

House Calendar

Tuesday, March 18, 2014

71st DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Action Postponed Until March 18, 2014

Favorable with Amendment

H. 645 Workers' compensation.....	1148
Rep. Kitzmiller for Commerce and Economic Development	

NEW BUSINESS

Third Reading

H. 413 The Uniform Collateral Consequences of Conviction Act	1152
H. 681 The professional regulation for veterans, military service members, and military spouses and to credit for military service in retirement.....	1152
H. 690 The definition of serious functional impairment	1152
H. 852 Improving workforce education and training	1152

Committee Bill for Second Reading

H. 873 Making technical amendments to tax increment financing laws	1153
Rep. Ancel for Ways and Means	

Favorable with Amendment

H. 225 A statewide policy on the use of and training requirements for electronic control devices	1153
Rep. Hubert for Government Operations	
H. 575 Lottery ticket sales.....	1155
Rep. Stevens for General, Housing and Military Affairs	
H. 656 Professions and occupations regulated by the Office of Professional Regulation.....	1156
Rep. Evans for Government Operations	
Rep. Branagan for Ways and Means	1184
Rep. Evans et al Amendment	1184

H. 765 Eliminating the part-time certification of law enforcement officers	1189
Rep. Hubert for Government Operations	
H. 872 The State’s Transportation Program and miscellaneous changes to the State’s transportation laws	1202
Rep. Brennan for Transportation	
Rep. Helm for Appropriations	1203

NOTICE CALENDAR

Committee Bill for Second Reading

H. 874 Consent for admission to hospice care and for DNR/COLST orders	1203
Rep. Donahue for Human Services	
H. 875 The elimination of a defendant’s right to a trial by jury in traffic appeals and fines for driving with license suspended	1203
Rep. Lippert for Judiciary	

Favorable with Amendment

H. 325 A bill of rights for children of arrested and incarcerated parents	1203
Rep. Lenos for Corrections and Institutions	
H. 448 Act 250 and primary agricultural soils	1205
Rep. Stevens for Agriculture and Forest Products	
H. 620 Payment error rates in 3SquaresVT	1211
Rep. Donahue for Human Services	
H. 646 Unemployment insurance	1214
Rep. Young for Commerce and Economic Development	
H. 699 Temporary housing	1219
Rep. Mrowicki for Human Services	
H. 758 Worker Adjustment and Retraining Notification	1219
Rep. Marcotte for Commerce and Economic Development	
H. 762 The Adverse Childhood Experience Questionnaire	1224
Rep. Till for Health Care	
H. 791 The Housing First Study Committee	1229
Rep. Stevens for General, Housing and Military Affairs	
H. 866 Qualifications of judicial officers and judicial selection and retention	1232
Rep. Lippert for Judiciary	

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 18, 2014

Favorable with Amendment

H. 645

An act relating to workers' compensation

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

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

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

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

* * *

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

§ 639. DEATH, PAYMENT TO DEPENDENTS

In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, ~~but not exceeding \$5,500.00 for burial and funeral expenses~~ no more than the actual burial and funeral expenses not to exceed \$10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~ \$5,000.00, shall be paid in a lump sum to the proper person.

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

§ 640c. OPIOID AND OPIATE USAGE DETERRENCE

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

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

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

§ 641. VOCATIONAL REHABILITATION

* * *

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

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

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

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required

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

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

§ 691a. POSTING OF SAFETY RECORDS

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

(b) An employer subject to the provisions of this chapter shall post a notice in the employer's place of business to advise employees of where they may review the employer's record of workplace safety, including workplace injury and illness data, in accordance with rules adopted by the Commissioner. The

employer's record of workplace safety, including workplace injury and illness data, shall be available for review by employees at the employer's place of business and the Commissioner, but shall not otherwise be public information. The posting shall be in a format approved by the Commissioner. The posting may be in a format provided by the Commissioner.

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

§ 696. CANCELLATION OF INSURANCE CONTRACTS

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

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

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

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

Sec. 9. STATE POLICE ACADEMY STUDY

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

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

(2) analyze preventative measures to avoid injuries;

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

(4) recommend preventative measures necessary to reduce injuries.

Sec. 10. WORKPLACE SAFETY RANKING STUDY

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

Sec. 11. EFFECTIVE DATES

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

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

(Committee Vote: 11-0-0)

NEW BUSINESS

Third Reading

H. 413

An act relating to the Uniform Collateral Consequences of Conviction Act

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

H. 690

An act relating to the definition of serious functional impairment

H. 852

An act relating to improving workforce education and training

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. 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) <u>Removal personnel</u>	\$ 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 \$50.00
 - ~~(i) Corporation or partnership \$ 50.00~~
 - ~~(ii) Sole proprietor \$ 0.00~~
 - (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 \$75.00
 - ~~(A) Corporation or partnership \$ 75.00~~
 - ~~(B) Sole proprietor \$ 0.00~~
- (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 ~~16~~ 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 |
| (3) Psychological trainee registration | \$75.00 |
| (4) Biennial renewal of trainee registration | \$90.00 |

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~~ 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)

Amendment to be offered by Reps. Evans of Essex, Cole of Burlington, Consejo of Sheldon, Devereux of Mount Holly, Higley of Lowell, Hubert of Milton, Lewis of Berlin, Martin of Wolcott, Mook of Bennington, Sweaney of Windsor, and Townsend of South Burlington to the recommendation of amendment of the Committee on Government Operations to H. 656

First: By striking out Secs. 25 (redesignating 26 V.S.A. chapter 61) through 39 (amending 26 V.S.A. § 3213) in their entirety and inserting in lieu thereof “[Deleted.]”

Second: By striking out in its entirety Sec. 51 (effective dates) and inserting in lieu thereof the following:

Sec. 51. 26 V.S.A. chapter 87 is amended to read:

CHAPTER 87. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

§ 4451. DEFINITIONS

As used in this chapter:

* * *

(3) ~~“Board” means the Vermont standards board for professional educators unless the context clearly requires otherwise. [Repealed.]~~

(4) ~~“Department” means the department of education. [Repealed.]~~

(5) “Director” means the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation.

* * *

(8) “Office” means the Office of Professional Regulation.

(9) “Practice of audiology” includes:

* * *

~~(9)~~(10) “The practice Practice of speech-language pathology” includes:

* * *

~~(10)~~(11) “Private practice” means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the board.

~~(11)~~(12) “Secretary” means the secretary of state Secretary of State.

~~(12)~~(13) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter.

~~(13)~~(14) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

~~(14) “Within the jurisdiction of the board” means conduct or work performed by a licensed speech language pathologist or audiologist on behalf of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the licensing rules of the board.~~

* * *

§ 4454. CONSTRUCTION

~~(a)~~ This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation which is regulated by this ~~state~~ State from performing services within the scope of his or her professional practice.

~~(b)~~ ~~This chapter shall not be construed to limit the authority of the board to determine and evaluate the qualifications of, issue licenses to, or discipline licensees who are within the jurisdiction of the board.~~

§ 4455. ADVISOR APPOINTEES

~~(a)~~ The ~~secretary, in consultation with the commissioner of education,~~

Secretary shall appoint two individuals to serve as advisors in matters related to audiology and speech-language pathology as set forth in 3 V.S.A. § 129b. One advisor shall be a licensed speech-language pathologist, and one advisor shall be an audiologist. Advisors who are speech-language pathologists or audiologists shall have not less than three years' experience as audiologists or speech-language pathologists immediately preceding appointment, and shall be actively engaged in the practice of audiology or speech-language pathology in Vermont during incumbency. ~~The advisors shall be appointed for staggered terms of three years, and shall serve at the pleasure of the secretary. One of the initial appointments may be for less than a three year term.~~

(b) ~~The secretary~~ Director shall seek the advice of the individuals appointed under this section in matters related to qualifications or alleged misconduct ~~not within the jurisdiction of the board~~. The advisors shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for meetings called by the ~~director~~ Director.

