Journal of the Senate

SATURDAY, MAY 8, 2010

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventh day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 173. An act relating to technical corrections to the trust laws.

S. 237. An act relating to operational standards for salvage yards.

S. 239. An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter.

Rules Suspended; Proposal of Amendment;

H. 792.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to implementation of challenges for change.

Was taken up for immediate consideration.

President Assumes the Chair

Senator Bartlett, for the Committee on Appropriations, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

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

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

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

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

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

Outcomes for performance contracting and grants:

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

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

Sec. A2. PERFORMANCE CONTRACTS AND GRANTS

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

*** * * B. Charter Units Challenge * * ***

Sec. B1. RESTATEMENT OF OUTCOMES FOR CHARTER UNIT CHALLENGE

Outcomes for the charter unit challenge:

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

(2) Increase employees' engagement in their work.

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

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

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

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

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

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

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

Sec. B5. TASK FORCES INVOLVING MORE THAN ONE AGENCY

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

Sec. B6. DEPARTMENT OF LIQUOR CONTROL

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

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

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

(3) Analyze how coordinated changes in taxation and pricing could lead to increased sales and increased revenue contribution to the state's general fund, while meeting the goals expressed in this section. The department shall consider whether reducing or eliminating the current 25 percent tax on gross revenues, and implementing flexibility in pricing, could lead to this increased sales and revenue. The department shall report its findings and recommendations to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs by January 15, 2011.

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

* * * Department of Taxes * * *

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

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

(c) Notwithstanding section 5867 of this title, the commissioner may, in his

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

* * * Compliance and Collection * * *

Sec. B8. COMPLIANCE AND COLLECTION

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

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

Sec. B9. ELECTRONIC FILING OF TAX RETURNS

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

* * * Department of Fish and Wildlife * * *

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

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

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

* * * Licenses; Retained Fee * * *

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

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

* * *

(e) The commissioner shall establish:

* * *

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

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

* * *

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

* * *

* * * Replacement and Free Licenses * * *

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

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

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

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

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

* * * Use of Special Funds * * *

Sec. B13. DEPARTMENT OF FORESTS, PARKS AND RECREATION USE OF SPECIAL FUND

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

* * * Park Fees * * *

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

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

* * * Receipt of Grants and Donations * * *

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

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

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

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

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

items:

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

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

(C) a brief statement of purpose;

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

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

* * * Labor * * *

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

§ 602. PROCESS AND PROCEDURE

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

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

*** * * C. Human Services Challenge * * ***

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

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

(a) The agency of human services shall set an agency-wide savings target of $23.8 million in general fund in fiscal year 2011 and $41.4 million in general fund in fiscal year 2012. As provided for in H.792 of 2010, the agency of human services shall achieve the same or better outcomes for clients and

achieve the associated savings under this act without reducing government benefits, limiting benefit eligibility, or reducing personnel unless reduction is a direct consequence of achieving the required outcomes or specifically provided for under the Challenges legislation, such as in Sec. C25 of H.792 of 2010.

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

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

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

~~(1) Client-centered intake and client-centered coordinated and managed services. Improve the outcomes for individuals and families receiving services from the agency of human services, while spending five percent less in fiscal year 2011 than in fiscal year 2010 and in fiscal year 2012 spending 10 percent less than in fiscal year 2010, by redesigning the delivery of services to be more efficient, interconnected, and targeted to achieve the essential outcomes with less duplication of services.~~

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

~~2010 and five percent less in fiscal year 2012 than in fiscal year 2010.~~

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

~~(4) Outcomes-based contracts with Redesign of services provided by the designated agencies. Improve the outcomes of individuals and families served by the 17 agencies designated under 18 V.S.A. § 8905 to provide mental health services and services to individuals with a developmental disability, while spending five percent less in fiscal year 2011 than in fiscal year 2010 and 7.5 percent less in fiscal year 2012 than in fiscal year 2010, by enhancing collaboration among these agencies and by redesigning the contracts.~~

Sec. C3. STAKEHOLDER INVOLVEMENT

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

* * * Elders * * *

Sec. C4. RESTATEMENT OF OUTCOMES FOR ELDERS

Outcomes for elders:

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

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

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

(4) Adults lead healthy and productive lives.

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

Sec. C5. INITIATIVES; ELDERS

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

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

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

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

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

Sec. C6. SURVEYS; FORMER NURSING HOMES

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

* * * Families with Children * * *

Sec. 7. RESTATEMENT OF OUTCOMES RELATING TO FAMILIES, INCLUDING CHILDREN, WITH MULTIPLE NEEDS

Outcomes for families with children:

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

(2) Pregnant women and children thrive.

(3) Children are ready for school.

(4) Children succeed in school.

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

(6) Youths choose healthy behaviors.

(7) Youths successfully transition to adulthood.

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

(9) Adults lead healthy and productive lives.

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

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

Sec. C8. INITIATIVES; FAMILIES AND CHILDREN

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

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

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

(3) pursuing savings in the budgets of multiple departments, including the department of Vermont health access, department of mental health, department of health, department of disabilities, aging, and independent living, and department for children and families, resulting from reduced lengths of stay in out-of-home placements of children accomplished through an increase in early intervention, family treatment, and other services designed to prevent or reduce the acuity of the situation resulting in the child's out-of-home placement. The agency shall redesign service delivery in order to provide intensive services to children and families before a child needs an out-of-home placement. "Out-of-home placements" includes inpatient hospitalizations, residential care, and foster care;

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

(5) reducing administrative burdens on providers of children's services by simplifying documentation and reporting requirements across departments, including the department for children and families, the department of mental health, the alcohol and drug abuse program, and the department of disabilities,

aging, and independent living, including removing prior authorization requirements for Healthy Babies, Kids, and Families if feasible and allowable under federal law;

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

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

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

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

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

Sec. C9. CHILDREN'S INTEGRATED SERVICES; PILOTS

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

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

Sec. C10. WOODSIDE JUVENILE REHABILITATION CENTER

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

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

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

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

§ 7401. POWERS AND DUTIES

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

* * *

(14) plan and coordinate the development of community services which are needed to assist ~~mentally ill persons and~~ children and adolescents with or at risk for a severe emotional disturbance and individuals with mental illness to become as financially and socially independent as possible. These services shall consist of residential, vocational, rehabilitative, day treatment, inpatient, outpatient, and emergency services, as well as client assessment, prevention, family, and individual support services and such other services as may be required by federal law or regulations;

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

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

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

* * *

* * * Reach Up * * *

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

§ 1106. REQUIRED SERVICES TO PARTICIPATING FAMILIES

(a) The commissioner shall provide participating families case management

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

* * *

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

* * * Child Support Contempt Proceedings * * *

Sec. C13. 4 V.S.A. § 461(a)(1) is amended to read:

(a) The office of magistrate is created within the family court. Except as provided in section 463 of this title, the office of magistrate shall have jurisdiction concurrent with the family court to hear and dispose of the following cases:

(1) Proceedings for the establishment, modification and enforcement of child support, including contempt proceedings instituted against an obligated party for the limited purpose of enforcing a child support order.

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

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

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

§ 603. CONTEMPT

(a) A person who disobeys a lawful order or decree of a court or judge, made under the provisions of this chapter, may be proceeded against for contempt as provided by ~~section~~ 12 V.S.A. § 122 ~~of Title 12~~. The department

for children and families may institute such proceedings in all cases in which a party or dependent children of the parties are the recipients of financial assistance from the department. ~~The~~

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

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

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

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

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

* * * Administrative Suspension of Licenses * * *

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

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

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

(b) The office of child support may administratively suspend licenses under this section upon noncompliance with an order under section 606 of this title. Prior to suspending a license, the office of child support shall notify the obligor of the office's intent to suspend the obligor's license and shall provide the obligor with an opportunity to contest the action pursuant to 33 V.S.A. § 4108. If the obligor fails to either contest the claimed delinquency or request an opportunity to present evidence relating to the noncompliance within 21 days of notification, the office of child support may issue a license suspension order.

(c) Upon a finding of noncompliance with an order issued under section 606 of this title and a delinquency of at least one-quarter of the annual support obligation, the office of child support, a family court judge or magistrate, if assigned by the presiding family court judge, may order a civil suspension of a

noncomplying party ‘s motor vehicle operator’s license issued under chapter 9 of Title 23 or commercial driver license issued under chapter 39 of Title 23, recreational license, and any other license certification or registration issued by an agency to conduct a trade or business, including a license to practice a profession or occupation.

