMATION

(a) ~~The office of professional regulation~~ Director, in consultation with the

advisor appointees, shall adopt rules requiring licensed independent clinical social workers to disclose to each client the licensed independent clinical social worker's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensed independent clinical social worker and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors, and adults under the supervision of a guardian.

(b) The Director, in consultation with the advisor appointees, may adopt rules requiring licensed master's social workers to disclose to each client the licensed master's social worker's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensed master's social worker and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors, and adults under the supervision of a guardian.

\* \* \* Clinical Mental Health Counselors \* \* \*

Sec. 40. 26 V.S.A. § 3262a is amended to read:

§ 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS

(a) A ~~board of allied mental health practitioners~~ Board of Allied Mental Health Practitioners is established.

(b) The ~~board~~ Board shall consist of six members appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004.

(1) Two members shall be licensed clinical mental health counselors; one member shall be a ~~certified~~ licensed marriage and family therapist; one member shall, at the time of appointment, be a nonlicensed and noncertified psychotherapist entered on the roster; and two members shall be public members.

(2) The public members shall have no direct financial interest personally or through a spouse, parent, child, brother, or sister in clinical mental health counseling, marriage and family therapy, or psychotherapy.

(3) The professional members of the ~~board~~ shall have at least three years of professional experience as a clinical mental health counselor, marriage and family therapist, or psychotherapist, ~~during the period immediately preceding appointment~~ and shall be actively engaged in the ~~practice of clinical mental health counseling, marriage and family therapy, or psychotherapy~~ one of these

professions during incumbency.

(c) A majority of the members of the ~~board~~ Board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.

\* \* \* Real Estate Appraisers \* \* \*

Sec. 41. 26 V.S.A. § 3314 is amended to read:

§ 3314. BOARD; POWERS AND DUTIES

(a) The Board shall administer the provisions of this chapter in a manner that conforms in all respects with the requirements of the Act.

(b) In addition to its other powers and duties under this chapter, the Board shall:

(1) receive and review applications;

(2) collect the registry fee as required by the Act and transmit that fee to the ASC. The registry fee shall be in addition to State licensing and registration fees;

(3) annually publish a roster of all licensees and transmit the roster to the ASC as required by the Act;

(4) register appraisal management companies; ~~and~~

(5) inquire of the Vermont Criminal Information Center for any information on criminal records of any and all applicants, and the Center shall provide such information to the Board. The Board, through the Vermont Criminal Information Center, shall also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it shall also inquire of the Federal Bureau of Investigation for any information on criminal records of applicants. The Board shall obtain fingerprints of the applicant, in digital form if practicable, and any appropriate identifying information for submission to the Federal Bureau of Investigation in connection with a state and national background check. Applicants shall bear all costs associated with background screening. The Board may also make additional inquiries it deems necessary into the character, integrity, and reputation of the applicant; and

(6) perform other functions and duties as may be necessary to carry out the provisions of this chapter.

Sec. 42. 26 V.S.A. § 3319a is amended to read:

§ 3319a. APPRAISER TRAINEE REGISTRATION

\* \* \*

~~(b) To be credited toward the hourly experience requirement for licensure, the trainee shall inspect each property appraised with the trainee's supervisor. [Repealed.]~~

~~(c) Notwithstanding subsection (b) of this section, the~~ The Board may, in its discretion, give credit for training hours, not exceeding 10 percent of the total hourly experience requirement, for hours worked or training given that does not include or is unrelated to a site inspection.

\* \* \* Tattooists and Body Piercers \* \* \*

Sec. 43. 26 V.S.A. § 4102 is amended to read:

§ 4102. PROHIBITIONS

(a) No person shall practice tattooing, permanent cosmetics, or body piercing unless that person is registered in accordance with the provisions of this chapter.

(b) No person under the age of 18 may practice tattooing, permanent cosmetics, or body piercing.

(c) A tattooist shall not tattoo a minor without the written consent of the parent or guardian of the minor.

(d) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

Sec. 44. 26 V.S.A. § 4104 is amended to read:

§ 4104. ADVISORY APPOINTEES

(a)(1) The Secretary of State shall appoint:

(A) a professional in the field of public health and medicine from a list of persons provided by the Commissioner of Health; and

(B) two registered operators who have been practicing tattooing and body piercing for at least the three years immediately preceding appointment and who shall actively be engaged in the practice of tattooing and body piercing in Vermont during incumbency.