~~(c) The secretary may seek the advice of other audiologists and speech-language pathologists licensed under this chapter.~~

§ 4456. ~~COMMISSIONER OF EDUCATION;~~ DIRECTOR DUTIES

~~(a) The commissioner of education~~ Director shall administer the application and renewal process for all licensees under this chapter, and shall:

* * *

(5) receive applications for licensure, grant licensure under this chapter, renew licenses, and deny, revoke, suspend, reinstate, or condition licenses as directed by the administrative law officer; and

~~(6) refer all complaints and disciplinary matters not within the jurisdiction of the board to the secretary of state;~~

~~(7) with the advice of the advisor appointees, adopt rules necessary to implement the provisions of this chapter;~~

~~(8) prepare and maintain a registry of licensed speech language pathologists and audiologists; and~~

~~(9) issue to each person licensed a certificate of licensure which shall be prima facie evidence of the right of the person to whom it is issued to practice as a licensed audiologist or speech language pathologist, subject to the conditions and limitations of this chapter.~~

~~(b) The department may contract with the secretary for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and~~

~~discipline of speech language pathologists and audiologists.~~

§ 4457. LICENSURE; APPLICATIONS; ELIGIBILITY

Applicants for licenses under this chapter shall submit an application to the ~~department~~ Office on a form furnished by the ~~department~~ Office, along with payment of the specified fee and evidence of the eligibility qualifications established by the ~~board~~ Director which shall include, at a minimum:

* * *

(4) Passing an examination in audiology or speech-language pathology approved by the ~~department~~ Director, which, in the case of the audiology examination, shall include a section which is equivalent to the hearing aid dispensers examination described in section 3295 of this title. Audiologists who have passed an examination chosen by the ~~department~~ Director are not required to take the hearing aid dispensers examination required by section 3295.

§ 4458. RENEWALS; CONTINUING EDUCATION

~~(a) A license shall be renewed at an interval determined by the board which shall be no fewer than every two years and no more than every seven years on a schedule set by the Office upon payment of the renewal fee, provided the person applying for renewal completes professional development activities in accord with the processes approved by the department or the board Director, during the interval. The board Director shall establish, by rule, guidelines and criteria for the renewal or reinstatement of licenses issued under this chapter.~~

~~(b) At the time interval required for renewal, the department shall forward a renewal form to each licensee. Upon receipt of the completed application and the renewal fee, the department shall issue a new license.~~

§ 4459. FEES

~~(a) Each applicant and licensee shall be subject to the following pay the fees:~~

~~(1) Initial processing of application \$35.00 (2) Issuance of initial license \$35.00 per year for the term of the license (3) Renewal of license \$35.00 per year for the term of the renewal (4) Replacement of license \$10.00 (5) Duplicate license \$3.00~~

~~(b) Fees collected under this section shall be credited to special funds established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the department to offset the costs of providing those services set forth in 3 V.S.A. § 125.~~

§ 4460. RECORDS AND EQUIPMENT

* * *

(c) The ~~secretary~~ Director shall adopt rules implementing the provisions of this section.

§ 4461. PRICES TO BE DISCLOSED

A licensee in private practice shall disclose in a clear and conspicuous manner the range of prices charged for goods and services. The disclosure schedule shall be posted in each licensee's office, and a written copy given to each client prior to any sale. Disclosures shall be in the manner set forth by the ~~department~~ Director, by rule.

§ 4464. UNPROFESSIONAL CONDUCT

* * *

(b) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(12) ~~Conviction of a crime related to the practice of audiology or speech language pathology;~~ [Repealed.]

* * *

Sec. 52. TRANSITIONAL PROVISIONS; SPEECH LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS; SPEECH LANGUAGE
PATHOLOGIST ASSISTANTS

(a)(1) As of the September 1, 2014, all Speech Language Pathologists and Audiologists currently licensed and in good standing with the Agency of Education shall be deemed licensed by the Secretary of State's Office of Professional Regulation. The Office of Professional Regulation shall re-issue licenses at no charge after that date and shall establish a single expiration and renewal date for all of these licensees.

(2) Speech Language Pathologists and Audiologists employed in schools and holding an endorsement from the Agency of Education shall retain that endorsement and shall renew it with the Agency as required by law, in addition to licensure with the Office of Professional Regulation.

(b) On or before December 1, 2014, the Office of Professional Regulation shall propose to the House and Senate Committees on Government Operations language to license and regulate the profession of Speech Language Pathology Assistant as recommended by its Sunrise Review of 2013, and shall include in its proposal any further recommendations for the clear and efficient regulation of Speech Language Pathologists and Audiologists.

Sec. 53. EFFECTIVE DATES

This act shall take effect on July 1, 2014 except:

(1) this section and Sec. 52 (transitional provisions; speech language pathologists and audiologists; speech language pathologist assistants), which shall take effect on passage; and

(2) Sec. 51 (amended 26 V.S.A. chapter 87), which shall take effect on September 1, 2014.

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~~ 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 154~~ 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:

By adding 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)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 874

An act relating to consent for admission to hospice care and for DNR/COLST orders.

(**Rep. Donahue of Northfield** will speak for the Committee on **Human Services**.)

H. 875

An act relating to the elimination of a defendant's right to a trial by jury in traffic appeals and fines for driving with license suspended.

(**Rep. Lippert of Hinesburg** will speak for the Committee on **Judiciary**.)

Favorable with Amendment

H. 325

An act relating to a bill of rights for children of arrested and incarcerated parents

Rep. Lenos of Shelburne, for the Committee on **Corrections and Institutions**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

(a) Children of incarcerated parents have committed no crime, yet they pay

a steep penalty. They often forfeit their homes, their safety, their public status and private self-image, and their primary source of comfort and affection.

(b) The General Assembly and the State have a strong interest in assuring that children of incarcerated parents are provided with the services and support necessary to thrive despite the hardship they face due to their parent's status.

Sec. 2. REPORT

(a) The Secretary of Human Services shall study and develop recommendations, within the Integrated Family Services Initiative (IFS), on the following issues:

(1) the capacity needed to serve children and their families or caregivers within the Integrated Family Services Initiative;

(2) existing services available to children with incarcerated parents and the need for additional services to:

(A) build and maintain healthy relationships between children and incarcerated parents, including parent-child visits, parenting classes, and supervised visits;

(B) develop child- and family-centered tools or strategies that can be used throughout the criminal justice system to mitigate unintended consequences on children; and

(C) support children and their families or caregivers by including the use of Family Impact Statements in the Court process;

(3) appropriate physical settings for children to visit incarcerated parents and services while the parent is incarcerated;

(4) a mechanism to ensure that coordinated services are provided to children of incarcerated parents by the Department for Children and Families and the Department of Corrections;

(5) agency data systems to track and coordinate services for children of incarcerated parents; and

(6) the cost of services necessary to implement a comprehensive system of care addressing the unique needs of children of incarcerated parents.

(b) In developing recommendations as required by this act, the Secretary shall consult stakeholders, including:

(1) the Department of Corrections;

(2) the Department for Children and Families;

(3) the Department of Mental Health;

- (4) the Prisoners' Rights Office;
- (5) the LUND Family Center; and
- (6) the Parent Child Center Network.