~~(c)~~(d) Upon receipt of a license suspension order issued under this section, the license issuing authority shall suspend the license according to the terms of the order. Prior to suspending the license, the license issuing authority shall notify the license holder of the pending suspension and provide the license holder with an opportunity to contest the suspension based solely on the grounds of mistaken identity or compliance with the underlying child support order. The license shall be reinstated within five days of a reinstatement order from the court or notification from the office of child support or the custodial parent, where the rights of that parent have not been assigned to the office of child support, that the parent is in compliance with the underlying child support order. The license issuing authority shall charge a reinstatement fee as provided for in ~~section~~ 23 V.S.A. § 675 ~~of Title 23~~, or as otherwise provided by law or rule.

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

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

§ 4108. GRIEVANCE PROCEDURE

(a) The office of child support shall adopt rules in accordance with the procedures set forth in chapter 25 of Title 3, the Administrative Procedure Act, to establish and implement a grievance procedure to contest decisions of the office of child support.

(b) The office of child support shall make widely available to the public information about its grievance procedure, including grievance forms, pamphlets explaining the procedure, and explanations of grievance rights.

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

(d) All final decisions of the office of child support are appealable de novo to the family court magistrate.

(e) If the obligor contests the withholding within ~~20~~ 21 days of the notice and is found not to be in arrears by more than one-twelfth of the annual support obligation on the date the notice is issued, the office, within two business days, shall notify the employer to cease withholding. In addition, the office shall pay to the obligor three times the amount erroneously withheld.

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

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

§ 4110. EMPLOYER OBLIGATIONS

* * *

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

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

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

(3) Employers shall report the ~~specified new hire data by way of a W-4 form (copy), or a form of their own with the specified data elements. It~~ required new hire data elements electronically, when practicable, or on a form supplied or approved by the department of labor. Forms may be ~~reported~~ transmitted by fax transmission, first class mail, ~~by~~ magnetic tape, electronically, or ~~by~~ inputting data elements via the telephone.

(4) If the failure to report is the result of collusion between employer and employee, the employer shall be liable to the obligee in the amount of the wages required to be withheld but not more than $500.00.

(c) As used in this section:

* * *

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

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

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

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

§ 800. CONTRACT WITH SHERIFF FOR SERVICE OF CIVIL PROCESS

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

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

§ 307. DEPUTY SHERIFFS; APPOINTMENTS AND REVOCATION

* * *

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

* * *

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

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

§ 202. PENALTY FOR DESERTION OR NONSUPPORT

A married person who, without just cause, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her spouse and children, leaving them in destitute or necessitous circumstances or a parent who, without lawful excuse, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or an adult child possessed of sufficient pecuniary or physical ability to support ~~his~~ or her parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself or herself and resident in this state, shall be imprisoned not more than two years or fined not more than $300.00, or both. Should a fine be imposed, the court may order the same to be paid in whole or in part to the needy spouse, parent or to the guardian, custodian, or trustee of the child. The office of child support attorneys, in addition to any other duly authorized person, may prosecute cases under this section in Vermont district court.

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

Sec. C22. CHALLENGES FOR THE OFFICE OF CHILD SUPPORT

(a) The office of child support shall:

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

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

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

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

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

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

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

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

(3) Adults lead healthy and productive lives.

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

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

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

The general assembly is supportive of the following new proposals and the

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

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

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

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

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

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

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

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

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

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

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

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

(12) reducing documentation and administrative requirements;

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

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

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

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

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

Sec. C25. DESIGNATED AGENCIES; REDUCTION

(a)(1) The agency of human services and the agencies designated under chapter 207 of Title 18 shall reduce the fiscal year 2011 appropriation for mental health to the designated agencies by 2.5 percent and for developmental services by a total of 2.5 percent which shall be split as follows: 1.5 percent from services to individuals in the custody of the commissioner of disabilities, aging and independent living under the public safety criteria and 1.0 percent from other developmental services. The designated agencies shall minimize service reductions to the extent possible.

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

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

(2) No later than July 1, 2011, every individual in the custody of the commissioner of disabilities, aging, and independent living under the public safety criteria who has not been assessed for a developmental disability within the past two years shall have his or her competency evaluated by a

psychologist skilled in assessing developmental disabilities. The commissioner shall develop protocols for evaluating the appropriateness of less restrictive residential placements based on the results of the evaluation.

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

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

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

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

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

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in the preceding section shall have reference to:

(1) Mental competency of the person examined to stand trial for the alleged offense;

(2) Sanity of the person examined at the time of the alleged offense.

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

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

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

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

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

Sec. C26. DESIGNATED AGENCIES; REQUEST FOR PROPOSALS

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

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

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

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

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

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

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

(3) reimbursement methodology; and

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

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

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

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

Sec. C29. VERMONT PRESCRIPTION MONITORING SYSTEM

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

committee on human services and the senate committee on health and welfare.

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

* * * All Populations – Health * * *

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

Outcomes for all individuals relating to health:

(1) Adults lead healthy and productive lives.

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

Sec. C31. INITIATIVES; HEALTH CARE

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

(1) statewide expansion of the Blueprint for Health;

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

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

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

Sec. C32. EXPANSION OF HEALTH CLINICS; FQHCS

The department of Vermont health access shall collaborate with the

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

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

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

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

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

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

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

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

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

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

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

~~(6) payment methodologies to align reimbursements and create financial incentives and rewards for health care professionals to establish management systems for chronic conditions, to improve health outcomes, and to improve the quality of care, including case management fees, pay for performance, payment for technical support and data entry associated with patient registries, the cost of staff coordination within a medical practice, and any reduction in a health care professional's productivity;~~

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

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

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

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

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

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

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

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

Subchapter 6. Clinical Utilization Review Board

§ 2031. CREATION OF CLINICAL UTILIZATION REVIEW BOARD

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

(b) The board shall comprise 10 members with diverse medical experience, to be appointed by the governor upon recommendation of the commissioner of Vermont health access. The board shall solicit additional input as needed from individuals with expertise in areas of relevance to the board's deliberations. The medical director of the department of Vermont health access shall serve as the state's liaison to the board. Board member terms shall be staggered, but in no event longer than three years from the date of appointment. The board shall meet at least quarterly, provided that the board shall meet no less frequently than once per month for the first six months following its formation.

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

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

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

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

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

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

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

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

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

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

(d) The commissioner may adopt a mechanism recommended pursuant to subdivision (c)(2) of this section with or without amendment, provided that if the commissioner proposes to amend the mechanism recommended by the board, he or she shall request the board to consider the amendment before the mechanism is implemented or is filed as a proposed administrative rule pursuant to 3 V.S.A. § 838.

§ 2032. ROLE OF DEPARTMENT OF VERMONT HEALTH ACCESS

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

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

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

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

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

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

* * * All Populations – Miscellaneous * * *

Sec. C35. AHS; REQUESTS FOR PROPOSALS

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

(2) The proposals shall be designed to:

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

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

(C) demonstrate a strong commitment by a range of community-based service providers and other organizations, including by existing providers, agencies designated by law to provide services, and other organizations.

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

(A) individuals with mental health conditions and individuals with disabilities who are at risk of involvement with law enforcement, the criminal

judicial system, or the department of corrections with a goal of reducing the involvement with law enforcement and incarceration;

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

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

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

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

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

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

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

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

(1) the degree of community support and commitment;

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

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

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

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

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

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

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

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

(1) the secretary of human services or designee;

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

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

(c) Powers and duties.

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

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

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

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

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

Sec. C37. INTENT; SAVINGS TARGETS

It is the intent of the general assembly that the agency of human services, community organizations, and other stakeholders continue to work on initiatives contained in the Challenges for Change Progress Report dated March 30, 2010l; initiatives identified during the 2010 legislative session, which are contained in hard copy as the legislative record for this act; and new initiatives to achieve the savings targets identified in No. 38 of the Acts of the 2009 Adj. Sess. (2010).

Sec. C38. QUARTERLY REPORTS

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

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

(2) the progress of the department's efforts to reduce utilization of nursing home beds;

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

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

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

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

To the extent that the reductions in appropriations authorized by Sec. 9 of No. 68 of the Acts of the 2009 Adj. Sess. (2010) and this act consist of matching funds for Medicaid, and actions of the federal government result in the provisions of Sec. D.106(a) of H.789 of 2010 being unnecessary, then the amount of reduction that is attributable to the difference between the Federal

Medical Assistance Percentage with and without the extension referenced in Sec. D.106(a) of H.789 of 2010 shall be from the balance in the human services caseload reserve prior to any allocation made subsequent to Sec. D.106(a) of H.789 of 2010.