(2) The appointees shall be appointed to serve as advisors in matters relating to tattooing, permanent cosmetics, and body piercing. The appointees shall be appointed as set forth in 3 V.S.A. § 129b.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The advisor appointees shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for that purpose.



Sec. 45. 26 V.S.A. § 4105 is amended to read:

§ 4105. REGISTRATION; APPRENTICESHIP REQUIREMENTS

\* \* \*

(b)(1) As a prerequisite to registration, a tattooist or body piercer applicant shall provide proof of an apprenticeship of at least 1,000 hours of experience obtained within two calendar years working under the ~~direction and~~ direct supervision of a body piercer or tattooist registered and in good standing with this ~~state~~ State or the state in which he or she is regulated, and who has been in practice a minimum of three years. ~~Such proof~~ Proof may be in the form of a sworn affidavit from the supervising tattooist or body piercer, including information as the ~~director~~ Director may reasonably require on forms provided by the ~~director~~ Director.

(2) Apprenticeships shall include successful completion of a three-hour course in universal precautions and infectious diseases.

(3) Apprentices shall contact the ~~office~~ Office for the appropriate forms prior to beginning the apprenticeship.

(4) ~~For the purposes of~~ As used in this section subsection, “good standing” shall mean that the tattooist or body piercer supervisor holds a current, unrestricted ~~license~~ registration in this State or an unrestricted authorization to practice tattooing or body piercing in another state. A tattooist or body piercer who holds a restricted ~~license~~ registration or restricted authorization to practice may petition the ~~director~~ Director for permission to be a tattooist or body piercer supervisor, which may be granted by the ~~director~~ Director for good cause shown.

(c)(1) As a prerequisite to registration for the practice of permanent cosmetics, an applicant shall provide proof of a course of approved study lasting at least 60 hours. In addition, the applicant shall obtain at least 40 hours of practical experience, within two calendar years preceding the application, working under the direct supervision of a ~~registered~~ tattooist or permanent cosmetologist registered and in good standing in Vermont with this State or the state where in which he or she is regulated, and who has been in practice a minimum of three years. Proof may be in the form of a sworn affidavit from the supervising permanent cosmetologist or tattooist, including information ~~in a form~~ as the ~~director~~ Director may reasonably require on forms provided by the Director.

(2) Training shall include successful completion of a three-hour course in universal precautions and infectious diseases.

(3) Prior to training and obtaining practical experience, applicants shall

contact the ~~office~~ Office and submit the appropriate forms.

(4) ~~For the purposes of As used in this section~~ subsection, “in good standing” shall mean that the permanent cosmetologist or tattooist supervisor holds a current, unrestricted ~~license~~ registration in this State or an unrestricted authorization to practice permanent cosmetics or tattooing in another state. A permanent cosmetologist or tattooist who holds a restricted ~~license~~ registration or restricted authorization to practice may petition the ~~director~~ Director for permission to be a supervisor, which the ~~director~~ Director may grant for good cause shown.

(d) No shop shall operate in this ~~state~~ State without first registering with the ~~office of professional regulation~~ Office of Professional Regulation and paying a fee of \$100.00. Registration shall be in the form required by the ~~director~~ Director.

(1) No shop shall be granted registration unless the shop complies with this chapter and rules adopted under this chapter.

(2) All shops shall designate a person, who is ~~licensed pursuant to registered under~~ this chapter in the practice of tattooing or body piercing, who shall be responsible for overall cleanliness and sanitation of the shop.

(3) The practice of tattooing or body piercing shall be permitted only in registered shops.

(4) The practice of permanent cosmetics may be performed anywhere the practice of tattooing is ~~licensed~~ permitted, on the premises of a health care professional licensed pursuant to this title, or on premises meeting the sanitation requirements of this chapter as determined by the ~~director~~ Director or as set forth by rule.

(e) [Repealed.]

\* \* \* Naturopathic Physicians \* \* \*

Sec. 46. 26 V.S.A. § 4125 is amended to read:

§ 4125. DIRECTOR; DUTIES

\* \* \*

(e)(1) The Director shall appoint an advisory committee to study and report to the Director and the Commissioner of Health on matters relating to the prescribing authority of naturopathic physicians under the special license endorsement, including recommendations if necessary for revisions to the administrative rules in order to ensure that naturopathic physicians prescribe, dispense, and administer prescription medicines within the scope of a naturopathic physician’s pharmacology education, training, and experience.

