

1 H.792

2 Introduced by Committee on Appropriations

3 Date:

4 Subject: State government; administration and policy implementation; service
5 and performance; reduced spending; accountability

6 Statement of purpose: This bill proposes to implement results of the earlier
7 “Challenges for Change” legislation, by making changes to current law which
8 will allow policy makers, administrators, service providers, and school
9 administrators to create outcome-driven changes in service and performance,
10 to implement these changes with reduced state funding, and to maintain
11 accountability for meeting goals through clear measures of outcome
12 achievement.

13 An act relating to implementation of challenges for change

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

15 Sec. 1. LEGISLATIVE INTENT

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

19 (b) Vermont state government is faced with a substantial gap between
20 available revenues and projected expenditures based on the current manner of

1 providing services. This act is the next step in allowing the redesigning of how
2 to provide government services. Policy makers, administrators, service
3 providers, and school administrators will now proceed to create
4 outcome-driven changes in service and performance, and to implement these
5 changes with reduced state funding. At the same time, accountability for
6 meeting specified goals will be maintained through clear measures of outcome
7 achievement, with quarterly reporting to, and oversight by, the general
8 assembly, as provided in this act. The intent of the general assembly is to
9 make the changes in law which will allow the creation of better methods for
10 providing government services, while spending less money and still achieving
11 the outcomes specified in the Challenges for Change Act.

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

(d) The general assembly recommends that all branches, elected offices
and units of government participate in the performance contracting and grant
making 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.

1 Sec. 2. SECRETARY OF ADMINISTRATION; CHALLENGES FOR
2 CHANGE; INFORMATION TECHNOLOGY INVESTMENTS

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

*Sec. 2a. 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 two million dollar 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.*

9

1 Sec. 3. TASK FORCES INVOLVING MORE THAN ONE AGENCY

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

5 Sec. 4. DEPARTMENT OF LIQUOR CONTROL

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

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

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

19 (3) Analyze how coordinated changes in taxation and pricing could lead
20 to increased sales and increased revenue contribution to the state's general
21 fund, while meeting the goals expressed in this section. The department shall

1 consider whether reducing or eliminating the current 25 percent tax on gross
2 revenues, and implementing flexibility in pricing, could lead to this increased
3 sales and revenue. The department shall report its findings and
4 recommendations to the house committee on general, housing and military
5 affairs and the senate committee on economic development, housing and
6 general affairs, by January 15, 2011.

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

12 * * * Department of Taxes * * *

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

14 Sec. 5. 32 V.S.A. § 5842(c) is amended to read:

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

1 * * * Compliance and Collection * * *

2 Sec. 6. COMPLIANCE AND COLLECTION

3 The department of taxes shall continue to investigate compliance and
4 collection issues including methods of addressing the disparities in the
5 information regarding individual and business tax data. No later than
6 January 15, 2011, the department shall report to the house committee on ways
7 and means and the senate committee on finance detailed findings and
8 recommendations on further enhancing the state's compliance and collection of
9 taxes.

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

11 Sec. 7. ELECTRONIC FILING OF TAX RETURNS

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

1 * * * Department of Fish and Wildlife * * *

2 * * * Point of Sale Agent * * *

3 Sec. 8. 10 V.S.A. § 4001(36) is added to read:

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

7 * * * Licenses; Retained Fee * * *

8 Sec. 9. 10 V.S.A. § 4254 is amended to read:

9 § 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN,
10 DISTRIBUTION, SALE, AND ISSUE

11 * * *

12 (e) The commissioner shall establish:

13 * * *

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

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

21 * * *

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

7 * * *

8 * * * Replacement and Free Licenses * * *

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

10 § 4261. LOST, REPLACEMENT, OR FREE LICENSE; CERTIFICATE

11 (a) A person who has lost a license other than a lifetime license may
12 demand a lost license certificate from the agent of original issue. The fee shall
13 be \$5.00 which the agent may retain. If the agent of original issue is no longer
14 selling licenses, the applicant may apply directly to the department. If
15 available, replacement and free licenses may be obtained from a point of sale
16 agent or online at the state's website. If requested from a point of sale agent, a
17 \$1.50 filing fee may be charged and retained by the agent.

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

1 point of sale agent, a \$1.50 filing fee may be charged and retained by the
2 agent.

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

4 * * * Use of Special Funds * * *

5 Sec. 11. DEPARTMENT OF FORESTS, PARKS AND RECREATION USE
6 OF SPECIAL FUND

7 Sec. B.704 of H.789 of 2010 (the "Big Bill"), as passed the house, provides
8 for spending authority for the department of forests, parks and recreation from
9 the lands and facilities special trust fund established pursuant to 3 V.S.A.
10 § 2807. Under H.789 as passed the house, the department is authorized to
11 spend \$200,000.00 of the fund for general operating costs. In furtherance of
12 the purposes of this act, the general assembly anticipates increasing that
13 spending authority in H.789 to \$350,000.00.

14 * * * Park Fees * * *

15 Sec. 12. 10 V.S.A. § 2603(c)(3) is amended to read:

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

1 * * * Receipt of grants and donations * * *

2 Sec. 13. 32 V.S.A. § 5(a)(3) is amended to read:

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

13 Sec. 14. 22 V.S.A. § 953(c) is amended to read:

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

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

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

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

2 (C) a brief statement of purpose;

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

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

13 * * * Labor * * *

14 Sec. 15. 21 V.S.A. § 602 is amended to read:

15 § 602. PROCESS AND PROCEDURE

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

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

4 * * * Human Services * * *

5 ~~Sec. 16. STAKEHOLDER INVOLVEMENT~~

6 ~~The agency of human services shall engage the direct participation of~~
7 ~~service recipients, their families, service providers, and other stakeholders in~~
8 ~~the thorough evaluation and ongoing design of all of the proposals contained in~~
9 ~~the agency of human services addendum to the Challenges for Change~~
10 ~~Progress Report dated March 30, 2010, and any new proposals developed by~~
11 ~~the agency~~

12 ~~Sec. 17. EVALUATION OF PROPOSALS~~

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

17 ~~(1) creation of an interdepartmental team to serve clients of the~~
18 ~~department of disabilities, aging, and independent living with mental health~~
19 ~~needs;~~

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

4 ~~(3) allowing physicians, physician assistants, and nurse practitioners to~~
5 ~~document and bill for mental health services, engage in treatment planning,~~
6 ~~and approve case management and treatment plans;~~

7 ~~(4) supporting collaboration between the designated agencies and~~
8 ~~federally qualified health centers to enable expanded participation in the 340B~~
9 ~~drug pricing program;~~

10 ~~(5) modernization of the eligibility determination system in the~~
11 ~~department for children and families;~~

12 ~~(6) establishment by the department of disabilities, aging, and~~
13 ~~independent living of a process to provide individuals with the department's~~
14 ~~services while their eligibility for such services is being determined;~~

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

18 ~~(8) statewide expansion of the Blueprint for Health;~~

19 ~~(9) removal of the requirement that a private entity administer the~~
20 ~~chronic care management program in the department of Vermont health~~
21 ~~access;~~

1 ~~(10) creation of a clinical utilization review board to make~~
2 ~~recommendations to the department of Vermont health access; and~~

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

5 ~~(b) Except as otherwise specifically provided in subsection (a) of this~~
6 ~~section and in Secs. 19–21, 29, and 32 of this act, the agency of human~~
7 ~~services shall not implement any provision in its addendum to the Challenges~~
8 ~~for Change Progress Report dated March 30, 2010, until the agency has:~~

9 ~~(1) Engaged the direct participation of service recipients, their families,~~
10 ~~service providers, and other stakeholders as provided for in Sec. 16~~
11 ~~(stakeholder involvement) of this act, and~~

12 ~~(2) Provided to the house committee on human services and the senate~~
13 ~~committee on health and welfare detailed new and revised proposals for~~
14 ~~implementing changes to the agency's programs and delivery systems that~~
15 ~~result in more effective and efficient service delivery and achievement of the~~
16 ~~outcomes identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010).~~

17 ~~(c) The agency shall present its new and revised proposals pursuant to this~~
18 ~~section to the house committee on human services and the senate committee on~~
19 ~~health and welfare at their quarterly meetings during the 2010 legislative~~
20 ~~interim and shall present its final proposals no later than January 15, 2011. For~~
21 ~~each proposal, the agency shall identify the outcome or outcomes to be~~

1 ~~achieved by implementing the proposal. The agency shall not present any~~
2 ~~proposal that fails to meet one or more of the desired outcomes identified in~~
3 ~~No. 68 of the Acts of the 2009 Adj. Sess. (2010). The members of the~~
4 ~~committees of jurisdiction shall evaluate each proposal to determine whether it~~
5 ~~satisfies one or more of the desired outcomes. The agency shall not take any~~
6 ~~action to implement a proposal without the approval of a majority of the~~
7 ~~members of the combined committees of jurisdiction in attendance at a joint~~
8 ~~meeting during the legislative interim or a majority of the members of each~~
9 ~~committee of jurisdiction during the legislative session.~~

Sec. 16. 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.