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

(a) The corrections challenge is to the secretary of human services, commissioner of education, and administrative judge to collaborate to develop a plan which if implemented would reduce the number of people entering the corrections system, decrease the recidivism rate, improve community safety, and reduce the corrections budget ~~by $10 million~~ in fiscal year 2011 and ~~$10 million~~ in fiscal year 2012. ~~In fiscal year 2011, $3 million of the $10 million saved, and in fiscal year 2012, $2 million of the $10 million saved shall~~ Funds may be reinvested in programs and services which will reduce the number of people entering the criminal justice system and decrease the recidivism of those who do enter the system.

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

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

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

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

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

Outcomes:

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

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

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

(4) Recidivism shall decrease.

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

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

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

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

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

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

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

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

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

~~Any prisoner serving an alternative sentence of confinement in any penal~~

~~institution which is in lieu of the payment of fine shall be released at the expiration of as many days as there are dollars, or fractional part thereof, in such fine and if such prisoner shall pay such fine during the time of his or her commitment he or she shall be given credit for time served at the rate of one dollar for each full day, or fractional part thereof, so served. All statutes inconsistent herewith are hereby amended to conform with the foregoing provisions.~~

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

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

~~§ 7223. SENTENCES TO PAY FINE~~

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

~~§ 7224. EXECUTION OF WARRANT~~

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

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

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

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

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

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

(a) As used in this section:

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

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

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

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

(c) Civil contempt proceeding.

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

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

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

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

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

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

(4) Contempt.

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

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

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

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

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

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

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

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

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

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

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

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

section 7282 of this title.

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

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

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

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

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

§ 7554b. HOME DETENTION PROGRAM

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

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

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

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

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

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

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

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

§ 205. PROBATION

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

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

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

* * *

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

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

§ 164. ADULT COURT DIVERSION PROJECT

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

* * *

(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. D6.1. COURT DIVERSION PROJECT

The Vermont association of court diversion programs, the department of state's attorneys and sheriffs and the Vermont network against domestic and sexual violence shall jointly develop referral criteria to appropriately screen charges for the purpose of identifying those that have elements of underlying domestic violence, sexual violence, or stalking.

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

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

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

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

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

§ 256. GRADUATED SANCTIONS FOR TECHNICAL VIOLATIONS

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

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

* * * Reinvestment of Savings * * *

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

(a) In FY 2011, a total of $6,350,200.00 in investments in communities and services are included in the department of corrections budget. In Sec. B338 of H.789 of 2010 (Appropriations Act), a total of $3,186,000.00 is allocated for investments, and a total of $3,164,500.00 is allocated in subsection (c) of this section. These investments are intended to result in reduced overall costs in the corrections budget by reducing the levels of incarceration and recidivism. A specific goal of these investments is to reduce the three-year recidivism rate from the current level of 53 percent to a level of 40 percent by fiscal year 2014. For each of these investments, the department shall develop benchmarks which can describe how well it is meeting the outcomes in No. 68 of the Acts of the 2009 Adj. Sess. (2010). Where appropriate, the department shall develop these benchmarks in consultation with the organizations with whom it enters into performance-based contracts to carry out these programs and services. The department shall present the benchmarks, and current baselines for each benchmark based on data currently collected to the corrections oversight committee at its meeting in October 2010.

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

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

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

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

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

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

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

Sec. D10. DEPARTMENT OF CORRECTIONS; FACILITIES CLOSING

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

* * * Reparative Board Sentence * * *

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

§ 7030. SENTENCING ALTERNATIVES

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

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

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

program to the satisfaction of the board in a time deemed reasonable by the board.

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

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

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

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

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

*** * * E. Education Challenge * * ***

Sec. E1. RESTATEMENT OF OUTCOMES FOR EDUCATION CHALLENGE

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

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

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

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

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

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

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

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

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

(b) The Education Challenge is to reduce education spending in FY 2012 so that it is $23,200,000.00 less than in FY 2011, which is approximately a two-percent reduction in education spending statewide, while achieving the outcomes for education set forth in Sec. E1 of this act.

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

(1) demonstrated fiscal restraint;

(2) per-pupil administrative costs;

(3) student-to-staff ratios;

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

(5) other unique circumstances that affect education spending.

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

(e) Within each supervisory union, school boards shall work jointly to attempt to achieve the recommended individualized education spending

reduction through the combined budget reductions of the supervisory union, all school districts within the supervisory union, and any technical center hosted by a school district. The boards of the supervisory union and each district within it shall notify the commissioner on or before January 15, 2011, whether their combined budgets will be able to meet recommended reductions. The commissioner shall transmit this information to the senate and house committees on appropriations and on education, the senate committee on finance, and the house committee on ways and means.

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

*** * * F. Regulatory Challenge * * ***

Sec. F1. RESTATEMENT OF OUTCOMES FOR REGULATORY CHALLENGE

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

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

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

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

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

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

* * * Environmental and Energy Regulation * * *

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

§ 839. PUBLICATION OF PROPOSED RULES

(a) ~~Upon receiving a proposed rule, the secretary of state shall arrange for~~

~~two formal publications of information relating to the proposal.~~

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

* * *

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

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

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

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

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

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

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

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

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

§ 840. PUBLIC HEARING AND COMMENT

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

* * *

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

* * *

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

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

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

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

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

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

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

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

Sec. F6. FINDINGS

The general assembly finds and declares that the regulatory reform component of "Challenges for Change" as set forth in Secs. F7–F33 of this act is intended to create administrative and permitting efficiencies at the agency of natural resources, the natural resources board, and the agency of agriculture, food and markets in order to increase staff time devoted to educational,

compliance, and enforcement activities. It is the intent of the general assembly that permitting and administrative efficiencies created by regulatory reform component of "Challenges for Change" shall not be used to reduce staffing or resources at the agency of natural resources, the natural resources board, or the agency of agriculture, food and markets.

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

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

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

* * *

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

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the secretary for a term of up to three years; renew and issue such licenses permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is otherwise required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the secretary where the annual fee is more than $125.00.

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

revocation or assessment of administrative penalties or both under section 15 of this title.

* * * Agency of Natural Resources Permitting * * *

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

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

* * *

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

* * *

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

§ 556a. OPERATING PERMITS

(a) Upon a date specified in the rules adopted by the secretary to implement

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

* * *

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

* * *

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

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

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

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

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

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

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

* * *

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

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

§ 6602. DEFINITIONS

For the purposes of this chapter:

* * *

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

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

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid

waste management facility without first obtaining certification from the secretary for such facility, site or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

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

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

* * *

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

* * *

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

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

§ 6606. HAZARDOUS WASTE CERTIFICATION

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

* * *

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

§ 7501. GENERAL PERMITS

(a) The purpose of this chapter is to authorize the secretary of natural resources to issue general permits for the implementation of permit programs where such authority would establish permitting efficiencies while simultaneously maintaining necessary protection of public health and the environment. It is the intent of the general assembly that the general permitting authority granted to the agency of natural resources under this chapter be used only for classes or categories of similar discharges, emissions, disposal, facilities, or activities that present low risk to the environment and public health.

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

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

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

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

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

§ 8003. APPLICABILITY

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

* * *

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

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

* * * Environmental Enforcement * * *

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

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

* * *

(c) At any time, the secretary, the land use panel, or a district commission created pursuant to subsection 6026(b) of this title may require a permittee to file an affidavit under oath or affirmation that a facility, project, development, subdivision, or activity of the permittee is in compliance with an assurance of discontinuance or order issued under this chapter or a permit issued under a statute identified under subsection 8003(a) of this title or under a rule enforceable under authority set forth under a statute identified under subsection 8003(a) of this title. A request for an affidavit of compliance under this subdivision may be delivered by hand or by certified mail. Failure to file an affidavit within the period prescribed by the secretary, land use panel, or district commission or the material misrepresentation of fact in the affidavit shall be a violation and shall also constitute grounds for revocation of the permit to which the affidavit requirement, assurance of discontinuance, or order under this chapter applies.