(c) The Secretary shall consider the Inmate Family Survey Project and its recommendations for best practices.

(d) On or before January 15, 2015, the Secretary shall submit a report and recommendations to the Senate Committee on Health and Welfare, Senate Committee on Institutions, House Committee on Human Services, and House Committee on Corrections and Institutions.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

H. 448

An act relating to Act 250 and primary agricultural soils

Rep. Stevens of Shoreham, for the Committee on **Agriculture and Forest Products**, 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. § 6093 is amended to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

(a) Mitigation for loss of primary agricultural soils. ~~Suitable~~ Subject to the District Commission's approval, an applicant shall provide suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title ~~shall depend on where the project tract is located; through one of the following means:~~

(1) ~~Project located in growth center. If the project tract is located in a designated growth center, an applicant who complies with subdivision 6086(a)(9)(B)(iv) of this title shall deposit~~ Off-site mitigation fee. The deposit of an offsite ~~off-site~~ mitigation fee into the Vermont ~~housing and conservation trust fund~~ Housing and Conservation Trust Fund established under section 312 of this title for the purpose of preserving primary agricultural soils of equal or greater value with the highest priority given to preserving prime agricultural soils as defined by the U.S. Department of Agriculture. Any required ~~offsite~~ off-site mitigation fee shall be derived by:

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

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

(i) ~~for~~ For development or subdivision within ~~a designated growth center~~, each of the following areas designated under 24 V.S.A. chapter 76A, the ratio shall be 1:1; a downtown development district, a new town center designated on or before January 1, 2014, a designated growth center, and a neighborhood development area associated with a designated downtown development district.

(ii) For development or subdivision outside a designated area listed in subdivision (1)(B)(i) of this subsection, the factor shall be based on the quality of the affected primary agricultural soils and other information that the Secretary of Agriculture, Food and Markets may consider relevant, including the soil's location, accessibility, tract size, existing agricultural operations, water sources, drainage, slope, the presence of ledge or protected wetlands, the infrastructure of the existing farm or municipality in which the soils are located, and the NRCS rating system for Vermont soils. This factor shall result in a ratio of no less than 2:1, but no more than 3:1, protected acres to acres of impacted primary agricultural soils.

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

(C) ~~multiplying~~ Multiplying the resulting product by a "price-per-acre" value, which shall be based on the amount that the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets has determined to be the recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision.

(2) ~~Project located outside designated growth center. If the project tract is not located in a designated growth center, mitigation shall be provided on site in order to preserve primary agricultural soils for present and future agricultural use, with special emphasis on preserving prime agricultural soils.~~

~~Preservation of primary agricultural soils shall be accomplished through innovative land use design resulting in compact development patterns which will maintain a sufficient acreage of primary agricultural soils on the project tract capable of supporting or contributing to an economic or commercial agricultural operation and shall be enforceable by permit conditions issued by the district commission.~~ On-site mitigation. The preservation of primary agricultural soils on the site of the proposed development or subdivision. The number of acres of primary agricultural soils to be preserved shall be derived by:

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

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

(3) Mitigation flexibility.

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

~~(B) Notwithstanding the provisions of subdivision (2) of this subsection pertaining to a development or subdivision on primary agricultural soils outside a designated growth center, the district commission may, in appropriate circumstances, approve off site mitigation or some combination of onsite and off site mitigation if that action is deemed consistent with the~~

~~agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. For projects located outside a designated growth center, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of no less than 2:1, but no more than 3:1. Combined mitigation. The payment of an off-site mitigation fee under subdivision (a)(1) of this section combined with the preservation of the remaining primary agricultural soils on the site of the proposed development or subdivision under subdivision (a)(2) of this section. For the purpose of calculating the amount of the off-site-mitigation fee and the acreage to be preserved on-site, an applicant may propose and the District Commission may approve an allocation of the acreage of affected primary agricultural soils between subdivisions (1) and (2) of this subsection (a).~~

* * *

(b) Requirements and factors. This subsection sets out requirements for and factors to be considered in determining suitable mitigation under this section.

(1) Findings. In determining suitable mitigation, the District Commission shall consider and make findings on each requirement and factor described in subdivisions (2) through (4) of this subsection.

(2) General.

(A) Mitigation for the conversion of primary agricultural soils shall comply with 24 V.S.A. § 2791(13)(A) (smart growth principles; historic development patterns) and (E) (agricultural and forest industries).

(B) The determination of suitable mitigation shall be consistent with the agricultural elements of the applicable local and regional plans and the goals of 24 V.S.A. § 4302.

(3) Mitigation entirely on-site. The District Commission shall give preference to mitigation that is entirely on-site if the Commission finds that:

(A) the project tract supports an agricultural operation or has been in active production or rotation within the last five years; or

(B) the primary agricultural soils on the project tract consist predominantly of NRCS agricultural value groups 1–5; or

(C) after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets, the project tract has site-specific characteristics that warrant on-site mitigation.

(4) Off-site or combined mitigation. The District Commission shall give

preference to off-site mitigation, either alone or combined with on-site mitigation, if the Commission finds that:

(A) payment of an off-site mitigation fee, or requiring a combination of on-site and off-site mitigation, will best further the preservation of primary agricultural soils for present and future agricultural use with special emphasis on protecting prime agricultural soils;

(B) the applicant has demonstrated that the development or subdivision maximizes the efficient use and development potential or allowable density of the project tract; and

(C) one of the following applies:

(i) After considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets, devoting the tract to agricultural uses is impractical based on its size or relationship to other land uses or site-specific characteristics, and the applicant demonstrates that the development or subdivision maximizes the efficient use and development potential or allowable density of the project tract; or

(ii) the project tract:

(I) is surrounded by or adjacent to high density development with supporting infrastructure and the project will contribute to the existing compact development patterns in the area; or

(II) is within an area that contains a mixture of uses, including commercial and industrial, and a significant residential component, supported by municipal water, wastewater, and roadway infrastructure.

(c) Easements required for protected lands. All primary agricultural soils preserved for commercial or economic agricultural use by the Vermont ~~housing and conservation board~~ Housing and Conservation Board pursuant to this section shall be protected by permanent conservation easements (grant of development rights and conservation restrictions) conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity. Off-site mitigation fees may be used by the Vermont ~~housing and conservation board~~ Housing and Conservation Board and shall be used by the Agency of Agriculture, Food and Markets to pay reasonable staff or transaction costs, or both, of the ~~board and agency of agriculture, food, and markets~~ Board and Agency related to ~~preserve the preservation of~~ primary agricultural soils or to ~~implement the implementation of~~ section 6086(a)(9)(B) or 6093 of this title.

Sec. 2. 10 V.S.A. § 6001(15) is amended to read:

(15) “Primary agricultural soils” means ~~soil map units with the best~~

~~combination of physical and chemical characteristics that have a potential for growing food, feed, and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizers, few limitations for cultivation or limitations which may be easily overcome, and an average slope that does not exceed 15 percent. Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses. However, the soils must be of a size and location, relative to adjoining land uses, so that those soils will be capable, following removal of any identified limitations, of supporting or contributing to an economic or commercial agricultural operation. Unless contradicted by the qualifications stated in this subdivision, primary agricultural soils shall include important farmland soils map units with a rating of prime, statewide, or local importance as defined by the Natural Resources Conservation Service (N.R.C.S.) of the United States Department of Agriculture (U.S.D.A.) each of the following:~~

(A) An important farmland soils map unit that the Natural Resources Conservation Service of the U.S. Department of Agriculture (NRCS) has identified and determined to have a rating of prime, statewide, or local importance, unless the District Commission determines that the soils within the unit have lost their agricultural potential. In determining that soils within an important farmland soils map unit have lost their agricultural potential, the Commission shall consider:

(i) impacts to the soils relevant to the agricultural potential of the soil from previously constructed improvements;

(ii) the presence on the soils of a Class I or Class II wetland under chapter 37 of this title;

(iii) the existence of topographic or physical barriers that reduce the accessibility of the rated soils so as to cause their isolation and that cannot reasonably be overcome; and

(iv) other factors relevant to the agricultural potential of the soils, on a site-specific basis, as found by the Commission after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets.