(2) The Committee shall be composed of at least seven members: two naturopathic physicians, two physicians licensed by the Board of Medical Practice or the Board of Osteopathic Physicians and Surgeons, a pharmacologist, a pharmacist, and a member of the public.

(3) Members of the Committee shall be entitled to compensation at the rate provided in 32 V.S.A. § 1010.

\* \* \* Midwives \* \* \*

Sec. 47. 26 V.S.A. § 4185 is amended to read:

§ 4185. DIRECTOR; DUTIES

\* \* \*

(c)(1) The Director shall appoint an advisory committee to study and report to the Director and to the Commissioner of Health on matters relating to midwifery, including recommendations if necessary for revisions to the administrative rules. The Committee shall focus on improving communication and collaboration among birth providers.

(2) The Committee shall be composed of at least six members: three midwives licensed under this chapter, two physicians licensed by the Board of Medical Practice or the Board of Osteopathic Physicians and Surgeons, and one advanced practice registered nurse midwife licensed by the Board of Nursing.

(3) Members of the Committee shall be entitled to compensation at the rate provided in 32 V.S.A. § 1010.

\* \* \* Electrologists \* \* \*

Sec. 48. 26 V.S.A. § 4402 is amended to read:

§ 4402. DEFINITIONS

As used in this chapter:

\* \* \*

(3) “Electrology” means the removal of hair by electrical current using needle/probe electrode-type epilation which would include electrolysis (direct current/DC), thermolysis (alternating current/AC), or a combination of both (superimposed or sequential blend). “Electrology” includes the use ~~by properly trained licensed electrologists~~ of lasers approved by the ~~United States~~ U.S. Food and Drug Administration for electrology ~~and as otherwise permitted by Vermont law~~ by electrologists possessing a special license endorsement set forth in subsection 4404(d) of this chapter.

\* \* \*

Sec. 49. 26 V.S.A. § 4403 is amended to read:

§ 4403. PROHIBITION; PENALTY

\* \* \*

(c) A person licensed under this chapter shall not use lasers for hair removal without obtaining from the Director the special license endorsement set forth in subsection 4404(d) of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

Sec. 50. 26 V.S.A. § 4404 is amended to read:

§ 4404. DIRECTOR; DUTIES

\* \* \*

(d) The Director shall adopt rules regulating a special license endorsement which shall authorize an electrologist to use lasers for hair removal. These rules shall require an electrologist to complete a comprehensive laser hair removal course satisfactorily in order to obtain this special license endorsement.

Sec. 51. EFFECTIVE DATES

This act shall take effect on July 1, 2014, except this section and Sec. 27 (transitional provision; persons currently licensed as clinical social workers), which shall take effect on passage.

( Committee Vote: 10-0-1)

**Rep. Branagan of Georgia**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 9-0-2)

## H. 765

An act relating to eliminating the part-time certification of law enforcement officers

**Rep. Hubert of Milton**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Vermont Criminal Justice Training Council \* \* \*

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. PURPOSE; ~~DEFINITION OF COUNCIL~~

(a) In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of ~~“the the~~ Vermont Criminal Justice Training Council.” Council.

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of recruit and in-service training for law enforcement officers, including members of the Department of Public Safety, capitol police officers, municipal police officers, constables, correctional officers, prosecuting personnel, motor vehicle inspectors, State investigators employed on a full-time basis by the Attorney General, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of 24 V.S.A. §§ 307 and 311, ~~and~~ railroad police commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8, police officers appointed to the University of Vermont’s Department of Police Services, and investigators employed by the Department of Environmental Conservation who exercise law enforcement powers.

(c) The Council shall offer continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice.

(d) It is the responsibility of the Council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

Sec. 2. 20 V.S.A. § 2355 is amended to read:

§ 2355. POWERS AND DUTIES

(a) The ~~council~~ Council shall adopt rules with respect to:

(1) ~~The the~~ approval, or revocation thereof, of law enforcement officer training schools and off-site training programs;

(2) ~~Minimum~~ minimum ~~courses of study, attendance requirements, and equipment and facilities to be required at approved law enforcement officer training schools and off-site training programs;~~

(3) ~~Minimum~~ minimum ~~qualifications for instructors at approved law enforcement officer training schools and off-site training programs;~~

(4) ~~Minimum~~ minimum ~~basic training for law enforcement officers in each level of law enforcement officer certification and the time within which that training shall be completed;~~