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

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

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

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

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

* * *

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

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

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

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

§ 2809. REIMBURSEMENT OF AGENCY COSTS

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

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

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

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

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

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

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

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

(1) The secretary may assess costs under subdivisions (a)(1) and (2) of this section to the applicant or applicants for the permit only with the approval of the governor. Costs assessed under subdivision (a)(3) shall not require approval of the governor.

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

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

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

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

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

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

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

§ 6027. POWERS

* * *

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

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

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

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

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

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

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

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

(a) On or before the date of filing of an application with the district commission, the applicant shall send notice and a copy of the initial application to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont agency of natural resources; any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. The applicant shall furnish to the district commission the names of those furnished notice by affidavit, and shall post a copy of the notice in the town clerk's office of the town or towns wherein the project lies. The

applicant shall also provide a list of adjoining landowners to the district commission. Upon request and for good cause, the district commission may authorize the applicant to provide a partial list of adjoining landowners in accordance with board rules.

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

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

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

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

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

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

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

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

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

* * *

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

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

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

(C) assist the board or department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11)

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

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

* * *

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

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

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

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

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

* * *

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

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

* * * Municipal Bylaw Provisions * * *

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

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

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

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

* * * Public Service Board Provisions * * *

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

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

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

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

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

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

* * *

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

* * *

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

* * *

(j)(1) The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the

provisions of this subsection and without the notice and hearings otherwise required by this chapter if the board finds that:

* * *

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The board shall give written notice of the proposed certificate to the parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection and to any other person found by the board to have a substantial interest in the matter. Such notice shall be published on ~~two occasions at least one week apart. Such notice shall request comment~~ the board's website and shall request comment within ~~21~~ 28 days of the ~~last~~ initial publication on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

* * *

Sec. F31. PUBLIC SERVICE BOARD RULES FOR NOTICE OF INTERESTED PARTIES

On or before January 15, 2011, the public service board shall review and, if appropriate, amend its rules regarding how notice is provided to interested parties when the applicant submits an application for a certificate of public good under 24 V.S.A. § 219a or 248. The board shall review how to provide direct notice of an application for a certificate of public good to interested parties that are not property owners adjoining the land on which the proposed facility is located.

Sec. F32. QUARTERLY MEETINGS OF CHALLENGES FOR CHANGE COMMITTEES OF JURISDICTION

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

(b) At the October 2010 quarterly "Challenges for Change" meeting, the secretary of natural resources shall report to the chairs of the house and senate

committees of jurisdiction for this challenge with a plan of how the agency of natural resources shall reallocate staffing and resources in response to any administrative or permitting efficiencies created under authority granted to the secretary under this act.

Sec. F33. 10 V.S.A. § 4277(b) is amended to read:

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

Sec. F34. ANR REPORT ON ANTI-DEGRADATION IMPLEMENTATION RULES

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

*** * * G. Economic Development Challenge * * ***

Sec. G1. RESTATEMENT OF OUTCOMES FOR ECONOMIC DEVELOPMENT CHALLENGE

Outcomes for economic development:

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

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

Sec. 64. LEGISLATIVE FINDINGS AND INTENT

(a)(1) The economic development challenge as specified in No. 68 of the Acts of the 2009 Adj. Sess. (2010) (Act 68) is to improve economic development results while spending less in fiscal years 2011 and 2012 on programs identified in the unified economic development budget (UEDB). This reduction in expenditures is only one part of Act 68's overall mandate to achieve $38 million in savings. The act also specifies that Vermont's economic development programs and policies shall strive to achieve a

sustainable annual increase in nonpublic sector employment and in median household income, as well as a statewide, state-of-the-art telecommunications infrastructure.

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

(A) 12 regional development corporations;

(B) 11 regional planning commissions;

(C) 14 regional state employment offices;

(D) five regional micro-business development programs;

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

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

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

(1) Identifying measurable results of improvement.

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

(3) Directing available state funds to these strategies.

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

(c) As part of the transition toward a comprehensive redesign of the regional services delivery system, this act provides for continued funding for every existing regional planning commission and regional development corporation from July 1, 2010, through January 31, 2011, at a rate equal to 90 percent of fiscal year 2010 general fund levels for that period.

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

(e) In addition, to the state funds available under subsection (c) of this section, there are newly created funding sources available to regional planning and economic development entities. For example, through the sustainable communities planning grant program offered by the United States Department of Housing and Urban Development, competitive matching funds are available to support multijurisdictional regional planning efforts that integrate housing,

economic development, and transportation decision-making in a manner that empowers jurisdictions to consider simultaneously the interdependent challenges of economic growth, social equity, and environmental impact.

* * * Regional Economic Development * * *

Sec. 64a. 24 V.S.A. chapter 76 is amended to read:

CHAPTER 76. ECONOMIC DEVELOPMENT ~~GRANTS~~ PERFORMANCE CONTRACTS

~~§ 2780. POLICY AND PURPOSE~~

~~The general assembly finds that good jobs for Vermonters are an essential social and economic need for the state. The regional development corporations assist in job development in Vermont, through the provision of technical assistance to Vermont communities in planning for economic growth and stability; through the support of existing business and industry; through the encouragement of business start-ups; and through the recruitment of businesses to the state. A strong and stable Vermont economy is best promoted through these development corporations.~~ [Deleted].

* * *

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

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

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

(c) The secretary may require that ~~an applicant~~ a service provider submit with ~~an application~~ a proposal, or subsequent to the filing of ~~an application whatever~~ a proposal, additional supportive data or information that he or she considers necessary to make a decision to award or to assess the effectiveness of ~~the grant~~ a performance contract.

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

~~(a)~~ Upon receipt of ~~an application~~ a proposal for a ~~grant~~ performance contract, the secretary shall within 60 days determine whether or not the

~~applicant is eligible for a subsidy~~ service provider may be awarded a performance contract under this chapter. ~~An applicant shall be eligible for a subsidy~~ The secretary shall enter into a performance contract with a service provider if the secretary finds:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2784a. PLANS

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

§ 2785. RULES

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

§ 2786. APPLICABILITY OF STATE LAWS

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

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

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

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

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

* * * Municipal and Regional Planning Fund * * *

Sec. 64b. 24 V.S.A. chapter 117, subchapter 1 is amended to read:

Subchapter 1. General Provisions; Definitions

* * *

§ 4305. [Repealed.]

§ 4306. MUNICIPAL AND REGIONAL PLANNING FUND

(a)(1) A municipal and regional planning fund for the purpose of assisting

municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the state treasury.

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

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

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

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

(C) 20 percent shall be disbursed to municipalities.

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

(2) Disbursement to municipalities shall be awarded annually on or before December 31 through a competitive program administered by the department providing the opportunity for any eligible municipality or municipalities to compete regardless of size, provided that to receive funds, a municipality:

* * *

* * * Regional Planning * * *

Sec. 64c. 24 V.S.A. chapter 117, subchapter 3 is amended to read:

Subchapter 3. Regional Planning Commissions

§ 4341. CREATION OF REGIONAL PLANNING COMMISSIONS

(a) A regional planning commission may be created at any time by the act of the voters or the legislative body of each of a number of contiguous

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

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

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

§ 4341a. PERFORMANCE CONTRACTS FOR REGIONAL PLANNING SERVICES

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

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

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

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

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

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

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

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

§ 4342. REGIONAL PLANNING COMMISSIONS; MEMBERSHIP

A regional planning commission shall contain at least one representative appointed from each member municipality. All representatives may be compensated and reimbursed by their respective municipalities for necessary and reasonable expenses.

§ 4343. APPOINTMENT, TERM AND VACANCY; RULES

(a) Representatives to a regional planning commission representing each participating municipality shall be appointed for a term and any vacancy filled by the legislative body of such municipality in the manner provided and for the terms established by the charter and bylaws of the regional planning commission. Regardless of regional planning commission bylaws, representatives to the commission shall serve at the pleasure of the legislative body. The legislative body may, by majority vote of the entire body, revoke a commission member's appointment at any time.

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

(c) A regional planning commission may also have such other members, who may be elected or appointed in such manner as the regional planning commission may prescribe by its rules adopted pursuant to this section.

§ 4344. EXISTING COMMISSIONS

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

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

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

* * *

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

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

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

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

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

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

* * *

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

* * *

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

~~affairs~~ development, and consult with the commissioner when developing the housing element of the regional plan.

(8) Confirm municipal planning efforts, where warranted, as required under section 4350 of this title and provide town clerks of the region with notice of confirmation.

