No. 146. An act relating to implementation of challenges for change.

(H.792)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to create the changes in Vermont law needed to implement the proposals which grew out of the Challenges for Change Act, in No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(b) Vermont state government is faced with a substantial gap between available revenues and projected expenditures based on the current manner of providing services. This act is the next step in allowing the redesigning of how to provide government services. Policy makers, administrators, service providers, and school administrators will now proceed to create outcome-driven changes in service and performance, and to implement these changes with reduced state funding. At the same time, accountability for meeting specified goals will be maintained through clear measures of outcome achievement, with quarterly reporting to, and oversight by, the general assembly, as provided in this act. The intent of the general assembly is to make the changes in law which will allow the creation of better methods for providing government services, while spending less money and still achieving the outcomes specified in the Challenges for Change Act.

(c) Changes to law in this act are arranged by Challenges topic, followed by general requirements for quarterly reporting and oversight.

* * * A. Performance Contracts and Grants * * *

Sec. A1. RESTATEMENT OF OUTCOMES FOR PERFORMANCE CONTRACTING AND GRANTS

Outcomes for performance contracting and grants:

(1) Increase the use of performance contracts with the goal of converting $70 million of contracts to performance-based contracts.

(2) Contractors and grantees meet performance targets specified in contracts.

Sec. A2. PERFORMANCE CONTRACTS AND GRANTS

The general assembly recommends that all branches, elected offices, and units of government participate in the performance contract and grant challenge, as defined in Sec. 3 of No. 68 of the Acts of the 2009 Adj. Sess. (2010), and it is the intent of the general assembly that, notwithstanding any other provision of law, memorandums of understanding be executed between the administration and all executive branch government units to achieve the desired outcomes and implementation of this initiative.

* * * B. Charter Units Challenge * * *

Sec. B1. RESTATEMENT OF OUTCOMES FOR CHARTER UNIT CHALLENGE

Outcomes for the charter unit challenge:

(1) Meet challenge target of reducing spending or generating entrepreneurial revenue of $2 million in general funds in FY2011 and $4.5 million in general funds in fiscal year 2012.

(2) Increase employees' engagement in their work.

(3) Produce outcomes for Vermonters that are the same as or better than outcomes delivered prior to redesign.

Sec. B2. SECRETARY OF ADMINISTRATION; CHALLENGES FOR CHANGE; INFORMATION TECHNOLOGY INVESTMENTS

The secretary shall not be required to obtain independent expert review pursuant to 3 V.S.A. § 2222(g) for information technology investments made in conjunction with the Challenges for Change initiatives, including investments for the purchase and implementation of components of the enterprise architecture, including Master Person Index, work flow engine, enterprise bus, and rules engine.

Sec. B3. SECRETARY OF ADMINISTRATION; EXCESS SAVINGS AND REVENUES

Notwithstanding any other provisions of law to the contrary, for a period of two years after the effective date of this section, the secretary of administration may grant to a designated charter unit the ability to retain and reinvest savings or revenues if the combined savings of the charter units is in excess of the $2 million savings or revenue target and may transfer appropriations or funds as deemed necessary to accomplish the results specified for the charter unit challenge and consistent with plans to improve business processes presented to the secretary.

Sec. B4. SECRETARY OF ADMINISTRATION; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; POSTAL SERVICES

The department of buildings and general services will increase participation in usage of their services through the elimination of redundant and duplicative processes and will maximize usage of electronic communications to create economies and standardize the quality of postal services in Central Vermont.

Sec. B5. TASK FORCES INVOLVING MORE THAN ONE AGENCY

The secretary of administration may authorize task forces that involve more than one agency, and existing positions may be assigned as required to implement the Challenges for Change tasks and outcomes.

Sec. B6. DEPARTMENT OF LIQUOR CONTROL

It is the goal of the general assembly to increase general fund revenues through innovative changes in the administration of sales of alcoholic beverages. The intent is not to increase consumption of alcoholic beverages, but, rather, to reclaim sales lost to neighboring states and to increase sales to out-of-state consumers who would otherwise make their purchases in other states, and to achieve this goal by creating new approaches for marketing and more flexible strategies in pricing and taxation. To achieve this goal, the department of liquor control shall take the following steps:

(1) Create its proposed gift card program, which is projected to be revenue-neutral in fiscal year 2011, and is expected to generate revenue in fiscal year 2012 and after.

(2) Take steps to create more flexibility in pricing, to the extent allowed by current law, which will help to reclaim the lost sales.

(3) Analyze how coordinated changes in taxation and pricing could lead to increased sales and increased revenue contribution to the state's general fund, while meeting the goals expressed in this section. The department shall consider whether reducing or eliminating the current 25 percent tax on gross revenues, and implementing flexibility in pricing, could lead to this increased sales and revenue. The department shall report its findings and recommendations to the house committee on general, housing and military

affairs and the senate committee on economic development, housing and general affairs by January 15, 2011.

(4) Report by January 15, 2011, to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs a proposal on how to evaluate the effect of the department of liquor control's policies on substance abuse in this state.

* * * Department of Taxes * * *

* * * Electronic Filing of W-2 Data * * *

Sec. B7. 32 V.S.A. § 5842(c) is amended to read:

(c) Notwithstanding section 5867 of this title, the commissioner may, in his or her discretion, prescribe that one or more or all of the returns required by subsection (a) of this section are not required to be signed or verified by the taxpayer. The commissioner may require businesses and payroll service providers to file information under this section by electronic means.

* * * Compliance and Collection * * *

Sec. B8. COMPLIANCE AND COLLECTION

The department of taxes shall continue to investigate compliance and collection issues, including methods of addressing the disparities in the information regarding individual and business tax data. No later than January 15, 2011, the department shall report to the house committee on ways

and means and the senate committee on finance detailed findings and recommendations on further enhancing the state's compliance and collection of taxes.

* * * Electronic Filing of Tax Returns; Report * * *

Sec. B9. ELECTRONIC FILING OF TAX RETURNS

No later than January 15, 2011, the department of taxes shall report to the house committee on ways and means and the senate committee on finance a report detailing the fees charged and expenses incurred in handling the electronic filing of personal and corporate income tax returns, the fees charged and expenses incurred in processing electronic payment of taxes, and the fees charged and expenses incurred in making refund payments electronically and by physical check. The report shall include specific recommendations to provide incentives for taxpayers and tax preparers to file returns and pay taxes or receive refunds electronically.

* * * Department of Fish and Wildlife * * *

* * * Point-of-Sale Agent * * *

Sec. B10. 10 V.S.A. § 4001(36) is added to read:

(36) Point-of-sale agent: an agent authorized by the commissioner to sell licenses and provide replacement licenses electronically through the state's point-of-sale license system.

* * * Licenses; Retained Fee * * *

Sec. B11. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN, DISTRIBUTION, SALE, AND ISSUE

* * *

(e) The commissioner shall establish:

* * *

(9) That for each license ~~shall clearly state that,~~ $1.50 of the fee ~~for that license~~ is a filing fee that may be retained by the agent, except for the super sport license for which ~~shall state that~~ $5.00 of the ~~super sport license~~ fee is a filing fee that may be retained by the agent.

(10) That for licenses and tags issued where the department does not receive any part of the fee, $1.50 may be charged as a filing fee and retained by the agent.

* * *

(g) All operating license agents, including those in their first year of operation, ~~except~~ but not including town clerks ~~or,~~ other municipal or state employees who sell licenses as part of their official duties, and point-of-sale agents, shall pay an annual agency operation fee of $35.00. ~~These fees~~ This fee shall be used for the administration of this section and to offset any losses incurred from sales of licenses, in lieu of individual bonding.

* * *

* * * Replacement and Free Licenses * * *

Sec. B12. 10 V.S.A. § 4261 is amended to read:

§ 4261. LOST, REPLACEMENT, OR FREE LICENSE; CERTIFICATE

(a) A person who has lost a license other than a lifetime license may demand a lost license certificate from the agent of original issue. The fee shall be $5.00 which the agent may retain. If the agent of original issue is no longer selling licenses, the applicant may apply directly to the department. If available, replacement and free licenses may be obtained from a point-of-sale agent or online at the state's website. If requested from a point-of-sale agent, a $1.50 filing fee may be charged and retained by the agent.

(b) A person who has lost a lifetime license may obtain a new license upon application to the department, payment of a $5.00 fee and submission of proof of identification. If available, replacement and free licenses may be obtained from a point-of-sale agent or online at the state's website. If requested from a point-of-sale agent, a $1.50 filing fee may be charged and retained by the agent.

* * * Department of Forests, Parks and Recreation * * *

* * * Use of Special Funds * * *

Sec. B13. DEPARTMENT OF FORESTS, PARKS AND RECREATION

USE OF SPECIAL FUND

Sec. B.704 of H.789 of 2010 (the "Big Bill"), as passed the house, provides for spending authority for the department of forests, parks and recreation from the lands and facilities special trust fund established pursuant to 3 V.S.A. § 2807. Under H.789 as passed the house, the department is authorized to spend $350,000.00 of the fund for general operating costs. In furtherance of the purposes of this act, the general assembly anticipates increasing that spending authority in H.789 to $525,000.00.

* * * Park Fees * * *

Sec. B14. 10 V.S.A. § 2603(c)(3) is amended to read:

(3) ~~The~~ Notwithstanding subdivision (1) of this subsection, the commissioner of forests, parks and recreation shall be permitted to develop state park ~~experimental~~ services, promotional programs, and vacation or special event packages and adjust rates and fees for those services and packages to promote the park system ~~and~~ or increase campground occupancy.

* * * Receipt of Grants and Donations * * *

Sec. B15. 32 V.S.A. § 5(a)(3) is amended to read:

(3) This section shall not apply to the acceptance of grants, gifts, donations, loans, or other things of value with a value of $5,000.00 or less, or to the acceptance by the department of forests, parks and recreation of grants, gifts, donations, loans, or other things of value with a value of $15,000.00 or less, provided that such acceptance will not incur additional expense to the state or create an ongoing requirement for funds, services, or facilities. The secretary of administration and joint fiscal office shall be promptly notified of the source, value, and purpose of any items received under this subdivision. The joint fiscal office shall report all such items to the joint fiscal committee quarterly.

Sec. B16. 22 V.S.A. § 953(c) is amended to read:

(c) Any charges created or changed by the board shall be approved ~~by the joint fiscal committee before taking effect~~ as follows:

(1) All such charges shall be submitted to the governor who shall send a copy of the approval or rejection to the joint fiscal committee through the joint fiscal office together with the following information with respect to those items:

(A) the costs, direct and indirect, for the present and future years related to the charge;

(B) the department or program which will utilize the charge;

(C) a brief statement of purpose;

(D) the impact on existing programs if the charge is not accepted.

(2) The governor's approval shall be final unless within 30 days of receipt of the information a member of the joint fiscal committee requests the charge be placed on the agenda of the joint fiscal committee or, when the general assembly is in session, be held for legislative approval. In the event of such request, the charge shall not be accepted until approved by the joint fiscal committee or the legislature. During the legislative session, the joint fiscal committee shall file a notice with the house clerk and senate secretary for publication in the respective calendars of any charge approval requests that are submitted by the administration.

* * * Labor * * *

Sec. B17. 21 V.S.A. § 602 is amended to read:

§ 602. PROCESS AND PROCEDURE

(a) All process and procedure under the provisions of this chapter shall be as summary and simple as reasonably may be. The commissioner may make rules not inconsistent with such provisions for carrying out the same and shall cause to be printed and furnished, free of charge, to any employer or employee such forms as he or she deems necessary to facilitate or promote the efficient administration of such provisions.

(b) The commissioner shall determine the form in which reports are filed and what shall constitute a signature on the reports, including those filed in other than paper form, such as electronically or over telephone lines.

* * * C. Human Services Challenge * * *

Sec. C1. Sec. 3a of No. 68 of the Acts of the 2009 Adj. Sess. (2010) is added to read:

Sec. 3a. AGENCY OF HUMAN SERVICES; SAVINGS TARGETS

(a) The agency of human services shall set an agency-wide savings target of $23.8 million in general fund in fiscal year 2011 and $41.4 million in general fund in fiscal year 2012. As provided for in H.792 of 2010, the agency of human services shall achieve the same or better outcomes for clients and achieve the associated savings under this act without reducing government benefits, limiting benefit eligibility, or reducing personnel unless reduction is a direct consequence of achieving the required outcomes or specifically provided for under the Challenges legislation, such as in Sec. C25 of H.792 of 2010.

(b) As provided for in Sec. C3 of H.792 of 2010, the agency of human services shall engage the direct participation of service recipients, their families, service providers, and other stakeholders to develop additional Challenges that will meet in full the outcomes and fiscal goals of the Challenges for Change Act and this act. The agency of human services shall make available to community providers and organizations existing data on

demographics and program outcomes and indicators to assist in the community planning.

Sec. C2. Sec. 4(a) of No. 68 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(a) The client-centered, results-based, human services challenge to the state's human service administrators, employees, and service providers is to redesign delivery of the state's human services programs and health care system as a client-centered, integrated system that improves outcomes within budget constraints. ~~There are four parts to this~~ This challenge~~:~~ focuses on maintaining or improving outcomes for populations served by the agency of human services, while spending less in fiscal year 2011 than in fiscal year 2010 and less in fiscal year 2012 than in 2011, by redesigning the delivery of services to be more efficient, interconnected, and targeted to achieve the essential outcomes. The populations focused on in this act are elders; individuals with disabilities, mental health needs, or substance abuse issues; families, including children, with multiple needs; and individuals involved with or at risk for significant involvement with the corrections system. The corrections challenge is further described in Sec. 5 of this act.

~~(1) Client-centered intake and client-centered coordinated and managed services. Improve the outcomes for individuals and families receiving services from the agency of human services, while spending five percent less in fiscal~~

~~year 2011 than in fiscal year 2010 and in fiscal year 2012 spending 10 percent less than in fiscal year 2010, by redesigning the delivery of services to be more efficient, interconnected, and targeted to achieve the essential outcomes with less duplication of services.~~

~~(2) Support services promoting independence of elders and individuals with disabilities. Maintain or improve services for elders and individuals with disabilities by redesigning how support services are provided and by allowing family members who desire to be caregivers to provide part of the support services, while spending two percent less in fiscal year 2011 than in fiscal year 2010 and five percent less in fiscal year 2012 than in fiscal year 2010.~~

~~(3) Expand the policy of using payment methods based on outcome measures. Redesign grants and contracts made by the agency to service providers to use payment methods to achieve spending five percent less in fiscal year 2011 than in fiscal year 2010 and 10 percent less in fiscal year 2012 than in fiscal year 2010, while maintaining or improving service.~~

~~(4) Outcomes-based contracts with Redesign of services provided by the designated agencies. Improve the outcomes of individuals and families served by the 17 agencies designated under 18 V.S.A. § 8905 to provide mental health services and services to individuals with a developmental disability, while spending five percent less in fiscal year 2011 than in fiscal year 2010 and 7.5~~

~~percent less in fiscal year 2012 than in fiscal year 2010, by enhancing collaboration among these agencies and by redesigning the contracts.~~

Sec. C3. STAKEHOLDER INVOLVEMENT

The agency of human services shall engage the direct participation of service recipients, their families, service providers, and other stakeholders in the identification and development of new proposals and the thorough evaluation and ongoing design and redesign of all of the proposals contained in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010. The agency of human services shall make available to community providers and organizations existing community profile data on demographics and program outcomes and indicators to assist in the community planning.

* * * Elders * * *

Sec. C4. RESTATEMENT OF OUTCOMES FOR ELDERS

Outcomes for elders:

(1) Children, families, and individuals are engaged in and contribute to their community's decisions and activities.

(2) Elders, people with disabilities, and individuals with mental health conditions live with dignity and independence in settings they prefer.

(3) Families and individuals live in safe and supportive communities.

(4) Adults lead healthy and productive lives.

(5) Vermonters receive affordable and appropriate health care at the appropriate time, and health care costs are contained over time.

Sec. C5. INITIATIVES; ELDERS

(a) The general assembly is supportive of the following new proposals and existing proposals relating to elders in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

(1) establishment by the department of disabilities, aging, and independent living of a process to provide clinically eligible elders, who meet initial financial eligibility criteria prescribed by the department with Choices for Care, services while their eligibility for such services is being determined;

(2) expansion of opportunities for elders and adults with physical disabilities to benefit from a full-time service option similar to the concept of a developmental home; and

(3) decrease of nursing home utilization through earlier intervention, prevention, and increased use of home- and community-based services.

(b) The agency shall not expand the list of available providers of home- and community-based care services, not including case management or self-directed services, to include providers other than home care agencies certified by the Centers for Medicare and Medicaid Services.

Sec. C6. SURVEYS; FORMER NURSING HOMES

Notwithstanding any provision of chapter 71 of Title 33 or any rule to the contrary, from July 1, 2010, to June 30, 2015, the division of licensing and protection in the department of disabilities, aging, and independent living shall inspect any facility that converts from a nursing home to an enhanced residential care facility during that period according to the same inspection schedule as applied when the facility operated as a licensed nursing home.

* * * Families with Children * * *

Sec. C7. RESTATEMENT OF OUTCOMES RELATING TO FAMILIES, INCLUDING CHILDREN, WITH MULTIPLE NEEDS

Outcomes for families with children:

(1) Children, families, and individuals are engaged in and contribute to their community's decisions and activities.

(2) Pregnant women and children thrive.

(3) Children are ready for school.

(4) Children succeed in school.

(5) Children live in safe, nurturing, stable, supported families.

(6) Youths choose healthy behaviors.

(7) Youths successfully transition to adulthood.

(8) Families and individuals live in safe and supportive communities.

(9) Adults lead healthy and productive lives.

(10) Vermonters receive affordable and appropriate health care at the appropriate time, and health care costs are contained over time.

(11) Families and individuals move out of poverty through education and advancement in employment.

Sec. C8. INITIATIVES; FAMILIES AND CHILDREN

The general assembly is supportive of the following new proposals and existing proposals relating to families, including children, with multiple needs in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

(1) modernizing the eligibility determination system in the department for children and families;

(2) pursuing a consolidated and coordinated approach to employment services under a single entity called "creative workforce solutions";

(3) pursuing savings in the budgets of multiple departments, including the department of Vermont health access, department of mental health, department of health, department of disabilities, aging, and independent living, and department for children and families, resulting from reduced lengths of stay in out-of-home placements of children accomplished through an increase in early intervention, family treatment, and other services designed to prevent or reduce the acuity of the situation resulting in the child's out-of-home

placement. The agency shall redesign service delivery in order to provide intensive services to children and families before a child needs an out-of-home placement. "Out-of-home placements" includes inpatient hospitalizations, residential care, and foster care;

(4) reducing the length of time children are hospitalized through utilization reviews by the department of Vermont health access;

(5) reducing administrative burdens on providers of children's services by simplifying documentation and reporting requirements across departments, including the department for children and families, the department of mental health, the alcohol and drug abuse program, and the department of disabilities, aging, and independent living, including removing prior authorization requirements for Healthy Babies, Kids, and Families if feasible and allowable under federal law;

(6) establishing pilot programs for integrating children's services as provided for in Sec. C9 of this act;

(7) planning necessary to convert Woodside juvenile rehabilitation center into a treatment center which meets the requirements for Medicaid reimbursement as provided for in Sec. C10 of this act;

(8) creating specialized case management in Reach Up as provided for in Sec. C12 of this act;

(9) increasing enforcement of child support in order to increase the amount paid to families as provided for in Secs. C13 through C22 of this act; and

(10) integrating intake and program operations between the department of disabilities, aging, and independent living and the department of health for children's services.