(B) Soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities and that have not been identified by the NRCS as important farmland soil map units.

Sec. 3. 10 V.S.A. § 6086(a)(9)(B) is amended to read:

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is

demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:

(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and

(ii) except in the case of an application for a project located in a designated growth center, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and

~~(iii) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned;~~

(I) to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting that results in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; or

(II) to maximize the efficient use and development density of the project tract on which those soils are located, if the reduction in agricultural potential of the primary agricultural soils is to be mitigated entirely off-site pursuant to subdivision (iv) of this subdivision (9)(B); and

(iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 10-1-0)

H. 620

An act relating to payment error rates in 3SquaresVT

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

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that the State assume responsibility in accordance with this act for errors caused by the Department

for Children and Families in the 3SquaresVT Program that require low-income households to reimburse the federal Food and Nutrition Service for overissued benefits.

(b) The General Assembly further believes that in those federal fiscal years in which instability within 3SquaresVT resulted in unforeseen burdens on participating households, the State should assume responsibility for its errors.

Sec. 2. 33 V.S.A. chapter 17 is amended to read:

CHAPTER 17. FEDERAL SUPPLEMENTARY BENEFITS

§ 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

(a) The State of Vermont may participate in the federal Supplemental Nutrition Assistance Program which is provided for under Public Law 88-525, also known as the Food Stamp Act of 1964, as amended. The Commissioner may adopt, and from time to time amend or repeal, ~~regulations~~ rules governing the operation of the program in the ~~state~~ State.

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

(c) ~~When As~~ used in this section, chapter:

(1) “Commissioner” means the Commissioner for Children and Families ~~and~~.

(2) “Department” means the Department for Children and Families.

(3) “SNAP” means the Supplemental Nutrition Assistance Program.

§ 1702. AUTOMATIC COMPROMISE

The Department shall ensure that any agency error claim against a Vermont household that has received SNAP benefits in excess of its eligible amount shall have the claim automatically compromised, meaning the household’s claim shall be reduced automatically in accordance with the 3SquaresVT Claims Plan. Prior to issuing notice of the claim to the household, the Department shall adjust the original claim to reflect the compromise.

§ 1703. PAYMENT ERROR RATE REPORT

On or before March 1 of the year following any federal fiscal year in which the State of Vermont receives a federal sanction for an excessive payment error rate in SNAP, the Department shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding:

(1) the number of households that received SNAP benefits and were discovered to have an overpayment or underpayment in the sanction year due

to agency error, including the average amount of the overpayments and underpayments and the total amount of each; and

(2) the Department's specific plans for sanction reinvestment to improve its error rate for the next federal fiscal year.

Sec. 3. 3SQUARESVT CLAIMS PLAN

(a) The Department for Children and Families shall apply to the federal Food and Nutrition Service (FNS) to amend its 3SquaresVT Claims Plan to pay on behalf of households either the remaining balance owed to FNS after the compromise policy in the 3SquaresVT Claims Plan has been applied or some other negotiated amount for an agency error claim established in federal fiscal years 2011 through 2014. Agency error claims shall be eligible for State repayment regardless of the original claim amount or the manner in which the claim is identified.

(b) The Department shall keep the Chairs of the Senate Committees on Appropriations and on Health and Welfare and of the House Committees on Appropriations and on Human Services apprised of the Department's progress and success in amending the 3SquaresVT Claims Plan. In addition, any progress toward the goals of this act achieved after adjournment of the 2014 legislative session of the General Assembly and prior to the convening of the 2015 legislative session shall be reported to the Health Care Oversight Committee.

Sec. 4. REPAYMENT TO HOUSEHOLD FOR AGENCY ERROR

(a) Full or partial repayment by household. For any agency error claim resulting from overissued Supplemental Nutrition Assistance Program (SNAP) benefits to a household during federal fiscal years 2011 through 2014, the Department for Children and Families shall reimburse the household for the full amount of any repayment of the claim made by the household to the federal Food and Nutrition Service (FNS) regardless of whether the claim is active or closed.

(b) Remaining balance. Until FNS approves an amendment to the Department's 3SquaresVT Claims Plan pursuant to Sec. 3(a) of this act, the remaining balance of any active agency error claim resulting from overissued SNAP benefits established during federal fiscal years 2011 through 2014 shall be repaid by the Department for Children and Families on behalf of the household in an appropriate manner that reduces the burden to the household.

Sec. 5. REPAYMENT TO FOOD AND NUTRITION SERVICE FOR AGENCY ERROR

For any agency error claim resulting from overissued Supplemental

Nutrition Assistance Program benefits to a household during federal fiscal years 2011 through 2014, the Department for Children and Families shall repay to the federal Food and Nutrition Service (FNS) on behalf of a household either the remaining balance owed to FNS after the compromise policy in the 3SquaresVT Claims Plan has been applied or some other negotiated amount.

Sec. 6. APPROPRIATION

The amount of \$640,000.00 shall be appropriated to the Department for Children and Families from the General Fund.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1 through 3 shall take effect on passage.

(b) Secs. 4 (repayment to household for agency error) and 6 (appropriation) shall take effect on July 1, 2014.

(c) Sec. 5 (repayment to Food and Nutrition Service for agency errors) shall take effect upon certification by the Commissioner for Children and Families to the Governor and General Assembly that the federal Food and Nutrition Service has approved an amendment to the Department's 3SquaresVT Claims Plan pursuant to Sec. 3(a) as long as the certification occurs on or before March 1, 2015.

(Committee Vote: 9-1-1)

H. 646

An act relating to unemployment insurance

Rep. Young of Glover, 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. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

(a) An employee or the Department on its own motion may file a complaint that wages have not been paid to an employee, not later than two years from the date the wages were due. The Commissioner shall provide notice and a copy of the complaint to the employer by service, or by certified mail sent to the employer's last known address, together with an order to file a response with the Department within 10 calendar days of receipt.

* * *

Sec. 2. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;
PENALTIES

* * *

(g) Notwithstanding any other provisions of this section, the Commissioner may where practicable require of any employing ~~units with 25 or more employees~~ unit that the reports required to be filed pursuant to subsections (a) through (d) of this section be filed in an electronic media form.

Sec. 3. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

* * *

(d)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, to qualify for benefits an individual must:

~~(1)(A)~~ (A) have been paid in one quarter of his or her base period wages in employment with an employer or employers subject to this chapter which equal at least ~~\$1000.00~~ \$1,000.00; and

~~(2)(B)~~ (B) have been paid in his or her base period additional wages in employment with an employer or employers subject to this chapter which equal or exceed 40 percent of the total wages paid in the highest quarter of his or her base period; and

~~(3)(C)~~ (C) have earned subsequent to the beginning of his or her most recent benefit year wages in employment with an employer or employers subject to this chapter which equal or exceed four times his or her weekly benefit amount as determined under subsection (e) of this section for that prior benefit year.