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

* * *

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

§ 4346. APPROPRIATIONS

~~(a)~~ Regional planning commissions may receive and expend monies from any source, including, without limitation, funds made available by the participating municipalities, and by the agency of commerce and community development, out of state funds appropriated to that agency for this purpose. Notwithstanding the provisions of any municipal charter, any municipality may appropriate and expend funds to and for regional planning commissions either by the authorization of its voters or by incorporating such amount as a line item in their administrative budget.

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

* * *

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

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

* * *

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

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

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

* * *

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

* * *

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

* * *

§ 4348b. READOPTION OF REGIONAL PLANS

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

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

(c) Upon the expiration of a regional plan under this section, the regional plan shall be of no further effect in any other proceeding.

(d) All regional plans that expire after July 1, 1991 shall be readopted to be consistent with planning goals and shall follow the review process referred to in Act No. 200 of the Acts of 1987, Adjourned Session.

* * *

§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL PLANNING EFFORT

(a) A regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during a ~~five-year~~ eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

* * *

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

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

(1) The municipality's plan will not be subject to review by the commissioner of department of economic, housing and community ~~affairs~~

development under section 4351 of this title.

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

(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

(f) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

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

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

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

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

Sec. 64d. STATE AND REGIONAL ECONOMIC DEVELOPMENT AND PLANNING SERVICES; OVERSIGHT PANEL

(a) **Oversight panel.**

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

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

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

(C) Two members appointed by the governor.

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

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

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

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

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

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

Sec. 64e. REGIONAL DEVELOPMENT CORPORATIONS; REQUEST FOR PROPOSALS; PERFORMANCE CONTRACTS

(a) **Request for proposals to provide regional economic development services**. The secretary of commerce and community development, in consultation with the oversight panel pursuant to Sec. 64d of this act, shall issue to all existing regional development corporations and regional planning commissions a request for proposals for a performance contract to provide regional economic development services.

(b) **Proposals for regional economic development performance contracts**.

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

(A) transportation corridors;

(B) predominant industries in the region;

(C) population and commerce centers;

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

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

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

(B) business assistance with site selection;

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

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

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

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

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

(d) **Timeline**.

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

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

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

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

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

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

(e) **Performance-based appropriations**.

(1) In fiscal year 2011, the secretary of commerce and community development shall reduce the appropriation to each regional development corporation by 10 percent, except that:

(A) the secretary shall not reduce total funding to any combined regional planning and regional economic development entity by more than 10 percent of the entity's appropriation for regional planning services.

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

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

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

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

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

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

(f) **Duration of performance contracts**.

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

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

* * * Performance Contracts; Regional Planning * * *

Sec. 64f. REGIONAL PLANNING COMMISSIONS; PERFORMANCE CONTRACTS

(a) **Performance contracts to provide regional planning services**.

(1) The secretary of commerce and community development, in consultation with the oversight panel pursuant to Sec. 64d of this act, shall issue regional planning commissions a request for a performance contract to provide regional planning services pursuant to 24 V.S.A. § 4341a.

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

(A) transportation corridors;

(B) predominant industries in the region;

(C) population and commerce centers; and

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

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

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

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

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

(d) **Regional planning performance audit**

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

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

(c) **Incentives and holdbacks; achievement of outcomes**.

(1) In fiscal year 2011, the secretary of commerce and community development shall reduce the appropriation to each regional planning

commission by 10 percent, except that the secretary shall not reduce total funding to any combined regional planning and regional economic development entity by more than 10 percent of the entity's appropriation for regional planning services.

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

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

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

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

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

(d) **Duration of performance contracts**.

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

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

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

Sec. 64g. ECONOMIC MEASURES FOR REGIONAL JOB CREATION AND RETENTION

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

Sec. 64h. RESERVED.

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

Sec. 64i. MERGER OF CHITTENDEN COUNTY METROPOLITAN PLANNING ORGANIZATION

(a) The boards of directors of the Chittenden County metropolitan planning organization and the Chittenden County regional planning commission shall collaboratively develop a plan for action steps and timeline for the merger of the organizations.

(b) On or before January 15, 2011, the executive directors of each organization shall jointly report its results to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * Workforce Education and Training * * *

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

Sec. 64j. WORKFORCE TRAINING AND ADULT TECHNICAL EDUCATION CHALLENGE

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

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

(1) innovative delivery systems designed to optimize participation rates of adults within the region, including how the center can use information technology, broadband communications, and virtual learning methods to address the needs of rural students;

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

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

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

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

* * * Vermont Training Program * * *

Sec. 64k. 10 V.S.A. § 531(i) is added to read:

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

* * * Workforce Development Council; WIBS * * *

Sec. 64l. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

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

(a) The workforce development council is created as the successor to and the continuation of the governor's human resources investment council and shall be the state workforce investment board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The council shall consist of the members required under the federal act and the following: the president of the University of Vermont or designee; the

chancellor of the Vermont state colleges or designee; the president of the Vermont student assistance corporation or designee; the president of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees association; one representative of the low income community appointed by the governor; two members of the senate appointed by the senate committee on committees; and two members of the house appointed by the speaker. In addition, the governor shall appoint enough other members who are representatives of business or employers so that one-half plus one of the members of the council are representatives of business or employers. At least one-third of those appointed by the governor as representatives of business or employers shall be chosen from a list of names submitted by the regional ~~workforce investment boards~~ technical centers. For the purposes of this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy-making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the governor shall decide who shall be the member of the council.

* * *

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

(i) The workforce development council shall:

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

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

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

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

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

~~(6) [Deleted.]~~

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

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

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

~~(10) [Deleted.]~~

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

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

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

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

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

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

(b) Notwithstanding subsection (a) of this section, the workforce development council may authorize a regional workforce investment board that existed on May 1, 2010 to carry out the duties which would otherwise be assigned to a regional technical center pursuant to this section.

(c)–(d) Repealed.

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

* * *

(e) Award Criteria and Process. The workforce development council, in consultation with the commissioners of labor, education, and of economic, housing and community development, shall develop criteria consistent with subsection (d) of this section for making awards under this section. The commissioners of labor, of education, and of economic, housing and community development shall develop a process for making awards ~~that includes both the following:~~

~~(1) applications shall be submitted to and reviewed by the local workforce investment board. Within seven business days, the board shall forward them to the commissioner of labor, unless this time requirement is waived by the applicant; and~~

~~(2) if review by the local workforce investment board as required by subdivision (1) of this subsection is not completed within seven business days, the applicant may file the application directly with the commissioner of labor without further review by the local workforce investment board~~.

(f) Awards. Based on guidelines set by the council, the ~~commissioner~~ commissioners of labor and of education shall jointly make awards to the following:

(1) Training Programs. Public, private, and nonprofit entities for existing or new innovative training programs. ~~There shall be a preference for programs that include training for newly created or vacant positions.~~ Awards may be made to programs that retrain incumbent workers. Awards under this subdivision shall be made to programs or projects that do all the following:

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

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

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

~~(D)~~ require a measurable investment from involved employers;

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

~~(F)~~(E) articulate clear goals and demonstrate readily accountable, reportable, and measurable results;

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

* * *

(3) Apprenticeship Program. The Vermont apprenticeship program established under chapter 13 of Title 21. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the department of labor.

* * *

* * * DOL Apprenticeship program; Electrical and plumbing trades * * *

Sec. 64m. 21 V.S.A. § 1103(a) is amended to read:

(a) The department of labor shall provide for related and supplementary instruction for apprentices employed under apprenticeship programs registered and approved by the council, and for all on-the-job trainees. To make certain there is statewide access to training opportunities, the department shall ensure that instruction in the electrical and plumbing trades is offered at each regional technical center, as defined by 16 V.S.A. § 1522(4). If the department enters into a single-source contract with an entity to provide apprenticeship training,

the contract shall specify that access to programs must be available to all Vermont residents, at least through online courses.

* * * Study; Regional workforce investment boards * * *

Sec. 64n. STUDY; REGIONAL WORKFORCE INVESTMENT BOARDS

Regional workforce development study.

(1) The workforce development council, in consultation with the Boston regional office of the United States Department of Labor, representatives of the business and economic development community, the department of education, regional technical centers, the Lake Champlain workforce investment board, and a designee from each regional workforce investment board that chooses to so participate, shall have the authority to undertake a study of Vermont's regional workforce development service delivery system.