Sec. 17. EVALUATION OF PROPOSALS

(a) The general assembly is supportive of the following proposals 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) creation of an interdepartmental team to serve clients of the department of disabilities, aging, and independent living with mental health needs;

(2) establishment of pilot programs in no more than three service areas for single contracts for integrated child development services, to be developed in collaboration with the communities to be served;

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

(4) allowing physicians, physician assistants, and nurse practitioners to document and bill for mental health services, engage in treatment planning, and approve case management and treatment plans;

(5) supporting collaboration between the designated agencies and federally qualified health centers to enable expanded participation in the 340B drug pricing program;

(6) modernization of the eligibility determination system in the department for children and families;

(7) establishment by the department of disabilities, aging, and independent living of a process to provide individuals with the department's services while their eligibility for such services is being determined;

(8) 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;

(9) refrain 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;

(10) statewide expansion of the Blueprint for Health;

(11) removal of the requirement that a private entity administer the chronic care management program in the department of Vermont health access;

(12) creation of a clinical utilization review board to make recommendations to the department of Vermont health access; and

(13) pursuing a consolidated and coordinated approach to employment services under a single entity called “creative workforce solutions.”

(b) The agency of human services shall not implement the following proposals earlier than March 15, 2011:

(1) creating or requiring the designated agencies or another entity to create a “1-800” statewide mental health crisis service telephone line for after-hours needs;

(2) expanding 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; and

(3) reducing funding to individual service plans for Vermonters receiving developmental services.

(c) Except as otherwise specifically provided in subsections (a) and (b) of this section and in Secs. 19–21, 29, and 32 of this act, the agency of human services shall not implement any provision in its addendum to the Challenges for Change Progress Report dated March 30, 2010, until the agency has:

(1) Engaged the direct participation of service recipients, their families, service providers, and other stakeholders as provided for in Sec. 16 (stakeholder involvement) of this act; and

(2) Provided to the house committee on human services and the senate committee on health and welfare detailed new and revised proposals for implementing changes to the agency's programs and delivery systems and demonstrated how they will result in more effective and efficient service delivery and achievement of the outcomes identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(d) The agency shall present its new and revised proposals pursuant to this section to the house committee on human services and the senate committee on health and welfare at their quarterly meetings during the 2010 legislative interim and shall present its final proposals no later than January 15, 2011. For each proposal, the agency shall identify the outcome or outcomes to be achieved by implementing the proposal. The agency shall not present any proposal that fails to meet one or more of the desired outcomes identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010). The members of the committees of jurisdiction shall evaluate each proposal to determine whether it satisfies one or more of the desired outcomes.

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

2 § 7401. POWERS AND DUTIES

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

6 * * *

7 (14) plan and coordinate the development of community services which
8 are needed to assist mentally ill persons and children and adolescents with or at
9 risk for a severe emotional disturbance to become as financially and socially
10 independent as possible. These services shall consist of residential, vocational,
11 rehabilitative, day treatment, inpatient, outpatient, and emergency services, as

1 well as client assessment, prevention, family, and individual support services
2 and such other services as may be required by federal law or regulations;

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

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

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

14 * * *

Sec. 18a. NURSING HOME UTILIZATION RATE UPDATE

(a) As part of its quarterly reports pursuant to Sec. 67 of this act, the agency of human services shall provide an update to the house committee on human services and the senate committee on health and welfare regarding its efforts to develop coordinated and streamlined quality review processes for all services provided by the designated agencies and specialized service agencies.

(b) As part of its quarterly reports pursuant to Sec. 67 of this act, the department of disabilities, aging, and independent living shall provide an update to the house committee on human services and the senate committee on health and welfare regarding the progress of the department's efforts to reduce nursing home utilization rates.

1 Sec. 19. OFFICE OF CHILD SUPPORT; POSITIONS

2 In addition to any other funds appropriated to the office of child support in
3 fiscal year 2011, there is appropriated from the general fund to the office in
4 fiscal year 2011 the amount of \$66,980.00 for the purpose of hiring two
5 full-time classified employees to increase collections of medical support and
6 cash contributions, including from families with incomes between 185 and 300
7 percent of the federal poverty level; but these two positions shall be in lieu of,
8 and not in addition to, the two positions referenced in Sec. E.319.3 of H.789 of
9 2010 as passed the house.

10 Sec. 20. ROLE OF PHYSICIANS, PHYSICIAN ASSISTANTS, AND

11 NURSE PRACTITIONERS IN MENTAL HEALTH SERVICES

12 The department of mental health shall amend its Medicaid reimbursement
13 procedures manual to allow physicians, physician assistants, and nurse
14 practitioners to document and bill for mental health services, engage in
15 treatment planning, and approve case management and treatment plans if such

1 physician, physician assistant, or nurse practitioner has received specialized
2 training appropriate to the circumstances of the individual patient involved.

3 Sec. 21. VERMONT PRESCRIPTION MONITORING SYSTEM

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

12 (b) The department of mental health, in collaboration with the drug
13 utilization review board in the department of Vermont health access, shall
14 develop evidence-based protocols representing best practices for prescribing
15 multiple psychiatric drugs for adults and psychotropic drugs for children. If
16 funding is available, the department may also collaborate with the University
17 of Vermont. No later than January 15, 2011, the department shall report on its
18 adoption of protocols to the house committee on human services and the senate
19 committee on health and welfare.

1 Sec. 22. 33 V.S.A. § 1903a is amended to read:

2 § 1903a. ~~CHRONIC CARE MANAGEMENT~~ CARE MANAGEMENT
3 PROGRAM

4 (a) The ~~secretary of administration or designee shall create a chronic care~~
5 ~~management program as provided for in this section, which shall be~~
6 ~~administered or provided by a private entity~~ commissioner of Vermont health
7 access shall coordinate with the director of the Blueprint for Health to provide
8 chronic care management through the Blueprint and, as appropriate, create an
9 additional level of care coordination for individuals with one or more chronic
10 conditions who are enrolled in Medicaid, the Vermont health access plan
11 (VHAP), or Dr. Dynasaur. The program shall not include individuals who are
12 ~~also eligible for Medicare, who are enrolled in the Choices for Care Medicaid~~
13 ~~Section 1115 waiver or who are in an institute for mental disease as defined in~~
14 ~~42 C.F.R. § 435.1009. The secretary may also exclude individuals who are~~
15 ~~eligible for or participating in the Medicaid care coordination program~~
16 ~~established through the office of Vermont health access.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Sec. 23. 33 V.S.A. chapter 19, subchapter 6 is added to read:

7 Subchapter 6. Clinical Utilization Review Board

8 § 2031. CREATION OF CLINICAL UTILIZATION REVIEW BOARD

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) Recommend to the commissioner of Vermont health access the most
11 appropriate mechanisms to implement the recommended evidence-based
12 clinical practice guidelines. Such mechanisms may include prior authorization,
13 prepayment, postservice claim review, and frequency limits.

14 Recommendations shall be consistent with the department's existing utilization
15 processes, including those related to transparency, timeliness, and reporting.

16 Prior to submitting final recommendations to the commissioner of Vermont
17 health access, the board shall ensure time for public comment is available
18 during the board's meeting and identify other methods for soliciting public
19 input.