(2) The base period wages shall not include any wages paid by an employing unit based on a separation for gross misconduct under subdivision 1344(a)(2)(B) of this title.

(e) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in this section. ~~The base period wages shall not include any wages paid by an employing unit based on a separation for gross misconduct under subdivision 1344(a)(2)(B) of this title.~~

* * *

Sec. 4. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) As used in this section:

(1) “Full-time basis” means that the individual is devoting the necessary time as determined by the Commissioner to establish a business that will serve as a full-time occupation for that individual.

(2) “Regular benefits” shall have the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the Unemployment Compensation Fund to an individual who meets the requirements of this section.

(5) “Self-Employment Assistance Program” means a program under which an individual who meets the requirements of subsection (d) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(b) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable under this title.

(c) The maximum amount of the self-employment assistance allowance paid under this section shall not exceed the maximum amount of benefits established under section 1340 of this title with respect to any benefit year.

(d)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (2)(A) and (B) of this subsection;

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has received the approval of the Commissioner to participate in a program providing self-employment assistance activities;

(D) is actively engaged on a full-time basis in activities, which may include training related to establishing a business and becoming

self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner prescribes.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual; and

(B)(i) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(ii) an individual who meets the requirements of this section shall be considered to be unemployed under section 1338 of this title; and

(iii) an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

(e) The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time.

(f)(1) The self-employment assistance allowance shall be charged to the Unemployment Trust Fund.

(2) In the event that the self-employment assistance allowance cannot be charged to the Unemployment Trust Fund pursuant to subdivision (1) of this subsection, the allowance shall be charged in accordance with section 1325 of this title.

(g) The Commissioner shall approve any program that will provide self-employment assistance activities to qualified individuals.

(h) The Commissioner shall adopt rules to implement this section.

(i) The Commissioner may suspend the Self-Employment Assistance Program with approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs in the event that it presents unintended adverse consequences to the Unemployment Trust Fund.

Sec. 5. 21 V.S.A. § 1343 is amended to read:

§ 1343. CONDITIONS

(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the ~~commissioner~~ Commissioner finds that all of the following requirements are met and the individual:

* * *

(8) Has given written notice of resignation to his or her employer and the employer subsequently made the termination of employment effective prior to the date of termination as given in the notice. Provided that the claimant could not establish good cause for leaving work pursuant to subdivision 1344(a)(2)(A) of this title and was not discharged for misconduct as provided in subdivision 1344(a)(1)(A) or for gross misconduct as provided in subdivision 1344(a)(2)(B), in no case shall unemployment benefits awarded under this subdivision exceed four weeks.

* * *

Sec. 6. 21 V.S.A. § 1459 is amended to read:

§ 1459. CHARGING BENEFITS

STC benefits paid to an employee shall be charged to ~~his or her STC employer's experience rating records~~ the employer in the base period. Reimbursable employers participating in the STC ~~program~~ Program shall be assessed for the STC benefits paid their employees.

Sec. 7. REPEAL

21 V.S.A. § 1340a (Self-Employment Assistance Program) is repealed.

Sec. 8. 21 V.S.A. § 1338a is amended to read:

§ 1338a. DISREGARDED EARNINGS

(a) An individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages earned by the individual with respect to such week are less than the weekly benefit amount the individual would be entitled to receive if totally unemployed and eligible. As used in this section, "wages" in any one week includes only that amount of remuneration to the nearest dollar ~~which that~~ which that is in excess of ~~30~~ 50 percent of the individual's weekly wage, ~~or \$40.00, whichever amount is greater.~~

* * *

Sec. 9. EFFECTIVE DATES

(a) This section, Secs. 1-3, 4(h) (rulemaking for self-employment assistance program), and 5-7 shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 4(a)–(g) and (i) shall apply retroactively on January 1, 2014.

(c) Sec. 8 shall take effect on July 1, 2014.

(Committee Vote: 11-0-0)

H. 699

An act relating to temporary housing

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

Sec. 1. 33 V.S.A. § 2103 is amended to read:

§ 2103. ELIGIBILITY

* * *

(f) An eligible participant for temporary housing shall not be required to furnish more than 30 percent of his or her income toward the cost of temporary housing. The Secretary of Human Services may adopt rules as necessary, pursuant to 3 V.S.A. chapter 25, to implement this subsection.

Sec. 2. EFFECTIVE DATE

(a) This act shall take effect on passage.

(b) Sec. 1(f) shall be repealed on July 1, 2016.

(Committee Vote: 9-1-1)

H. 758

An act relating to Worker Adjustment and Retraining Notification

Rep. Marcotte of Coventry, 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. FINDINGS

The General Assembly finds:

(1) The 21st century workplace is fundamentally different from the 20th century workplace. Along with a changing workplace comes a different workforce. Policies and resources must be updated to reflect the changing workplace and workforce.

(2) Businesses retain sensitive information for proprietary and competitive reasons.

(3) When the State requires this information, the sensitivity of this information must be respected.

(4) The Department, as well as other agencies, are able to access federal and State resources to mitigate adverse employment impacts affecting employers, employees, communities, and the Unemployment Insurance Trust Fund.

(5) The Department and the Agency of Commerce and Community Development, as well as other agencies, must be able to respond to and assist with economic and workforce training and retention initiatives in a timely fashion.

(6) Municipalities, school districts, and local for-profit and nonprofit businesses are all affected by plant closings and mass layoffs. In order to mitigate adverse impacts, communities and stakeholders need timely information pertaining to plant closings and mass layoffs. Private and public sectors need to work together to reduce the volatility and disruptions that come with layoffs.

Sec. 2. 21 V.S.A. chapter 5, subchapter 3A is added to read:

Subchapter 3A. Notice of Potential Layoffs Act

§ 411. DEFINITIONS

As used in this subchapter:

(1) “Affected employees” means employees who may be expected to experience an employment loss as a consequence of a proposed or actual business closing or mass layoff by their employer.

(2) “Business closing” means the permanent shutdown of a facility or operations, or the cessation of work or operations not scheduled to resume within 90 days. A temporary shutdown of a seasonal employer that does not extend beyond 20 weeks is not a business closing.

(3) “Commissioner” means the Commissioner of Labor.

(4) “Department” means the Department of Labor.

(5) “Employer” means any business enterprise that employs 50 or more full-time employees or 50 or more part-time employees that work at least 1,040 hours per employee per year.

(6) “Employment loss” means the result of a business closing or mass layoff. An employee will not be considered to have suffered an employment loss if the employee is offered a transfer to a different site of employment within 35 miles.

(7) “Mass layoff” means the permanent employment reduction at a single site of at least 50 employees over a 90-day period.

(8) “Representative” means an exclusive bargaining agent as legally recognized under State or federal labor laws.

§ 412. EDUCATION AND OUTREACH

The Department and the Agency of Commerce and Community Development shall prepare information and materials for the purpose of informing and educating Vermont employers with regard to programs and resources that are available to assist with economic and workforce retention initiatives in order to avoid business closings and mass layoffs. The Department and the Agency of Commerce and Community Development shall also inform Vermont employers of the employers’ obligations that will be required for proper notice under the provisions of this Act.

§ 413. NOTICE AND WAGE PAYMENT OBLIGATIONS

(a) An employer who will engage in a closing or mass layoff shall provide notice to the Secretary of Commerce and Community Development and the Commissioner as soon as practical to enable the State to present information on potential support and alternatives to the proposed closing or mass layoff.