(2) The study may address:

(A) the original intent and purpose of the Workforce Development Act to ensure close collaboration and communication between business, workforce development, and education;

(B) how other state structures have been developed or modified to create a system that fosters this type of collaboration; and

(C) how such a system can be effectively and most efficiently implemented in Vermont, including examination of co-location with chambers of commerce, regional planning commissions, regional technical centers, regional development corporations, or other regional service providers.

(3) Results of a study undertaken pursuant to this section should be reported on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * Sustainable Jobs Fund Program * * *

Sec. 64o. REPEAL

Secs. 800 and 800.1 (board of directors of Vermont sustainable jobs fund program) of H.789 of the 2009 Adj. Sess. (2010), as enacted, are repealed.

Sec. 64p. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

* * *

(c) Notwithstanding the provisions of ~~section~~ subdivision 216(14) of this title, the authority may contribute not more than $1,000,000.00 to the capital of the corporation formed under this section~~, and the~~. The board of directors of the corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year~~ 11 members for terms of five years, which shall be staggered so that the terms of no more than three members expire during a calendar year.

(d) ~~The Vermont economic development authority may hire or assign a program director to administer, manage, and direct the affairs and business of the board, subject to the policies, control, and direction of the corporation formed under this section.~~ [Repealed.]

* * *

Sec. 64q. SUSTAINABLE JOBS FUND; TRANSITION

(a) The secretary of the agency of commerce and community development and the three other members designated by the secretary shall cease to serve on the sustainable jobs fund board of directors upon the effective date of this section. Any vacancy on the board of directors shall be filled by a majority vote of the remaining directors.

(b) All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established under chapter 15A of Title 10 is transferred from the agency of commerce and community development to the sustainable jobs fund board of directors. The sustainable jobs fund board of directors shall be the successor to all rights and obligations of the agency in any matter pertaining to the fund and the program.

Sec. 64r. RESERVED

Sec. 64s. RESERVED

* * * Partnerships in Tourism and Marketing * * *

Sec. 64t. 3 V.S.A. § 2476(e) and (f) are added to read:

(e) The department of tourism and marketing may conduct direct marketing activities pursuant to this chapter or chapter 27 of Title 10, but shall make best

reasonable efforts to increase marketing activities conducted in partnership with one or more private sector persons to maximize state marketing resources.

(f) Building on established, successful collaboration with private partners in travel and tourism, agriculture, and other industry sectors, the department should undertake reasonable efforts to extend its marketing and promotional resources to include partners in the arts and humanities, as well as other partners that depend on tourism for a significant part of their annual revenue.

* * * ACCD Brownfield Project Challenge * * *

Sec. 64u. THE BROWNFIELD PROJECT CHALLENGE

(a) Challenge. The agency of commerce and community development and the department of environmental conservation, in cooperation with the appropriate regional planning commissions and regional development corporations for the region in which a project is located, may annually identify two or more commercial brownfield sites for remediation and eventual sale to generate $1 million in general fund revenues.

(b) Projects shall meet the following minimum criteria:

(1) The site is undervalued as a result of environmental contamination.

(2) There is a substantial likelihood that site mitigation and institutional controls can lead to a cost-effective and timely completion date at a reasonable cost.

(3) The value of the property will substantially increase as a result of mitigation.

(4) The regional planning commission and regional development corporation in the region, as applicable, have the capacity and desire to acquire the property, undertake site mitigation, and resell the property.

(c) For projects that meet the criteria under subsection (b) of this section, the regional planning commission and the regional development corporation for the area, as appropriate, the department of environmental conservation, and the agency of commerce and community development working as a project team shall utilize brownfield remediation funds available from the U.S. Environmental Protection Agency to test and remediate the site.

(d) The remediated site shall be sold to a commercial enterprise that will create jobs at the site.

(e) Profits from the sale of the site shall be divided based on amount, as follows:

(1) The regional planning commission and regional development corporation, as appropriate, shall receive a percentage of profits pursuant to guidelines established by the secretary for each project, not to exceed 150 percent of the amount of the performance contract award to the regional planning commission or regional development corporation.

(2) Any profits remaining following distribution to the regional planning commission and regional development corporation shall be deposited into the brownfields revitalization fund created in 10 V.S.A. § 6654.

Sec. 64v. ECONOMIC DEVELOPMENT REDUCTIONS

(a) A total $834,000 in reduced state funds in fiscal year 2011, reflects a 5% reduction to all the state funded programs in the Unified Economic Development Budget excluding the Clean Energy Development Fund and the Vermont Telecommunications Authority plus the state funds for administration in the Agency of Commerce and Community Development including the central office and the department of tourism and marketing.

(b) A total of $131,600 in state funds for the regional planning commissions in fiscal year 2011 reflecting a 5% reduction.

* * * Challenges for Change Investments * * *

Sec. 64w. CHALLENGES FOR CHANGE INVESTMENTS

The secretary of administration is authorized to invest $XXX,000.00 of funds pursuant to Sec. 9(c)(8) of No. 68 of the Acts of the 2009 Adj. Sess. (2010) to implement the economic development components of the Challenges for Change as set forth in this act, which may include the following activities:

(1) Funding to the regional planning commissions and regional development corporations to facilitate reorganization pursuant to this act.

(2) Funding for the services of one or more economists or fiscal analysts to assist the agency of commerce and community development in the preparation of economic measures for regional job creation and retention.

(3) Funding for the implementation of the brownfield project challenge.

* * * Limits on the Printing of Bills, Calendars, and Journals * * *

Sec. 64x. 2 V.S.A. § 16 is amended to read:

§ 16. PRINTING~~,~~ AND DISTRIBUTION ~~AND SALE~~ OF DAILY CALENDAR, JOURNAL, AND BILLS

Copies of ~~such~~ the daily calendar and journal shall be immediately furnished to the printer designated by the commissioner of buildings and

general services. The printing of ~~such~~ the calendar and journal shall be under the supervision of ~~such~~ the secretary and clerk, and the required number of printed copies ~~of same~~ shall be delivered to the offices of the legislative council before the opening of the morning session of the following legislative day. A sufficient number of copies of all the bills shall also be delivered to the offices of the legislative council. Staff of the legislative council shall distribute the daily calendar and journal and the bills as follows:

(1) Calendars. One copy of the daily house calendar shall be placed on the desk of each member of the house and one copy of the daily senate calendar shall be placed on the desk of each member of the senate. An additional number of copies of both the daily house and senate calendars shall be made available to house and senate members in their respective chambers~~, and to the public in the legislative council offices~~ upon the request of a member. Calendars shall also be published on the state legislative webpage. The number of ~~such~~ copies required shall be determined by staff of the legislative council based on their demand.

(2) Journals and bills. ~~Copies of both the~~ The daily house and senate journals~~,~~ and ~~of the~~ bills~~, shall be made available to both house and senate members in their respective chambers, and to the public in the legislative council offices. The number of such copies required shall be determined by staff of the legislative council based on their demand~~ shall be published on the state legislative webpage. Copies of bills shall be made upon request to house and senate members~~, and upon request to members of the public at no cost, subject to reasonable limitations established by the legislative council~~.

~~(3) Copies of the daily House and Senate calendars, the daily House and Senate journals, and of the bills, shall be made available to department heads of state government at no cost, upon request to the legislative council offices. Additional copies of such daily calendars, journals and bills shall be made available for sale to the public at the legislative council offices and from the state librarian, at a price to be fixed by the legislative council. The number of such copies required shall be determined by staff of the legislative council based on their demand.~~

Sec. 64y. RESERVED

Sec. 64z. RESERVED

* * * Effective Dates * * *

Second: In Sec. 69 (effective dates, application, repeals), by striking "64 (economic development)" in subdivision (1), and by adding a subdivision (7) to read:

(7) Secs. 64 through 64z of this act (economic development) shall take effect upon passage, except that:

(A) Sec. 64o (repeal of Vermont sustainable jobs fund provisions in H.789 as enacted) shall take effect upon passage and, notwithstanding any other provision of law to the contrary, shall apply retroactively to the effective date of H.789 of 2010 as enacted.

(B) Secs. 64p and 64q (Vermont sustainable jobs fund program) shall take effect upon the cessation of state funding to the program from the general fund.

*** * * H. Accountability, Oversight and General Provisions * * ***

Sec. H1. 2 V.S.A. chapter 28A is added to read:

CHAPTER 28A. VERMONT PERFORMANCE REVIEW BOARD

§ 980. VERMONT PERFORMANCE REVIEW BOARD

There is established a Vermont performance review board. The purpose of the board shall be to report to the governor and general assembly on progress made in achieving the outcomes created in No. 68 of the Acts of the 2009 Adj. Sess. (2010), as measured by application of the data-based performance measures identified for each of the Challenges in No. 68.