(5) ~~Minimum basic training in order to retain their status for law enforcement officers who are appointed on a permanent basis, and the time~~

~~within which that basic training shall be completed following appointment;~~  
~~[Repealed.]~~

(6) ~~Minimum~~ minimum annual in-service training requirements for law enforcement officers in each level of law enforcement officer certification;

(7) ~~Minimum~~ minimum courses of training for other criminal justice personnel;

(8) ~~Categories~~ categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to those categories or classifications;

(9) ~~Recertification~~ recertification of persons who have not been employed as law enforcement officers for a three-year period;

(10) ~~A~~ a definition of criminal justice personnel and criminal justice training for purposes of this title;

(11) ~~Decertification~~ decertification of persons who have been convicted of a felony subsequent to their certification as law enforcement officers;

(12) ~~Decertification~~ decertification of persons who have not complied with in-service training requirements, provided that the ~~council~~ Council, through its ~~executive director~~ Executive Director, may grant a 60-day waiver to a ~~police~~ law enforcement officer who has failed to meet his or her annual in-service training requirements but who is able to complete those training requirements within that 60-day period.

(b) The ~~council~~ Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The ~~council~~ Council may also offer the basic officer's course for pre-service students.

(c)(1) The ~~council~~ Council shall appoint, subject to the approval of the ~~governor~~ Governor, an ~~executive director~~ Executive Director who shall be an exempt ~~state~~ State employee, and who shall hold office during the pleasure of the ~~council~~ Council.

(2)(A) ~~He or she~~ The Executive Director shall perform such duties as may be assigned by the ~~council~~ Council. ~~The executive director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation.~~

(B) The ~~executive director~~ Executive Director may appoint officers, employees, agents, and consultants as he or she may deem necessary, and prescribe their duties, with the approval of the ~~council~~ Council.

(3) The Executive Director is entitled to compensation as established by

law and reimbursement for expenses within the amounts available by appropriation.

(d) The ~~council~~ Council may, in addition:

(1) ~~Accept~~ accept and administer under this chapter and for its purposes contributions, capital grants, gifts, services, and other financial assistance from any individual, association, corporation, or other organization having an interest in criminal justice training, and from this ~~state~~ State and the United States and any of their agencies and instrumentalities, corporate or otherwise; and

(2) ~~Perform~~ perform such other acts as may be necessary or appropriate to carry out the purposes of this chapter.

(e) Any agency or department of ~~state government, municipality or State, county, or municipal government~~ may, notwithstanding any provision of this chapter, engage in and pay for, from sums appropriated for that purpose, training activities for employees in addition to any minimum training required by the ~~council~~ Council.

(f) The ~~council~~ Council shall charge participants or employers of participants in law enforcement training programs as follows:

(1) The tuition ~~fee~~ fees for any of the basic training or annual in-service training required under section 2358 of this ~~title~~ chapter shall be ~~\$6,417.00 set forth in rules adopted by the Council. The tuition fees shall be set to reflect the actual costs for operation of the particular programs offered. This fee~~ The fees for basic training shall not be charged for persons employed by police agencies at the time of training.

(2) The tuition fees for training not required under section 2358 of this ~~title~~ chapter shall be set to reflect the actual costs for operation of the particular programs offered, with an additional \$30.00 entrance exam fee.

(g) The ~~criminal justice training council~~ Council shall develop and maintain a comprehensive drug training program ~~by July 1, 1988.~~

Sec. 3. 20 V.S.A. § 2357 is amended to read:

#### § 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

The ~~executive director~~ Executive Director of the ~~council~~ Council, on behalf of the ~~council~~ Council, shall have the following powers and duties, subject to the supervision of the ~~council~~ Council and to be exercised only in accordance with rules adopted under this chapter:

(1) ~~To~~ to approve, on applications made in advance, criminal justice personnel training programs and their lesson plans and instructors, to issue

certificates of approval to those programs, and to revoke those approvals or certificates;

(2) ~~To~~ to certify, as qualified, instructors at approved criminal justice personnel training schools and to issue appropriate certificates to those instructors;

(3) ~~To~~ to certify criminal justice personnel who have satisfactorily completed approved training programs and to issue appropriate certificates to them;

(4) ~~To~~ to cause studies and surveys to be made relating to the establishment, operation, and approval of criminal justice training schools;

(5) ~~To~~ to consult and cooperate with law enforcement officer criminal justice training schools:

(A) to recommend a course of study in crime prevention for law enforcement students; and

(B) for the development of advanced in-service training programs for law enforcement officers, which shall include a course of study on crime prevention;

(6) ~~To~~ to consult and cooperate with universities, colleges, and institutes for the development of specialized courses of study including a course of study on crime prevention, where appropriate;

(7) ~~To~~ to consult and cooperate with other departments and agencies of the ~~state~~ State and federal government concerned with criminal justice personnel training;

(8) ~~To provide courses for persons who wish to make application for licensing as a private detective as provided in 32 V.S.A. § 9506, and to charge the applicant a reasonable fee, based on the cost of providing courses; [Repealed.]~~

(9) ~~To~~ to perform such other acts as may be necessary or appropriate to carry out his or her powers and duties as set forth in this chapter;

(10) ~~To~~ to report to the ~~council~~ Council at each regular meeting of the ~~council~~ Council and at such other times as may be required; and

(11) ~~Approve~~ to approve and accept pre-service and military students for any of the basic officer's training course courses set forth in section 2358 of this chapter.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS



(a) Unless waived by the Council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority: as a law enforcement officer without completing a basic training course and annual in-service training within a time and manner prescribed by the Council by rule.

~~(1) as a part time law enforcement officer without completing a basic training course within a time prescribed by rule of the Council; or~~

~~(2) as a full time law enforcement officer without either:~~

~~(A) completing a basic training course in the time and manner prescribed by the Council; or~~

~~(B) having received, before July 1, 1968, permanent full time appointment as a law enforcement officer, and completing a basic training course before July 1, 1982.~~

~~(3) as a full or part time law enforcement officer without completing annual in-service training requirements as prescribed by the Council.~~

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

(A) An applicant for certification as a Level I law enforcement officer shall first complete an off-site training program prior to entering and completing Level I basic training. Level I basic training shall include training to react to the circumstances described in subdivision (B) of this subdivision (1).

(B)(i) The scope of practice of a Level I law enforcement officer shall be limited to security, transport, vehicle escorts, and traffic control, as those terms are defined by the Council by rule, except that a Level I officer may react in the following circumstances if the officer determines that it is necessary to do any of the following:

(I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;

(II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;

(III) prevent the escape of an individual whom the officer reasonably believes has committed a crime in the presence of the officer; or

(IV) prevent the escape of an individual whom the officer reasonably believes has committed a felony under Vermont law.

(ii) If a Level I officer reacts to any of the circumstances described in subdivision (i) of this subdivision (B), he or she shall call upon a Level III officer to respond and assume law enforcement authority over the incident.

(2) Level II certification.

(A) An applicant for certification as a Level II law enforcement officer shall first complete Level II basic training and may then become certified in any specialized practice area approved by the Council by rule. Level II basic training shall include training to respond to calls regarding alleged crimes in progress and to react to the circumstances described in subdivision (B) of this subdivision (2).

(B)(i) The scope of practice of a Level II law enforcement officer shall be limited to the scope of practice of his or her basic training and the scope of practice of his or her certified specialized practice area, except that a Level II officer may respond to calls regarding alleged crimes in progress and may react in the following circumstances if the officer determines that it is necessary to do any of the following:

(I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;

(II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;

(III) prevent the escape of an individual whom the officer reasonably believes has committed a crime in the presence of the officer; or

(IV) prevent the escape of an individual whom the officer reasonably believes has committed a felony under Vermont law.

(ii) If a Level II officer responds to calls regarding alleged crimes in progress or reacts to any of the circumstances described in subdivision (i) of this subdivision (B) and that response or reaction is outside the scope of his or her scope of practice, he or she shall call upon a Level III officer to respond and assume law enforcement authority over the incident.

(3) Level III certification.

(A) An applicant for certification as a Level III law enforcement officer shall complete Level III basic training.

(B) The scope of practice of a Level III law enforcement officer shall include all law enforcement authority.

(c) All programs required by this section shall be approved by the Council. Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

~~(e)~~(d) As used in this section:

(1) “Law enforcement officer” means a member of the Department of Public Safety who exercises law enforcement powers, a member of the State police, a capitol police officer, a municipal police officer, a constable who exercises law enforcement powers, a motor vehicle inspector, an employee of the Department of Liquor Control who exercises law enforcement powers, an investigator employed by the Secretary of State, Board of Medical Practice investigators employed by the Department of Health, Attorney General, or a ~~state’s attorney~~ State’s Attorney, a fish and game warden, a sheriff, or deputy sheriff who exercises law enforcement powers, ~~or~~ a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8, a police officer appointed to the University of Vermont’s Department of Police Services, or an investigator employed by the Department of Environmental Conservation who exercises law enforcement powers.