(b) Notwithstanding subsection (a) of this section, an employer who will engage in a closing or mass layoff shall provide notice to the Secretary of Commerce and Community Development and the Commissioner 60 days prior to the effective date of the closing or layoffs, and shall provide 45-days’ notice to the local chief elected official or administrative officer of the municipality, affected employees, and bargaining agent, if any. If the employer is actively attempting to secure capital or investments in order to avoid closing or mass layoffs, the notice to the Secretary of Commerce and Community Development the Commissioner may be delayed to 45 days prior to the effective date of closing or layoff and 30-days’ notice to the local chief elected official or administrative officer of the municipality, affected employees, and bargaining agent, if any.

(c) The employer shall send to the Commissioner such information as the Commissioner deems necessary for the purposes of unemployment insurance benefit processing and for accessing federal and State resources to mitigate adverse employment impacts affecting employers, employees, and communities within the time allotted for notice to the Commissioner under subsection 413(b) or 414(b) of this subchapter.

(d) In the case of a sale of part or all of an employer’s business where mass layoffs will occur, the seller and the purchaser are still required to comply with

the notice requirements under subsection (b) of this section.

(e) Nothing in this subchapter shall abridge, abrogate, or restrict the right of the State to require an employer that is receiving State economic development funds or incentives from being required to provide additional or earlier notice as a condition for the receipt of such funds or incentives.

(f) An employer is required to pay all unpaid wage and compensation owed to any laid-off worker, as required under this title.

§ 414. EXCEPTIONS

(a) In the case of a business closing or mass layoff, an employer is not required to comply with the notice requirement in subsection 413(a) of this subchapter and may delay notification to the Department if:

(1) the business closing or the mass layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or project or undertaking;

(2) the business closing or mass layoff is due to a disaster beyond the control of the employer;

(3) the business closing or mass layoff results from a strike or a lockout;
or

(4) the business closing or mass layoff is caused by business circumstances that were not reasonably foreseeable at the time the 60-day notice would have been required.

(b) An employer that is unable to provide the notice otherwise required by this subchapter as a result of circumstances described in subsection (a) of this section shall provide as much notice as is practicable and at that time shall provide a brief statement to the Commissioner regarding the basis for failure to meet the notification period. In such situations, the mailing of the notice by certified mail or other method approved by the Commissioner shall be considered acceptable in the fulfillment of the employer's obligation to give notice to each affected employee under this subchapter. At the time of notice to the Commissioner, the employer shall provide the required information under subdivisions 413(c) of this subchapter.

§ 415. VIOLATIONS

(a) An employer who violates subsection 413(b) or 414(b) of this subchapter is liable to each employee who lost his or her employment for:

(1) ten days severance pay; and

(2) the health care premium costs or the cost of any medical or dental expenses that would have been covered under an employee benefit plan for one month after the employment loss.

(b) The amount of an employer's liability under subsection (a) of this section shall be reduced by the following:

(1) any voluntary and unconditional payments made by the employer to the employee that were not required to satisfy any legal obligation;

(2) any payments by the employer to a third party or trustee, such as premiums for health benefits or payments to a defined contribution pension plan, on behalf of and attributable to the employee for the period of the violation; and

(3) any liability paid by the employer under any applicable federal law governing notification of mass layoffs, business closings, or relocations.

(c) If an employer proves to the satisfaction of the Commissioner that the act or omission that violated this subchapter was in good faith, the Commissioner may reduce the amount of liability provided for in this section. In determining the amount of such a reduction, the Commissioner shall consider any efforts by the employer to mitigate the violation.

(d) If, after an administrative hearing, the Commissioner determines that an employer has violated any of the requirements of this subchapter, the Commissioner shall issue an order including any penalties assessed by the Commissioner under sections 415 and 417 of this subchapter. The employer may appeal a decision of the Commissioner to the Superior Court within 30 days of the date of the Commissioner's order.

§ 416. POWERS OF THE COMMISSIONER

(a) The Commissioner may adopt rules as necessary, pursuant to 3 V.S.A. chapter 25, to carry out this subchapter. The rules shall include provisions that allow the parties access to administrative hearings for any actions of the Department under this subchapter.

(b) In any investigation or proceeding under this subchapter, the Commissioner has, in addition to all other powers granted by law, the authority to subpoena and examine any information of an employer necessary to determine whether a violation of this subchapter has occurred, including to determine the validity of any defense.

(c) Information obtained through administration of this subchapter by the Commissioner shall be confidential, except for the number of layoffs, job titles, and workstation locations affected. The Department may provide the information collected pursuant to subsection 413(c) of this title to the

U.S. Department of Labor and any other governmental entities for the purposes of securing benefits for the affected employees.

(d) Neither the Commissioner nor any court shall have the authority to enjoin a business closing, relocation, or mass layoff under this subchapter.

§ 417. ADMINISTRATIVE PENALTY

An employer who fails to give notice as required by subsection 413(b) or 414(b) of this subchapter shall be subject to an administrative penalty of \$500.00 for each day that the employer was deficient in the notice to the Department. The Commissioner may waive the administrative penalty if the employer:

(1) demonstrates good cause under subsection 414(b) of this subchapter;

(2) pays to all affected employees the amounts for which the employer is liable under section 415 of this title within 30 days from the date the employer enacts the business closing or mass layoff; and

(3) pays to all affected employees any unpaid wage and compensation owed to any laid-off worker, as required under this title.

§ 418. OTHER RIGHTS

The rights and remedies provided to employees by this subchapter do not infringe upon or alter any other contractual or statutory rights and remedies of the employees.

Sec. 3. EFFECTIVE DATES

(a) This section and in Sec. 2, 21 V.S.A. §§ 412 (education and outreach) and 416(a) shall take effect on passage.

(b) Secs. 1 and 2, except for 21 V.S.A. §§ 412 and 416(a), shall take effect on January 15, 2015.

and that after passage the title of the bill be amended to read: “An act relating to notice of potential layoffs”.

(Committee Vote: 11-0-0)

H. 762

An act relating to the Adverse Childhood Experience Questionnaire

Rep. Till of Jericho, for the Committee on **Health Care**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) It is the belief of the General Assembly that controlling health care costs requires consideration of population health, particularly Adverse Childhood Experiences (ACEs).

(b) The ACE Questionnaire contains ten categories of questions for adults pertaining to abuse, neglect, and family dysfunction during childhood. It is used to measure an adult's exposure to traumatic stressors in childhood. Based on a respondent's answers to the Questionnaire, an ACE Score is calculated, which is the total number of ACE categories reported as experienced by a respondent.

(c) In a 1998 article entitled "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults" published in the American Journal of Preventive Medicine, evidence was cited of a "strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults."

(d) The greater the number of ACEs experienced by a respondent, the greater the risk for the following health conditions and behaviors: alcoholism and alcohol abuse, chronic obstructive pulmonary disease, depression, obesity, illicit drug use, ischemic heart disease, liver disease, intimate partner violence, multiple sexual partners, sexually transmitted diseases, smoking, suicide attempts, and unintended pregnancies.

(e) ACEs are implicated in the ten leading causes of death in the United States and with an ACE score of six or higher, an individual has a 20-year reduction in life expectancy.

(f) An individual with an ACE score of two is twice as likely to experience rheumatic disease. An individual with an ACE score of four has a three-to-four-times higher risk of depression; is five times more likely to become an alcoholic; is eight times more likely to experience sexual assault; and is up to ten times more likely to attempt suicide. An individual with an ACE score of six or higher is 2.6 times more likely to experience chronic obstructive pulmonary disease; is three times more likely to experience lung cancer; and is 46 times more likely to abuse intravenous drugs. An individual with an ACE score of seven or higher is 31 times more likely to attempt suicide.