(1) Members. The board shall consist of seven members, as follows:

(A) Four ex officio members: the chairs of the house and senate committees on appropriations, the commissioner of finance and management, and the assistant secretary of the agency of human services.

(B) Three at-large members: one member appointed by the speaker of the house who shall not be a member of the general assembly, one member appointed by the senate committee on committees who shall not be a member of the general assembly, and one member appointed by the governor who shall not be an employee of the state of Vermont.

(2) Member terms. Ex officio member terms shall be coincident with their terms of office. Initial at-large member terms shall be from the date of appointment through June 30, 2013; and at-large members appointed thereafter shall serve for three-year terms.

(3) Vacancies. A replacement for an at-large member vacancy prior to expiration of the member's term shall be appointed by the original appointing authority for the balance of that term.

(4) Voting. All members shall be voting members, and the board shall elect its chair.

(5) Compensation. For attendance at meetings, at-large board members who are not state employees shall be entitled to per diem and expenses as provided in 32 V.S.A. § 1010, and legislative members shall be entitled to payments for per diem and expenses as provided in 2 V.S.A. § 406(a).

(6) Staff support. The department of finance and management shall provide staff support to the board.

(7) Duties of the board. The board shall:

(A) determine that data-based performance measures have been adopted for each agency and department;

(B) determine whether each agency and department is taking actions to achieve the required outcomes, as shown by application of the data-based performance measures; and

(C) ensure that outcomes, measures, performance data, and descriptions of actions taken, or proposed to be taken, are transparent and readily accessible to the public via electronic publication;

(D) assess the effectiveness of the performance measures for measuring progress in achieving outcomes; and

(E) recommend the addition, amendment, or elimination of any performance measures; and

(F) by November 1 each year report to the general assembly its findings.

Sec. H2. 2 V.S.A. chapter 28 is added to read:

CHAPTER 28. GOVERNMENT ACCOUNTABILITY COMMITTEE

§ 970. GOVERNMENT ACCOUNTABILITY COMMITTEE

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

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

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

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

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

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of ten members: five members of the house of representatives who shall not all be from the same party: one from the committee on government operations, one from the committee on human services, one from the committee on appropriations, one from the committee on ways and means, and one from the committee on corrections and institutions, appointed by the speaker of the house; and five members of the senate who shall not all be from the same party: one from the committee on government operations, one from the committee on health and welfare, one from the committee on appropriations, one from the committee on finance, and one from the committee on institutions, appointed by the committee on committees. The governor shall appoint one person to serve as a nonvoting liaison to the committee.

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

(d) During the legislative session, the committee shall meet at least once a month, at the call of the chair; and when the legislature is not in session, the committee may meet monthly, at the call of the chair. The committee may meet more often subject to the approval of the speaker of the house and the president pro tempore of the senate.

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

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

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

Sec. H3. Sec. 10(a) of No. 206 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

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

Sec. H4. QUARTERLY REPORTING AND IMPLEMENTATION

(a) On a quarterly basis, beginning with July 1, 2010, the administration shall report to the chairs of the house and senate committees of jurisdiction, the joint legislative government accountability committee, and the joint fiscal committee. Each report shall include a statement of the measures and milestones summarized by the government accountability committee for that Challenge, a brief summary of milestones met and progress made in that Challenge, and the data collected to measure that progress. Reports shall also include any modifications or additions proposed for the plan of implementation, and how these modifications or additions are designed to achieve the outcomes for that Challenge.

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

(c) The redesign of how to provide government services shall be achieved through innovative, outcome-driven changes in service delivery and performance which create better methods for providing government services, while spending less money and achieving the outcomes specified in the Challenges for Change Act.

(d) The governor, in achieving the outcomes and associated savings under this act and the Challenges for Change Act, may not reduce government benefits or limit benefit eligibility; and may not reduce personnel unless the personnel reduction is a direct consequence of achieving the required outcomes under the Challenges plan. The administration shall engage the direct participation of service recipients, their families, service providers, and other stakeholders to develop additional Challenges that will meet in full the outcomes and fiscal goals of the Challenges for Change Act and this act, and include a report of these additional Challenges in its July 2010 quarterly report.

Sec. H5. EFFECTIVE DATES; APPLICATION; REPEALS

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

(1) This section and Secs. 1 (legislative intent), C34 (creation of clinical utilization review board), G1– (economic development), and H4 (quarterly reporting) shall take effect upon passage.

(2) Sec. F33 (waterfowl stamp) shall take effect January 1, 2011.

(3) Sec. B3 (charter units; no required independent expert review for information technology investments) shall be repealed on July 1, 2013.

(4) Secs. F2–F5 (notice of rulemaking) shall take effect on July 1, 2010, and shall apply to all proposed rules filed on or after that date.

(5) The amendments to 10 V.S.A. § 6605(b)(5) in Sec. F11 (ANR monitoring in postclosure solid waste certifications) shall take effect on July 1, 2011.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by Committee on Appropriations?, on motion of Senator Shumlin, the Senate recessed until the fall of the gavel.

Called to Order

At 12:30 P.M. the Senate was called to order by the President *pro tempore*.

Message from the House No. 79

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 47. Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Consideration Resumed; Proposal of Amendment; Third Reading Ordered

H. 792.

Consideration was resumed on House bill entitled:

An act relating to implementation of challenges for change.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Appropriations?, was decided in the affirmative.

President Assumes the Chair

Thereupon, third reading of the bill was ordered on a roll call, Yeas 24, Nays 5.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Illuzzi, Kitchel, Lyons, Mazza, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Flory, Hartwell, Kittell, MacDonald, McCormack.

The Senator absent or not voting was: Mullin.

Message from the Governor
Appointments Referred

A message was received from the Governor, by David Coriell, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Lawyer, Tonya of Bristol - Member of the Children and Family Council for Prevention Programs, - from April 28, 2010, to February 28, 2011.

To the Committee on Health and Welfare.

Loner, Michael of Hinesburg - Member of the Children and Family Council for Prevention Programs, - from April 28, 2010, to February 28, 2013.

To the Committee on Health and Welfare.

Villars, Allyson of Brattleboro - Member of the Children and Family Council for Prevention Programs, - from April 28, 2010, to February 29, 2012.

To the Committee on Health and Welfare.

Baisley, Adam of Johnson - Member of the Children and Family Council for Prevention Programs, - from April 28, 2010, to February 29, 2012.

To the Committee on Health and Welfare.

Hayden, Mary H. of Barre - Member of the Children and Family Council for Prevention Programs, - from April 28, 2010, to February 28, 2011.

To the Committee on Health and Welfare.

Hammond, Evan of Lunenburg - Member of the Connecticut River Valley Flood Control Commission, - from April 28, 2010, to February 29, 2016.

To the Committee on Natural Resources and Energy.

Sylvester, Harlan of Burlington - Member of the Vermont Racing Commission, - from May 3, 2010, to January 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 66.

An act relating to including secondary students with disabilities in senior year activities and ceremonies.

Joint Resolution Referred

J.R.H. 49.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution strongly criticizing the United States Department of Education for requiring the Vermont Department of Education to identify persistently low-achieving schools.

Whereas, on August 26, 2009, the United States Department of Education published and proposed and has since finalized federal regulations directing each state to identify the 10 “persistently low-achieving schools,” and

Whereas, this identification process was part of a broader report required from each state categorizing school achievement in all of its public schools, and

Whereas, in accordance with the federal regulations, in order for the 10 "persistently low-achieving schools" to receive federal school improvement funds included in the American Recovery and Reinvestment Act of 2009 (ARRA), they are required to embrace one of four specific courses of action: (i) replace the principal and at least 50 percent of the school's staff, adopt a new governance structure, and implement a revised educational program; (ii) close the school and reopen it under the management of a charter school operator; (iii) close the school and send the students to another school; or (iv) adopt a transformation model that addresses four specific areas critical to transforming the school, and

Whereas, in March, the Vermont Department of Education released its list, which included Mount Abraham Union High School, Wheeler Elementary School (Integrated Arts Academy), Johnson Elementary School, Rutland High School, Northfield Elementary School, Winooski High School, St. Johnsbury School, Windsor High School, Fair Haven Union High School, and Lamoille Union High School, and

Whereas, the designation of these schools will severely damage their reputations and hamper their ability to receive much-needed federal financial assistance, and

Whereas, to stigmatize schools and impose these major changes on Vermont schools that have worked under often difficult circumstances to improve their quantifiable measurements of achievement is extremely inequitable and unfair, and

Whereas, the United States Department of Education is punishing vulnerable schools that it should be nurturing instead of impeding, and

Whereas, Vermont's education system should not be held hostage to unreasonable federal demands that are all but impossible to implement, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly criticizes the United States Department of Education for its mischaracterization of designated Vermont schools as "persistently low-achieving schools" and the extensive prerequisites required for these schools to receive federal financial aid, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Education Arne Duncan, to Vermont Education Commissioner Armando Vilaseca, to each school listed in this resolution, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Education.