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

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

5 § 2032. ROLE OF DEPARTMENT OF VERMONT HEALTH ACCESS

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

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

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

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

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

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

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

5 * * * Corrections * * *

6 * * * Decrease Detainee Population * * *

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

8 Sec. 24. 13 V.S.A. chapter 223, subchapter 2 is amended to read:

9 ~~Subchapter 2. Imprisonment in Lieu of Payment~~

10 ~~of Fines and Costs~~

11 ~~§ 7221. ALLOWANCES IN SENTENCES IN LIEU OF FINES~~

12 ~~Any prisoner serving an alternative sentence of confinement in any penal~~
13 ~~institution which is in lieu of the payment of fine shall be released at the~~
14 ~~expiration of as many days as there are dollars, or fractional part thereof, in~~
15 ~~such fine and if such prisoner shall pay such fine during the time of his or her~~
16 ~~commitment he or she shall be given credit for time served at the rate of one~~
17 ~~dollar for each full day, or fractional part thereof, so served. All statutes~~
18 ~~inconsistent herewith are hereby amended to conform with the foregoing~~
19 ~~provisions.~~

1 ~~§ 7222. SENTENCES TO IMPRISONMENT, OR TO FINE AND~~

2 ~~IMPRISONMENT~~

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

9 ~~§ 7223. SENTENCES TO PAY FINE~~

10 ~~When a person over 16 years of age is convicted of an offense, except the~~
11 ~~offense of being found intoxicated, punishable by fine, or by fine or~~
12 ~~imprisonment and the court sentences such person to pay a fine and passes no~~
13 ~~other sentence, it shall further order that, if the sentence is not complied with~~
14 ~~within 24 hours, such person shall be imprisoned for as many days as the~~
15 ~~number of dollars or fractional part thereof to be paid by the sentence but not~~
16 ~~to exceed a maximum imprisonment of 60 days. The court in its discretion~~
17 ~~may issue a warrant of commitment forthwith.~~

18 ~~§ 7224. EXECUTION OF WARRANT~~

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

1 ~~§ 7225. DISCHARGE ON PAYING BALANCE OF FINE~~

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

5 ~~§ 7226. § 7179. FINES NOT DISCHARGEABLE IN BANKRUPTCY~~

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

9 § 7180. REMEDIES FOR FAILURE TO PAY FINES, COSTS,

10 SURCHARGES, AND PENALTIES

11 (a) As used in this section:

12 (1) “Amount due” means all financial assessments, including penalties,
13 finances, surcharges, court costs, and any other assessment imposed by statute as
14 part of a sentence for a criminal conviction.

15 (2) “Designated collection agency” means a collection agency
16 designated by the court administrator pursuant to subsection 7171(b) of this
17 title.

18 (3) “Designated credit bureau” means a credit bureau designated by the
19 court administrator or the court administrator’s designee.

20 (b) Collection of amount due. If an amount due remains unpaid for 75 days
21 after the court provides the defendant with a notice of judgment, the court may

1 refer the matter to a designated collection agency or initiate civil contempt
2 proceedings pursuant to this section.

3 (c) Civil contempt proceeding.

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

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

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

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

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

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

1 court. The defendant may be represented by counsel at the defendant's own
2 expense.

3 (4) Contempt.

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

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

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

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

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

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

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

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

1 (iv) Refer to small claims court for the purpose of issuing writs of
2 attachment for property and trustee process pursuant to 12 V.S.A. § 5534.

3 Filing fees shall be waived in such cases.

4 (v) Sentence the defendant to serve a term or imprisonment on
5 furlough to participate in a program supervised by the department of
6 corrections pursuant to 28 V.S.A. § 808(7) that provides reparation to the
7 community in the form of supervised work activities. For each day the
8 defendant participates in supervised work activities, the defendant shall be
9 given credit against the amount owed at the hourly rate for minimum wage. A
10 defendant who participates in supervised work activities pursuant to this
11 subdivision shall wear clothing with the name of the department of corrections
12 designated clearly upon it. A defendant who is determined by the department
13 of corrections to be ineligible for the preapproved furlough supervised work
14 program may be ordered by the court to serve a sentence in a correctional
15 facility, in which event the defendant shall be given credit against the amount
16 owed for every day served at a rate determined by the court.

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

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

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

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

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

Sec. 24a. 13 V.S.A. § 7554b is added to read:

§ 7554b. HOME DETENTION PROGRAM FOR DETAINEES

(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.

(d) Sentence computation. Upon conviction and at the time of sentencing, the defendant shall be given credit for any day spent in the home detention program as though it had been spent in a correctional facility.

1 * * * Decrease Use of Probation/Reduce VOPs * * *

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

3 Sec. 25. 28 V.S.A. § 205 is amended to read:

4 § 205. PROBATION

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

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

13 (3)(A) The term of probation for nonviolent felonies shall not exceed
14 four years or the statutory maximum term of imprisonment for the offense,

1 whichever is less, unless the court, in its sole discretion, specifically finds that
2 the interests of justice require a longer or an indefinite period of probation.

3 * * *

Sec. 25a. 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 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.

* * *

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

* * *

(4) Each state's attorney, in cooperation with the adult court diversion project, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the state's attorney shall retain final discretion over the referral of each case for diversion.

* * *

Sec. 25b. 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.

1 * * * Miscellaneous House Judiciary Committee Proposals * * *

2 * * * Permit a Court to Sentence a Person to Work Crew for Contempt of a
3 Child Support Order * * *

4 Sec. 26. 15 V.S.A. § 603 is amended to read:

5 § 603. CONTEMPT

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

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

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

- 1 (2) order payments be made to the department for distribution;
2 (3) order a party to serve not more than 30 days of preapproved furlough
3 as provided in 28 V.S.A. § 808(a)(7); or
4 (4) make such other orders or conditions as it deems proper.
5 (c) A person who participates in supervised work activities pursuant to
6 subdivision (b)(3) of this section shall wear clothing with the name of the
7 department of corrections designated clearly upon it.

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

Sec. 26a. 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 child or an adult child possessed of sufficient pecuniary or physical ability to support his parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself 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.

1 Sec. 27. 28 V.S.A. § 808(a)(8)(A) is amended to read:

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

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

10 § 256. GRADUATED SANCTIONS FOR TECHNICAL VIOLATIONS

11 (a) At any time before the discharge of the probationer or the termination of
12 the period of probation if, in the judgment of the commissioner, the
13 probationer has violated a condition or conditions of his or her probation, other
14 than a condition that the probationer pay restitution to the department or a
15 violation which constitutes a new crime, the commissioner may sanction the
16 probationer in accordance with rules adopted pursuant to subsection (b) of this
17 section. However, no probationer shall be incarcerated except pursuant to the
18 provisions of subchapter 3 of this chapter.

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

4 Sec. 29. BUDGETARY SAVINGS; ALLOCATIONS IN FISCAL
5 YEAR 2011

~~It is the intent of the general assembly that a portion of the savings realized
to the department of corrections budget due to the provisions of this act and the
provisions of S.292 as enacted shall be reinvested in programs and services
which will further reduce incarceration and recidivism in future years.
Therefore, in fiscal year 2011, from the amounts appropriated to the
department of corrections from the general fund, the department shall expend
\$3,164,500.00 as follows as described in this section. For expenditures under
subdivisions 1, 3, and 5 of this sec., the department shall give priority to
projects located in communities in which the percentage of persons under
custody of the commissioner of corrections exceeds two and one-half percent
of the population. 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 described in this section. For expenditures under subdivisions 1, 3, and 5 of this sec., the department shall give priority to projects located in communities in which the percentage of persons under custody of the commissioner of corrections exceeds two and one-half percent of the population :

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

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

8 (3) The amount of \$650,000.00 shall be for grants to community justice
9 centers and similar programs to provide a continuum of services which aim to
10 prevent people from entering the criminal justice system and help offenders
11 reentering the community.

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

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

Sec. 29a. 28 V.S.A. §102(b)(16) and (c)(22) are added to read:

(16) To release incarcerated offenders into a community on probation,
parole or furlough pursuant to this title. However:

(A) At any time that the total number of persons reentering the
community from incarceration on probation, parole or furlough, including
both former residents and former nonresidents, who reside in a municipality
exceeds two percent of the population according to the most recent census, the
commissioner shall release from incarceration to the community only persons
who resided there prior to arrest, or have family ties or other connections
there. A decision as to whether the person resided in the community prior to
arrest, or has family ties or other connections there shall be made by the
commissioner and his or her decision shall be final. The commissioner shall
strive to ensure that no more than two percent of the population of any

community shall be made up of persons reentering the community from incarceration on probation, furlough or parole.

(B) If the 12-month average unemployment rate for the preceding calendar year for a municipality in which the offender is to be released exceeds the 12-month statewide average unemployment rate for the preceding calendar year, the commissioner shall ensure, to the extent possible, that a work crew or other work opportunity is available for the offender.

(22) To notify local and state law enforcement officers of the following information regarding a person released from incarceration on probation, parole or furlough and residing in the community: name; address; conditions imposed by the court, parole board, or commissioner; and the reason for placing the person in that community.

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~~Sec. 30. 28 V.S.A. § 910 is amended to read:~~

~~§ 910. RESTORATIVE JUSTICE PROGRAM FOR PROBATIONERS~~

~~This chapter establishes a program of restorative justice for use with offenders required to participate in such a program as a condition of a sentence of probation or offenders who have pled to an offense and who agree to participate in restorative justice in lieu of sentencing. The program shall be carried out by community reparative boards under the supervision of the commissioner, as provided by this chapter.~~

1 ~~Sec. 31. 28 V.S.A. § 910a is amended to read:~~

2 § 910a. REPARATIVE BOARDS; FUNCTIONS

3 (a) The commissioner shall establish reparative boards and appoint to them
4 members of the community with the advice and recommendation of nonprofit
5 organizations or municipal entities in the localities concerned. The
6 commissioner shall appoint each board member to a term of one to three years,
7 may reappoint a member to consecutive terms, and may remove a member for
8 good cause.