Sec. C9. CHILDREN'S INTEGRATED SERVICES; PILOTS

(a) The agency of human services may establish pilot programs in no more than three service areas for single contracts for children's integrated services (CIS) to be developed in collaboration with the regional CIS teams in the communities to be served. "Children's integrated services" includes nursing and family support, early intervention, early childhood and family mental health, and specialized child care services.

(b) By January 15, 2011, the agency of human services shall develop a plan for fully integrating child development services as described in the Challenges for Change agency of human services addendum dated March 30, 2010, on pages 34 to 36, and shall report its recommendations to the house committee on human services and the senate committee on health and welfare.

Sec. C10. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The agency of human services shall develop a plan to provide secure stabilization services, assessment, and treatment at the Woodside juvenile

rehabilitation center established in 33 V.S.A. § 5801, in order to secure reimbursement under the Global Commitment for Health Medicaid Section 1115 waiver, beginning April 1, 2011. The plan shall ensure that children in need of secure residential treatment, which is not reimbursable by Medicaid, may continue to be served at Woodside. The agency shall collaborate with the judicial branch on the redesign of Woodside.

(b) By January 15, 2011, the agency shall report its recommendations, including any statutory changes necessary to accomplish the recommendations, to the house committee on human services and the senate committee on health and welfare.

* * * Preventive Services to Children At Risk for Mental Health Needs * * *

Sec. C11. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(14) plan and coordinate the development of community services which are needed to assist ~~mentally ill persons and~~ children and adolescents with or at risk for a severe emotional disturbance and individuals with mental illness to

become as financially and socially independent as possible. These services shall consist of residential, vocational, rehabilitative, day treatment, inpatient, outpatient, and emergency services, as well as client assessment, prevention, family, and individual support services and such other services as may be required by federal law or regulations;

(15) contract with community mental health centers to assure that ~~individuals who are mentally ill or~~ children and adolescents with or at risk for a severe emotional disturbance or individuals with mental illness can receive information, referral and assistance in obtaining those community services which they need and to which they are lawfully entitled;

(16) contract with accredited educational or health care institutions for psychiatric services at the Vermont State Hospital;

(17) ensure the provision of services to children and adolescents with or at risk for a severe emotional disturbance in coordination with the commissioner of education and the commissioner for children and families in accordance with the provisions of chapter 43 of Title 33;

* * *

* * * Reach Up * * *

Sec. C12. 33 V.S.A. § 1106 is amended to read:

§ 1106. REQUIRED SERVICES TO PARTICIPATING FAMILIES

(a) The commissioner shall provide participating families case management services, periodic reassessment of service needs and the family development plan, and referral to any agencies or programs that provide the services needed by participating families to improve the family's prospects for job placement and job retention, including the following:

* * *

(b) The commissioner shall provide specialized case management services to families no later than four months after a family's financial assistance grant has been reduced as a result of a sanction under section 1116 of this title. The specialized case management shall be provided through a performance-based contract in order to intervene in the family's situation with the goal of compliance with an appropriate family development plan or work requirements as required under sections 1112 and 1113 of this title. The contract may be performed by another department within the agency or by a community-based organization. If, after two months, a family fails to participate in specialized case management, case management shall resume through Reach Up.

* * * Child Support Contempt Proceedings * * *

Sec. C13. [Deleted]

Sec. C14. 4 V.S.A. § 462(a) is amended to read:

(a) The magistrate shall make findings of fact, conclusions and a decision and shall issue an order. An order issued by a magistrate may be enforced by the family court in the county in which the magistrate hearing was held. ~~A motion for contempt of a magistrate's order shall be heard as expeditiously as possible by the family court judge upon motion of either party or upon motion of the family court judge or magistrate.~~

Sec. C15. 15 V.S.A. § 603 is amended to read:

§ 603. CONTEMPT

(a) A person who disobeys a lawful order or decree of a court or judge, made under the provisions of this chapter, may be proceeded against for contempt as provided by ~~section~~ 12 V.S.A. § 122 ~~of Title 12~~. The department for children and families may institute such proceedings in all cases in which a party or dependent children of the parties are the recipients of financial assistance from the department. ~~The~~

(b) For contempt of an order or decree made under the provisions of this chapter, the court may:

(1) order restitution to the department~~, and that~~;

(2) order payments be made to the department for distribution~~,~~;

(3) order a party to serve not more than 30 days of preapproved furlough as provided in 28 V.S.A. § 808(a)(7); or

(4) make such other orders or conditions as it deems proper.

* * * Administrative Suspension of Licenses * * *

Sec. C16. 15 V.S.A. § 798 is amended to read:

§ 798. ENFORCEMENT OF CHILD SUPPORT ORDERS; SUSPENSION OF LICENSES

(a) Upon noncompliance with an order issued under section 606 of this title, a motion may be filed seeking an order for suspension of licenses under this section. The motion shall be scheduled for hearing in accordance with the Vermont Rules of Family Proceedings within 30 days of the filing of the motion. At a hearing under this subsection, the obligor shall have the opportunity to present evidence relating to the reasons for noncompliance. An inability to comply shall be a defense in an action brought under this subsection. The noncomplying party shall have the burden of demonstrating inability to comply. An order issued under subsection ~~(b)~~(c) of this section is in addition to other remedies available at law.

(b) The office of child support may administratively suspend licenses under this section upon noncompliance with an order under section 606 of this title. Prior to suspending a license, the office of child support shall notify the obligor of the office's intent to suspend the obligor's license and shall provide the

obligor with an opportunity to contest the action pursuant to 33 V.S.A. § 4108. If the obligor fails to either contest the claimed delinquency or request an opportunity to present evidence relating to the noncompliance within 21 days of notification, the office of child support may issue a license suspension order.

(c) Upon a finding of noncompliance with an order issued under section 606 of this title and a delinquency of at least one-quarter of the annual support obligation, the office of child support, a family court judge or magistrate, if assigned by the presiding family court judge, may order a civil suspension of a noncomplying party's motor vehicle operator's license issued under chapter 9 of Title 23 or commercial driver license issued under chapter 39 of Title 23, recreational license, and any other license certification or registration issued by an agency to conduct a trade or business, including a license to practice a profession or occupation.

~~(c)~~(d) Upon receipt of a license suspension order issued under this section, the license issuing authority shall suspend the license according to the terms of the order. Prior to suspending the license, the license issuing authority shall notify the license holder of the pending suspension and provide the license holder with an opportunity to contest the suspension based solely on the grounds of mistaken identity or compliance with the underlying child support order. The license shall be reinstated within five days of a reinstatement order from the court or notification from the office of child support or the custodial

parent, where the rights of that parent have not been assigned to the office of child support, that the parent is in compliance with the underlying child support order. The license issuing authority shall charge a reinstatement fee as provided for in ~~section~~ 23 V.S.A. § 675 ~~of Title 23~~, or as otherwise provided by law or rule.

~~(d)~~(e) The license issuing authority shall adopt procedural rules in accordance with the provisions of chapter 25 of Title 3 to implement the provisions of this section.

Sec. C17. 33 V.S.A. § 4108 is amended to read:

§ 4108. GRIEVANCE PROCEDURE

* * *

(c) Upon issuing a wage withholding order, the office of child support shall notify the obligor pursuant to ~~section 788 of Title 15~~ 15 V.S.A. § 788 of the amount of the past due child support, the consequences of failing to meet a court ordered child support obligation, and the procedure for contesting the office's action under this section.

* * *

(e) If the obligor contests the withholding within ~~20~~ 21 days of the notice and is found not to be in arrears by more than one-twelfth of the annual support obligation on the date the notice is issued, the office, within two business days,

shall notify the employer to cease withholding. In addition, the office shall pay to the obligor three times the amount erroneously withheld.

* * * Employer Obligation to Report New Hire Data * * *

Sec. C18. 33 V.S.A. § 4110 is amended to read:

§ 4110. EMPLOYER OBLIGATIONS

* * *

(b) Effective October 1, 1998, all employers in the state of Vermont shall report all new hires to the department of labor, and reported information will be shared with the office of child support for the purpose of expediting compliance with court ordered wage withholding orders, and location of payers or parents with an obligation to provide parental contact. The department of labor may use the information to assist with the administration of the unemployment insurance program.

(1) Employers shall report new hires within ~~20~~ 10 calendar days of ~~hiring~~ the first date of employment for a new employee.

(2) Employers shall report the following data elements to the department of labor: newly hired employee's name, address~~. and~~, first date of employment, Social Security number, and the employer's name, address, and federal identification number.

(3) Employers shall report the ~~specified new hire data by way of a W-4 form (copy), or a form of their own with the specified data elements. It~~

required new hire data elements electronically, when practicable, or on a form supplied or approved by the department of labor. Forms may be ~~reported~~ transmitted by fax transmission, first class mail, ~~by~~ magnetic tape, electronically, or ~~by~~ inputting data elements via the telephone.

* * *

(c) As used in this section:

* * *

(3) "First date of employment" is the first day services are performed for compensation.

(4) "New hire" means an employee for whom a W-4 filing is required and whose wages have not been reported by the filing employer to the department of labor during the last reporting quarter.

* * * Contracting with Sheriff for Enforcement of Child Support Orders * * *

Sec. C19. 15 V.S.A. § 800 is added to read:

§ 800. CONTRACT WITH SHERIFF FOR SERVICE OF CIVIL PROCESS

The office of child support may contract with a sheriff's department for the purpose of locating and investigating child support obligors and serving process, warrants, and mittimus in child support cases.

Sec. C20. 24 V.S.A. § 307 is amended to read:

§ 307. DEPUTY SHERIFFS; APPOINTMENTS AND REVOCATION

* * *

(b) A sheriff may appoint persons as deputy sheriffs to serve civil process, including child support enforcement as provided in 15 V.S.A. § 800, whom ~~he~~ the sheriff shall train and supervise. Such deputies need not be qualified law enforcement officers, but if not so qualified shall not have arrest powers, and shall not carry firearms in performance of their duties in serving civil process.

* * *

* * * Permit the Office of Child Support to Prosecute Nonsupport * * *

Sec. C21. 15 V.S.A. § 202 is amended to read:

§ 202. PENALTY FOR DESERTION OR NONSUPPORT

A married person who, without just cause, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her spouse and children, leaving them in destitute or necessitous circumstances or a parent who, without lawful excuse, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or an adult child possessed of sufficient pecuniary or physical ability to support ~~his~~ or her parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself or herself and resident in this state, shall be imprisoned not more than two years or fined not more than

$300.00, or both. Should a fine be imposed, the court may order the same to be paid in whole or in part to the needy spouse, parent or to the guardian, custodian, or trustee of the child. The office of child support attorneys, in addition to any other duly authorized person, may prosecute cases under this section in Vermont district court.

* * * Challenges for the Office of Child Support * * *

Sec. C22. CHALLENGES FOR THE OFFICE OF CHILD SUPPORT

(a) The office of child support shall:

(1) Reduce the administrative burden for employers who are required to withhold wages of an employee who is subject to a child support wage withholding order pursuant to subchapter 7 of chapter 11 of Title 15. The office shall review laws in other states to identify best practices in this area.

(2) Quantify the rate of compliance with child support orders, and categorize the noncompliant obligors in such a way as to enable a cost-benefit analysis of which enforcement strategies are most successful with the various categories of noncompliant obligors. Enforcement strategies shall be focused as much as practicable to collect from delinquent obligors without unnecessarily burdening obligees, compliant obligors, employers, and the courts.

(b) The office of child support shall report to the committees on judiciary and on appropriations no later than January 15, 2011, on its efforts to meet the challenges in subsection (a) of this section.

* * * Individuals with Disabilities, Mental Health Needs, or Substance Abuse Issues * * *

Sec. C23. RESTATEMENT OF OUTCOMES FOR INDIVIDUALS WITH DISABILITIES, MENTAL HEALTH NEEDS, OR SUBSTANCE ABUSE ISSUES

Outcomes for individuals with disabilities, mental health needs, or substance abuse issues:

(1) Elders, people with disabilities, and individuals with mental health conditions live with dignity and independence in settings they prefer.

(2) Families and individuals live in safe and supportive communities.

(3) Adults lead healthy and productive lives.

(4) Vermonters receive affordable and appropriate health care at the appropriate time, and health care costs are contained over time.

(5) Families and individuals move out of poverty through education and advancement in employment.

Sec. C24. INITIATIVES; INDIVIDUALS WITH DISABILITIES, MENTAL HEALTH NEEDS, OR SUBSTANCE ABUSE ISSUES

The general assembly is supportive of the following new proposals and the proposals relating to individuals with disabilities, mental health needs, or substance abuse issues in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

(1) creating an interdepartmental team to serve clients of the department of disabilities, aging, and independent living with mental health needs;

(2) continuing to support improvements, currently supported by federal grant funds, for individuals with co-occurring mental health and substance abuse conditions;

(3) allowing psychiatric nurse practitioners to document and bill for mental health services, engage in mental health treatment planning, and approve mental health case management and treatment plans as provided for in Sec. C28 of this act;

(4) supporting collaboration between the designated agencies and federally qualified health centers, critical access hospitals, or sole community hospitals to enable expanded participation in the 340B drug pricing program;

(5) refraining from duplicating through state review those designated agency and specialized service agency quality assurance measures that have been evaluated and certified through a national quality review and accreditation process;

(6) pursuing a consolidated and coordinated approach to employment services under a single entity called "creative workforce solutions."

(7) integrating all substance abuse and mental health services through the simplification of funding and administrative processes;

(8) establishment of by the department of disabilities, aging, and independent living a process to provide clinically eligible individuals who meet initial financial eligibility criteria prescribed by the department with Choices for Care services while their eligibility for such services is being determined;

(9) improving employment outcomes for clients of the designated agencies;

(10) exploring the integration of psychiatry and behavioral health services staff members of the designated agencies into a federally qualified health center;

(11) continuing to analyze, to estimate the projections for, and to pursue bulk purchasing by the designated agencies;

(12) reducing documentation and administrative requirements;

(13) allowing new residential options for individuals with developmental disabilities;

(14) reducing the length of inpatient psychiatric hospitalizations through utilization reviews by the department of mental health, contracting with the designated agencies;

(15) requesting proposals from the designated agencies for redesigning service delivery to the population as provided for in Sec. C26 of this act;

(16) analyzing the utilization of certain prescriptions and creating evidence-based best practice protocols as provided for in Sec. C29 of this act;

(17) reducing expenditures in the designated agencies as provided for in Sec. C25 of this act; and

(18) redesigning service delivery to individuals in the custody of the commissioner of disabilities, aging, and independent living under the public safety criteria.

Sec. C25. DESIGNATED AGENCIES; REDUCTION

(a)(1) The agency of human services and the agencies designated under chapter 207 of Title 18 shall reduce the fiscal year 2011 appropriation for mental health to the designated agencies by 2.0 percent and for developmental services by a total of 1.0 percent. The designated agencies shall minimize service reductions. The commissioner of finance and management and the secretary of human services are authorized to use available funding to

minimize negative impacts on the designated agencies' cash flow, including by providing a higher proportion of funding in the first two quarters of the fiscal year.

(2) The agency of human services shall analyze new service models for clients with developmental disabilities whose services are high-cost and shall implement any cost-effective new service models as soon as practical. Any savings from new service models identified in fiscal year 2011 shall be reinvested to developmental services.

(b)(1) Each designated agency and specialized service agency shall work with each consumer and the consumer's guardian, if applicable, to review the individualized service plan.

(2) No later than July 1, 2011, every individual in the custody of the commissioner of disabilities, aging, and independent living under the public safety criteria who has not been assessed for a developmental disability within the past two years shall have his or her competency evaluated by a psychologist skilled in assessing developmental disabilities. The commissioner shall develop protocols for evaluating the appropriateness of less restrictive residential placements based on the results of the evaluation.

(c) Individuals may appeal to the human services board as provided for in 3 V.S.A. § 3091, except that the agency shall provide an expedited hearing as

described in this subsection in lieu of the hearing provided for in 3 V.S.A. § 3091(b).

(1) An individual may appeal modifications to his or her individualized service plan and budget within the time frames specified in existing law. If the appeal is made within the time frame provided for in existing law, the individual may receive continuing benefits upon request until a decision has been rendered.

(2) An expedited hearing shall be held no later than 11 calendar days following the date of the request for an appeal. A special, independent hearing officer shall be appointed by the agency and assigned to hear the appeals provided for under this subsection. The agency may contract with an attorney for its representation at these hearings.

(3) Hearings shall be conducted according to the human services board fair hearing rules, except to the extent that the rules conflict with the process provided for in this subsection.

Sec. C25a. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

* * *

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c) As soon as practicable after the examination has been completed, the examining psychiatrist shall prepare a report containing findings in regard to each of the matters listed in subsection (a). The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the state's attorney, and to the respondent's attorney if the respondent is represented by counsel.

~~(c)~~(d) No statement made in the course of the examination by the person examined, whether or not he or she has consented to the examination, shall be admitted as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or for the purpose of impeaching testimony of the person examined.

~~(d)~~(e) The relevant portion of a psychiatrist's report shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion therein shall be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

~~(e)~~(f) Introduction of a report under subsection ~~(d)~~(e) of this section shall not preclude either party or the court from calling the psychiatrist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the state's expense, or, if called by the court, at the court's expense.

Sec. C26. DESIGNATED AGENCIES; REQUEST FOR PROPOSALS

The agency of human services shall issue a request for proposals to designated agencies to provide a performance-based contract to serve individuals with serious functional impairments who are at risk of involvement or are involved with law enforcement, the criminal justice system, or the department of corrections with a goal of reducing the involvement with law enforcement and incarceration.

Sec. C27. DESIGNATED AGENCIES; COMMUNITY ADULT SUPPORT AND TREATMENT PROGRAM

(a)(1) The department of mental health, the designated agencies, and the division of alcohol and drug abuse programs shall engage in a process to analyze and design the integration of some or all of the services provided in the adult outpatient program (AOP) and the community rehabilitation and treatment (CRT) program in order to ensure that adults with mental health conditions have access to a continuum of services.

(2) This initiative shall build on the following components for services: urgent and emergent short-term care for individuals at high risk; focused case management and support services to individuals over age 18 and under age 65 to facilitate timely discharge and transition services from inpatient psychiatric care; long-term, less intensive services for individuals with ongoing support

and service needs; and ongoing services for individuals with enduring and complex mental health needs.

(b) Upon enactment of this act, the department of mental health, the designated agencies, the division of alcohol and drug abuse programs, and consumer representatives shall analyze the programmatic and financial opportunities for redesigning and restructuring AOP and CRT services. This group shall develop a detailed work plan to include:

(1) an internal analysis of services and program trends in the monthly service reports, including identifying adults in both the adult outpatient program (AOP) and the community rehabilitation and treatment (CRT) program who might be served at a lower cost;

(2) a design for the new community adult support and treatment program;

(3) reimbursement methodology; and

(4) a plan for implementation by January 1, 2011, if feasible.