(2) ~~“Full time law enforcement officer” means a law enforcement officer with duties of a predictable and continuing nature which require more than 32 hours per week and more than 25 weeks per year~~ “Off-site training” means training provided off the premises of a law enforcement officer training school and approved by the Council under the provisions of section 2355 of this chapter.

(3) ~~“Part time law enforcement officer” means a law enforcement officer who is not employed full time. [Repealed.]~~

~~(d) The council may determine whether a particular position is full time or part time.~~

(e) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council.

Sec. 5. 20 V.S.A. § 2361 is amended to read:

#### § 2361. ADDITIONAL TRAINING

(a) Nothing in this chapter prohibits any ~~commissioner, department or State agency head, department, or office~~ or any municipality or county of the State from providing additional training beyond basic training to its personnel in ~~their agencies or departments~~ where no certification is requested ~~from the director of~~ or required by the council Council or its Executive Director.

(b) ~~The commissioner of public safety~~ head of a State agency, department,

or office, a municipality's chief of police, or a sheriff may seek certification from the ~~criminal justice training council~~ of Council for any ~~additional~~ in-service training he or she may provide to his or her employees.

Sec. 6. TRANSITIONAL PROVISIONS; GRANDFATHERING OF PART-TIME OR FULL-TIME CERTIFIED LAW ENFORCEMENT OFFICERS; RULEMAKING AUTHORITY

(a)(1) On the effective date of Sec. 4 of this act, any law enforcement officer certified by the Vermont Criminal Justice Training Council as a part-time or full-time law enforcement officer immediately prior to the effective date of Sec. 4 may continue to hold that certification and practice as a law enforcement officer under the limitations of his or her part-time or full-time certification in effect immediately prior to the effective date of Sec. 4.

(2) A law enforcement officer described in subdivision (1) of this subsection shall be required to complete the next annual in-service training for one of the three levels of law enforcement officer certification provided as required pursuant to the terms of Sec. 4 according to that officer's desired scope of practice, except that an officer certified as a part-time law enforcement officer immediately prior to the effective date of Sec. 4 may only complete the next annual in-service training for a Level I or Level II law enforcement officer.

(b) The Vermont Criminal Justice Training Council shall adopt rules in order to implement the provisions of Secs. 2 (amending 20 V.S.A. § 2355 (powers and duties)), 4 (amending 20 V.S.A. § 2358 (minimum training standards; definitions)), and this section prior to the effective date of Secs. 2 and 4.

\* \* \* Investigators Employed by the Secretary of State \* \* \*

Sec. 7. 3 V.S.A. § 123(f) is amended to read:

(f) Classified State employees who are employed as investigators by the Secretary of State who have successfully met the standards of training for a ~~full-time~~ Level III law enforcement officer under 20 V.S.A. chapter 151 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against them in consequence for acts done in the course of their employment.

\* \* \* Vermont Employees Retirement System \* \* \*

Sec. 8. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

\* \* \*

(9) "Employee" shall mean:

\* \* \*

(B) any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of Liquor Control who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs ~~employed~~ compensated by the State of Vermont whose primary function is transports, full-time members of the capitol police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained ~~full-time~~ Level III law enforcement officer certification from the Vermont Criminal Justice Training Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. ~~section~~ § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this subdivision are full-time firefighters employed by the State of Vermont.

\* \* \*

\* \* \* Railroad Police \* \* \*

Sec. 9. 5 V.S.A. chapter 68, subchapter 8 is amended to read:

Subchapter 8. Railroad Police

§ 3755. COMMISSIONS

Upon petition of a person or corporation owning or operating a railroad, the ~~commissioner of public safety~~ Commissioner of Public Safety may, subject to the provisions of section 3757 of this subchapter, commission any employees

of the railroad as the person or corporation designates to act as police officers in and upon the premises and equipment owned, managed, or used by a railroad, shall issue commissions to the employees ~~to act as police~~ so commissioned, and shall have the authority to rescind such commissions.