9 (b) Each board shall elect its chair from its membership. A chair may serve
10 for no more than one year uninterrupted. All meetings of a board shall comply
11 with open meeting law requirements of subchapter 2 of chapter 5 of Title 1,
12 consistent with probationer confidentiality requirements of this title, and as
13 may be imposed by the court.

14 (c) Each board shall adopt bylaws approved by the commissioner. Such
15 bylaws may authorize each board to establish panels to conduct reparative
16 board activities.

17 (d) Each board shall conduct its meetings in a manner that promotes safe
18 interactions among a probationer or an offender, victim or victims, and
19 community members, and shall:

20 (1) In collaboration with the department, municipalities, the courts, and
21 other entities of the criminal justice system, implement the restorative justice
program of seeking to obtain probationer or offender accountability, repair

1 ~~harm and compensate a victim or victims and the community, increase a~~
2 ~~probationer's or an offender's awareness of the effect of his or her behavior on~~
3 ~~a victim or victims and the community, and identify ways to help a probationer~~
4 ~~or an offender comply with the law.~~

5 (2) ~~Educate the public about, and promote community support for, the~~
6 ~~restorative justice program.~~

7 (e) ~~Each board shall have access to the central file of any probationer or~~
8 ~~offender required to participate with that board in the restorative justice~~
9 ~~program.~~

10 (f) ~~When engaged in board activities, a board member shall be considered a~~
11 ~~volunteer with regard to any grievance or other matter governed by ~~section~~~~
12 ~~3 V.S.A. § 1101 of Title 3.~~

13 Sec. 32. DEPARTMENT OF CORRECTIONS; FACILITIES CLOSING

14 ~~In fiscal years 2011 and 2012, the department of corrections shall not close~~
15 ~~or substantially reduce services at a correctional facility or field office without~~
16 ~~approval of the senate committee on judiciary and the house committee on~~
17 ~~corrections and institutions.~~

Sec. 30. 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 reparative board pursuant to chapter 58 of Title 24 and 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 in 24 V.S.A. § 1967. 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.

(b) When ordering a sentence of probation, the court may require participation in the restorative justice program established by chapter 12 of Title 28 as a condition of the sentence.

Sec. 31. ~~RESTORATIVE JUSTICE; STATE'S ATTORNEYS; POLICE; DEPARTMENT OF CORRECTIONS; COURT ADMINISTRATOR'S OFFICE; DEPARTMENT OF PUBLIC~~

~~SAFETY; PLAN~~ RESTORATIVE JUSTICE; PLAN FOR INCREASE
IN USE

(a) In 1999, in 28 V.S.A. § 2a, the general assembly clearly established as state policy that the principles of restorative justice shall be included in shaping how the criminal justice system responds to persons charged with or convicted of criminal offenses. The general assembly now finds that many communities have made effective use of restorative justice through community justice centers, diversion, and other innovative municipal programs but that much more could be done with a resultant decrease in recidivism and cost to Vermont taxpayers.

(b) On or before September 1, 2010, the department of corrections, the department of state's attorneys and sheriffs, the department of public safety, the court administrator's office, the defender general, the attorney general, and the Vermont association of chiefs of police shall jointly report to the corrections oversight committee on what can be done in each county to reduce the need for correctional services through increased use of restorative justice programs, diversion, and other innovative municipal programs. The ~~departments and association~~ agencies shall show how recommended strategies could lead to an increase in use of restorative justice programs, diversion, and innovative municipal programs and at least a ten-percent decrease in nonviolent offenders entering the corrections system.

Sec. 32. 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.

1 * * * Education * * *

2 * * * Suggested Reductions in FY 2012 Budgets * * *

3 Sec. 33. REDUCTION IN EDUCATION SPENDING; FISCAL YEAR 2012;
4 SUGGESTED REDUCTION TARGETS

5 (a) The house committee on education recognizes the excellent work
6 performed by school boards to control the growth of education spending in
7 fiscal years 2008 through 2011. Fiscal realities at the state, federal, and
8 international levels demand that school districts continue to exercise fiscal
9 restraint in FY 2012 and beyond. The Education Challenge is to reduce
10 education spending in FY 2012 so that it is \$23,200,000.00 less than in
11 FY 2011, which is approximately a two-percent reduction in education
12 spending statewide.

13 (b) In order to achieve \$23,200,000.00 savings statewide as required by the
14 Education Challenge, and in consultation with school boards, superintendents,
15 technical center directors, and school business managers, the commissioner of
16 education shall develop:

17 (1) district-specific targets for suggested reductions in FY 2012
18 education spending for each school district, including regional technical center

1 school districts. When developing the targets, the commissioner shall
2 recognize and acknowledge school districts that:

3 (A) have demonstrated fiscal restraint during no fewer than the last
4 three fiscal years;

5 (B) have low per-pupil administrative costs;

6 (C) have high student-to-staff ratios, where “staff” is defined as all
7 employees of the school district;

8 (D) serve a high percentage of students from economically deprived
9 backgrounds or for whom English is not the first language or both; or

10 (E) have other unique circumstances that affect the district’s level of
11 education spending.

12 (2) individualized targets for suggested reductions in the FY 2012
13 budgets for each supervisory union and regional technical center. When
14 developing the targets, the commissioner shall recognize and acknowledge
15 supervisory unions and technical centers that have demonstrated fiscal restraint
16 during no fewer than the last three fiscal years or have unique circumstances
17 that affect the district’s level of education spending.

18 (c) On or before July 15, 2010, the commissioner shall present the
19 proposed targets required by subsection (b) of this section, together with an
20 explanation of the method by which the targets were developed and
21 suggestions for how the targets may be met, to a joint meeting of the house and

1 senate committees on education (“joint committee”) for review. The joint
2 committee may approve the targets preliminarily or may ask the commissioner
3 to consider additional factors, make adjustments, and submit new targets for
4 review at another meeting of the joint committee. If a majority of the members
5 of the joint committee in attendance conclude that the targets, if met, would
6 reduce education spending by \$23,200,000.00 in FY 2012 and that the targets
7 were developed in a manner that reflects the considerations stated in subsection
8 (b) of this section, then the joint committee shall issue written preliminary
9 approval of the targets.

10 (d) Within five days after the joint committee preliminarily approves the
11 targets presented to it under subsection (c) of this section, the commissioner of
12 education shall notify:

13 (1) each school district of the preliminary district-specific target for
14 suggested reductions in FY 2012 education spending; and

15 (2) each supervisory union and regional technical center of the
16 preliminary individualized target for suggested reductions in its FY 2012
17 budget.

18 (e) Within 30 days after the commissioner makes the notifications required
19 in subsection (d) of this section, each school district, supervisory union, and
20 technical center shall submit written comments to the commissioner regarding
21 the preliminary target for suggested reductions. The commissioner shall cause

1 a copy of the written comments to be transmitted electronically to the members
2 of the joint committee no later than five days after the 30-day period
3 concludes.

4 (f) On or before September 10, 2010, the joint committee shall meet with
5 the commissioner to review and evaluate the comments submitted pursuant to
6 subsection (e) of this section. The joint committee may give final approval to
7 the preliminarily approved targets or may ask the commissioner to make
8 adjustments and submit new targets for review at that meeting or another
9 meeting of the joint committee. If a majority of the members of the joint
10 committee in attendance conclude that the targets, if met, would reduce
11 education spending by \$23,200,000.00 in FY 2012 and that the targets reflect
12 the considerations stated in subsection (b) of this section, then the joint
13 committee shall issue written final approval of the targets.

14 (g) Within five days after the joint committee gives final approval to the
15 targets pursuant to subsection (f) of this section, the commissioner of education
16 shall notify:

17 (1) each school district of the final district-specific target for suggested
18 reductions in FY 2012 education spending; and

19 (2) each supervisory union and regional technical center of the final
20 individualized target for suggested reductions in its FY 2012 budget.

1 (h) Each school district is urged to adopt a FY 2012 budget with education
2 spending that reflects the district-specific reduction target developed by the
3 commissioner and approved by the joint committee. In addition, each district
4 shall notify the commissioner on or before December 1, 2010 whether it
5 believes its budget will be able to meet the suggested targets. The
6 commissioner shall transmit this information electronically to the members of
7 the joint committee.

8 (i) Each supervisory union and technical center is urged to adopt a FY 2012
9 budget that reflects the individualized reduction target developed by the
10 commissioner and approved by the joint committee. In addition, each
11 supervisory union and technical center shall notify the commissioner on or
12 before December 1, 2010 whether it believes its budget will be able to meet the
13 suggested targets. The commissioner shall transmit this information
14 electronically to the members of the joint committee.