(c) The department of mental health shall report during the legislative interim to the mental health oversight committee on the progress of this initiative. By January 15, 2011, if implementation of the initiative described in this section is not feasible by January 1, 2011, the department, in collaboration with the designated agencies, shall provide a report to the house committee on human services and the senate committee on health and welfare containing an

explanation of why implementation was not feasible and a revised implementation plan.

Sec. C28. ROLE OF PSYCHIATRIC NURSE PRACTITIONERS IN MENTAL HEALTH SERVICES

The department of mental health shall amend its Medicaid reimbursement procedures manual to allow psychiatric nurse practitioners to document and bill for mental health services, engage in treatment planning, and approve case management and treatment plans if such psychiatric nurse practitioner has received specialized training appropriate to the circumstances of the individual patient involved.

Sec. C29. VERMONT PRESCRIPTION MONITORING SYSTEM

(a) The department of mental health, in collaboration with the departments of health and of banking, insurance, securities, and health care administration, shall evaluate the feasibility of using the Vermont prescription monitoring system operated by the department of health pursuant to chapter 84A of Title 18 to monitor the prescription and use of multiple psychiatric drugs for adults and psychotropic drugs for children. No later than January 15, 2011, the departments shall report their findings and recommendations to the house committee on human services and the senate committee on health and welfare.

(b) The department of mental health, in collaboration with the drug utilization review board in the department of Vermont health access, shall

develop evidence-based protocols representing best practices for prescribing multiple psychiatric drugs for adults and psychotropic drugs for children. If funding is available, the department may also collaborate with the University of Vermont. No later than January 15, 2011, the department shall report on its adoption of protocols to the house committee on human services and the senate committee on health and welfare.

* * * All Populations – Health * * *

Sec. C30. RESTATEMENT OF OUTCOMES FOR INDIVIDUALS RELATING TO HEALTH CARE

Outcomes for all individuals relating to health:

(1) Adults lead healthy and productive lives.

(2) Vermonters receive affordable and appropriate health care at the appropriate time, and health care costs are contained over time.

Sec. C31. INITIATIVES; HEALTH CARE

The general assembly is supportive of the following new proposals and the proposals in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, relating to all individuals receiving health care coverage, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

(1) statewide expansion of the Blueprint for Health;

(2) removal of the requirement that a private entity administer the chronic care management program in the department of Vermont health access as provided for in Sec. C33 of this act;

(3) creation of a clinical utilization review board to make recommendations to the department of Vermont health access as provided for in Sec. C34 of this act; and

(4) expanded participation in the 340B drug pricing program by eligible disproportionate share hospitals, the critical access hospitals, or the sole community hospitals in order to reduce the cost of pharmaceuticals provided on an out-patient basis and ensure savings to Medicaid.

Sec. C32. EXPANSION OF HEALTH CLINICS; FQHCS

The department of Vermont health access shall collaborate with the federally qualified health centers and other interested parties to create urgent care clinics to ensure that nonemergency health services are available outside emergency departments in hospitals, especially during evenings and weekends. The department may apply or may assist the FQHCs in applying for federal grants funds available for clinics, including nurse-managed health clinics. By January 15, 2011, the department shall provide a progress report on this initiative, with any recommendations, to the house committees on health care and on human services and the senate committee on health and welfare.

Sec. C33. 33 V.S.A. § 1903a is amended to read:

§ 1903a. ~~CHRONIC CARE MANAGEMENT~~ CARE MANAGEMENT PROGRAM

(a) The ~~secretary of administration or designee shall create a chronic care management program as provided for in this section, which shall be administered or provided by a private entity~~ commissioner of Vermont health access shall coordinate with the director of the Blueprint for Health to provide chronic care management through the Blueprint and, as appropriate, create an additional level of care coordination for individuals with one or more chronic conditions who are enrolled in Medicaid, the Vermont health access plan (VHAP), or Dr. Dynasaur. The program shall not include individuals who ~~are also eligible for Medicare, who are enrolled in the Choices for Care Medicaid Section 1115 waiver or who~~ are in an institute for mental disease as defined in 42 C.F.R. § 435.1009. ~~The secretary may also exclude individuals who are eligible for or participating in the Medicaid care coordination program established through the office of Vermont health access.~~

(b) The ~~secretary~~ commissioner shall include individuals with a broad range of chronic conditions in the ~~chronic care management program~~ Blueprint for Health and the care management program.

~~(c) The chronic care management program shall be designed to include:~~

~~(1) a method involving the health care professional in identifying eligible patients, including the use of the chronic care information system established in section 702 of Title 18, an enrollment process which provides incentives and strategies for maximum patient participation, and a standard statewide health risk assessment for each individual;~~

~~(2) the process for coordinating care among health care professionals;~~

~~(3) the methods of increasing communications among health care professionals and patients, including patient education, self-management, and follow-up plans;~~

~~(4) the educational, wellness, and clinical management protocols and tools used by the care management organization, including management guideline materials for health care professionals to assist in patient-specific recommendations;~~

~~(5) process and outcome measures to provide performance feedback for health care professionals and information on the quality of care, including patient satisfaction and health status outcomes;~~

~~(6) payment methodologies to align reimbursements and create financial incentives and rewards for health care professionals to establish management systems for chronic conditions, to improve health outcomes, and to improve the quality of care, including case management fees, pay for performance, payment for technical support and data entry associated with patient registries,~~

~~the cost of staff coordination within a medical practice, and any reduction in a health care professional's productivity;~~

~~(7) payment to the care management organization which would put all or a portion of the care management organization's fee at risk if the management is not successful in reducing costs to the state;~~

~~(8) a requirement that the data on enrollees be shared, to the extent allowable under federal law, with the secretary in order to inform the health care reform initiatives under section 2222a of Title 3;~~

~~(9) a method for the care management organization to participate closely in the blueprint for health and other health care reform initiatives; and~~

~~(10) participation in the pharmacy best practices and cost control program under subchapter 5 of chapter 19 of this title, including the multi-state purchasing pool and the statewide preferred drug list.~~

~~(d) The secretary shall issue a request for proposals for the program established under this section and shall review the request for proposals with the commission on health care reform prior to issuance. The issuance of the request for proposals is conditioned on the approval of the commission in order to ensure that the request meets the intent of this section, section 702 of Title 18, and chapter 19 of this title. Any contract under this section may allow the entity to subcontract some services to other entities if it is cost-effective, efficient, or in the best interest of the individuals enrolled in the program.~~

~~(e) The secretary shall ensure that the chronic care management program is modified over time to comply with the Vermont blueprint for health strategic plan and to the extent feasible, collaborate in its initiatives.~~

~~(f) The terms used in this section shall have the meanings defined in section 701 of Title 18.~~

Sec. C34. 33 V.S.A. chapter 19, subchapter 6 is added to read:

Subchapter 6. Clinical Utilization Review Board

§ 2031. CREATION OF CLINICAL UTILIZATION REVIEW BOARD

(a) No later than May 15, 2010, the department of Vermont health access shall create a clinical utilization review board to examine existing medical services, emerging technologies, and relevant evidence-based clinical practice guidelines and make recommendations to the department regarding coverage, unit limitations, place of service, and appropriate medical necessity of services in the state's Medicaid programs.

(b) The board shall comprise 10 members with diverse medical experience, to be appointed by the governor upon recommendation of the commissioner of Vermont health access. The board shall solicit additional input as needed from individuals with expertise in areas of relevance to the board's deliberations. The medical director of the department of Vermont health access shall serve as the state's liaison to the board. Board member terms shall be staggered, but in no event longer than three years from the date of appointment. The board shall

meet at least quarterly, provided that the board shall meet no less frequently than once per month for the first six months following its formation.

(c) The board shall have the following duties and responsibilities:

(1) Identify and recommend to the commissioner of Vermont health access opportunities to improve quality, efficiencies, and adherence to relevant evidence-based clinical practice guidelines in the department's medical programs by:

(A) examining high-cost and high-use services identified through the programs' current medical claims data;

(B) reviewing existing utilization controls to identify areas in which improved utilization review might be indicated, including use of elective, nonemergency, out-of-state outpatient and hospital services;

(C) reviewing medical literature on current best practices and areas in which services lack sufficient evidence to support their effectiveness;

(D) conferring with commissioners, directors, and councils within the agency of human services and the department of banking, insurance, securities, and health care administration, as appropriate, to identify specific opportunities for exploration and to solicit recommendations;

(E) identifying appropriate but underutilized services and recommending new services for addition to Medicaid coverage;

(F) determining whether it would be clinically and fiscally appropriate for the department of Vermont health access to contract with facilities that specialize in certain treatments and have been recognized by the medical community as having good clinical outcomes and low morbidity and mortality rates, such as transplant centers and pediatric oncology centers; and

(G) considering the possible administrative burdens or benefits of potential recommendations on providers, including examining the feasibility of exempting from prior authorization requirements those health care professionals whose prior authorization requests are routinely granted.

(2) Recommend to the commissioner of Vermont health access the most appropriate mechanisms to implement the recommended evidence-based clinical practice guidelines. Such mechanisms may include prior authorization, prepayment, postservice claim review, and frequency limits. Recommendations shall be consistent with the department's existing utilization processes, including those related to transparency, timeliness, and reporting. Prior to submitting final recommendations to the commissioner of Vermont health access, the board shall ensure time for public comment is available during the board's meeting and identify other methods for soliciting public input.

(d) The commissioner may adopt a mechanism recommended pursuant to subdivision (c)(2) of this section with or without amendment, provided that if

the commissioner proposes to amend the mechanism recommended by the board, he or she shall request the board to consider the amendment before the mechanism is implemented or is filed as a proposed administrative rule pursuant to 3 V.S.A. § 838.

§ 2032. ROLE OF DEPARTMENT OF VERMONT HEALTH ACCESS

(a) The department of Vermont health access shall provide the clinical utilization review board with data support to enable the board to conduct reviews.

(b) The department's program integrity unit shall inform the board of practices the unit has identified through its reviews in order to avoid duplication of efforts.

(c) The department shall provide members of the board with per diem compensation.

(d) The department shall have the final authority to evaluate and implement the board's recommendations.

(e) The department shall conduct comprehensive evaluations of the board's success in improving clinical and utilization outcomes using claims data and a survey of health care professional satisfaction. The department shall report annually by January 15 to the house committee on health care and the senate committee on health and welfare regarding the results of the most recent

evaluation or evaluations and a summary of the board's activities and recommendations since the last report.

(f) The department shall adopt rules pursuant to chapter 25 of Title 3 as needed to implement specific recommendations.

* * * All Populations – Miscellaneous * * *

Sec. C35. AHS; REQUESTS FOR PROPOSALS

(a)(1) By June 15, 2010, the agency of human services shall issue an initial request for proposals from community-based service providers and other organizations to provide services to clients of the agency through a performance-based contract as provided for in this section. The proposals shall be due to the agency no later than August 15, 2010. The agency shall make decisions on the initial round of proposals no later than September 15, 2010.

(2) The proposals shall be designed to:

(A) meet the outcomes for clients provided for in Sec. 4 (human services) or 5 (corrections) of No. 68 of the Acts of the 2009 Adj. Sess. (2010);

(B) provide for structural change in the method of service delivery by integrating services in the local community for clients of the agency with complicated social and medical issues in a client-centered manner; and

(C) demonstrate a strong commitment by a range of community-based service providers and other organizations, including by

existing providers, agencies designated by law to provide services, and other organizations.

(3) Each request for proposal shall include one of the following populations, and additional requests may include other populations with complicated social and medical needs in the discretion of the secretary of human services:

(A) individuals with mental health conditions and individuals with disabilities who are at risk of involvement with law enforcement, the criminal judicial system, or the department of corrections with a goal of reducing the involvement with law enforcement and incarceration;

(B) families with multiple social needs and involvement with the agency of human services with the goal of improved outcomes in attaining and retaining employment, maintaining stable and safe housing, reducing involvement of the division of family services, and improved health;

(C) women involved or at risk of becoming involved with the department of corrections with the goal of reducing incarceration;

(D) individuals at risk of inpatient hospitalization for a psychiatric need; and

(E) in addition to the pilot projects provided for in Sec C9 of this act, families which include children with disabilities, including mental health conditions.

(b) The agency may invest up to $2 million from its appropriation in Sec. D.106(c)(i)(C) of H.789 of 2010, plus any available matching funds, in these proposals for the purpose of saving $2 million through changes which improve service delivery or client outcomes as described in Secs. 4 and 5 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(c) The request for proposals shall provide for an ongoing application process in order to ensure an appropriate implementation of proposals over time. Community-based service providers and other organizations may apply jointly to provide multiple services across more than one organization. Prior to submitting a proposal, an interested organization or organizations shall attend a workshop offered by the agency of human services describing the goals and requirements for the proposals.

(d) After receiving proposals and prior to approval, the agency shall submit the proposal to the Challenges for Change board, created in Sec. C36 of this act, for review and a recommendation. The agency shall issue performance-based contracts for proposals after receiving the board's recommendations on the proposals as provided for in Sec. C36 of this act.

(e) The agency shall require that any proposals funded under this section shall identify the following:

(1) the degree of community support and commitment;

(2) any redundant or unnecessary administration that will be eliminated;

(3) any systemic changes in the service delivery system;

(4) the estimated savings, reductions in trend, or avoided costs across the agency of human services, the department of education, or other state agencies in fiscal years 2011 and 2012; and

(5) how the program changes established in the proposal will remain sustainable in fiscal year 2012 and later.

(f) Nothing in this section shall be interpreted to waive or abrogate existing law.

Sec. C36. AGENCY OF HUMAN SERVICES; CHALLENGES FOR CHANGE BOARD

(a) Creation of board. There is created in the agency of human services a Challenges for Change board to review and make recommendations on proposals from community-based service providers and other organizations as provided for in Sec. C35 of this act.

(b) Membership. The Challenges for Change board shall be composed of seven members representing the agencies, consumers, and service providers of the populations described in the requests for proposals being considered. The members shall be as follows:

(1) the secretary of human services or designee;

(2) three consumer representatives, one each appointed by the governor, the speaker of the house, and the senate committee on committees; and

(3) three individuals with relevant professional experience who are no longer employed by an agency or organization serving the populations identified in the request for proposals, one each appointed by the governor, the speaker of the house, and the senate committee on committees.

(c) Powers and duties.

(1) The board shall review the proposals received in response to the request issued by the agency of human services under Sec. C35 of this act and make a recommendation to the secretary of human services on which proposals should be accepted by the secretary or designee.

(2) The board shall comply with the public information law in subchapter 2 of chapter 5 of Title 1, and the public records law in subchapter 3 of chapter 5 of Title 1. The board shall receive administrative and other support from the agency of human services secretary's office.

(d) Report. The board shall report on a quarterly basis as provided for in Sec. H4 of this act.

(e) Number of meetings; term of committee. The board may meet as needed and shall cease to exist on June 30, 2012.

(f) Reimbursement. For attendance at meetings, consumers or family members of consumers on the committee shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 plus mileage reimbursement consistent with that established for state employees.

Sec. C37. INTENT; SAVINGS TARGETS

It is the intent of the general assembly that the agency of human services, community organizations, and other stakeholders continue to work on initiatives contained in the Challenges for Change Progress Report dated March 30, 2010; initiatives identified during the 2010 legislative session, which are contained in hard copy as the legislative record for this act; and new initiatives to achieve the savings targets identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010).

Sec. C38. QUARTERLY REPORTS

As part of its quarterly reports pursuant to Sec. H4 of this act, the agency of human services shall provide an update regarding:

(1) its efforts to develop coordinated and streamlined quality review processes for all services provided by the designated agencies and specialized service agencies;

(2) the progress by the department of disabilities, aging, and independent living efforts to reduce utilization of nursing home beds;

(3) the progress in planning for the redesign of the Woodside juvenile rehabilitation center;

(4) the implementation of the specialized case management program established in Reach Up under Sec. C12 of this act.

(5) the progress on continued collaboration with community organizations and other stakeholders to develop existing or new proposals as described in Sec. C37 of this act.

Sec. C39. ALLOCATION OF ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGE; BUDGET DIFFERENTIAL

To the extent that the reductions in appropriations authorized by Sec. 9 of No. 68 of the Acts of the 2009 Adj. Sess. (2010) and this act consist of matching funds for Medicaid, and actions of the federal government result in the provisions of Sec. D.106(a) of H.789 of 2010 being unnecessary, then the amount of reduction that is attributable to the difference between the Federal Medical Assistance Percentage with and without the extension referenced in Sec. D.106(a) of H.789 of 2010 shall be from the balance in the human services caseload reserve prior to any allocation made subsequent to Sec. D.106(a) of H.789 of 2010.

Sec. C40. Sec. 5(a) of No. 68 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(a) The corrections challenge is to the secretary of human services, commissioner of education, and administrative judge to collaborate to develop a plan which if implemented would reduce the number of people entering the corrections system, decrease the recidivism rate, improve community safety, and reduce the corrections budget ~~by $10 million~~ in fiscal year 2011 and ~~$10~~

~~million~~ in fiscal year 2012. ~~In fiscal year 2011, $3 million of the $10 million saved, and in fiscal year 2012, $2 million of the $10 million saved shall~~ Funds may be reinvested in programs and services which will reduce the number of people entering the criminal justice system and decrease the recidivism of those who do enter the system.

Sec. C41. Secs. 9(c)(3) and (4) of No. 68 of the Acts of the 2009 Adj. Sess.(2010) are amended to read:

(3) Human Services. In fiscal year 2011, the secretary shall reduce human services general fund appropriations or make transfers to the general fund, or both, by a total of at least ~~$16,816,000.00; and to achieve this reduction, the secretary may reduce total appropriations up to $46,040,000.00~~ $23,816,000.00. Reductions in federal fund appropriations may be made for any portion of the general fund reduction that is matched. The secretary may invest up to ~~$4,000,000.00~~ $7,000,000.00 as needed, including in request for proposals for performance contracts with agencies, to accomplish this challenge at any time during fiscal year 2011, so long as the general fund appropriation reductions under this subsection, by the end of fiscal year 2011, after this investment, equal or exceed ~~$16,816,000.00~~ $23,816,000.00. The funds described in this section shall supplement and not supplant other funding in the agency of human services.

~~(4) Corrections. In fiscal year 2011, the secretary may reduce general fund appropriations in the department of corrections or other criminal justice system organization budgets by up to $10,000,000.00 and may reinvest up to $3,000,000.00 to accomplish this challenge; but shall r educe general fund appropriations by at least $7,000,000.00 plus the amount of reinvestment.~~

* * * D. Individuals Involved With or At Risk For Involvement With Corrections * * *

Sec. D1. RESTATEMENT OF OUTCOMES FOR INDIVIDUALS INVOLVED WITH OR AT RISK FOR INVOLVEMENT WITH CORRECTIONS

Outcomes:

(1) The number of people returned to prison for technical violation of probation and parole, while ensuring public safety, shall decrease.

(2) The number of people coming into the corrections system shall decrease.