(g) Physical, psychological, and emotional trauma during childhood may result in damage to multiple brain structures and functions.

(h) ACEs are common in Vermont. In 2011, the Vermont Department of Health reported that 58 percent of Vermont adults experienced at least one adverse event during their childhood, and that 14 percent of Vermont adults

have experienced four or more adverse events during their childhood. Seventeen percent of Vermont women have four or more ACEs.

(i) The impact of ACEs is felt across all socioeconomic boundaries.

(j) The earlier in life an intervention occurs for an individual with ACEs, the more likely that intervention is to be successful.

(k) ACEs can be prevented where a multigenerational approach is employed to interrupt the cycle of ACEs within a family, including both prevention and treatment throughout an individual's lifespan.

(l) It is the belief of the General Assembly that people who have experienced adverse childhood experiences can be resilient and can succeed in leading happy, healthy lives.

Sec. 2. TRAUMA-INFORMED CARE IN BLUEPRINT FOR HEALTH

The Director of the Blueprint for Health, in consultation with appropriate stakeholders who are interested participants, shall explore ways to implement the following initiatives:

(1) use at Blueprint for Health practices of an appropriate and voluntary screening tool containing questions on the ten categories of adverse childhood experiences, including consideration of patient privacy, appropriate training for providers using a screening tool, and increased per-member, per-month payments to incentivize use of an appropriate screening tool; and

(2) a pilot program in at least two interested counties using the Vermont Center for Children, Youth, and Families' Vermont Family Based Approach, in which participating community health teams may hire a family wellness coach, or contract with an appropriate community partner organization who shall serve as a family wellness coach, to provide prevention, intervention, outreach, and wellness services to families within the community health team's region.

Sec. 3. REPORT; BLUEPRINT FOR HEALTH

On or before December 15, 2014, the Director of the Blueprint for Health shall submit a report to the House Committee on Health Care and to the Senate Committee on Health and Welfare containing findings and recommendations regarding the future implementation of the initiatives listed in Sec. 2 of this act, including evaluation measures and approaches, and funding constraints and opportunities.

Sec. 4. VERMONT FAMILY BASED APPROACH PILOT PROGRAM

(a) The Commissioner of Health, in consultation with appropriate stakeholders, shall develop and implement a pilot program for primary schools

in at least two interested school districts throughout the State using the Vermont Center for Children, Youth, and Families' Vermont Family Based Approach.

(b) A nurse or mental health professional employed at a primary school within a participating school district may apply to the Department of Health to take part in a four-day training program on the Vermont Center for Children, Youth, and Families' Vermont Family Based Approach. The Department shall select nurses or mental health professionals from among the applicants to participate in the training.

(c) Upon completion of the four-day training program, each participating nurse or mental health professional shall employ the training received on the Vermont Family Based Approach in his or her school district. This shall include a formal presentation on the Vermont Family Based Approach for faculty members at the participating nurse or mental health professional's school district.

(d) On or before January 15 of each year through January 15, 2020, the Department shall report to the House Committees on Education, on Health Care, and on Human Services and to the Senate Committees on Education and on Health and Welfare regarding any findings or recommendations related to the Vermont Family Based Approach Pilot Program in schools.

(e) The Vermont Family Based Approach Pilot Program shall cease to exist on June 30, 2020.

Sec. 5. 18 V.S.A. chapter 13, subchapter 3 is added to read:

Subchapter 3. Trauma-Informed Care

§ 751. DIRECTOR OF ADVERSE CHILDHOOD EXPERIENCE,

EDUCATION, AND TREATMENT

The Commissioner of Health shall designate a Director of Adverse Childhood Experience, Treatment, and Prevention within the Department who shall be responsible for:

(1) surveying existing resources in each community health team's region and identifying gaps in resources, if any;

(2) coordinating the implementation of services throughout the Department for persons who experienced trauma as a child;

(3) providing advice and recommendations to the Commissioner on the expansion of services throughout the State for persons who experienced trauma as a child; and

(4) developing and implementing programs, if applicable, aimed at preventing and treating persons who experienced trauma as a child.

Sec. 6. RECOMMENDATION; UNIVERSITY OF VERMONT'S COLLEGE OF MEDICINE AND SCHOOL OF NURSING CURRICULUM

The General Assembly recommends to the University of Vermont's College of Medicine and School of Nursing that they consider adding or expanding information to their curricula about the Adverse Childhood Experience Study and the impact of adverse childhood experiences on lifelong health.

Sec. 7. TRAUMA-INFORMED EDUCATIONAL MATERIALS

(a) On or before January 1, 2015, the Vermont Board of Medical Practice, in collaboration with the Vermont Medical Society Education and Research Foundation, shall develop educational materials pertaining to the Adverse Childhood Experience Study, including available resources and evidence-based interventions for physicians, physician assistants, and advance practice registered nurses.

(b) On or before July 1, 2016, the Vermont Board of Medical Practice and the Office of Professional Regulation shall disseminate the materials prepared pursuant to subsection (a) of this section to all physicians licensed pursuant to 26 V.S.A. chapters 23, 33, and 81, physician assistants licensed pursuant to 26 V.S.A. chapter 31, and advance practice registered nurses licensed pursuant to 26 V.S.A. chapter 28, subchapter 3.

Sec. 8. REPORT; DEPARTMENT OF HEALTH; GREEN MOUNTAIN CARE BOARD

(a) On or before November 1, 2014, the Department of Health shall submit a written report to the Green Mountain Care Board containing:

(1) recommendations for incorporating education, treatment, and prevention of adverse childhood experiences into Vermont's medical practices and the Department of Health's programs;

(2) recommendations on the availability of appropriate screening tools and evidence-based interventions for individuals throughout their lives, including expectant parents; and

(3) recommendations on additional security protections that may be used for information related to a patient's adverse childhood experiences.

(b) The Green Mountain Care Board shall review the report submitted pursuant to section (a) of this section and attach comments to the report regarding the report's implications on population health and health care costs. On or before January 1, 2015, the Board shall submit the report with its

comments to the Senate Committees on Education and on Health and Welfare and to the House Committees on Education, on Health Care, and on Human Services.

Sec. 9. EFFECTIVE DATES

(a) Except for Secs. 2, 4, and 5, this act shall take effect on July 1, 2014.

(b) Secs. 2 (trauma-informed care in Blueprint for Health), 4 (Vermont Family Based Approach Pilot Program), and 5 (Director of Adverse Childhood Experience, Education, and Treatment) shall take effect on July 1, 2015.

(Committee Vote: 9-2-0)

H. 791

An act relating to the Housing First Study Committee

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. FINDINGS

The General Assembly finds:

(1) The “housing first” approach is a system of services for people living with homelessness, which includes emergency shelters, transitional housing, and permanent supportive housing. The “housing first” approach is premised on the belief that homeless and at-risk people are more responsive to interventions and social services support after they are in their own housing, rather than while living in temporary or transitional housing programs. The “housing first” approach stresses the immediate return to independent living.

(2) Interest in the “housing first” approach has grown recently with the success of the “Utah” model. The “housing first” approach may not be appropriate for every homeless person.

(3) There is a program in Vermont that has developed a rural model and has been considered successful by social and financial measures. The State of Vermont and other states have developed supportive housing programs that may provide similar services for individuals and families whose living conditions are unstable and transitional.