15 * * * Environmental and Energy Regulation * * *

16 Sec. 34. 3 V.S.A. § 839 is amended to read:

17 § 839. PUBLICATION OF PROPOSED RULES

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

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

4 * * *

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

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

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

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

11 ~~(d) Formal publications shall be made on Thursdays in a consolidated~~
12 ~~advertisement in the newspapers of record. Annually on or before July 1, the~~
13 ~~secretary of state shall approve a number of newspapers having general~~
14 ~~circulation in different parts of the state as newspapers of record under this~~
15 ~~chapter.~~

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

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

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

7 Sec. 35. 3 V.S.A. § 840 is amended to read:

8 § 840. PUBLIC HEARING AND COMMENT

9 (a) The agency may hold one or more public hearings for each proposed
10 rule. A public hearing shall be scheduled if so requested by 25 persons, by a
11 governmental subdivision or agency, by the interagency committee on
12 administrative rules, or by an association having 25 or more members. The
13 first hearing shall not be held sooner than ~~40~~ 30 days following the ~~second~~
14 ~~formal publication~~ notice required by section 839 of this title.

15 * * *

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

20 * * *

1 ~~Sec. 36. SECRETARY OF STATE; PUBLICATION OF PROPOSED~~

2 ~~RULES~~

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

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

9 ~~(2) the title or subject of the rule;~~

10 ~~(3) the name, telephone number, and address of an agency official able~~
11 ~~to answer questions and receive comments on the proposal; and~~

12 ~~(4) a statement that as of January 1, 2011, notice of proposed rules will~~
13 ~~no longer be published in newspapers~~

Sec. 36. 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;

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

(4) a statement that as of January 30, 2011, notice of proposed rules will no longer be published in newspapers.

(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.

1 Sec. 37. FINDINGS

2 The general assembly finds and declares that the regulatory reform
3 component of “Challenges for Change” as set forth in Secs. 38 through 63 of
4 this act is intended to create administrative and permitting efficiencies at the
5 agency of natural resources, the natural resources board, and the agency of
6 agriculture, food and markets in order to increase staff time devoted to
7 educational, compliance, and enforcement activities. It is the intent of the
8 general assembly that permitting and administrative efficiencies created by
9 regulatory reform component of “Challenges for Change” shall not be used to
10 reduce staffing or resources at the agency of natural resources, the natural
11 resources board, or the agency of agriculture, food and markets.

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

2 Sec. 38. 6 V.S.A. § 1(a) is amended to read:

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

7 * * *

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

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

1 extend to any program administered by the secretary where the annual fee is
2 more than \$125.00.

3 (14) require any person or entity regulated by the secretary under this
4 title or Title 9 or 20 to file an affidavit under oath or affirmation that the person
5 or entity or their regulated premises is in compliance with an assurance of
6 discontinuance or other order or the terms and conditions of a license, permit,
7 registration, certificate, or approval issued by or under the statutory authority
8 of the secretary or rules adopted under such statutory authority. Failure to file
9 such affidavit when requested shall constitute a violation of the underlying
10 regulatory program and grounds for revocation or assessment of administrative
11 penalties or both under section 15 of this title.

12 * * * Agency of Natural Resources Permitting * * *

13 Sec. 39. 10 V.S.A. § 556 is amended to read:

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

16 * * *

17 (b) The secretary may require an applicant to submit any additional
18 information which the secretary considers necessary to make the completeness
19 determination required in subsection (a) of this section and shall not grant a
20 permit until the information is furnished and evaluated. For air contaminant
21 sources that have allowable emissions of more than ten tons per year of all

1 contaminants, excluding greenhouse gases, upon making a determination ~~that~~
2 ~~an application is complete~~ to issue a draft permit, the secretary shall ~~cause~~
3 issue a notice, including that includes a brief description of the source and the
4 address where a complete permit application and draft permit may be
5 reviewed, ~~to be published in a newspaper having general circulation in the area~~
6 ~~affected by the source~~, shall provide a ~~30-day~~ public comment period on all
7 draft permits, and shall hold a public informational meeting, if requested. The
8 public comment period on a draft permit for a source that has allowable
9 emissions of more than 10 tons per year, excluding greenhouse gases, shall be
10 30 days if the source constitutes a major stationary source or major
11 modification under the rules of the secretary and shall otherwise be 10 days.
12 For air contaminant sources that have allowable emissions of less than ten tons
13 per year of all contaminants, the secretary may provide an opportunity for
14 public comment or a public informational hearing, or both, before ruling on a
15 proposed permit. In determining whether to provide for comment or a meeting,
16 the secretary shall consider the degree of toxicity of the air contaminant and
17 the emission rate, the proximity of the source to residences, population centers
18 and other sensitive human receptors, and emission dispersion characteristics at
19 or near the source. The secretary shall fully consider all written and oral
20 submissions concerning proposed permits prior to taking final action on those
21 proposed permits.

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Sec. 40. 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~~

1 public comment period on all draft permits, and shall hold a public
2 informational meeting, if requested. The public comment period on a draft
3 permit for a source that has allowable emissions of more than 10 tons per year,
4 excluding greenhouse gases, shall be 30 days if the source is subject to
5 subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and
6 control) and shall otherwise be 10 days. For air contaminant sources that have
7 allowable emissions of less than ten tons per year of all contaminants, the
8 secretary may provide an opportunity for public comment or a public
9 informational hearing, or both, before ruling on a proposed permit. In
10 determining whether to provide for comment or a meeting, the secretary shall
11 consider the degree of toxicity of the air contaminant and the emission rate, the
12 proximity of the source to residences, population centers and other sensitive
13 human receptors, and emission dispersion characteristics at or near the source.
14 The secretary shall fully consider all written and oral submissions concerning
15 proposed permits prior to taking final action on those proposed permits.

16 * * *

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

19 (1) A permit being renewed shall be subject to the same procedural
20 requirements, including those for public participation, that apply to initial
21 permit issuance, except that a permit being renewed shall not be subject to the

1 public notice and comment requirements of this chapter if all of the following
2 apply:

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

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

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

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

15 * * *

16 (j) Except in compliance with a permit issued by the secretary under this
17 section, it shall be unlawful for a person to operate an air contaminant source
18 that has allowable emissions of greenhouse gases that equal or exceed any
19 threshold established by the U.S. Environmental Protection Agency at or above
20 which such emissions are subject to the requirements of subchapter V (permits)
21 of 42 U.S.C. chapter 85 (air pollution prevention and control). Based on

1 available emission control technologies or energy efficiency measures, or as
2 otherwise appropriate to implement the provisions of this chapter, the secretary
3 may adopt rules to require air contaminant sources with allowable emissions
4 below such threshold to obtain a permit under this section.

5 Sec. 41. 10 V.S.A. § 6602 is amended to read:

6 § 6602. DEFINITIONS

7 For the purposes of this chapter:

8 * * *

9 (26) “Household hazardous waste” means any waste from households
10 that would be subject to regulation as hazardous wastes if it were not from
11 households.

12 Sec. 42. 10 V.S.A. § 6605 is amended to read:

13 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

14 (a)(1) No person shall construct, substantially alter, or operate any solid
15 waste management facility without first obtaining certification from the
16 secretary for such facility, site or activity, except for sludge or septage
17 treatment or storage facilities located within the fenced area of a domestic
18 wastewater treatment plant permitted under chapter 47 of this title. This
19 exemption for sludge or septage treatment or storage facilities shall exist only
20 if:

21 * * *

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

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

6 * * *

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

11 * * *

12 (i) In lieu of obtaining a certification for the long-term maintenance and
13 postclosure care of the facility the secretary shall adopt rules to ensure the
14 proper maintenance and postclosure care of facilities that disposed of
15 municipal solid waste and any other waste stream designated by the secretary.
16 These rules shall require that the facility owner and operator maintain financial
17 responsibility as required under section 6611 of this title for the period of time
18 determined necessary to protect public health and the environment. These
19 rules may include requirements for monitoring at a facility, monitoring
20 requirements for surface water or groundwater in the vicinity of the facility.

1 monitoring of leachate and gas control, physical maintenance of the facility,
2 and corrective action for any release of a solid waste from the facility.

3 Sec. 43. 10 V.S.A. § 6606 is amended to read:

4 § 6606. HAZARDOUS WASTE CERTIFICATION

5 (a) No person shall store, treat, or dispose of any hazardous waste without
6 first obtaining certification from the secretary for such facility, site or activity.