(3) The number of nonviolent offenders diverted from prison into the community while ensuring public safety and providing effective consequences for criminal behavior shall increase.

(4) Recidivism shall decrease.

(5) A unified crime prevention and justice system shall be established.

(6) Revenues realized within the corrections system from programs designed to develop skills of offenders shall increase.

(7) Short-term lodgings in department of corrections facilities shall decrease.

Sec. D2. REDUCTION IN NUMBER OF PEOPLE INCARCERATED; GOAL

The general assembly has stated in both No. 179 of the Acts of the 2007 Adj. Sess. (2008), and No. 68 of the Acts of the 2009 Adj. Sess. (2010) that Vermont's incarcerated population is growing at an unsustainable rate and in both acts has directed the department of corrections to reinvest portions of its annual appropriation in programs and services which will have the effect of reducing that population. Therefore, the department of corrections shall strive to reduce the number of offenders incarcerated to 2,000 or less by July 1, 2012 and to 1,800 or less by July 1, 2014.

* * * Limit Use of Arrest Warrants for Failure to Pay Fines * * *

Sec. D3. 13 V.S.A. chapter 223, subchapter 2 is amended to read:

~~Subchapter 2. Imprisonment in Lieu of Payment of Fines and Costs~~

~~§ 7221. ALLOWANCES IN SENTENCES IN LIEU OF FINES~~

~~Any prisoner serving an alternative sentence of confinement in any penal institution which is in lieu of the payment of fine shall be released at the expiration of as many days as there are dollars, or fractional part thereof, in~~

~~such fine and if such prisoner shall pay such fine during the time of his or her commitment he or she shall be given credit for time served at the rate of one dollar for each full day, or fractional part thereof, so served. All statutes inconsistent herewith are hereby amended to conform with the foregoing provisions.~~

~~§ 7222. SENTENCES TO IMPRISONMENT, OR TO FINE AND IMPRISONMENT~~

~~When a person over 16 years of age is convicted of an offense punishable by fine or imprisonment, or both, and is sentenced to imprisonment and also to pay a fine the court shall order that if such fine is not paid, he or she shall be imprisoned for as many days as the number of dollars or fractional part thereof to be paid by the sentence and such sentence shall take effect at the expiration of the term of imprisonment, and but one mittimus shall be required therefor.~~

~~§ 7223. SENTENCES TO PAY FINE~~

~~When a person over 16 years of age is convicted of an offense, except the offense of being found intoxicated, punishable by fine, or by fine or imprisonment and the court sentences such person to pay a fine and passes no other sentence, it shall further order that, if the sentence is not complied with within 24 hours, such person shall be imprisoned for as many days as the number of dollars or fractional part thereof to be paid by the sentence but not~~

~~to exceed a maximum imprisonment of 60 days. The court in its discretion may issue a warrant of commitment forthwith.~~

~~§ 7224. EXECUTION OF WARRANT~~

~~An officer shall arrest and hold the respondent on such warrant for 24 hours. However, the respondent, at the time of his or her arrest upon the mittimus, may waive the provisions of this section.~~

~~§ 7225. DISCHARGE ON PAYING BALANCE OF FINE~~

~~A person so committed may be discharged on paying the balance of the fine after deducting one dollar for each day or fractional part thereof he or she has been committed for such default.~~

~~§ 7226.~~ § 7179. FINES NOT DISCHARGEABLE IN BANKRUPTCY

A criminal fine owed to the state shall be nondischargeable, to the maximum extent provided under 11 U.S.C. § 523, in the United States Bankruptcy Court and shall not be subject to a statute of limitations.

§ 7180. REMEDIES FOR FAILURE TO PAY FINES, COSTS, SURCHARGES, AND PENALTIES

(a) As used in this section:

(1) "Amount due" means all financial assessments, including penalties, fines, surcharges, court costs, and any other assessments imposed by statute as part of a sentence for a criminal conviction.

(2) "Designated collection agency" means a collection agency designated by the court administrator pursuant to subsection 7171(b) of this title.

(3) "Designated credit bureau" means a credit bureau designated by the court administrator or the court administrator's designee.

(b) Collection of amount due. If an amount due remains unpaid for 75 days after the court provides the defendant with a notice of judgment, the court may refer the matter to a designated collection agency or initiate civil contempt proceedings pursuant to this section.

(c) Civil contempt proceeding.

(1) Notice of hearing. The court shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision (2) of this subsection.

(2) Failure to appear. If the defendant fails to appear at the contempt hearing, the court may direct the clerk to:

(A) cause the matter to be reported to one or more designated credit bureaus;

(B) issue a judicial summons ordering the defendant to appear in district court; or

(C) issue an arrest warrant if the defendant fails to appear in response to the judicial summons. The arrest warrant shall be limited to arrest during court hours only and order that the defendant be brought immediately to court.

(3) Hearing. The hearing shall be conducted in a summary manner. The court shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The state shall not be a party except with the permission of the court. The defendant may be represented by counsel at the defendant's own expense.

(4) Contempt.

(A) The court may conclude that the defendant is in contempt if the court finds that:

(i) the defendant knew or reasonably should have known that he or she owed the amount due;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) If the court concludes that the defendant is in contempt, the court may:

(i) Order payment of the amount due on a specific date.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

(iii) Direct that the matter be reported to one or more designated credit bureaus. The court administrator or the court administrator's designee is authorized to contract with one or more credit bureaus for the purpose of reporting information about unpaid judicial bureau judgments.

(iv) Refer to small claims court for the purpose of issuing writs of attachment for property and trustee process pursuant to 12 V.S.A. § 5534. Filing fees shall be waived in such cases.

(v) Sentence the defendant to serve a term or imprisonment on furlough to participate in a program supervised by the department of corrections pursuant to 28 V.S.A. § 808(7) that provides reparation to the community in the form of supervised work activities. For each day the defendant participates in supervised work activities, the defendant shall be given credit against the amount owed at the hourly rate for minimum wage. A defendant who is determined by the department of corrections to be ineligible for the preapproved furlough supervised work program may be ordered by the court to serve a sentence in a correctional facility, in which event the defendant shall be given credit against the amount owed for every day served at a rate determined by the court.

(C) If the court concludes that the defendant is not in contempt because the defendant does not have the ability to pay the amount due, the court may:

(i) suspend all or any part of the amount due in the interest of justice, except that the court may not waive surcharges imposed pursuant to section 7282 of this title.

(ii) order the defendant to participate in the restorative justice program conducted by a community reparative board and direct the reparative board to determine an appropriate amount of community service to be performed in lieu of all or part of the amount due.

(d) For purposes of civil contempt proceedings, the venue shall be statewide.

(e) Notwithstanding 32 V.S.A. § 502, the court administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect or charge against collections a processing charge in an amount approved by the court administrator.

* * * Establish Home Detention Program for Pretrial Detainees * * *

Sec. D4. 13 V.S.A. § 7554b is added to read:

§ 7554b. HOME DETENTION PROGRAM

(a) As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the department of corrections. The court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the department of corrections. A defendant who is on home detention shall remain in the custody of the commissioner of the department of corrections with conditions set by the court.

(b) Procedure. The status of a defendant who is detained pretrial for more than seven days in a correctional facility for lack of bail may be reviewed by the court to determine whether the defendant is appropriate for home detention. The request for review may be made by either the department of corrections or the defendant. After a hearing, the court may order that the defendant be released to the home detention program, providing that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

(c) Failure to comply. The department of corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the program and shall return the defendant to a correctional facility.

* * * Establish Probation Term Limit for Nonviolent Felonies * * *

Sec. D5. 28 V.S.A. § 205 is amended to read:

§ 205. PROBATION

(a)(1) After passing sentence, a court may suspend all or part of the sentence and place the person so sentenced in the care and custody of the commissioner upon such conditions and for such time as it may prescribe in accordance with law or until further order of court.

(2) The term of probation for misdemeanors shall be for a specific term not to exceed two years unless the court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

(3)(A) The term of probation for nonviolent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

* * *

* * * Expand Eligibility for Adult Court Diversion Program * * *

Sec. D6. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT

(a) The attorney general shall develop and administer an adult court diversion project in all counties. The project shall be operated through the juvenile diversion project and shall be designed to assist ~~adult first-time offenders~~ adults who have been charged with a first or second misdemeanor or a first nonviolent felony. The attorney general shall adopt only such rules as are necessary to establish an adult court diversion project for adults, in compliance with this section.

* * *

Sec. D6.1. COURT DIVERSION PROJECT

The Vermont association of court diversion programs, the department of state's attorneys and sheriffs and the Vermont network against domestic and sexual violence shall jointly develop referral criteria to appropriately screen

charges for the purpose of identifying those that have elements of underlying domestic violence, sexual violence, or stalking.

* * * Permit Earlier Reintegration Furlough for Nonviolent Offenders * * *

Sec. D7. 28 V.S.A. § 808(a)(8)(A) is amended to read:

(A) Any offender sentenced to incarceration may be furloughed to the community up to ~~90~~ 180 days prior to completion of the minimum sentence, at the commissioner's discretion and in accordance with rules adopted pursuant to subdivision (C) of this subdivision (8), provided that an offender sentenced to a minimum term of fewer than ~~180~~ 365 days shall not be eligible for furlough under this subdivision until the offender has served at least one-half of his or her minimum term of incarceration.

* * * Establish DOC Graduated Sanctions for Technical VOPs * * *

Sec. D8. 28 V.S.A. § 256 is added to read:

§ 256. GRADUATED SANCTIONS FOR TECHNICAL VIOLATIONS

(a) At any time before the discharge of the probationer or the termination of the period of probation if, in the judgment of the commissioner, the probationer has violated a condition or conditions of his or her probation, other than a condition that the probationer pay restitution to the department or a violation which constitutes a new crime, the commissioner may sanction the probationer in accordance with rules adopted pursuant to subsection (b) of this

section. However, no probationer shall be incarcerated except pursuant to the provisions of subchapter 3 of this chapter.

(b) The department of corrections shall adopt rules pursuant to chapter 25 of Title 3 that establish graduated sanction guidelines for probation violations as an alternative to arrest or citation under section 301 of this title.

* * * Reinvestment of Savings * * *

Sec. D9. BUDGETARY SAVINGS; ALLOCATIONS IN FISCAL YEAR 2011

(a) In FY 2011, a total of $6,350,500.00 in investments in communities and services are included in the department of corrections budget. In Sec. B.338 of H.789 of 2010 (Appropriations Act), a total of $3,186,000.00 is allocated for investments, and a total of $3,164,500.00 is allocated in subsection (c) of this section. These investments are intended to result in reduced overall costs in the corrections budget by reducing the levels of incarceration and recidivism. A specific goal of these investments is to reduce the three-year recidivism rate from the current level of 53 percent to a level of 40 percent by fiscal year 2014. For each of these investments, the department shall develop benchmarks which can describe how well it is meeting the outcomes in No. 68 of the Acts of the 2009 Adj. Sess. (2010). Where appropriate, the department shall develop these benchmarks in consultation with the organizations with whom it enters into performance-based contracts to carry out these programs and services. The

department shall present the benchmarks, and current baselines for each benchmark based on data currently collected to the corrections oversight committee at its meeting in October 2010.

(b) The department shall have the authority to transfer investment funds referred to in subsections (a) and (c) of this section, where appropriate, to the agency of human services central office to convert these funds to Global Commitment funds to be used for eligible investment expenditures.

(c) The general assembly recognizes that savings will be achieved in the department of corrections budget due to the provisions of this act and of S.292 of 2010 as enacted, and it is the intent of the general assembly that, in anticipation of these savings, the department will invest in programs and services which will further reduce incarceration and recidivism in future years. Therefore, upon passage of this act and prior to actually realizing the savings from the amounts appropriated to the department of corrections, the department shall expend $3,164,500.00 and report on its expenditures to the corrections oversight committee at each of its 2010 meetings. Expenditures shall be as follows:

(1) The amount of $1,324,000.00 shall be to provide grants to community providers for supportive and residential treatment services for transitional beds for offenders reentering the community.

(2) The amount of $80,000.00 shall be for prison treatment programs which will realize an increase in use due to a change in department policy to enable a person terminating a prison treatment program to reenter the program sooner.

(3) The amount of $650,000.00 shall be for grants to provide a continuum of services which aim to prevent people from entering the criminal justice system and to help offenders reentering the community. It is the intent of the general assembly that these funds shall be for community justice centers in counties where they are established, and for similar restorative justice programs in counties which do not have a community justice center.

(4) The amount of $200,000.00 shall be provided to the judiciary to increase the capacity of community service providers, such as providers of case management, substance abuse treatment, or diversion services.

(5) The amount of $910,500.00 shall be to purchase electronic monitoring equipment, including ignition interlock devices, and additional field services for supervision of offenders released to probation, parole, furlough, home confinement, and home incarceration.

Sec. D10. DEPARTMENT OF CORRECTIONS; FACILITIES CLOSING

In fiscal year 2011, the department of corrections shall not close or substantially reduce services at a correctional facility or field office.

* * * Reparative Board Sentence * * *

Sec. D11. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a community reparative board pursuant to chapter 12 of Title 28 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Probation pursuant to ~~section~~ 28 V.S.A. § 205 ~~of Title 28~~.

~~(3)~~(4) Supervised community sentence pursuant to ~~section~~ 28 V.S.A. § 352 ~~of Title 28~~.

~~(4)~~(5) Sentence of imprisonment.

* * *

Sec. D12. COMMISSIONER OF CORRECTIONS; AID TO COMMUNITIES WITH A HIGH NUMBER OF PEOPLE UNDER THE CUSTODY OF THE COMMISSIONER

The commissioner of corrections shall work with communities in which a high number of people are under his or her custody, including those living in the community and those who are incarcerated residents of the community, to help the community to reduce the number of people entering into custody. For expenditures from funds reinvested pursuant to Sec. D9 of this act and Sec. B.338 of H.789 of 2010 (Appropriations Act), in community level services, the commissioner shall give priority to projects located in the four communities which have the highest number of people under his or her custody, including those living in the community and residents who are incarcerated.

* * * E. Education Challenge * * *

Sec. E1. RESTATEMENT OF OUTCOMES FOR EDUCATION CHALLENGE

The outcomes for education for the focus on learning and special education challenges, each of which is equally important, are:

(1) Increase electronic and distance learning opportunities that enhance learning, increase productivity, and promote creativity.

(2) Increase the secondary school graduation rates for all students.

(3) Increase the aspiration, continuation, and completion rates for all students in connection with postsecondary education and training.

(4) Increase administrative efficiencies within education governance in a manner that promotes student achievement.

(5) Increase cost-effectiveness in delivery of support services for students with individualized education plans.

(6) Increase the use of early intervention strategies that enable students to be successful in the general education environment and help avoid the later need for more expensive interventions.

Sec. E2. REDUCTION IN EDUCATION SPENDING; FISCAL YEAR 2012; TARGETED RECOMMENDATIONS

(a) The general assembly recognizes the excellent work performed by school boards to control the growth of education spending in fiscal years 2008 through 2011. Fiscal realities at the state, federal, and international levels demand that school districts continue to exercise fiscal restraint in FY 2012 and beyond.

(b) The Education Challenge is to reduce education spending in FY 2012 so that it is $23,200,000.00 less than in FY 2011, which is approximately a

two-percent reduction in education spending statewide, while achieving the outcomes for education set forth in Sec. E1 of this act.

(c) In order to achieve a two-percent reduction in education spending statewide, the commissioner of education shall determine and allocate a recommended individualized amount of reductions in FY 2012 education spending to each supervisory union and to each technical center district, which in the aggregate shall total $23,200,000.00. When developing the recommended individualized education spending reductions, the commissioner shall consider factors in each supervisory union, each district within the supervisory union, and each regional technical center such as:

(1) demonstrated fiscal restraint;

(2) per-pupil administrative costs;

(3) student-to-staff ratios;

(4) the percentages of students from economically deprived backgrounds or for whom English is not the first language or both; and

(5) other unique circumstances that affect education spending.

(d) On or before August 1, 2010, the commissioner shall notify each supervisory union and technical center district of the recommended individualized amount by which FY 2012 education spending should be reduced below FY 2011 education spending.

(e) Within each supervisory union, school boards shall work jointly to attempt to achieve the recommended individualized education spending reduction through the combined budget reductions of the supervisory union, all school districts within the supervisory union, and any technical center hosted by a school district. The boards of the supervisory union and each district within it shall notify the commissioner on or before December 15, 2010, whether their combined budgets will be able to meet recommended reductions. Also on December 15, 2010, each technical center district shall notify the commissioner of its ability to meet the recommended reduction allocated to it under subsection (c) of this section. The commissioner shall transmit this information to the senate and house committees on appropriations and on education, the senate committee on finance, and the house committee on ways and means. On or before January 15, 2011, the commissioner shall report to these committees with the total projected amount by which FY 2012 budgets will fail to meet the necessary reductions, together with a detailed proposal by which the legislature can ensure that the targets will be met in FY 2012. In addition, the commissioner shall post the recommended individual spending amounts and actual approved budgets for each supervisory union, with a breakdown for each budgeting entity within it, and technical center district on the department of education's website on or before July 1, 2011.

(f) Budget reductions shall be achieved through structural changes and administrative efficiencies.

* * * F. Regulatory Challenge * * *

Sec. F1. RESTATEMENT OF OUTCOMES FOR REGULATORY CHALLENGE

Outcomes for regulatory reform: The secretary of natural resources, the secretary of agriculture, food and markets, the chair of the public service board, the chair of the natural resources board, the commissioner of public service, and the administrative judge shall protect Vermont's natural resources and collaborate to develop a plan that when implemented will meet the following outcomes:

(1) The permitting and licensing processes achieve environmental standards, and are clear, timely, predictable, and coordinated between agencies and municipalities.

(2) The permitting process enables applicants to readily determine what permits and licenses are needed and what information must be submitted to apply for those permits and licenses.

(3) The permit and enforcement processes enable citizens and visitors to the state of Vermont to understand and comply with the laws protecting our natural and agricultural resources.

(4) Permitting, licensing, and environmental protective services are cost-effective and user friendly.

(5) The decision-making process is transparent, and citizens understand and participate in the process.

* * * Environmental and Energy Regulation * * *

Sec. F2. 3 V.S.A. § 839 is amended to read:

§ 839. PUBLICATION OF PROPOSED RULES

(a) ~~Upon receiving a proposed rule, the secretary of state shall arrange for two formal publications of information relating to the proposal.~~

~~(b) The first formal publication~~ The secretary of state shall publish online notice of a proposed rule ~~shall~~ within two weeks of receipt of the proposed rule. Notice shall include the following information ~~from the cover sheet~~:

* * *

~~(c) The second formal publication of a proposed rule shall include the following information from the sheet:~~

~~(1) the name of the agency;~~

~~(2) the title and subject of the rule; and~~

~~(3) the name, telephone number and address of an agency official able to answer questions and receive comments on the proposed rule.~~

~~(d) Formal publications shall be made on Thursdays in a consolidated advertisement in the newspapers of record. Annually on or before July 1, the~~

~~secretary of state shall approve a number of newspapers having general circulation in different parts of the state as newspapers of record under this chapter.~~

~~(e) In addition to formal publication, the secretary of state shall also arrange for publication of an abbreviated notice of proposed rules on a weekly basis in selected newspapers in the state. These notices shall contain the subject of recently proposed rules, together with a brief statement by the secretary of state explaining where to write or telephone for more information on the rules.~~

~~(f)~~(b) The secretary of state may edit all ~~advertisements~~ notices for clarity, brevity, and format and shall include a brief statement explaining how members of the public can participate in the rulemaking process.