\* \* \*

#### § 3757. QUALIFICATIONS

Persons commissioned pursuant to section 3755 of this ~~title~~ subchapter shall be subject to minimum training standards established by rule of the Vermont ~~criminal justice training council~~ Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151; ~~provided that persons employed as full time railroad police before January 1, 1981, shall have until July 1, 1984, to meet the minimum training standards or equivalent standards as determined by the council, and may continue to function under laws in effect prior to passage of this subchapter until July 1984, or until receiving a commission under this subchapter, whichever occurs sooner.~~

\* \* \*

#### § 3763. TERMINATION OF AUTHORITY

Upon termination of employment as a railroad police officer of any person commissioned pursuant to this subchapter, the person's commission shall be automatically rescinded and his or her powers as a police officer shall terminate. Within 10 days after the termination, the employing railroad shall file a notice of the termination with the ~~commissioner of public safety~~ Commissioner of Public Safety and the Vermont Criminal Justice Training Council. The ~~state~~ State of Vermont shall not be responsible for the supervision, discipline, or decision to terminate the employment of persons commissioned as railroad police officers under this subchapter.

\* \* \* Game Wardens \* \* \*

Sec. 10. 10 V.S.A. § 4198 is amended to read:

#### § 4198. POLICE POWERS; TRAINING; STATE GAME WARDENS; DEPUTY GAME WARDENS

~~Upon certification by the executive director of the criminal justice training council of the successful completion of the training program for obtaining from the Vermont Criminal Justice Training Council Level III law enforcement officers~~ officer certification as established in 20 V.S.A. § 2358, ~~state~~ State game wardens and deputy game wardens shall have the same law enforcement authority, duties, and powers as ~~state police~~ State Police, sheriffs, constables, and municipal police, and shall have all immunities and defenses now or hereafter available to state police, sheriffs, constables, and municipal police in

a suit brought against them in consequence of acts done in the course of their employment. State game wardens and deputy game wardens shall receive their regular compensation during the time they are enrolled in the Vermont Criminal Justice Training Council training program.

\* \* \* Crimes and Criminal Procedure \* \* \*

Sec. 11. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SILENCERS

A person who manufactures, sells, uses, or possesses with intent to sell or use an appliance known as or used for a gun silencer shall be fined \$25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers by:

(1) a certified, ~~full-time~~ law enforcement officer or ~~department of fish and wildlife~~ Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with his or her law enforcement training and scope of practice and the policies and procedures of that officer's or employee's agency or department; or

(2) the Vermont National Guard in connection with its duties and responsibilities.

\* \* \* Sheriffs \* \* \*

Sec. 12. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The annual salaries of the sheriffs of all counties except Chittenden shall be \$67,688.00 as of July 1, 2012 and \$70,192.00 as of July 14, 2013. The annual salary of the sheriff of Chittenden County shall be \$71,631.00 as of July 1, 2012 and \$74,281.00 as of July 14, 2013.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has not ~~completed the full-time training requirements~~ obtained Level III law enforcement officer certification under 20 V.S.A. § 2358.

\* \* \* Investigators Appointed by a State's Attorney \* \* \*

Sec. 13. 24 V.S.A. § 364 is amended to read:

§ 364. INVESTIGATOR

(a)(1) A ~~state's attorney~~ State's Attorney may appoint an investigator and, with the approval of the Governor, shall fix the investigator's pay not to exceed that of a noncommissioned officer of the Department of Public Safety, and may remove the investigator at will.

(2) An investigator shall be reimbursed for necessary expenses incurred in connection with his or her official duties when approved by the ~~state's attorney~~ State's Attorney and the Commissioner of Human Resources.

(3) Investigators shall take part in the investigation of crime, the detection of persons suspected of committing crimes, the preparation of any criminal cause for trial, and other tasks related to the ~~state's attorney's office~~ Office of the State's Attorney.

(4) No person may be appointed as an investigator unless he or she has had appropriate experience in investigative work for a period of not less than two years, including employment as a private detective or a law enforcement officer, or has successfully completed a course of training under 20 V.S.A. chapter 151.

(b) A person appointed as an investigator who has ~~successfully completed a course of training under 20 V.S.A. chapter 151~~ obtained certification as a Level III law enforcement officer under the provisions of 20 V.S.A. § 2358 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against them in consequence for acts done in the course of their employment.