7 Certification shall be valid for a period not to exceed ~~five~~ ten years.

8 * * *

9 Sec. 44. 10 V.S.A. chapter 167 is added to read:

10 CHAPTER 167. AGENCY OF NATURAL RESOURCES PERMITS

11 BY RULE AND ACCEPTANCE OF TECHNICAL CERTIFICATIONS

12 § 7575. PURPOSE AND DEFINITIONS

13 (a) The purpose of this chapter is to authorize the secretary of the agency of
14 natural resources and the commissioner of the department of environmental
15 conservation to utilize various regulatory methods, including permits by rule
16 and acceptance of technical certifications, as appropriate to streamline
17 permitting processes and gain administrative efficiencies, while providing for
18 the continued protection of human health and the environment. It is the intent
19 of the general assembly that the permit by rule and technical certification
20 authority granted to the agency of natural resources under this chapter shall be
21 used for classes or categories of discharges, emissions, disposal, projects,

1 facilities, or other activities that present low risk to the environment and public
2 health.

3 (b) For the purposes of this chapter:

4 (1) “Agency” means the agency of natural resources.

5 (2) “Applicant’s technical consultant” means a person:

6 (A) who is a permit applicant or who is retained by a permit applicant
7 to prepare information in a permit application or to prepare the permit
8 application on behalf of the applicant; and

9 (B) who has the level of education, training, and expertise to certify
10 that the technical requirements of a permit application or permit program have
11 been met.

12 (3) “Permit” means any permit, license, certification, or dam order
13 issued under any of the statutes specified in section 7576 of this title.

14 (4) “Permit by rule” means a permit contained in a rule that authorizes,
15 in lieu of issuing an individual permit, a class or category of discharges,
16 emissions, facilities, activities, or projects with the same attributes through the
17 adoption by rule of standards and requirements that apply to all members of the
18 class or category.

19 (5) “Person” means any individual, partnership, company, corporation,
20 association, unincorporated association, joint venture, trust, municipality, the

1 state of Vermont or any agency, department, or subdivision of the state; federal
2 agency; or any other legal or commercial entity.

3 (6) "Secretary" means the secretary of the agency of natural resources or
4 the secretary's duly authorized representative. For the purposes of this chapter,
5 secretary shall also mean the commissioner of the department of environmental
6 conservation or the commissioner's duly authorized representative, with
7 respect to those statutes that refer to the authority of that commissioner or
8 department.

9 § 7576. APPLICABILITY

10 (a) The various regulatory methods described in this chapter may, when
11 consistent with the purposes of this chapter as described in subsection 7575(a)
12 of this title, be used only to implement the following statutes and the rules
13 adopted thereunder: chapter 47 of this title for the underground injection
14 control program; and chapter 56 of this title for public water supply
15 construction permits.

16 (b) Notwithstanding subsection (a) of this section, nothing in this chapter
17 shall supersede:

18 (1) Specific requirements in existence on July 1, 2010, for general
19 permits, permits by rule, and acceptance of technical certifications under the
20 statutes and the rules adopted thereunder listed in subsection (a) of this section;
21 and

1 (2) Specific requirements necessary to maintain the state's delegation,
2 authorization, primacy, or approval of a federal regulatory program under the
3 statutes and the rules adopted thereunder listed in subsection (a) of this section.

4 § 7577. PERMITS BY RULE

5 (a) The secretary may issue a permit by rule to implement a program set
6 forth in section 7576 of this title. All permits by rule proposed by the secretary
7 under this chapter shall, at a minimum, require a person who is a member of
8 the applicable class or category to notify the secretary of the person's intent to
9 operate under the permit by rule.

10 (b) A person who is a member of a class or category subject to a permit by
11 rule shall be deemed to have a permit only so long as the person complies with
12 the standards and requirements of the rule.

13 § 7578. ACCEPTANCE OF TECHNICAL CERTIFICATIONS OF PERMIT
14 COMPLIANCE

15 (a) The secretary, under a program set forth in section 7576 of this title,
16 may accept a certification from an applicant's technical consultant that the
17 contents of an application for a permit comply with all applicable provisions of
18 law for that permit in lieu of a detailed review by the secretary.

19 (b) All certifications under this section shall consist of a statement
20 certifying that, in the exercise of the reasonable professional judgment of the
21 applicant's technical consultant, the design and operational-related information

1 submitted with the permit application is true and correct and the design
2 included in an application for a permit complies with the applicable statutes
3 and rules.

4 (c) The secretary may initiate an enforcement action against an applicant's
5 technical consultant who submits a certification under this section, in
6 accordance with chapters 201 and 211 of this title, if the secretary determines
7 that the applicant's technical consultant has certified design and
8 operational-related information that is untrue or not correct or that the design
9 does not comply with the applicable statutes and rules.

10 (d) The secretary on a random basis, in response to a complaint, or on his
11 or her own motion, may review permit applications that would otherwise not
12 be reviewed due to the acceptance of a certification under this section.

13 § 7579. NOTICE TO LEGISLATURE

14 (a) At least 30 days prior to implementing the technical certification
15 process under a program set forth in section 7576 of this title, the secretary
16 shall send the chairs of the house and senate committees on natural resources
17 and energy and the chair of the house committee on fish, wildlife and water
18 resources a summary of the activities for which the secretary proposes to
19 accept a technical certification. The summary shall include any rule,
20 procedure, or other language under which the secretary proposes to implement
21 the technical certification process.

1 **(b) When the secretary proposes a permit by rule under a program set forth**
2 **in section 7576 of this title, he or she shall send a copy of the draft rule to the**
3 **chairs of the house and senate committees on natural resources and energy and**
4 **the chair of the house committee on fish, wildlife and water resources at the**
5 **same time that the draft rule is prefiled with the interagency committee on**
6 **administrative rules established under 3 V.S.A. § 820.**

7 Sec. 45. 10 V.S.A. § 8003 is amended to read:

8 § 8003. APPLICABILITY

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

12 * * *

13 Sec. 46. 10 V.S.A. § 8504(j) is amended to read:

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

18 * * * Environmental Enforcement * * *

19 Sec. 47. 10 V.S.A. § 8005 is amended to read:

20 § 8005. INVESTIGATIONS AND; INSPECTIONS; AFFIDAVIT OF
21 COMPLIANCE

1 * * *

2 (c) At any time, the secretary, the land use panel, or a district commission
3 created pursuant to subsection 6026(b) of this title may require a permittee to
4 file an affidavit under oath or affirmation that a facility, project, development,
5 subdivision, or activity of the permittee is in compliance with an assurance of
6 discontinuance or order issued under this chapter or a permit issued under a
7 statute identified under subsection 8003(a) of this title or under a rule
8 enforceable under authority set forth under a statute identified under subsection
9 8003(a) of this title. Failure to file an affidavit within the period prescribed by
10 the secretary, land use panel, or district commission shall be a violation and
11 shall also constitute grounds for revocation of the permit to which the affidavit
12 requirement, assurance of discontinuance, or order under this chapter applies.

13 Sec. 48. 10 V.S.A. § 8007(b)(3) is amended and (4) is added to read:

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

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

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

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

10 * * *

11 Sec. 49. 10 V.S.A. § 8008(a) is amended to read:

12 (a) The secretary may issue an administrative order when the secretary
13 determines that a violation exists. The order shall be served ~~on the respondent~~
14 ~~in person or by acceptance of service, in accordance with court rules, by a~~
15 ~~person designated by the respondent~~ as provided for under the Vermont Rules
16 of Civil Procedure. A copy of the order also shall be delivered to the attorney
17 general. An order shall be effective on receipt unless stayed under subsection
18 8012(e) of this title.

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

20 Sec. 50. 3 V.S.A. § 2809 is added to read:

21 § 2809. REIMBURSEMENT OF AGENCY COSTS

1 (a)(1) The secretary may require an applicant for a permit, license,
2 certification, or order issued under a program that the secretary enforces under
3 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, or engineering
4 expertise or services that the agency of natural resources does not have when
5 such expertise or services are required for the processing of the application for
6 the permit, license, certification, or order.

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

12 (3) Except as set forth under chapters 59 and 159 of Title 10 and
13 10 V.S.A. § 1283, the secretary may require a potentially responsible person or
14 a person in violation of a permit, license, certification, or order issued by the
15 secretary to pay for the time of agency personnel or the cost of other research,
16 scientific, or engineering services incurred by the agency in response to a
17 threat to public health or the environment presented by an emergency or
18 exigent circumstance.

19 (b) Prior to commencing or contracting for research, scientific, or
20 engineering expertise or services or contracting for expert witnesses for which
21 the secretary intends to seek cost reimbursement under subdivisions (a)(1) and

1 (2) of this section, the secretary shall notify the applicant for a permit, license,
2 certification, or order of the secretary's authority to assess costs under this
3 section.

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

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

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

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

17 (1) The secretary may require reimbursement only of costs in excess of
18 \$3,000.00.

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

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

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

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

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

13 Sec. 51. 10 V.S.A. § 6027 is amended to read:

14 § 6027. POWERS

15 * * *

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

1 Sec. 52. 10 V.S.A. § 6083(a) is amended to read:

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

5 (1) The applicant's name, address, and the address of each of the
6 applicant's offices in this state, and, where the applicant is not an individual,
7 municipality or state agency, the form, date and place of formation of the
8 applicant.