~~(g) The secretary of state shall be reimbursed by agencies making publication so that all costs are prorated among agencies publishing at the same time.~~

Sec. F3. 3 V.S.A. § 840 is amended to read:

§ 840. PUBLIC HEARING AND COMMENT

(a) The agency may hold one or more public hearings for each proposed rule. A public hearing shall be scheduled if so requested by 25 persons, by a governmental subdivision or agency, by the interagency committee on administrative rules, or by an association having 25 or more members. The

first hearing shall not be held sooner than ~~10~~ 30 days following the ~~second formal publication~~ notice required by section 839 of this title.

* * *

(c) An agency shall afford all persons reasonable opportunity to submit data, views or arguments, orally or in writing, ~~in accordance with the terms of the notice given under section 839 of this title, but~~ at least through the seventh day following the last public hearing.

* * *

Sec. F4. SECRETARY OF STATE; PUBLICATION OF PROPOSED RULES

(a) The secretary of state shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the state as newspapers of record approved by the secretary of state, of information relating to all proposed rules that includes the following information:

(1) the name of the agency and its Internet address;

(2) the title or subject of the rule; and

(3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(b) The secretary of state shall be reimbursed by agencies making publication so that all costs are prorated among agencies publishing at the same time.

Sec. F5. SECRETARY OF STATE REPORT ON NOTIFICATION OF RULEMAKING

On or before January 15, 2011, the secretary of state shall report to the senate and house committees on government operations with a recommendation for publishing notification of proposed rulemaking in newspapers in a different method or format, at a reduced frequency, or in newspapers of limited geographic circulation in order to reduce the costs to the state of providing notice while also ensuring the citizens of Vermont adequate notice and necessary due process.

Sec. F6. FINDINGS

The general assembly finds and declares that the regulatory reform component of "Challenges for Change" as set forth in Secs. F7–F33 of this act is intended to create administrative and permitting efficiencies at the agency of natural resources, the natural resources board, and the agency of agriculture, food and markets in order to increase staff time devoted to educational, compliance, and enforcement activities. It is the intent of the general assembly that permitting and administrative efficiencies created by regulatory reform component of "Challenges for Change" shall not be used to reduce staffing or

resources at the agency of natural resources, the natural resources board, or the agency of agriculture, food and markets.

* * * Agency of Agriculture, Food and Markets Provisions * * *

Sec. F7. 6 V.S.A. § 1(a) is amended to read:

(a) The agency of agriculture, food and markets shall be administered by a secretary of agriculture, food and markets. The secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The secretary may:

* * *

(12) exercise any other power or authority granted by common law or statute;

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses,

permits, registrations, or certificates for more than one year shall not extend to any program administered by the secretary where the annual fee is more than $125.00.

(14) require any person or entity regulated by the secretary under this title or Title 9 or 20 to file an affidavit under oath or affirmation that the person or entity or their regulated premises is in compliance with an assurance of discontinuance or other order or the terms and conditions of a license, permit, registration, certificate, or approval issued by or under the statutory authority of the secretary or rules adopted under such statutory authority. The secretary's request for an affidavit of compliance under this subdivision may be delivered by hand or by certified mail. Failure to file such affidavit when requested or the material misrepresentation of a fact in the affidavit shall constitute a violation of the underlying regulatory program and grounds for revocation or assessment of administrative penalties or both under section 15 of this title.

* * * Agency of Natural Resources Permitting * * *

Sec. F8. 10 V.S.A. § 556 is amended to read:

§ 556. PERMITS FOR THE CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES

* * *

(b) The secretary may require an applicant to submit any additional information which the secretary considers necessary to make the completeness determination required in subsection (a) of this section and shall not grant a permit until the information is furnished and evaluated. For air contaminant sources that have allowable emissions of more than ten tons per year of all contaminants, excluding greenhouse gases, upon making a determination ~~that an application is complete~~ to issue a draft permit, the secretary shall ~~cause~~ issue a notice~~, including~~ that includes a brief description of the source and the address where a complete permit application and draft permit may be reviewed, ~~to be published in a newspaper having general circulation in the area affected by the source,~~ shall provide a ~~30-day~~ public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source constitutes a major stationary source or major modification under the rules of the secretary and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air

contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.

* * *

Sec. F9. 10 V.S.A. § 556a is amended to read:

§ 556a. OPERATING PERMITS

(a) Upon a date specified in the rules adopted by the secretary to implement this section, it shall be unlawful for any person to operate an air contaminant source that has allowable emissions of more than ten tons per year of all contaminants, excluding greenhouse gases, except in compliance with a permit issued by the secretary under this section. The secretary may require that air contaminant sources with allowable emissions of ten tons or less per year obtain such a permit, upon determining that the toxicity and quantity of hazardous air contaminants emitted may adversely affect susceptible populations, or if deemed appropriate based on an evaluation of the requirements of the federal Clean Air Act.

* * *

(c) For air contaminant sources that have allowable emissions of more than ten tons per year of all contaminants, excluding greenhouse gases, upon

making a determination ~~that an application is complete~~ to issue a draft permit, the secretary shall ~~cause~~ issue a notice~~, including~~ that includes a brief description of the source and the address where a complete permit application and a draft permit may be reviewed, ~~to be published in a newspaper having general circulation in the area affected by the source,~~ shall provide a ~~30-day~~ public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source is subject to subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.

* * *

(e) A permit issued under this section may be renewed upon application to the secretary for a fixed period of time, not to exceed five years.

(1) A permit being renewed shall be subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance, except that a permit being renewed shall not be subject to the public notice and comment requirements of this chapter if all of the following apply:

(A) The secretary determines that no substantive changes have occurred at the air contaminant source that would affect emissions or require changes to the permit.

(B) The secretary determines no new statutory or regulatory requirements need to be added to the permit.

(C) The air contaminant source does not require a permit under subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control).

(2) The secretary shall not issue a permit renewal unless the applicant first demonstrates that the emissions from the subject source meet all applicable emission control requirements or are subject to, and in compliance with, an appropriate schedule of compliance.

* * *

(j) Except in compliance with a permit issued by the secretary under this section, it shall be unlawful for a person to operate an air contaminant source that has allowable emissions of greenhouse gases that equal or exceed any threshold established by the U.S. Environmental Protection Agency at or above which such emissions are subject to the requirements of subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control). Based on available emission control technologies or energy efficiency measures, or as otherwise appropriate to implement the provisions of this chapter, the secretary may adopt rules to require air contaminant sources with allowable emissions below such threshold to obtain a permit under this section.

Sec. F10. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

* * *

(26) "Household hazardous waste" means any waste from households that would be subject to regulation as hazardous wastes if it were not from households.

Sec. F11. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the

secretary for such facility, site or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

(2) Certification shall be valid for a period not to exceed ~~five~~ ten years, except that a certification issued to a sanitary landfill or a household hazardous waste facility under this section shall be for a period not to exceed five years.

(b) Certification for a solid waste management facility, where appropriate, shall:

* * *

(5) Contain provisions for air, groundwater and surface water monitoring throughout the life of the facility ~~and for a reasonable time after closure of the facility,~~ and provisions for erosion control, capping, landscaping, drainage systems, and monitoring systems for leachate and gas control;

* * *

(i) In lieu of obtaining a certification for the long-term maintenance and postclosure care of the facility the secretary shall adopt rules to ensure the proper maintenance and postclosure care of facilities that disposed of municipal solid waste and any other waste stream designated by the secretary.

These rules shall require that the facility owner and operator maintain financial responsibility as required under section 6611 of this title for the period of time determined necessary to protect public health and the environment. These rules may include requirements for monitoring at a facility, monitoring requirements for surface water or groundwater in the vicinity of the facility, monitoring of leachate and gas control, physical maintenance of the facility, and corrective action for any release of a solid waste from the facility.

Sec. F12. 10 V.S.A. § 6606 is amended to read:

§ 6606. HAZARDOUS WASTE CERTIFICATION

(a) No person shall store, treat, or dispose of any hazardous waste without first obtaining certification from the secretary for such facility, site or activity. Certification shall be valid for a period not to exceed ~~five~~ ten years.

* * *

Sec. F13. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

(a) The purpose of this chapter is to authorize the secretary of natural resources to issue general permits for the implementation of permit programs where such authority would establish permitting efficiencies while simultaneously maintaining necessary protection of public health and the environment. It is the intent of the general assembly that the general permitting authority granted to the agency of natural resources under this

chapter be used only for classes or categories of similar discharges, emissions, disposal, facilities, or activities that present low risk to the environment and public health.

(b) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; ~~chapter 56 (public water supply) for construction permits;~~ and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

~~(b)~~(c) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

~~(c)~~(d) This chapter is in addition to any other authority granted to the agency or department.

~~(d)~~(e) The secretary may adopt rules to implement this chapter.

Sec. F14. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

Sec. F15. 10 V.S.A. § 8504(j) is amended to read:

(j) Appeals ~~to discharge~~ of authorizations or coverage under a general permit. Any appeal of an authorization ~~to discharge~~ or coverage under the terms of a general permit shall be limited in scope to whether the permitted activity complies with the terms and conditions of the general permit.

* * * Environmental Enforcement * * *

Sec. F16. 10 V.S.A. § 8005 is amended to read:

§ 8005. INVESTIGATIONS ~~AND~~; INSPECTIONS; AFFIDAVIT OF COMPLIANCE

* * *

(c) At any time, the secretary, the land use panel, or a district commission created pursuant to subsection 6026(b) of this title may require a permittee to

file an affidavit under oath or affirmation that a facility, project, development, subdivision, or activity of the permittee is in compliance with an assurance of discontinuance or order issued under this chapter or a permit issued under a statute identified under subsection 8003(a) of this title or under a rule enforceable under authority set forth under a statute identified under subsection 8003(a) of this title. A request for an affidavit of compliance under this subdivision may be delivered by hand or by certified mail. Failure to file an affidavit within the period prescribed by the secretary, land use panel, or district commission or the material misrepresentation of fact in the affidavit shall be a violation and shall also constitute grounds for revocation of the permit to which the affidavit requirement, assurance of discontinuance, or order under this chapter applies.

Sec. F17. 10 V.S.A. § 8007(b)(3) is amended and (4) is added to read:

(3) for a violation that does not affect the natural environment or cause any environmental harm, contribution toward public educational projects, administered by the agency of natural resource or the natural resources board, that will enhance the public's awareness and compliance with statutes identified in subsection 8003(a) of this title and with any related rules or permits or related assurances of discontinuance or orders issued under this chapter. Contributions under this subdivision shall be used for the purpose stated in this subdivision and shall be deposited as follows:

(A) into the Act 250 permit fund established under section 6029 of this title for the portion of a settlement attributable to the resolution of a violation under authority that the natural resources board enforces under subsection 8003(a) of this title; or

(B) into the treasury for the portion of a settlement attributable to the resolution of a violation under authority that the secretary enforces under subsection 8003(a) of this title, for use by the secretary;

(4) payment of monetary penalties, including stipulated penalties for violation of the assurance.

* * *

Sec. F18. 10 V.S.A. § 8008(a) is amended to read:

(a) The secretary may issue an administrative order when the secretary determines that a violation exists. The order shall be served ~~on the respondent in person or by acceptance of service, in accordance with court rules, by a person designated by the respondent~~ as provided for under the Vermont Rules of Civil Procedure. A copy of the order also shall be delivered to the attorney general. An order shall be effective on receipt unless stayed under subsection 8012(e) of this title.

* * * Agency of Natural Resources; Cost Reimbursement * * *

Sec. F19. 3 V.S.A. § 2809 is added to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

(a)(1) The secretary may require an applicant for a permit, license, certification, or order issued under a program that the secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, or engineering expertise or services that the agency of natural resources does not have when such expertise or services are required for the processing of the application for the permit, license, certification, or order.

(2) The secretary may require an applicant under chapter 151 of Title 10 to pay for the time of agency of natural resources personnel providing research, scientific, or engineering services or for the cost of expert witnesses when agency personnel or expert witnesses are required for the processing of the permit application.

(3) Except as set forth under chapters 59 and 159 of Title 10 and 10 V.S.A. § 1283, the secretary may require a person who caused the agency to incur expenditures or a person in violation of a permit, license, certification, or order issued by the secretary to pay for the time of agency personnel or the cost of other research, scientific, or engineering services incurred by the agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

(b) Prior to commencing or contracting for research, scientific, or engineering expertise or services or contracting for expert witnesses for which the secretary intends to seek cost reimbursement under subdivisions (a)(1) and (2) of this section, the secretary shall notify the applicant for a permit, license, certification, or order of the secretary's authority to assess costs under this section.

(c)(1) Within 15 days of issuance of notice under subsection (b) of this section, an applicant for a permit, license, certification, or order may request a meeting with the secretary to identify and review the proposed agency services or contracting services that may be assessed to the applicant.

(2) The secretary may enter into agreements with an applicant for a permit, license, certification, or order under which either the applicant or the agency of natural resources shall provide or pay for the necessary research, scientific, or engineering expertise or services or expert witnesses.

(3) When the secretary meets with an applicant under this subsection, the secretary shall provide the applicant in writing a preliminary estimate of the costs to be assessed and the purpose of the funds.

(d) The following apply to the authority established under subsection (a) of this section:

(1) The secretary may assess costs under subdivisions (a)(1) and (2) of this section to the applicant or applicants for the permit only with the approval

of the governor. Costs assessed under subdivision (a)(3) shall not require approval of the governor.

(2) The secretary may require reimbursement only of costs in excess of $3,000.00.

(3) The secretary may revise estimates previously noticed as necessary from time to time during the progress of the work and shall notify the applicant in writing of any revision.

(4) The secretary shall provide the applicant with a detailed statement of a final assessment under this section showing the total amount of money expended or contracted for in the work and directing the manner and timing of payment by the applicant.

(5) All funds collected from applicants shall be paid into the state treasury.

(e) The secretary may withhold a permit approval or suspend the processing of a permit application for failure to pay reasonable costs imposed under this subsection.

(f) An action or determination of the secretary under this section shall constitute an act or decision of the secretary that may be appealed in accordance with 10 V.S.A. § 8504.

Sec. F20. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(m) After notice and opportunity for hearing, a district commission may withhold a permit or suspend the processing of a permit application for failure of the applicant to pay costs assessed under 3 V.S.A. § 2809 related to the participation of the agency of natural resources in the review of the permit or permit application.

Sec. F21. 10 V.S.A. § 6083(a) is amended to read:

(a) An application for a permit shall be filed with the district commissioner as prescribed by the rules of the board and shall contain at least the following documents and information:

* * *

(2) ~~Five~~ Four copies of a plan of the proposed development or subdivision showing the intended use of the land, the proposed improvements, the details of the project, and any other information required by this chapter, or the rules adopted under this chapter.

* * *

Sec. F22. 10 V.S.A. § 6084(a) is amended to read:

(a) On or before the date of filing of an application with the district commission, the applicant shall send notice and a copy of the initial application

to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont agency of natural resources; any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. The applicant shall furnish to the district commission the names of those furnished notice by affidavit, and shall post a copy of the notice in the town clerk's office of the town or towns wherein the project lies. The applicant shall also provide a list of adjoining landowners to the district commission. Upon request and for good cause, the district commission may authorize the applicant to provide a partial list of adjoining landowners in accordance with board rules.

Sec. F23. 10 V.S.A. § 8010(e) is amended to read:

(e) Penalties assessed under this section shall be deposited in the general fund, except for:

(1) those penalties which are assessed as a result of a municipality's enforcement action under chapter 64 of this title, in which case the municipality involved shall receive the penalty monies; and

(2) those penalties that are assessed as a result of the state's actual cost of enforcement in accordance with subdivision (b)(7) of this section, in which case the penalties shall be paid directly to the agency of natural resources.

Sec. F24. 10 V.S.A. § 8504(o) is added to read:

(o) With respect to review of an act or decision of the secretary pursuant to 3 V.S.A. § 2809, the court may reverse the act or decision or amend an allocation of costs to an applicant only if the court determines that the act, decision, or allocation was arbitrary, capricious, or an abuse of discretion. In the absence of such a determination, the court shall require the applicant to pay the secretary all costs assessed pursuant to 3 V.S.A. § 2809.

Sec. F25. 30 V.S.A. § 20 is amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

(a)(1) The board or department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

* * *

(2) The agency of natural resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific or engineering services to:

(A) assist the agency of natural resources in any proceeding under section 248 of this title;

(B) monitor compliance with an order issued under section 248 of this title;

(C) assist the board or department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of agency of natural resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The agency of natural resources shall report annually to the joint fiscal committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made; and

(3) The personnel authorized by this section shall be in addition to the regular personnel of the board or department or other state agencies; and in the case of the department or other state agencies may be retained only with the approval of the governor and after notice to the applicant or the public service company or companies. The board or department shall fix the amount of compensation and expenses to be paid such additional personnel, except that the agency of natural resources shall fix the amount of compensation and expenses to be paid to additional personnel that it retains under subdivision (2) of this subsection.

* * *

Sec. F26. 30 V.S.A. § 21 is amended to read:

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

(a) The board ~~or,~~ the department, or the agency of natural resources may allocate the portion of the expense incurred or authorized by it in retaining additional personnel for the particular proceedings authorized in section 20 of this title to the applicant or the public service company or companies involved in those proceedings. The board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Prior to allocating costs, the board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, the board ~~or~~, the department, or the agency of natural resources shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the state treasury at such time and in such

manner as the board ~~or~~, the department, or the agency of natural resources may reasonably direct.

(b) When regular employees of the board ~~or~~, the department, or the agency of natural resources are employed in the particular proceedings described in section 20 of this title, the board ~~or~~, the department, or the agency of natural resources may also allocate the portion of their costs and expenses to the applicant or the public service company or companies involved in the proceedings. The costs of regular employees shall be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section.

* * *

(d) The agency of natural resources may allocate expenses under this section only for costs in excess of the amount specified in 3 V.S.A. § 2809(d)(2).

(e) On or before January 15, 2011, and annually thereafter, the agency of natural resources shall report to the senate and house committees on natural resources and energy, the senate committee on finance, and the house committee on ways and means the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name

of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company.

* * * Municipal Bylaw Provisions * * *

Sec. F27. 24 V.S.A. § 4449(e) is added to read:

(e) Beginning October 1, 2010, any application for an approval or permit and any approval or permit issued under this section shall include a statement, in content and form approved by the secretary of natural resources, that state permits may be required and that the permittee should contact state agencies to determine what permits must be obtained before any construction may commence.

Sec. F28. 24 V.S.A. § 4463(d) is added to read:

(d) Beginning October 1, 2010, any application for an approval and any approval issued under this section shall include a statement, in content and form approved by the secretary of natural resources, that state permits may be required and that the permittee should contact state agencies to determine what permits must be obtained before any construction may commence.