Sec. 2. HOUSING FIRST STUDY COMMITTEE; REPORT

(a) Creation. There is created a committee to evaluate and investigate the causes and conditions of chronic homelessness, as defined by the federal HEARTH Act of 2009, 42 U.S.C. § 11360, throughout Vermont, and to

propose solutions that will provide stable and safe housing that individuals may afford.

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

(1) two members from the House of Representatives, who shall be appointed by the Speaker of the House;

(2) two members from the Senate, who shall be appointed by the Committee on Committees;

(3) a representative of the Vermont Affordable Housing Coalition;

(4) a representative of the Vermont Coalition to End Homelessness;

(5) the Executive Director of the Vermont State Housing Authority or designee;

(6) the Director of Housing for the Agency of Human Services or designee;

(7) a representative from the Vermont Apartment Owners Association;

(8) the Executive Director of the Vermont Housing Finance Agency or designee;

(9) the Commissioner of Mental Health or designee;

(10) the Commissioner of Corrections or designee;

(11) the Executive Director of Pathways Vermont or designee.

(12) the Executive Director of the Vermont Housing and Conservation Board or designee; and

(13) a member of the public who has experienced homelessness, who shall be appointed, following the appointment of the Chair of the Committee, by the Chair of the Committee at the first Committee meeting.

(c) Powers and duties. The Committee shall:

(1) evaluate and investigate the causes and conditions of chronic homelessness in Vermont, and propose solutions to providing stable and safe housing that individuals may afford;

(2) evaluate and investigate the experience and results of existing programs that currently address the needs of individuals who are or have been chronically homeless; and

(3) conduct an analysis of supportive housing programs including:

(A) the service costs of one or more service providers;

(B) the costs associated with creating additional housing units dedicated for these models;

(C) the outcomes to be measured to determine whether the clients served will be better off; and

(D) the costs associated with providing rental subsidies.

(d)(1) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(2) The Joint Fiscal Office, in consultation with the Agency of Human Services and other agencies represented on the Committee, shall prepare an analysis of any projected savings or costs attributed to programs that address chronic homelessness, which shall be presented at the first meeting of the Committee.

(e) Report. On or before December 15, 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 members representing the House and Senate shall jointly call the first meeting of the Housing First Study Committee to occur on or before August 1, 2014.

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

(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 meet no more than six times.

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

(g) Reimbursement.

(1) 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 for no more than six meetings.

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

(h) Appropriation. The General Assembly shall appropriate \$6,500.00 from the fiscal year 2015 General Fund to members of the Committee for per diem compensation and expenses reimbursement.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee Vote: 8-0-0)

H. 866

An act relating to qualifications of judicial officers and judicial selection and retention

Rep. Lippert of Hinesburg, 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. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

* * *

(b) The Board shall consist of 11 members who shall be selected as follows:

* * *

(5) The members of the Board appointed by the Governor shall serve for terms of two years and may serve for no more than three consecutive terms. The members of the Board elected by the House and Senate shall serve for terms of two years and may serve for no more than three consecutive terms. The members of the Board elected by the attorneys at law shall serve for terms of two years and may serve for no more than three consecutive terms. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. Members shall serve until their successors are elected or appointed.

* * *

(d) The Judicial Nominating Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for the nomination of ~~qualified~~ candidates for ~~justices~~ Justices of the Supreme ~~court~~, ~~superior Court~~, Superior

judges, magistrates, the Chair of the Public Service Board, and members of the Public Service Board. The criteria and standards shall include such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service. The application form shall not be included in the rules and may be developed and periodically revised at the discretion of the Board.

(e) A quorum of the Board shall consist of eight members.

(f) ~~The board~~ Board is authorized to use the staff and services of appropriate ~~state~~ State agencies and departments as necessary to conduct investigations of applicants. The Office of Legislative Council shall assist the Board for the purpose of rulemaking.

Sec. 2. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES

(a)(1) ~~Prior to submission of submitting to the Governor the names of qualified candidates for justices~~ Justices of the supreme court ~~Supreme Court, superior Superior Court judges, magistrates, the chair of the public service board~~ Chair of the Public Service Board, and members of the ~~public service board to the governor~~ Public Service Board, the ~~board~~ Board shall submit to the ~~court administrator~~ Court Administrator of the ~~supreme court~~ Supreme Court a list of all candidates, and the administrator shall disclose to the ~~board~~ Board information solely about professional disciplinary action taken or pending concerning any candidate. If candidates for the Public Service Board are admitted to practice law in Vermont, the Nominating Board shall submit to the Court Administrator a list of those candidates, and he or she shall disclose to the Board information solely about professional disciplinary action taken or pending concerning such candidates.

(2) From the list of candidates ~~presented~~, the ~~judicial nominating board~~ Judicial Nominating Board shall select by majority vote, provided that a quorum is present, ~~qualified~~ well-qualified candidates for the position to be filled.

(b) Whenever a vacancy occurs in the office of a ~~supreme court justice or~~ Supreme Court Justice, a ~~superior judge~~ Superior judge, a magistrate, or the Chair of the Public Service Board, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself, the ~~judicial nominating board~~ Judicial Nominating Board shall submit to the ~~governor~~ Governor the names of as many persons as it deems ~~qualified~~ well qualified to be appointed to the office. ~~There shall be included in the qualifications for appointment that the person shall be an attorney at law who has been engaged~~

in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding appointment, and with respect to a candidate for superior judge particular consideration shall be given to the nature and extent of the candidate's trial practice. In accordance with 30 V.S.A. § 3, whenever a vacancy occurs for a member position on the Public Service Board, the Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall submit to the Governor the names of candidates it deems well qualified. The Judicial Nominating Board shall submit to the Governor a summary of the qualifications and experience of each candidate whose name is submitted to the Governor, together with any further information relevant to the matter.

(c) All Except as provided in subsection (d) of this section, proceedings of the board Board, including the names of candidates considered by the board Board and information about any candidate submitted by the court administrator Court Administrator or by any other source, shall be confidential.

(d) The following shall be public:

(1) operating procedures of the Board;

(2) standard application forms and any other forms used by the Board, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Board prior to the Board's receipt of the first candidate's completed application form; and

(4) at the time the Board sends the names of the candidates to the Governor, the total number of applicants for the vacancy and the total number of candidates sent to the Governor.

(e) A person shall be eligible as a candidate if, upon application:

(1) The person is a Vermont resident and admitted to practice law in Vermont.

(2) Except as otherwise provided by this subdivision, the person is an experienced lawyer who has practiced law for at least ten years, and has practiced law in Vermont for at least five out of the ten years preceding his or her application to the Board. However:

(A) A candidate for magistrate need only have practiced law for five years, but shall have practiced law in Vermont for at least five out of the ten years immediately preceding his or her application to the Board.

(B) A candidate for the position of Chair or member of the Public Service Board shall not be required to be an attorney.

(f) A candidate shall possess the following attributes:

(1) Integrity. A candidate shall possess demonstrated integrity.

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures, and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess a judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, tact, and patience.

(4) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

(7) Work ethic. A candidate shall demonstrate diligence.

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(g) Factors that should be given due consideration by the Board, but are not required of a candidate, include:

(1) public and community service;

(2) judicial experience in Vermont;

(3) for Superior Court, the nature and extent of the candidate's courtroom experience; and

(4) for judge of the Environmental Division of the Superior Court, experience and expertise in environmental and zoning law.

Sec. 3. 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 qualifications of judicial officers and judicial selection".

(Committee Vote: 11-0-0)

Public Hearings

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

March 18, 2014 - House chamber - 6:00pm-7:30 pm - DR 14-742 - Governance Structure for Education - House Education

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.