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

13 (3) The fee prescribed by section 6083a of this title.

14 (4) Certification of filing of notice as set forth in 6084 of this title.

15 Sec. 53. 10 V.S.A. § 6084(a) is amended to read:

16 (a) On or before the date of filing of an application with the district
17 commission, the applicant shall send notice and a copy of the initial application
18 to the owner of the land if the applicant is not the owner; the municipality in
19 which the land is located; the municipal and regional planning commissions for
20 the municipality in which the land is located; the Vermont agency of natural
21 resources; any adjacent Vermont municipality and municipal and regional

1 planning commission if the land is located on a municipal or regional
2 boundary. The applicant shall furnish to the district commission the names of
3 those furnished notice by affidavit, and shall post a copy of the notice in the
4 town clerk's office of the town or towns wherein the project lies. The
5 applicant shall also provide a list of adjoining landowners to the district
6 commission. Upon request and for good cause, the district commission may
7 authorize the applicant to provide a partial list of adjoining landowners in
8 accordance with board rules.

9 Sec. 54. 10 V.S.A. § 8010(e) is amended to read:

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

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

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

18 Sec. 55. 10 V.S.A. § 8504(o) is added to read:

19 (o) With respect to review of an act or decision of the secretary pursuant to
20 3 V.S.A. ~~§ 2809(d)~~ § 2809, the court may reverse the act or decision or amend
21 an allocation of costs to an applicant only if the court determines that the act,

1 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In
2 the absence of such a determination, the court shall require the applicant to pay
3 the secretary all costs assessed pursuant to 3 V.S.A. § 2809.

4 Sec. 56. 30 V.S.A. § 20 is amended to read:

5 § 20. PARTICULAR PROCEEDINGS; PERSONNEL

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

9 * * *

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

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

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

17 (C) assist the board or department in any proceedings described in
18 subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11)
19 (Nuclear Regulatory Commission) of this section. Allocation of agency of
20 natural resources costs under this subdivision (C) shall be in the same manner
21 as provided under subdivisions (b)(9) and (11) of this section. The agency of

1 natural resources shall report annually to the joint fiscal committee all costs
2 incurred and expenditures charged under the authority of this subsection with
3 respect to proceedings under subdivision (b)(9) of this section and the purpose
4 for which such costs were incurred and expenditures made; and

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

14 * * *

15 Sec. 57. 30 V.S.A. § 21 is amended to read:

16 § 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

17 (a) The board ~~or~~, the department, or the agency of natural resources may
18 allocate the portion of the expense incurred or authorized by it in retaining
19 additional personnel for the particular proceedings authorized in section 20 of
20 this title to the applicant or the public service company or companies involved
21 in those proceedings. The board shall upon petition of an applicant or public

1 service company to which costs are proposed to be allocated, review and
2 determine, after opportunity for hearing, having due regard for the size and
3 complexity of the project, the necessity and reasonableness of such costs, and
4 may amend or revise such allocations. Prior to allocating costs, the board shall
5 make a determination of the purpose and use of the funds to be raised
6 hereunder, identify the recipient of the funds, provide for allocation of costs
7 among companies to be assessed, indicate an estimated duration of the
8 proceedings, and estimate the total costs to be imposed. With the approval of
9 the board, such estimates may be revised as necessary. From time to time
10 during the progress of the work of such additional personnel, the board ~~or, the~~
11 department, or the agency of natural resources shall render to the company
12 detailed statements showing the amount of money expended or contracted for
13 in the work of such personnel, which statements shall be paid by the applicant
14 or the public service company into the state treasury at such time and in such
15 manner as the board ~~or, the~~ department, or the agency of natural resources may
16 reasonably direct.

17 (b) When regular employees of the board ~~or, the~~ department, or the agency
18 of natural resources are employed in the particular proceedings described in
19 section 20 of this title, the board ~~or, the~~ department, or the agency of natural
20 resources may also allocate the portion of their costs and expenses to the
21 applicant or the public service company or companies involved in the

1 proceedings. The costs of regular employees shall be computed on the basis of
2 working days within the salary period. The manner of assessment and of
3 making payments shall otherwise be as provided for additional personnel in
4 subsection (a) of this section.

5 * * *

6 (d) The agency of natural resources may allocate expenses under this
7 section only for costs in excess of the amount specified in 3 V.S.A.
8 § 2809(c)(1).

9 * * * Municipal Bylaw Provisions * * *

10 Sec. 58. 24 V.S.A. § 4449(e) is added to read:

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

16 Sec. 59. 24 V.S.A. § 4463(d) is added to read:

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

1 * * * Public Service Board Provisions * * *

2 Sec. 60. 30 V.S.A. § 30 is amended to read:

3 § 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

4 * * *

5 (g) At any time, the board may require a person, company, or corporation
6 to file an affidavit under oath or affirmation that the person, company, or
7 corporation or any facility or plant thereof is in compliance with the terms and
8 conditions of an order, approval, certificate, or authorization issued under this
9 title or rules adopted under this title. Failure to file such an affidavit within the
10 period prescribed by the board shall be a violation subject to civil penalty
11 under subdivision (a)(1) of this section and shall also be grounds for revocation
12 or rescission of the order, approval, certificate, or authorization as to which the
13 board required the affidavit.

14 Sec. 61. 30 V.S.A. § 248 is amended to read:

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

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

18 * * *

19 (4)(A) With respect to a facility located in the state, the public service
20 board shall hold a nontechnical public hearing on each petition for such finding

1 and certificate in at least one county in which any portion of the construction
2 of the facility is proposed to be located.

3 * * *

4 (D) Notice of the public hearing shall be published ~~in a newspaper of~~
5 ~~general circulation in the county or counties in which the proposed facility will~~
6 ~~be located two weeks successively, the last publication to be~~ and maintained on
7 the board's website for at least 12 days before the day appointed for the
8 hearing.

9 * * *

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

14 * * *

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

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

8 * * *

9 Sec. 62. QUARTERLY MEETINGS OF CHALLENGES FOR CHANGE
10 COMMITTEES OF JURISDICTION

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

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

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

3 Sec. 63. 10 V.S.A. § 4277(b) is amended to read:

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

11 * * * Economic Development * * *

12 Sec. 64. ECONOMIC DEVELOPMENT

(a) The committees of jurisdiction on economic development accept the
concept, as put forward in the administration's progress report of March 30,
2010, and the counterproposal of the regional service providers of April 5,
2010, of strengthening delivery of economic development services at the
regional and local levels. However, the committees of jurisdiction take the
position that the implementation of this concept requires further refinement.
Therefore, the committees recommend ~~that the joint committee on government~~
~~accountability (GAC) vote against acceptance of the administration's current~~
~~proposal and request that the secretary of administration revise and resubmit a~~

~~proposal~~ *the secretary of administration submit a revised proposal* to the
committees of jurisdiction consistent with the following:

(1) The agency of commerce and community development, the
department of labor, and the agency of agriculture, food and markets (and
other state agencies and departments as is necessary and appropriate) shall
collaborate with their statewide program partners and local and regional
service providers to design ~~and implement~~ by October 1, 2010, a new model of
integrated economic development planning and service delivery at the state,
regional, and local levels *to be implemented as soon as practicable.*

1 (2) The new model shall be designed to achieve the economic
2 development outcomes identified in Sec. 8 of No. 68 of the Acts of the 2009
3 Adj. Sess. (2010) within the \$30.33 million budget available for all economic
4 development spending, which shall include expenditures identified in the
5 unified economic development budget, tax expenditures, broadband
6 expenditures, and any new or existing entrepreneurial revenues.

7 (3) The state agencies and regional and local service providers shall
8 work directly with the state's economists to develop a set of measures for all
9 economic development programs and activities undertaken by the state and its
10 partners that will provide the quantity and quality of information necessary:

1 (A) For the economic development service provider to measure
2 whether a particular program, contract, grant, service, or other activity is
3 achieving the outcomes identified for that particular activity; and

4 (B) For the legislature to determine the state's return on its economic
5 development investment.

6 (4) The administration, in collaboration with the Vermont
7 telecommunications authority and telecommunications service providers, shall
8 develop and submit to the committees of jurisdiction a set of comprehensive
9 measures that will provide sufficient information for legislative oversight of
10 progress toward attaining the telecommunications infrastructure outcome
11 identified in Sec. 8(b)(2) of No. 68 of the Acts of the 2009 Adj. Sess. (2010)
12 and that are consistent with the most current version of the 2010 state
13 telecommunications plan.