* * * Public Service Board Provisions * * *

Sec. F29. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(g) At any time, the board may require a person, company, or corporation to file an affidavit under oath or affirmation that the person, company, or corporation or any facility or plant thereof is in compliance with the terms and conditions of an order, approval, certificate, or authorization issued under this title or rules adopted under this title. A request for an affidavit of compliance under this subdivision may be delivered by hand or by certified mail. Failure to file such an affidavit within the period prescribed by the board or the material misrepresentation of a fact in an affidavit shall be a violation subject to civil penalty under subdivision (a)(1) of this section and shall also be grounds for revocation or rescission of the order, approval, certificate, or authorization as to which the board required the affidavit.

Sec. F30. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(4)(A) With respect to a facility located in the state, the public service board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

* * *

(D) Notice of the public hearing shall be published ~~in a newspaper of general circulation in the county or counties in which the proposed facility will be located two weeks successively, the last publication to be~~ and maintained on the board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be reviewed.

* * *

(j)(1) The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings otherwise required by this chapter if the board finds that:

* * *

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The board shall give written notice of the proposed certificate to the parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection and to any other person found by the board to have a substantial interest in the matter. Such notice shall be

published on ~~two occasions at least one week apart. Such notice shall request comment~~ the board's website and shall request comment within ~~21~~ 28 days of the ~~last~~ initial publication on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

* * *

Sec. F31. QUARTERLY MEETINGS OF CHALLENGES FOR CHANGE COMMITTEES OF JURISDICTION

(a) The proposed system of accountability for measuring the successes of "Challenges for Change" shall, as set forth under Sec. 7 of No. 68 of the Acts of the 2009 Adj. Sess. (2010), provide for quarterly meetings of the chairs of the house and senate committees of jurisdiction, and the quarterly meetings of the chairs of the committees of jurisdiction related to this Environmental and Energy Regulatory Challenge shall be held each year in January, April, July, and October.

(b) At the October 2010 quarterly "Challenges for Change" meeting, the secretary of natural resources shall report to the chairs of the house and senate committees of jurisdiction for this challenge with a plan of how the agency of natural resources shall reallocate staffing and resources in response to any

administrative or permitting efficiencies created under authority granted to the secretary under this act.

Sec. F32. 10 V.S.A. § 4277(b) is amended to read:

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this state without first obtaining a state migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. ~~Each stamp shall be validated by the signature of the licensee written in ink across the face of the stamp and~~ A stamp shall not be transferable. The stamp year shall run from ~~July 1 to June 30~~ January 1 to December 31.

Sec. F33. ANR REPORT ON ANTI-DEGRADATION IMPLEMENTATION RULES

On or after January 15, 2011, and at least 30 days prior to prefiling the draft anti-degradation policy implementation rules with the interagency committee on administrative rules under 3 V.S.A. § 837, the secretary of natural resources shall submit for review a copy of the draft anti-degradation policy implementation rules to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources.

* * * G. Economic Development Challenge * * *

Sec. G1. RESTATEMENT OF OUTCOMES FOR ECONOMIC DEVELOPMENT CHALLENGE

Outcomes for economic development:

(1) Vermont achieves a sustainable annual increase in nonpublic sector employment and in median household income.

(2) Vermont attains a statewide, state-of-the-art telecommunications infrastructure.

Sec. G2. LEGISLATIVE FINDINGS AND INTENT

(a)(1) The economic development challenge as specified in No. 68 of the Acts of the 2009 Adj. Sess. (2010) (Act 68) is to improve economic development results while spending less in fiscal years 2011 and 2012 on programs identified in the unified economic development budget (UEDB). This reduction in expenditures is only one part of Act 68's overall mandate to achieve $38 million in savings. The act also specifies that Vermont's economic development programs and policies shall strive to achieve a sustainable annual increase in nonpublic sector employment and in median household income, as well as a statewide, state-of-the-art telecommunications infrastructure.

(2) At present, there are many regional entities supported by the state through the UEDB. Those entities include:

(A) 12 regional development corporations;

(B) 11 regional planning commissions;

(C) 14 regional state employment offices;

(D) five regional micro-business development programs;

(E) eight regionally deployed small business development center councilors; and

(F) four statewide and simultaneous employer outreach programs for employee training.

(b) Pursuant to the directive contained in Act 68, it is the intent of the general assembly:

(1) Identifying measurable results of improvement.

(2) Designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3.

(3) Directing available state funds to these strategies.

(4) Using objective data-based indicators to measure performance of these strategies.

(c) As part of the transition toward a comprehensive redesign of the regional services delivery system, this act provides for continued funding for every existing regional planning commission and regional development

corporation from July 1, 2010, through January 31, 2011, at a rate equal to 95 percent of fiscal year 2010 general fund levels for that period.

(d) Implementation of performance-based contracting for regional economic development and planning services will begin February 1, 2011.

(e) In addition to the state funds available under subsection (c) of this section, there are newly created funding sources available to regional planning and economic development entities. For example, through the sustainable communities planning grant program offered by the United States Department of Housing and Urban Development, competitive matching funds are available to support multijurisdictional regional planning efforts that integrate housing, economic development, and transportation decision-making in a manner that empowers jurisdictions to consider simultaneously the interdependent challenges of economic growth, social equity, and environmental impact.

* * * Regional Economic Development * * *

Sec. G3. 24 V.S.A. chapter 76 is amended to read:

CHAPTER 76. ECONOMIC DEVELOPMENT ~~GRANTS~~

PERFORMANCE CONTRACTS

~~§ 2780. POLICY AND PURPOSE~~

~~The general assembly finds that good jobs for Vermonters are an essential social and economic need for the state. The regional development corporations assist in job development in Vermont, through the provision of technical~~

~~assistance to Vermont communities in planning for economic growth and stability; through the support of existing business and industry; through the encouragement of business start-ups; and through the recruitment of businesses to the state. A strong and stable Vermont economy is best promoted through these development corporations.~~ [Deleted].

* * *

§ 2782. ~~APPLICATIONS FOR GRANTS~~ PROPOSALS FOR PERFORMANCE CONTRACTS FOR ECONOMIC DEVELOPMENT

(a) ~~A~~ The secretary shall annually award performance contracts to qualified regional development ~~corporation~~ corporations, regional planning commissions, or both in the case of a joint proposal, ~~or a regional planning commission in the absence of a qualified development corporation may apply to the secretary, on a form provided by the secretary, for a grant~~ to provide economic development services under this chapter.

(b) A proposal shall be submitted in response to a request for proposals issued by the secretary.

(c) The secretary may require that ~~an applicant~~ a service provider submit with ~~an application~~ a proposal, or subsequent to the filing of ~~an application whatever~~ a proposal, additional supportive data or information that he or she

considers necessary to make a decision to award or to assess the effectiveness of ~~the grant~~ a performance contract.

§ 2783. ~~DETERMINATION OF ELIGIBILITY FOR GRANT~~ ELIGIBILITY FOR PERFORMANCE CONTRACTS

~~(a)~~ Upon receipt of ~~an application~~ a proposal for a ~~grant~~ performance contract, the secretary shall within 60 days determine whether or not the ~~applicant is eligible for a subsidy~~ service provider may be awarded a performance contract under this chapter. ~~An applicant shall be eligible for a subsidy~~ The secretary shall enter into a performance contract with a service provider if the secretary finds:

(1) the ~~applicant~~ service provider serves an economic region generally consistent with one or more of the state's regional planning commission ~~district~~ regions;

(2) the ~~applicant~~ service provider demonstrates the ability and willingness to provide planning and resource development services to local communities and to assist communities in evaluating economic conditions and prepare for economic growth and stability;

(3) the ~~applicant~~ service provider demonstrates an ability to gather economic and ~~sociological~~ demographic information concerning the area served;

(4) the ~~applicant~~ service provider has, or demonstrates it will be able to secure, letters of support from the legislative bodies of the affected municipalities;

(5) the ~~applicant~~ service provider demonstrates a capability and willingness to assist existing business and industry, to encourage the development and growth of small business, and to attract industry and commerce;

(6) the ~~applicant~~ service provider appears to be the best qualified ~~applicant~~ service provider from the region to accomplish and promote economic development;

(7) the ~~applicant~~ service provider needs the ~~grant~~ performance contract award and that the ~~grant~~ performance contract award will be used for the employment of professional persons ~~on a full-time basis~~ or expenses consistent with performance contract provisions, or both;

(8) the ~~applicant~~ service provider presents an operating budget and has adequate funds available to match the ~~requested grant~~ performance contract award;

(9) the ~~applicant~~ service provider demonstrates a willingness to involve the public of the region in its policy-making process by offering membership to representatives of all municipalities in the economic region which shall elect the directors of the governing board;

(10) the ~~applicant~~ service provider demonstrates a willingness to coordinate its activities with the planning functions of any regional planning commission located in the same geographic area as the ~~applicant;~~ service provider.

~~(11) the applicant has hired or contracted the services of a small business development specialist and a manufacturing extension service specialist or, in the alternative has demonstrated a commitment to use the services of small business development specialists and manufacturing extension service specialists who are located in other regions of the state~~.

~~(b) If the secretary finds that applicant is ineligible for a grant under this chapter the secretary shall notify the applicant by certified mail.~~

~~(c) If the secretary finds that an applicant is eligible for a grant under this chapter the secretary shall determine the amount of the grant due that applicant under section 2784 of this title.~~

§ 2784. ~~DETERMINATION OF THE AMOUNT OF THE~~ ~~GRANT~~ TERMS OF PERFORMANCE CONTRACTS

(a)(1) ~~The amount of the~~ ~~grant~~ Funds available under a performance contract may only be used by an applicant to~~:~~ perform the duties or provide the services set forth in the performance contract

~~(A) employ professional personnel to direct a program of regional economic development;~~

~~(B) pay the operating expenses associated with professional personnel included in the grant;~~

~~(C) employ or contract for the services of a small business development specialist, or a manufacturing extension service specialist~~.

(2) ~~To the extent that funds are available, the~~ The amount and terms of the ~~grant~~ performance contract award shall be determined by the ~~secretary~~ parties to the contract. ~~Funds may be provided for the purpose of implementing a job development zone designated under 10 V.S.A. chapter 29, subchapter 2.~~

(b) ~~The grant~~ A performance contract shall be made for a period ~~not to exceed one year under such terms and conditions as the secretary prescribes~~ agreed to by the parties. ~~However, at the end of a grant period the applicant may reapply for another grant in the same manner as an original application~~.

(c) Payments ~~of the amounts granted~~ to a service provider shall be made ~~at a time specified by the secretary~~ pursuant to the terms of the performance contract. ~~On the direction of the secretary, the commissioner of finance and management shall issue his warrant and the state treasurer shall pay the amounts granted.~~

§ 2784a. PLANS

~~A recipient of a grant~~ A service provider awarded a performance contract under this chapter shall conduct its activities under ~~section~~ subdivision 2784(a)(1) of this title consistent with local and regional plans.

§ 2785. RULES

The secretary may issue rules necessary to carry out his or her duties and the purposes of this chapter under the provisions of chapter 25 of Title 3.

§ 2786. APPLICABILITY OF STATE LAWS

(a) ~~A regional development corporation approved~~ A service provider awarded a performance contract by the ~~commissioner~~ secretary under this chapter shall be subject to subchapter 2 (open meetings), and subchapter 3 (public records) of chapter 5 of Title 1, except that in addition to any limitation provided in subchapter 2 or ~~subchapter~~ 3:

(1) no person shall disclose any information relating to a proposed transaction or agreement between the ~~corporation~~ service provider and another person, in furtherance of the ~~corporation's~~ service provider's public purposes under the law, prior to final execution of such transaction or agreement; and

(2) meetings of the ~~corporation's~~ service provider's board to consider such proposed transactions or agreements may be held in executive session under ~~section~~ 1 V.S.A. § 313 ~~of Title 1~~.

(b) Nothing in this section shall be construed to limit the exchange of information between or among regional development corporations ~~and one~~ or ~~more~~ regional planning commissions ~~located in the same region~~ concerning any activity of the corporations and the commissions, provided that such information shall be subject to the provisions of subsection (a) of this section.

(c) The provisions of chapter 11 of Title 2 (lobbyist disclosure) shall apply to regional development corporations and regional planning commissions.

* * * Municipal and Regional Planning Fund * * *

Sec. G4. 24 V.S.A. chapter 117, subchapter 1 is amended to read:

Subchapter 1. General Provisions; Definitions

* * *

§ 4305. [Repealed.]

§ 4306. MUNICIPAL AND REGIONAL PLANNING FUND

(a)(1) A municipal and regional planning fund for the purpose of assisting municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the state treasury.

(2) The fund shall be comprised of 17 percent of the revenue from the property transfer tax under chapter 231 of Title 32 and any moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public. All balances at the end of any fiscal year shall

be carried forward and remain in the fund. Interest earned by the fund shall be deposited in the fund.

(3) Of the revenues in the fund, each year:

(A) 10 percent shall be disbursed to the Vermont center for geographic information;

(B) 70 percent shall be disbursed to the secretary of the agency of commerce and community development for performance contracts with regional planning commissions to provide regional planning services pursuant to section 4341a of this title; and

(C) 20 percent shall be disbursed to municipalities.

(b)(1) ~~Disbursement~~ Allocations for performance contract funding to regional planning commissions shall be determined according to a formula to be adopted by rule under chapter 25 of Title 3 by the department for the assistance of the regional planning commissions. ~~The rules shall give due consideration to the region's progress in adopting a regional plan.~~ Disbursement of funding to regional planning commissions shall be predicated upon meeting performance outcomes and measures pursuant to the terms of the performance contract.

(2) Disbursement to municipalities shall be awarded annually on or before December 31 through a competitive program administered by the department providing the opportunity for any eligible municipality or

municipalities to compete regardless of size, provided that to receive funds, a municipality:

* * *

* * * Regional Planning * * *

Sec. G5. 24 V.S.A. chapter 117, subchapter 3 is amended to read:

Subchapter 3. Regional Planning Commissions

§ 4341. CREATION OF REGIONAL PLANNING COMMISSIONS

(a) A regional planning commission may be created at any time by the act of the voters or the legislative body of each of a number of contiguous municipalities, upon the written approval of the agency of commerce and community development. Approval of a designated region shall be based on ~~the results of studies jointly carried out by representatives of the municipalities and the agency of commerce and community development to determine~~ whether the municipalities involved constitute a logical geographic and a coherent socio-economic planning area. ~~Evidence must be shown that local, state, and federal funding will be adequate to satisfy current requirements and to provide a continuing planning program of a scope sufficient for comprehensive and functional area wide planning.~~ All municipalities within a designated region shall be considered members of the regional planning commission. ~~Such area shall be referred to herein as a region, and may include municipalities located in a neighboring state.~~

(b) Two or more existing regional planning commissions may be merged to form a single commission by act of the ~~voters~~ legislative bodies in a majority of the municipalities in each of the merging regions.

(c) A municipality may withdraw from a regional planning commission on terms and conditions approved by the secretary of the agency of commerce and community development.

§ 4341a. PERFORMANCE CONTRACTS FOR REGIONAL PLANNING SERVICES

(a) The secretary of the agency of commerce and community development shall negotiate and enter into performance contracts with regional planning commissions, or with regional planning commissions and regional development corporations in the case of a joint contract, to provide regional planning services.

(b) A performance contract shall address how the regional planning commission, or regional planning commission and regional development corporation jointly, will improve outcomes and achieve savings compared with the current regional service delivery system, which may include:

(1) a proposal without change in the makeup or change of the area served;

(2) a joint proposal to provide different services under one contract with one or more regional service providers;

(3) co-location with other local, regional, or state service providers;

(4) merger with one or more regional service providers;

(5) consolidation of administrative functions and additional operational efficiencies within the region; or

(6) such other cost-saving mechanisms as may be available.

* * *

§ 4343. APPOINTMENT, TERM AND VACANCY; RULES

* * *

(b) A regional planning commission ~~shall~~ may elect an executive board, consisting of not less than five nor more than nine members, to oversee the operations of the commission and implement the policies of the commission, and shall elect a ~~chairman~~ chair, and a secretary, and, at its organization meeting shall adopt, by a two-thirds vote of those representatives present and voting at such meeting, such rules and create and fill such other offices as it deems necessary or appropriate for the performance of its functions, including, without limitation, the number and qualification of members, terms of office, and provisions for municipal representation and voting.

* * *

§ 4344. EXISTING COMMISSIONS

~~The representatives of any existing regional planning or regional development commission or bodies having similar powers and functions~~

~~established under sections 2771 through 2779 and sections 2923 through 2931 of this title shall continue in office until the end of their term so established. New representatives shall be appointed and vacancies filled only under this chapter. Such commissions shall have on March 23, 1968, all of the powers and duties of a regional planning commission created under this chapter.~~

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(10) Retain staff and consultant assistance in carrying out its duties and powers, and contract with one or more persons to provide administrative, clerical, information technology, human resources, or related functions.

* * *

(13) provide planning, training, and development services to local and regional communities and assist communities in evaluating economic conditions and prepare for economic growth and stability.

(14) gather economic and demographic information concerning the area served.

(15) assist existing business and industry, encourage the development and growth of small business, and to attract industry and commerce.

(16) ~~Perform~~ perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of, this chapter.

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(5) Prepare a regional plan and amendments that are consistent with the goals established in section 4302 of this title, and compatible with approved municipal and adjoining regional plans. When preparing a regional plan, the regional planning commission shall:

* * *

(F) consider the probable social and economic benefits and consequences of the proposed plan; and

* * *

(7) Prepare, in conjunction with the commissioner of the department of economic, housing and community ~~affairs~~ development, guidelines for the provision of affordable housing in the region, share information developed with respect to affordable housing with the municipalities in the region and with the commissioner of the department of economic, housing and community ~~affairs~~ development, and consult with the commissioner when developing the housing element of the regional plan.

* * *

(9) At least every ~~five~~ eight years, review the compatibility of municipal plans, and if the regional planning commission finds that growth in a municipality without an approved plan is adversely affecting an adjoining municipality, it shall notify the legislative body of both municipalities of that fact and shall urge that the municipal planning be undertaken to mitigate those adverse effects. If, within six months of receipt of this notice, the municipality creating the adverse effects does not have an approved municipal plan, the regional commission shall adopt appropriate amendments to the regional plan as it may deem appropriate to mitigate those adverse effects.

* * *

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

§ 4346. APPROPRIATIONS

~~(a)~~ Regional planning commissions may receive and expend monies from any source, including, without limitation, funds made available by the participating municipalities, and by the agency of commerce and community

development, out of state funds appropriated to that agency for this purpose. Notwithstanding the provisions of any municipal charter, any municipality may appropriate and expend funds to and for regional planning commissions either by the authorization of its voters or by incorporating such amount as a line item in their administrative budget.