\* \* \* Constables \* \* \*

Sec. 14. 24 V.S.A. § 1936a is amended to read:

§ 1936a. CONSTABLES; POWERS AND QUALIFICATIONS

\* \* \*

(d) A municipal legislative body may vote to allow a constable elected or appointed in another municipality to exercise law enforcement authority in its municipality, provided that:

(1) the constable is not prohibited from exercising law enforcement authority under subsection (a) of this section;

(2) the constable ~~has completed the training requirements for a full time or part time law enforcement officer~~ is certified to exercise that level of authority under 20 V.S.A. § 2358; and

(3) the exercise of law enforcement authority is conducted in accordance with policies and procedures adopted by the legislative body establishing the circumstances under which the authority may be exercised.

\* \* \* Investigators Employed by the Board of Medical Practice \* \* \*

Sec. 15. 26 V.S.A. § 1351 is amended to read:



§ 1351. BOARD OF MEDICAL PRACTICE

\* \* \*

(f) Classified ~~state~~ State employees who are employed as investigators by the ~~department of health~~ Department of Health who ~~have successfully met the standards of training for a full-time~~ are certified as a Level III law enforcement officer under ~~20 V.S.A. chapter 151~~ 20 V.S.A. § 2358 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against them in consequence for acts done in the course of their employment.

\* \* \* Correctional Officers \* \* \*

Sec. 16. 28 V.S.A. § 551a is amended to read:

§ 551a. LAW ENFORCEMENT POWERS OF CORRECTIONAL OFFICERS; TRAINING REQUIREMENTS

(a) The ~~commissioner of corrections~~ Commissioner of Corrections shall establish training requirements necessary for a correctional officer to be authorized to exercise the power to arrest a person on probation under section 301 of this title, to arrest a person serving supervised community sentence under section 363 of this title, or to arrest a person on parole under section 551 of this title. The required training shall include ~~but not be limited to~~ training in search and seizure, criminal law, authority to arrest, use of force, reporting and record keeping, and liability for actions and conduct.

(b) The ~~commissioner~~ Commissioner may also authorize and designate any correctional officer as defined in subdivision 3(10) of this title to become certified by the ~~criminal justice training council~~ Vermont Criminal Justice Training Council as a ~~part-time~~ law enforcement officer, pursuant to the provisions of ~~chapter 151 of Title 20~~ V.S.A. chapter 151. The ~~commissioner~~ Commissioner and the ~~director of the training academy~~ Executive Director of the Vermont Criminal Justice Training Council shall develop curriculum subject to the approval of the ~~training council~~ Council. The ~~commissioner~~ Commissioner by ~~department~~ Department policy may prescribe the use of those law enforcement powers consistent with the official duties and job descriptions of the correctional officer, and may direct that the correctional officer not carry any weapon while on duty. Any person hereby certified shall be sworn by the ~~commissioner~~ Commissioner.

\* \* \* Effective Dates \* \* \*

Sec. 17. EFFECTIVE DATES

This act shall take effect on July 1, 2015 except this section and Sec. 6

(transitional provisions; grandfathering of part-time or full-time certified law enforcement officers; rulemaking authority), which shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to establishing different levels of certification and scopes of practice for law enforcement officers”.

**( Committee Vote: 11-0-0)**

## **H. 872**

An act relating to the State’s Transportation Program and miscellaneous changes to the State’s transportation laws.

**(Rep. Brennan of Colchester** will speak for the Committee on **Transportation.**)

**Rep. Helm of Fair Haven,** for the Committee on **Appropriations,** recommends the bill be amended as follows::

that the bill be amended to add a new Sec. 6d and a caption thereto to read:

\* \* \* Authorization of Positions \* \* \*

### Sec. 6d. AUTHORIZATION OF POSITIONS

(a) Of the 38 limited service positions authorized to be established in the Agency by 2012 Acts and Resolves No. 75, Sec. 87(e) and by 2012 Acts and Resolves No. 153, Sec. 21(a), 16 shall be converted to permanent classified positions on July 1, 2015.

(b) The Agency is authorized to establish three new permanent classified positions to carry out the Local Technical Assistance Program created pursuant to Sec. 7 of this act.

**(Committee Vote 11-0-0)**

## **Consent Calendar**

### **Concurrent Resolutions for Adoption Under Joint Rule 16a**

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 today’s adjournment. 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 of 3/13/2014.

**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

### **Public Hearings**

Thursday March 20, 2014 - House Chamber - 6:00-8:00 PM - H. 552 -  
Minimum Wage - General, Housing and Military Affairs

### **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.