14 (b) On or before May 1, 2010:

15 (1) The agency of commerce and community development, the
16 department of labor, and the agency of agriculture, food and markets (and
17 other state agencies and departments as is necessary and appropriate) shall
18 collaborate with their statewide program partners and local and regional
19 service providers to develop and submit to the committees of jurisdiction a
20 strategic proposal for the best use of the \$400,000.00 available in the
21 Challenges for Change process for targeted investment.

1 (2) Regional and local service providers shall collaborate to identify and
2 submit to the committees of jurisdiction a narrative description of the services
3 needed from the general assembly and the administration to provide effective
4 and efficient service to their clients.

5 (c) Pending submission of the proposals requested in this subsection, the
6 committees of jurisdiction take the position that any statutory changes would
7 be premature at this time.

8 * * * Accountability and Oversight Provisions * * *

9 Sec. 65. 2 V.S.A. chapter 28 is added to read:

10 CHAPTER 28. GOVERNMENT ACCOUNTABILITY COMMITTEE

11 § 970. GOVERNMENT ACCOUNTABILITY COMMITTEE

12 (a) There is created a joint legislative government accountability
13 committee. The committee shall recommend mechanisms for state
14 government to be more forward-thinking, strategic, and responsive to the
15 long-term needs of Vermonters. In pursuit of this goal, the committee shall:

16 (1) Make recommendations for enhancing the state's ability to measure
17 the performance of programs which have been or will be undertaken with
18 government investments, in accordance with the strategic plan provisions of
19 32 V.S.A. § 307(c).

1 (2) Propose areas for the review of statutory mandates for public
2 services that may result in service duplication and to review the alignment of
3 financial and staff resources required to carry out those mandates.

4 (3) Review the legislative process for the creation and elimination of
5 positions and programs and make recommendations for enhancements to the
6 process that support greater long-range planning and responsiveness to the
7 needs of Vermonters.

8 (4) Recommend strategies and tools which permit all branches of state
9 government to prioritize the investment of federal, state, and local resources in
10 programs that respond to the needs of the citizens of Vermont in a
11 collaborative, cost-effective, and efficient manner. Pursuant to those strategies
12 and tools, functions which are not critical to an agency or department mission
13 may be recommended for combination or elimination, while other functions
14 may be optimized.

15 (5) Review strategies with similar aims in other jurisdictions in the
16 context of federal, state, and local relationships.

17 ~~(6) Review the fiscal condition of the state on a two-year and five-year~~
18 ~~basis, including relevant data such as comparisons of budgeted amounts to~~
19 ~~actual expenditures, and comparison of current and projected expenditures to~~
20 ~~current and projected revenues.~~

(6) Review the fiscal condition of the state on a two-year and five-year basis, including relevant data such as comparisons of budgeted amounts to actual expenditures, comparison of current and projected expenditures to current and projected revenues, and capital investments funded by bonding.

1 (7) ~~Create and implement~~ *Recommend* a performance-based budgeting
2 system, using a strategic planning process which includes challenges to
3 improve government by identifying measurable outcomes and performance
4 measures.

5 ~~(b) The membership of the committee shall be appointed each biennial~~
6 ~~session of the general assembly. The committee shall be composed of 11~~
7 ~~members: the secretary of administration or designee; the commissioner of~~
8 ~~finance and management or designee; one member of the administration~~
9 ~~appointed by the governor; four members of the house of representatives who~~
10 ~~shall not all be from the same party: one from the committee on government~~
11 ~~operations, one from the committee on appropriations, and two other members,~~
12 ~~appointed by the speaker of the house; and four members of the senate who~~
13 ~~shall not all be from the same party: one from the committee on government~~
14 ~~operations, one from the committee on appropriations, and two other members,~~
15 ~~appointed by the committee on committees. The committee may also include~~
16 ~~in its recommendations that the committee membership be altered.~~

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of eight members: four 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 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 four 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 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.

1 (c) The committee shall elect a chair, vice chair, and clerk from among its
2 members and shall adopt rules of procedure. The chair shall alternate
3 biennially between the house and the senate members. The committee shall
4 keep minutes of its meetings and maintain a file thereof. A quorum shall
5 consist of six members.

6 (d) During the legislative session, the committee shall meet at least once a
7 month, at the call of the chair; and when the legislature is not in session, the
8 committee may meet monthly, at the call of the chair. The committee may

1 meet more often subject to the approval of the speaker of the house and the
2 president pro tempore of the senate.

3 (e) For attendance at a meeting when the general assembly is not in session,
4 legislative members of the committee shall be entitled to compensation for
5 services and reimbursement of expenses as provided under subsection 406(a)
6 of this title; and nonlegislative members who are not full-time state employees
7 shall be entitled to per diem and expenses as provided in 32 V.S.A. § 1010.

8 (f) The professional and clerical services of the joint fiscal office and the
9 legislative council shall be available to the committee.

10 (g) At least annually, by January 15, the committee shall report its
11 activities, together with recommendations, if any, to the general assembly. The
12 report shall be in brief summary form.

13 ~~Sec. 66. Sec. 10(a) of No. 206 of the Acts of 2008 is amended to read:~~

14 ~~(a) Sec. 5 of this act shall be repealed on July 1, 2013.~~

Sec. 66. Sec. 10(a) of No. 206 of the Acts of 2008 is amended to read:

(a) Sec. 5 of this act shall be repealed on July 1, 2013 2010.

15 Sec. 67. QUARTERLY REPORTING

16 (a) The government accountability committee shall summarize the
17 measures developed in response to the Challenges for Change Act to be used in
18 reporting and overseeing progress on each Challenge. As provided in that act,
19 the measures will be simple, objective, consistent, and based on data that are

1 currently collected or could easily be collected; and will include milestones for
2 assessment of the effectiveness in implementing each Challenge.

3 ~~(b) The redesign of how to provide government services shall be~~
4 ~~implemented in a way that continues to carry out the policies adopted by the~~
5 ~~general assembly, and not by reductions in government benefits or limitation~~
6 ~~on benefit eligibility; and shall not include reductions in staff except to the~~
7 ~~extent necessary to achieve the required outcomes and financial goals of the~~
8 ~~Challenges plan.~~ The redesign shall be achieved through innovative,
9 outcome-driven changes in service delivery and performance which create
10 better methods for providing government services, while spending less money
11 and achieving the outcomes specified in the Challenges for Change Act.

(c) 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.

~~(e)~~ (d) On a quarterly basis, beginning with July 1, 2010, the administration shall report to the house and senate committees of jurisdiction. 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.

1 ~~(d)~~ (e) The committees of jurisdiction may meet during the interim at the
2 call of the chair to receive and discuss the reports required under this section,
3 and may report each quarter to the government accountability committee as to
4 whether satisfactory progress is being made on each Challenge, and whether
5 any proposed changes in the plan of implementation appear designed to
6 achieve the required outcomes.

Sec. 68. RECONVENING OF THE GENERAL ASSEMBLY

This act and the Challenges for Change Act both accomplish significant progress toward redesigning how government services will be provided to achieve required outcomes, through long-term strategic planning, while spending less money. However, the \$38 million savings assumed in the budget in H. 789 as passed by the House will not be achieved by implementation of the proposals offered to date. To ensure that the general assembly has the

opportunity to analyze further redesign proposals in detail, the general assembly when it initially adjourns from its 2010 session shall not adjourn sine die, but shall instead adjourn to July 22, 2010, to review any further proposals and take action on any proposed statutory changes consistent with the Challenges for Change Act and this act. The July revenue forecast provided in accordance with 32 V.S.A. § 305a shall be completed on or before July 20, 2010. Any committee of jurisdiction may meet at any time before July 22, 2010, for the purposes in this section, with the appropriate approval of the speaker of the house or the president pro tempore, and at the call of its chair.

1 Sec. ~~68~~ 69. EFFECTIVE DATES; APPLICATION; REPEALS

2 This act shall take effect July 1, 2010, except as follows:

(1) This Sec. ~~68~~ 69 and Secs. 1 (legislative intent), 23 (creation of clinical utilization review board), 64 (economic development), and 67 (quarterly reporting) shall take effect upon passage.

(2) Sec. 63 (waterfowl stamp) shall take effect January 1, 2011.

~~(1)~~ (3) Sec. 2 of this act (charter units; no required independent expert review for information technology investments) shall be repealed on July 1, 2013.

3 ~~(2)~~ (4) Secs. 34 through 37 of this act (notice of rulemaking) shall take
4 effect on July 1, 2010, and shall apply to all proposed rules filed on or after
5 that date.

1 ~~(3)~~(5) Sec. 36 of this act (secretary of state; publication of proposed
2 rules) shall be repealed on January 1, 2011.

3 ~~(4)~~(6) The amendments to 10 V.S.A. § 6605(b)(5) in Sec. 42 of this act
4 (ANR monitoring in postclosure solid waste certifications) shall take effect
5 July 1, 2011.