~~(b) In order to qualify for financial aid from the agency of commerce and community development, a regional planning commission shall have been created in accordance with section 4341 of this title, shall represent a region as therein defined, and shall comply with rules and standards prescribed by the agency of commerce and community development for determination of eligibility for the assistance.~~

* * *

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

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

* * *

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

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

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

* * *

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

* * *

~~(i) By December 31, 1992 and at least every five years thereafter, all regional planning commissions shall submit regional plans adopted under this section to the council of regional commissions for review. The council shall make recommendations to the regional planning commissions with respect to appropriate amendments for consideration by the commissions.~~

§ 4348b. READOPTION OF REGIONAL PLANS

(a) Unless they are readopted, all regional plans, including all prior amendments, shall expire every ~~five~~ eight years.

(b) A regional plan that has expired or is about to expire may be readopted as provided under section 4348 of this title for the adoption of a regional plan or amendment. Prior to any readoption, the regional planning commission shall review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the regional plan. The readopted plan shall remain in effect for the ensuing ~~five~~ eight years unless earlier readopted.

* * *

§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL PLANNING EFFORT

(a) A regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region,

and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during a ~~five-year~~ eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

* * *

(d) The commission shall file any adopted plan or amendment with the department of economic, housing and community ~~affairs~~ development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.

(e) During the period of time when a municipal planning process is confirmed:

(1) The municipality's plan will not be subject to review by the commissioner of department of economic, housing and community ~~affairs~~ development under section 4351 of this title.

(2) State agency plans adopted under ~~3 V.S.A.~~ chapter 67 of Title 3 shall be compatible with the municipality's approved plan. This provision shall not apply to plans that are conditionally approved under this chapter.

* * *

§ 4351. REVIEW BY COMMISSIONER OF ECONOMIC, HOUSING AND COMMUNITY ~~AFFAIRS~~ DEVELOPMENT

(a) The commissioner of the department of economic, housing and community ~~affairs~~ development shall establish guidelines for the provision of affordable housing by municipalities with plans that have not been approved under this chapter. These guidelines shall be consistent with goals established in section 4302 of this title.

(b) On a periodic basis, commencing in 1996, the commissioner of the department of economic, housing and community ~~affairs~~ development, or a designee, shall review the planning process of municipalities that do not have approved plans, for compliance with the affordable housing criteria established under this section and shall issue a report to the municipality and to the regional planning commission. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected.

* * * Regional Economic Development and Planning Oversight Panel * * *

Sec. G6. STATE AND REGIONAL ECONOMIC DEVELOPMENT AND PLANNING SERVICES; OVERSIGHT PANEL

(a) Oversight panel.

(1) There is created an oversight panel consisting of eight members who shall be appointed by June 1, 2010 as follows:

(A) Two members appointed by the speaker of the house who shall be representatives of business or employers.

(B) Two members appointed by the president pro tempore of the senate who shall be representatives of business or employers.

(C) Two members appointed by the governor.

(D) Two members, appointed jointly by the governor, the speaker of the house, and the president pro tempore of the senate, who have a background in municipal planning and do not currently serve on the board of a regional development corporation or a regional planning commission.

(2)(A) Notwithstanding any other provision of law to the contrary, the secretary of commerce and community development shall consult with the oversight panel in the development of requests for proposals to provide regional economic development services pursuant to chapter 76 of Title 24, and in the review of performance contract proposals.

(B) The secretary of commerce and community development shall not award or otherwise enter into a performance contract until approved by the oversight panel.

(3) The oversight panel shall work with the secretary to develop outcomes and performance measures for the agency of commerce and community development, and to identify the functions appropriate to the agency and how they relate to regional development and planning services.

(4) The oversight panel shall study and identify a process for developing a comprehensive statewide economic development plan and shall report its findings to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development on or before January 15, 2011.

* * * Performance Contracts; Regional Economic Development * * *

Sec. G7. REGIONAL DEVELOPMENT CORPORATIONS; REQUEST FOR PROPOSALS; PERFORMANCE CONTRACTS

(a) Request for proposals to provide regional economic development services. The secretary of commerce and community development, in consultation with the oversight panel pursuant to Sec. G6 of this act, shall issue to all existing regional development corporations and regional planning commissions a request for proposals for a performance contract to provide regional economic development services.

(b) Proposals for regional economic development performance contracts.

(1) A proposal for a regional economic development performance contract shall identify the region to be served, and shall address those infrastructure components, demographics, economic and planning elements, and any other factors that led the service provider to define the region as identified, which may include:

(A) transportation corridors;

(B) predominant industries in the region;

(C) population and commerce centers;

(D) opportunities for cluster development, including optical, electronics, machine tool, natural resources-based industries, composites, or agriculture.

(2) A proposal shall address the services to be provided, and shall include consideration of:

(A) actions to contribute to business recruitment and retention;

(B) business assistance with site selection;

(C) business assistance and facilitation with securing financing and alternative financing through available funding sources, including the Vermont economic development authority, the small business administration, revolving loan funds, and others.

(D) facilitating access to business support programs such as the procurement assistance technical center, the Vermont global trade partnership, the Vermont employment growth incentive program, and the small business development center.

(c) Performance outcomes for regional economic development performance contracts.

(1) A proposal for a regional economic development contract shall identify specific outcomes and benchmarks to measure regional economic development performance.

(2) The secretary shall ensure that, as a condition of any state funding, a regional service provider shall demonstrate its ability to improve regional economic performance relative to region-specific measures established pursuant to this act.

(d) Timeline.

(1) The request for proposals for regional economic development performance contracts shall be issued by July 1, 2010.

(2) Each existing regional planning commission or regional development corporation shall, by August 1, 2010, notify the secretary whether it intends to submit a proposal for a regional economic development performance contract by and shall indicate whether it intends to submit a proposal individually or jointly with another service provider.

(3) Proposals shall be submitted to the secretary by October 1, 2010. A single regional service provider, or combination of regional service providers, may submit a proposal for both regional economic development and regional planning performance contracts.

(4) The secretary shall review, negotiate, and enter into performance contracts by November 1, 2010.

(5) Notwithstanding subdivisions (1)–(4) of this subsection, if for any reason regional economic development services will not be provided to one or more areas of the state pursuant to performance contracts secured as of November 1, 2010, the secretary, in consultation with the oversight panel, may reopen contract negotiations with service providers, may issue a new request for proposals, and may negotiate additional contracts with any interested person until the secretary has secured performance contracts to provide services to the entire state.

(6) All performance contracts between the secretary and regional service providers pursuant to this section shall take effect February 1, 2011, unless terminated by act of the general assembly prior to the effective date.

(e) Performance-based appropriations.

(1) In fiscal year 2011, the secretary of commerce and community development shall reduce the appropriation to each regional development corporation by 5 percent, except that:

(A) the secretary shall not reduce total funding to any combined regional planning and regional economic development entity by more than 2.5 percent of the entity's appropriation for regional planning services.

(B) no regional development corporation shall sustain a reduction in state funds that amounts to more than five percent of its fiscal year 2010 overall operating budget, less any one-time supplemental funding awarded by the secretary in fiscal year 2010.

(2) Notwithstanding any other provision of law to the contrary, funding provided by the secretary to the regional development corporations in fiscal year 2011 shall be consistent with the following:

(A) On or before July 15, 2010, the secretary shall disburse three months of funding to each regional development corporation in an amount equal to the amount received in the first quarter of fiscal year 2010, less the reductions implemented by this act, and less any one-time supplemental funding awarded by the secretary in fiscal year 2010.

(B) On or before October 15, 2010, the secretary shall disburse four months of funding to each regional development corporation in an amount equal to the amount received in the same period for fiscal year 2010, less the reductions implemented by this act, and less any one-time supplemental funding awarded by the secretary in fiscal year 2010.

(C) Beginning February 1, 2011, all funding for regional development corporations shall be made pursuant to performance-based contracts consistent with this act. A regional development corporation that is not awarded a performance contract shall receive no further funding.

(3) The secretary and the regional service provider shall negotiate terms for frequency and method of assessing performance, and for establishing incentives and holdbacks based on achievement of identified outcomes, which shall be included in the performance contract.

(f) Duration of performance contracts.

(1) The contract period for the first performance contracts between the secretary and regional service providers pursuant to this section shall be from February 1, 2011, to June 30, 2012. This initial contract period will provide a sufficient time frame for evaluating performance relative to the outcomes and measures identified in the performance contracts, and will offer a secure revenue stream for service providers who are awarded contracts, notwithstanding any further reductions in overall state appropriations necessitated by revenue shortfalls.

(2) The duration of any subsequent performance contracts shall be for a term agreed upon by the parties.

* * * Performance Contracts; Regional Planning * * *

Sec. G8. REGIONAL PLANNING COMMISSIONS; PERFORMANCE CONTRACTS

(a) Performance contracts to provide regional planning services.

(1) The secretary of commerce and community development, in consultation with the oversight panel pursuant to Sec. G6 of this act, shall issue regional planning commissions a request for a performance contract to provide regional planning services pursuant to 24 V.S.A. § 4341a.

(2) A regional planning performance contract shall identify the region to be served, and shall address those infrastructure components, demographics, economic and planning elements, and any other factors that led the service provider to define the region as identified, including:

(A) transportation corridors;

(B) predominant industries in the region;

(C) population and commerce centers; and

(D) predominant natural resource features and land use patterns that constitute a region for planning purposes.

(3) A performance contract shall address the services to be provided, including:

(A) a process for ensuring that all statutorily required services will be met or exceeded; and

(B) assistance for other planning activities as appropriate and as requested by the region that will advance the goals of the region.

(4) A performance contract shall identify specific outcomes and benchmarks to measure regional planning performance.

(b) Regional planning performance audit

(1) At the request and expense of a regional planning commission, the National Association of Development Organizations or a similarly qualified organization, in consultation with the Vermont state auditor, may perform a review of the regional planning commission's financial and management structures to improve performance and attain improved outcomes. A product shall include a written evaluation of the regional planning commission with suggestions for service delivery improvements, efficiencies and savings. The evaluation shall include guidelines for future peer review in subsequent years. The first report and subsequent annual peer reviews shall be presented to the regional planning commission board and the agency of commerce and community development.

(2) An annual performance audit may include a certified financial audit, an annual report on achievements on outcomes and measures as identified in the performance contract, and a report on progress in achieving organizational outcomes as identified in the peer review.

(c) Incentives and holdbacks; achievement of outcomes.

(1) In fiscal year 2011, the secretary of commerce and community development shall reduce the appropriation to each regional planning commission by 5 percent, except that the secretary shall not reduce total funding to any combined regional planning and regional economic development entity by more than 2.5 percent of the entity's appropriation for regional planning services.

(2) Notwithstanding any other provision of law to the contrary, funding provided by the secretary to the regional planning commissions in fiscal year 2011 shall be consistent with the following:

(A) On or before July 15, 2010, the secretary shall disburse three months of funding to each regional planning commission in an amount equal to the amount received in the first quarter of fiscal year 2010, less the reductions implemented by this act, and less any one-time supplemental funding awarded by the secretary in fiscal year 2010.

(B) On or before October 15, 2010, the secretary shall disburse four months of funding to each regional planning commission in an amount equal to the amount received in the same period for fiscal year 2010, less the reductions implemented by this act, and less any one-time supplemental funding awarded by the secretary in fiscal year 2010.

(3) Beginning February 1, 2011, funding allocations and disbursements to regional planning commissions shall be determined pursuant to 24 V.S.A. § 4306.

(4) The secretary and the regional planning commission shall negotiate terms for frequency and method of assessing performance, and for establishing incentives and holdbacks based on achievement of identified outcomes, which shall be included in the performance contract.

(d) Duration of performance contracts.

(1) The contract period for the first performance contracts between the secretary and regional service providers pursuant to this section shall be from February 1, 2011, to June 30, 2012. This initial contract period will provide a sufficient time frame for evaluating performance relative to the outcomes and measures identified in the performance contracts, and will offer a secure revenue stream for service providers who are awarded contracts, notwithstanding any further reductions in overall state appropriations necessitated by revenue shortfalls.

(2) The duration of any subsequent performance contracts shall be for a term agreed upon by the parties.

* * * Regional Measures of Job Creation and Retention * * *

Sec. G9. ECONOMIC MEASURES FOR REGIONAL JOB CREATION AND RETENTION

On or before August 1, 2010, with updates as frequently thereafter as is necessary, the agency of commerce and community development shall develop region-specific measures that will generate information necessary for the general assembly, the administration, and the regional economic development service providers to evaluate economic growth, wage and benefit levels, job creation, and job retention in each economic development region of the state. The regional planning commissions and regional development corporations shall provide information to the agency as is necessary to complete the work required under this section.

Sec. G10. ECONOMIC OUTCOME AND PERFORMANCE MEASURES

(a) Purpose. The purpose of establishing outcome and performance measures is to provide the government accountability committee (GAC) and the committees of jurisdiction, in particular, and the general assembly, as a whole, with a means of tracking the achievements of Vermont's economic development programs so that the state can better target its limited financial resources; maintain a focus on outcomes; and promote transparency and accountability.

(b) Outcome and Performance Measures. By September 1, 2010, for each economic development outcome identified in Sec. 8(b) of No. 68 of the acts of 2010 (an act relating to challenges for change), the executive economist or analyst and the joint fiscal office shall jointly submit to the GAC program-specific outcome and performance measures for all economic development programs identified in the unified economic development budget (UEDB) established under 10 V.S.A. § 2, as well as economic development-related tax expenditures, incentives, and subsidies identified in the UEDB, and in telecommunications. In addition, the economists shall submit, for each such program, the following:

(1) program outcomes achieved in fiscal year 2010;

(2) outcome and performance-measure projections for fiscal year 2011 based on program funding and design prior to challenges for change implementation; and

(3) outcome and performance-measure projections for fiscal year 2011 based on program funding and design subsequent to challenges for change implementation.

(c) Review and Approval of Initial Measures. The GAC, upon recommendation from the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs, shall vote whether the proposed outcome and performance

measures are sufficient and should be accepted, in whole or in part. For any proposed measure not accepted, the GAC may request the economists to revise and resubmit a new measure to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs for their review and recommendation to the GAC, followed by the GAC's vote for acceptance or further request to the economists for revision and resubmission.

(d) Review and Approval of Measures for New Programs. Upon request by the GAC, the economists shall establish outcome and performance measures for any new economic development program created by the general assembly, and shall revise existing outcome and performance measures, as necessary. Before implementation, however, all outcome and performance measures shall be accepted by the GAC pursuant to the process described in subsection (c) of this section.

(e) Guiding Principles for Measures Developed. The outcome and performance measures developed for any purpose set forth in subsection (b) or (c) of this section shall:

(1) be connected to outcomes and activities over which the agency of commerce and community development (ACCD) and its subcontractors have some influence;

(2) take note of business cycles and other external economic events over which the ACCD and its subcontractors have no control;

(3) be appropriately scaled and adjusted to reflect regional differentials within the state;

(4) be calibrated to time periods that are consistent with expected results from the efforts expended; and

(5) include a subjective component to reflect aspects of these activities that may be difficult or impossible to quantify in an objective measure.

(f) Considerations to be Included. For purposes of this section, employment growth outcome and performance measures shall take into consideration, as appropriate, the following:

(1) total net annual private sector employment change by state or region, expressed relative to national growth, regional growth, expected growth, and historical trends.

(2) median household income at state and regional levels, relative to national growth, regional growth, growth expectations, and age-adjusted growth, and assessed over a multi-year period (at least three to five years) and adjusted for cyclical variation in the economy.

(3) cost per job created.

(g) New Programs or Initiatives. The secretary of commerce and community development shall provide the house committee on commerce and

economic development and the senate committee on economic development, housing and general affairs a detailed rationale for any economic development program or initiative creation, elimination, or reorganization proposed under challenges for change, with specific reference to the relevant, accepted, program-specific outcome and performance measures.

(h) Review and Changes to the UEDB. The executive economist or analyst and the joint fiscal office shall review the UEDB for completeness and accuracy, with particular emphasis on the state's return on investment. The economists shall review existing measures of economic achievement, data sources, and methodologies and shall make proposals for improving their usefulness, as appropriate. The executive economist or analyst and the joint fiscal office shall submit their findings and recommendations to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs by September 1, 2010.

* * * Study: Merger of Chittenden County Metropolitan Planning Organization into the Chittenden County Regional Planning Commission * * *

Sec. G11. MERGER OF CHITTENDEN COUNTY METROPOLITAN PLANNING ORGANIZATION

(a) The boards of directors of the Chittenden County metropolitan planning organization and the Chittenden County regional planning commission shall

collaboratively develop a plan for action steps and timeline for the merger of the organizations.

(b) On or before January 15, 2011, the executive directors of each organization shall jointly report the plan to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development, House and Senate natural resources and energy committees, and House and Senate government operations committees.

* * * Workforce Education and Training * * *

* * * Workforce Training and Adult Technical Education Challenge * * *

Sec. G12. WORKFORCE TRAINING AND ADULT TECHNICAL EDUCATION CHALLENGE

(a) In collaboration with designees of the regional technical centers directors' association and the assistant directors of adult education, the commissioner of labor and the commissioner of education shall jointly prepare performance-based criteria and accountability measures for all next generation fund grants for adult technical education offered at regional technical centers.

(b) The criteria shall address, and performance grants shall be based upon, the following:

(1) innovative delivery systems designed to optimize participation rates of adults within the region, including how the center can use information

technology, broadband communications, and virtual learning methods to address the needs of rural students;

(2) aligning programming to the regions to match each region's high-skill, high-wage, high-demand occupational needs;

(3) work readiness for adults in poverty and adults with disabilities;

(4) standard annual reporting framework to the department of education to demonstrate return on investment of funds; and

(5) any additional criteria consistent with Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

* * * Vermont Training Program * * *

Sec. G13. 10 V.S.A. § 531(i) is added to read:

(i) Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to $250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The secretary shall seek to provide these funds equitably throughout Vermont; however, the secretary shall give priority to regions not currently served by apprenticeship programs

offered through the Vermont department of labor pursuant to chapter 13 of Title 21.

* * * Workforce Development Council; WIBS * * *

Sec. G14. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

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

(a) The workforce development council is created as the successor to and the continuation of the governor's human resources investment council and shall be the state workforce investment board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The council shall consist of the members required under the federal act and the following: the president of the University of Vermont or designee; the chancellor of the Vermont state colleges or designee; the president of the Vermont student assistance corporation or designee; the president of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees association; one representative of the low income community appointed by the governor; two

members of the senate appointed by the senate committee on committees; and two members of the house appointed by the speaker. In addition, the governor shall appoint enough other members who are representatives of business or employers so that one-half plus one of the members of the council are representatives of business or employers. At least one-third of those appointed by the governor as representatives of business or employers shall be chosen from a list of names submitted by the regional ~~workforce investment boards~~ technical centers. For the purposes of this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy-making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the governor shall decide who shall be the member of the council.

* * *

(h) ~~The~~ Notwithstanding any other provision of law to the contrary, the commissioner of labor, in consultation with the chair of the workforce development council, shall appoint an executive director who ~~shall~~ may be an exempt employee or may provide services by contract. The executive director shall be appointed every two years effective March 1, 2011.

(i) The workforce development council shall:

* * *

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

(3) ~~Establish and oversee workforce investment boards as provided in section 542 of this title~~

~~(4)~~ Establish goals for and coordinate the state's workforce education and training policies.

~~(5)~~(4) Speak for the workforce needs of employers.

~~(6) [Deleted.]~~

~~(7) Annually review and comment on workforce education and training revenues and expenditures of member agencies and institutions.~~

~~(8)~~(5) Negotiate memoranda of understanding between the council and agencies and institutions involved in Vermont's integrated network of workforce education and training in order to ensure that each is working to achieve annual objectives developed by the council.

~~(9)~~(6) Carry out the duties assigned to the state workforce investment board, as required for a single-service delivery state, under P.L. 105-220, the Workforce Investment Act of 1998, and any amendments that may be made to it.

~~(10) [Deleted.]~~

§ 542. REGIONAL WORKFORCE ~~INVESTMENT BOARDS~~ DEVELOPMENT

(a) ~~At the request of a regional group recognized by the council as interested in workforce training, the workforce development council shall establish a regional workforce investment board in the region. Regional workforce investment boards shall act with oversight from the workforce development council.~~ Each regional technical center, as defined in 16 V.S.A. § 1522, shall:

(1) identify and respond to the workforce development needs of employers in its region; and

(2) coordinate a delivery system of workforce education and training services that is responsive to the needs of employers, employees, and individuals interested in receiving workforce training and is consistent with policies established by the workforce development council. The system shall avoid duplication of services among workforce education and training programs and service providers.

~~(b) Members of each regional workforce investment board shall include individuals or representatives of employers and employees from large and small businesses, secondary and post-secondary educational institutions, regional technical centers, economic development organizations or chambers~~

~~of commerce, or both, workforce education and training organizations, and public agencies with work force education and training responsibilities. The workforce development council shall review the regional workforce investment board membership to ensure a balance between employers, employees and workforce program providers with 51 percent of membership representing employers. Members shall not receive compensation or reimbursement for expenses.~~

(b) Notwithstanding subsection (a) of this section, the workforce development council may authorize a regional workforce investment board that existed on May 1, 2010 to carry out the duties which would otherwise be assigned to a regional technical center pursuant to this section. The amount of funding to each WIB so authorized shall be based on the performance contract entered into between the council and the WIB.

(c)–(d) Repealed.

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

* * *

(e) Award Criteria and Process. The workforce development council, in consultation with the commissioners of labor, education, and of economic, housing and community development, shall develop criteria consistent with subsection (d) of this section for making awards under this section. The

commissioners of labor, of education, and of economic, housing and community development shall develop a process for making awards ~~that includes both the following:~~

~~(1) applications shall be submitted to and reviewed by the local workforce investment board. Within seven business days, the board shall forward them to the commissioner of labor, unless this time requirement is waived by the applicant; and~~

~~(2) if review by the local workforce investment board as required by subdivision (1) of this subsection is not completed within seven business days, the applicant may file the application directly with the commissioner of labor without further review by the local workforce investment board~~.

(f) Awards. Based on guidelines set by the council, the ~~commissioner~~ commissioners of labor and of education shall jointly make awards to the following:

(1) Training Programs. Public, private, and nonprofit entities for existing or new innovative training programs. ~~There shall be a preference for programs that include training for newly created or vacant positions.~~ Awards may be made to programs that retrain incumbent workers. Awards under this subdivision shall be made to programs or projects that do all the following:

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

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

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

~~(D) require a measurable investment from involved employers;~~

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

~~(F)~~(E) articulate clear goals and demonstrate readily accountable, reportable, and measurable results;

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

* * *

(3) Apprenticeship Program. The Vermont apprenticeship program established under chapter 13 of Title 21. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the department of labor.

* * *

* * * DOL Apprenticeship program; Electrical and plumbing trades * * *

Sec. G15. 21 V.S.A. § 1103(a) is amended to read:

(a) The department of labor shall provide for related and supplementary instruction for apprentices employed under apprenticeship programs registered and approved by the council, and for all on-the-job trainees. To make certain there is statewide access to training opportunities, the department shall ensure that instruction in the electrical and plumbing trades is offered at each regional technical center, as defined by 16 V.S.A. § 1522(4). If the department enters into a single-source contract with an entity to provide apprenticeship training, the contract shall specify that access to programs must be available to all Vermont residents, at least through online courses.

* * * Study; Regional workforce investment boards * * *

Sec. G16. STUDY; REGIONAL WORKFORCE INVESTMENT BOARDS

Regional workforce development study.

(1) The workforce development council, in consultation with the Boston regional office of the United States Department of Labor, representatives of the

business and economic development community, the department of education, regional technical centers, the Lake Champlain workforce investment board, and a designee from each regional workforce investment board that chooses to so participate, shall have the authority to undertake a study of Vermont's regional workforce development service delivery system.

(2) The study may address:

(A) the original intent and purpose of the Workforce Development Act to ensure close collaboration and communication between business, workforce development, and education;

(B) how other state structures have been developed or modified to create a system that fosters this type of collaboration; and

(C) how such a system can be effectively and most efficiently implemented in Vermont, including examination of co-location with chambers of commerce, regional planning commissions, regional technical centers, regional development corporations, or other regional service providers.

(3) Results of a study undertaken pursuant to this section should be reported on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * Sustainable Jobs Fund Program * * *

Sec. G17. [Deleted]

Sec. G18. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

* * *

(c) Notwithstanding the provisions of ~~section~~ subdivision 216(14) of this title, the authority may contribute not more than $1,000,000.00 to the capital of the corporation formed under this section~~, and the~~. The board of directors of the corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year~~ 11 members for terms of five years, which shall be staggered so that the terms of no more than three members expire during a calendar year.

(d) ~~The Vermont economic development authority may hire or assign a program director to administer, manage, and direct the affairs and business of the board, subject to the policies, control, and direction of the corporation formed under this section.~~ [Repealed.]

* * *

Sec. G19. SUSTAINABLE JOBS FUND; TRANSITION

(a) The secretary of the agency of commerce and community development and the three other members designated by the secretary shall cease to serve on the sustainable jobs fund board of directors upon the effective date of this section. Any vacancy on the board of directors shall be filled by a majority vote of the remaining directors.

(b) All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established under chapter 15A of Title 10 is transferred from the agency of commerce and community development to the sustainable jobs fund board of directors. The sustainable jobs fund board of directors shall be the successor to all rights and obligations of the agency in any matter pertaining to the fund and the program.

Sec. G20. RESERVED

Sec. G21. RESERVED

* * * Partnerships in Tourism and Marketing * * *

Sec. G22. 3 V.S.A. § 2476(e) and (f) are added to read:

(e) The department of tourism and marketing may conduct direct marketing activities pursuant to this chapter or chapter 27 of Title 10, but shall make best reasonable efforts to increase marketing activities conducted in partnership

with one or more private sector partners to maximize state marketing resources.

(f) Building on established, successful collaboration with private partners in travel and tourism, agriculture, and other industry sectors, the department should undertake reasonable efforts to extend its marketing and promotional resources to include partners in the arts and humanities, as well as other partners that depend on tourism for a significant part of their annual revenue.

* * * ACCD Brownfield Project Challenge * * *

Sec. G23. THE BROWNFIELD PROJECT CHALLENGE

(a) Challenge. The agency of commerce and community development and the department of environmental conservation, in cooperation with the appropriate regional planning commissions and regional development corporations for the region in which a project is located, may annually identify two or more commercial brownfield sites for remediation and eventual sale to generate $1 million in general fund revenues.

(b) Projects shall meet the following minimum criteria:

(1) The site is undervalued as a result of environmental contamination.

(2) There is a substantial likelihood that site mitigation and institutional controls can lead to a cost-effective and timely completion date at a reasonable cost.

(3) The value of the property will substantially increase as a result of mitigation.

(4) The regional planning commission and regional development corporation in the region, as applicable, have the capacity and desire to acquire the property, undertake site mitigation, and resell the property.

(c) For projects that meet the criteria under subsection (b) of this section, the regional planning commission and the regional development corporation for the area, as appropriate, the department of environmental conservation, and the agency of commerce and community development working as a project team shall utilize brownfield remediation funds available from the U.S. Environmental Protection Agency to test and remediate the site.

(d) The remediated site shall be sold to a commercial enterprise that will create jobs at the site.

(e) Profits from the sale of the site shall be divided based on amount, as follows:

(1) The regional planning commission and regional development corporation, as appropriate, shall receive a percentage of profits pursuant to guidelines established by the secretary for each project, not to exceed 150 percent of the amount of the performance contract award to the regional planning commission or regional development corporation.

(2) Any profits remaining following distribution to the regional planning commission and regional development corporation shall be deposited into the brownfields revitalization fund created in 10 V.S.A. § 6654.

Sec. G24. ECONOMIC DEVELOPMENT REDUCTIONS

Except as otherwise provided in Sec. G7(e) and G8(c):

(1) A total of $834,000.00 in reduced state funds in fiscal year 2011, reflects a 5 percent reduction to all the state funded programs in the unified economic development budget and the state funds for administration in the agency of commerce and community development, including the central office and the department of tourism and marketing, but excluding the clean energy development fund and the Vermont telecommunications authority.

(2) A total of $131,600.00 in reduced state funds for the regional planning commissions in fiscal year 2011 reflects a 5 percent reduction.

(3) Nothwithstanding any other provision of law to the contrary, the secretary of administration shall have the authority to reduce appropriations or transfer funds as is necessary to reduce by 5% the state funding to each grant-funded program in the unified economic development budget, including state grants to the regional planning commissions, and excluding the clean energy development fund and the Vermont telecommunications authority. The remainder of the savings for the Economic Development challenge shall be

achieved by the secretary through reductions from non-grant funded sources, including administrative costs.

(4) From the Challenges for Change reinvestment funds that are appropriated to the secretary to implement the economic development components of this act, the secretary of administration shall reimburse the joint fiscal office for costs incurred to implement Sec. G10 (economic performance measures) of this act.

* * * Challenges for Change Investments * * *

* * * Limits on the Printing of Bills, Calendars, and Journals * * *

Sec. G25. CHALLENGES FOR CHANGE INVESTMENTS

(a) The secretary of administration is authorized to expend any Challenges for Change reinvestment funds that are appropriated to the secretary for that purpose to implement the economic development components of this act, which may include the following activities:

(1) Funding to the regional planning commissions and regional development corporations to facilitate reorganization pursuant to this act.

(2) Funding for the services of one or more economists or fiscal analysts to assist the agency of commerce and community development in the preparation of economic measures for regional job creation and retention.

(3) Funding for the implementation of the brownfield project challenge.

Sec. G26. 2 V.S.A. § 16 is amended to read:

§ 16. PRINTING~~,~~ AND DISTRIBUTION ~~AND SALE~~ OF DAILY CALENDAR, JOURNAL, AND BILLS

Copies of ~~such~~ the daily calendar and journal shall be immediately furnished to the printer designated by the commissioner of buildings and general services. The printing of ~~such~~ the calendar and journal shall be under the supervision of ~~such~~ the secretary and clerk, and the required number of printed copies ~~of same~~ shall be delivered to the offices of the legislative council before the opening of the morning session of the following legislative day. A sufficient number of copies of all the bills shall also be delivered to the offices of the legislative council. Staff of the legislative council shall distribute the daily calendar and journal and the bills as follows:

(1) Calendars. One copy of the daily house calendar shall be placed on the desk of each member of the house and one copy of the daily senate calendar shall be placed on the desk of each member of the senate. An additional number of copies of both the daily house and senate calendars shall be made available to house and senate members in their respective chambers~~,~~ ~~and to the public in the legislative council offices~~ upon the request of a member. Calendars shall also be published on the state legislative webpage. The number of ~~such~~ copies required shall be determined by staff of the legislative council based on their demand.

(2) Journals and bills. ~~Copies of both the~~ The daily house and senate journals~~,~~ and ~~of the~~ bills~~, shall be made available to both house and senate members in their respective chambers, and to the public in the legislative council offices. The number of such copies required shall be determined by staff of the legislative council based on their demand~~ shall be published on the state legislative webpage. Copies of bills shall be made upon request to house and senate members.

~~(3) Copies of the daily House and Senate calendars, the daily House and Senate journals, and of the bills, shall be made available to department heads of state government at no cost, upon request to the legislative council offices. Additional copies of such daily calendars, journals and bills shall be made available for sale to the public at the legislative council offices and from the state librarian, at a price to be fixed by the legislative council. The number of such copies required shall be determined by staff of the legislative council based on their demand.~~

Sec. G27. RESERVED

Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage, except that Secs. G18 and G19 (Vermont sustainable jobs

(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall take effect upon the cessation of state funding to the program from the general fund.

* * * H. Accountability, Oversight and General Provisions * * *

Sec. H1. [DELETED]

Sec. H2. 2 V.S.A. chapter 28 is added to read:

CHAPTER 28. GOVERNMENT ACCOUNTABILITY COMMITTEE

§ 970. GOVERNMENT ACCOUNTABILITY COMMITTEE

(a) There is created a joint legislative government accountability committee. The committee shall recommend mechanisms for state government to be more forward-thinking, strategic, and responsive to the long-term needs of Vermonters. In pursuit of this goal, the committee shall:

(1) Propose areas for the review of statutory mandates for public services that may result in service duplication and to review the alignment of financial and staff resources required to carry out those mandates.

(2) Review the legislative process for the creation and elimination of positions and programs and make recommendations for enhancements to the process that support greater long-range planning and responsiveness to the needs of Vermonters.

(3) Recommend strategies and tools which permit all branches of state government to prioritize the investment of federal, state, and local resources in

programs that respond to the needs of the citizens of Vermont in a collaborative, cost-effective, and efficient manner. Pursuant to those strategies and tools, functions which are not critical to an agency or department mission may be recommended for combination or elimination, while other functions may be optimized.

(4) Review strategies with similar aims in other jurisdictions in the context of federal, state, and local relationships.

(5) Determine that data-based performance measures have been adopted for each agency and department.

(6) Determine whether each agency and department is taking actions to achieve the required outcomes, as shown by application of the data-based performance measures.

(7) Ensure that outcomes, measures, performance data, and descriptions of actions taken, or proposed to be taken, are transparent and readily accessible to the public via electronic publication.

(8) Assess the effectiveness of the performance measures for measuring progress in achieving outcomes.

(9) Recommend the addition, amendment, or elimination of any performance measures.

(10) By November 1 of each year, report to the general assembly its findings.

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of ten members: five members of the house of representatives who shall not all be from the same party: one from the committee on government operations, one from the committee on human services, one from the committee on appropriations, one from the committee on ways and means, and one from the committee on corrections and institutions, appointed by the speaker of the house; and five members of the senate who shall not all be from the same party: one from the committee on government operations, one from the committee on health and welfare, one from the committee on appropriations, one from the committee on finance, and one from the committee on institutions, appointed by the committee on committees. The governor shall appoint one person to serve as a nonvoting liaison to the committee.

(c) The committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedure. The chair shall alternate biennially between the house and the senate members. The committee shall keep minutes of its meetings and maintain a file thereof. A quorum shall consist of six members.

(d) During the legislative session, the committee shall meet at least once a month, at the call of the chair; and when the legislature is not in session, the committee may meet monthly, at the call of the chair. The committee may

meet more often subject to the approval of the speaker of the house and the president pro tempore of the senate.

(e) For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to compensation for services and reimbursement of expenses as provided under subsection 406(a) of this title; and nonlegislative members who are not full-time state employees shall be entitled to per diem and expenses as provided in 32 V.S.A. § 1010.

(f) The professional and clerical services of the joint fiscal office and the legislative council shall be available to the committee.

(g) At least annually, by January 15, the committee shall report its activities, together with recommendations, if any, to the general assembly. The report shall be in brief summary form.

Sec. H3. Sec. 10(a) of No. 206 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(a) Sec. 5 of this act shall be repealed on July 1, ~~2013~~ 2010.

Sec. H4. QUARTERLY REPORTING AND IMPLEMENTATION

(a) On a quarterly basis, beginning with July 1, 2010, the administration shall report to the chairs of the house and senate committees of jurisdiction, the joint legislative government accountability committee, and the joint fiscal committee. Each report shall include a statement of the measures and milestones summarized by the government accountability committee for that

Challenge, a brief summary of milestones met and progress made in that Challenge, and the data collected to measure that progress. Reports shall also include any modifications or additions proposed for the plan of implementation, and how these modifications or additions are designed to achieve the outcomes for that Challenge.

(b) The committees of jurisdiction may meet during the interim at the call of the chair to receive and discuss the reports required under this section, and may report each quarter to the government accountability committee as to whether satisfactory progress is being made on each Challenge, and whether any proposed changes in the plan of implementation appear designed to achieve the required outcomes.

(c) The redesign of how to provide government services shall be achieved through innovative, outcome-driven changes in service delivery and performance which create better methods for providing government services, while spending less money and achieving the outcomes specified in the Challenges for Change Act.

(d) The governor, in achieving the outcomes and associated savings under this act and the Challenges for Change Act, may not reduce government benefits or limit benefit eligibility; and may not reduce personnel unless the personnel reduction is a direct consequence of achieving the required outcomes under the Challenges plan. The administration shall engage the direct

participation of service recipients, their families, service providers, and other stakeholders to develop additional Challenges that will meet in full the outcomes and fiscal goals of the Challenges for Change Act and this act, and include a report of these additional Challenges in its July 2010 quarterly report.

Sec. H4a. REVIEW BY JOINT FISCAL COMMITTEE

The general assembly recognizes that acts of appropriations and their sources of funding reflect the priorities for expenditures of public funds enacted by the general assembly, and that reductions in expenditures and programs which are considered as a means of accomplishing the goals of No. 68 of the Acts of the 2009 Adj. Sess. (2010), and this act ought to reflect these legislated priorities. Therefore, if the general assembly is not in session, the secretary of administration shall report to the joint fiscal committee any proposal for a reduction in excess of five percent of the expenditure of the appropriated funding for any single function, program, or service as a part of its plan of implementation of Challenges for Change, and will include in the report an analysis of how the reduction is designed to achieve the outcomes expressed in the Challenges for Change, and how the reduction is designed to achieve legislated policy priorities. The joint fiscal committee may within 21 days after receipt of the secretary's report consider the proposed reduction in expenditures and report its approval or disapproval, and the reasons in support of its decision, to the secretary and to the general assembly. If the report is

disapproved, the secretary may submit a revised plan to the joint fiscal committee for its review and approval or disapproval.

Sec. H5. EFFECTIVE DATES; APPLICATION; REPEALS

This act shall take effect July 1, 2010, except as follows:

(1) This section and Secs. 1 (legislative intent), C34 (creation of clinical utilization review board),G1–G28 (economic development) and H4 (quarterly reporting) shall take effect upon passage.

(2) Sec. F33 (waterfowl stamp) shall take effect January 1, 2011.

(3) Sec. B2 (charter units; no required independent expert review for information technology investments) shall be repealed on July 1, 2013.

(4) Secs. F2–F5 (notice of rulemaking) shall take effect on July 1, 2010, and shall apply to all proposed rules filed on or after that date.

(5) The amendments to 10 V.S.A. § 6605(b)(5) in Sec. F11 (ANR monitoring in postclosure solid waste certifications) shall take effect on July 1, 2011.

(6) Sec. H4a (review by joint fiscal committee) shall take effect upon passage.

Approved: June 1, 2010