Senate Concurrent Resolution Adopted

Senate concurrent resolution of the following title was offered, read and adopted on the part of the Senate:

By Senators Kitchel and Choate,

By Representatives Reis of St. Johnsbury, South of St. Johnsbury, Crawford of Burke, Lawrence of Lyndon and Till of Jericho.

S.C.R. 53. Senate concurrent resolution congratulating Gregory MacDonald on being named the Northeast Kingdom Chamber of Commerce 2010 Citizen of the Year.

Whereas, the Northeast Kingdom Chamber of Commerce annually presents the Citizen of the Year Award to an individual who has improved the quality of life in the Northeast Kingdom in a way that is of enduring value, and

Whereas, recipients of this award have represented diverse fields of endeavor and uniquely contributed to the region's societal well-being, and

Whereas, the 2010 Citizen of the Year honoree is Gregory MacDonald, field service district manager for the Vermont Agency of Human Services, and

Whereas, his correctional policy activities have emphasized compassion whenever possible and have focused on rehabilitation programs that enable those who were formerly incarcerated to lead productive lives upon returning to their communities, and

Whereas, Gregory MacDonald grew up in the Boston area, graduated with a degree in criminal justice from Northeastern University, and is a military veteran who served in Vietnam, and

Whereas, his love of the country and farming, gained while working summers on a relative's Nova Scotia dairy farm, brought him to Vermont where he worked on a friend's dairy farm in East Calais, and

Whereas, learning that a new prison, the Northeast Regional Correctional Facility, was opening in St. Johnsbury, he applied for work and was hired as a temporary correctional officer, and

Whereas, Gregory MacDonald proved well-suited for the field of corrections and was promoted first to the position of case worker, then case worker supervisor, and was later appointed as the district manager for Vermont Probation and Parole, a job that ideally matched his academic and professional background and which he held with distinction for 17 years, and

Whereas, most recently, he has served as the Agency of Human Services' regional field director with supervisory responsibility for all of its departments' and offices' activities in the Northeast Kingdom, and

Whereas, outside his official roles, Gregory MacDonald has been a key volunteer in area human service programs, including serving as a cofounder of the local Drug Assistance Resistance Team (DART), and an early participant of both the Aerie Project (a transitional house for women recovering from substance abuse), and the St. Johnsbury Community Justice Center, and

Whereas, Gregory MacDonald contributed his professional expertise to Kingdom County Production's documentary film "Here Today" which examined heroin addiction in the Northeast Kingdom, and

Whereas, he has belonged to the local chapter of the White Ribbon Campaign, an organization dedicated to eradicating men's violence against women and children, and

Whereas, Gregory MacDonald's exemplary community contributions have extended beyond the human services field as he has been a member and chair of the St. Johnsbury school board, served on the boards of various nonprofit organizations, and coached youth hockey and baseball, and

Whereas, in 2001, he was presented the Domestic Violence Service Award from the Umbrella organization, and he is the 2010 recipient of the Vermont Network Against Domestic Violence & Sexual Abuse's Social Change Award, and

Whereas, the Northeast Kingdom Chamber of Commerce could not have selected a more worthy individual to honor for extraordinary regional community leadership and service, and

Whereas, the award will be presented on May 22, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates Gregory MacDonald on being named the 2010 Northeast Kingdom Chamber of Commerce Citizen of the Year, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Gregory MacDonald.

Bill Passed in Concurrence with Proposals of Amendment

H. 781.

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to renewable energy.

Committee of Conference Appointed

H. 470.

An act relating to restructuring of the judiciary.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Sears
Senator Campbell
Senator Nitka

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bill Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 781.

Rules Suspended; Senate Concurrent Resolution Messaged

On motion of Senator Shumlin, the rules were suspended, and the following Senate concurrent resolution was ordered messaged to the House forthwith:

S.C.R. 53.

Rules Suspended; Action Messaged

On motion of Senator Shumlin, the rules were suspended, and the action on the following bill was ordered messaged to the House forthwith:

H. 470.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until three o'clock and thirty minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence

H. 780.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to approval of amendments to the charter of the city of St. Albans.

Was taken up for immediate consideration.

Senator Brock, for the Committee on Government Operations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

House Proposal of Amendment Concurred In

S. 90.

House proposal of amendment to Senate bill entitled:

An act relating to representative annual meetings.

Was taken up.

The House message is as follows.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 90. An act relating to representative annual meetings.

And the House adheres to its proposal of amendment, and requests that the Senate recede from its proposal of amendment to the House proposal of amendment.

Thereupon, on motion of Senator White, the Senate receded from its proposal of amendment to the House proposal of amendment and thereby concurred in the House proposal of amendment.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 97.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to a Vermont state employees' cost-savings incentive program.

Was taken up for immediate consideration.

Senator Doyle, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 97. An act relating to a Vermont state employees' cost-savings incentive program.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 266 is added to read:

§ 266. VERMONT STATE AND JUDICIARY EMPLOYEES' COST-SAVINGS INCENTIVE PROGRAM

(a) For the purposes of this section:

(1) "State employee" means any classified, nonmanagement, state employee in the executive or judicial branch.

(2) "Suggestion" means a proposal by a state employee that has been submitted to an agency in which the employee is employed that may result in financial savings for that agency.

(b) There is established the Vermont state and judiciary employees' cost-savings incentive program. The program shall provide financial incentives to state and judiciary employees who make suggestions that are adopted and result in financial savings for any agency, department, board, bureau, commission, or other administrative unit of the state, or for the judiciary department.

(c) To be eligible for an award under this program, a state or judiciary employee or group of employees shall submit a suggestion to reduce expenditures on a form created by the department of human resources designated for this purpose. An employee who is otherwise eligible for an award under this section shall not receive the award until he or she has satisfied any and all state tax obligations.

(d) Within 60 days of the receipt of a suggestion, the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary receiving a suggestion shall determine whether:

(1) the suggestion is feasible and desirable;

(2) the suggestion is an idea that is not already under active study or has not been under continual review by the state;

(3) the suggestion is beyond the reasonable expectations of job performance, as informed by the employee's job specifications; and

(4) implementation of the suggestion will not negatively impact the quality of services presently provided by the state.

(e) An employee shall be entitled to an award only if his or her suggestion meets each of the criteria set forth in subsection (d) of this section and the suggestion is implemented.

(f) Any agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary that receives a suggestion shall present its assessment of the criteria set forth in subsection (d) of this section on the form designated for this purpose and shall state whether it intends to implement the suggestion. A copy of this form shall be sent to the employee or employees making the suggestion, the department of human resources, and the department of finance and management if the employee making the suggestion is an executive branch employee and to the court administrator if the employee making the suggestion is a judiciary department employee.

(g) If each of the criteria set forth in subsections (d) and (e) of this section is met, the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary shall implement the suggestion. The employee or group of employees making the suggestion shall then be entitled to a total monetary award equal to 25 percent of the savings realized as a direct result of the suggestion in the first year of its implementation, but the maximum total monetary award shall not exceed $25,000.00 under any circumstances. If the suggestion is simultaneously made by more than one employee, the award shall be divided equally among the employees who submitted the suggestion. The sum awarded shall be reportable as wages and

subject to applicable state and federal taxes, as appropriate. The award shall be computed on the actual savings for a 12-month period, with the period to run from the time that the suggestion is fully implemented. An award made pursuant to this section shall be paid out of funds appropriated to the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary, that realizes the cost savings, and shall be paid to the employee within one year and 30 days of full implementation of the suggestion. An award shall not be included when calculating an employee's average final compensation for determining the employee's retirement allowance.

(h) If an employee who is eligible for an award under this section terminates state service prior to full implementation of his or her suggestion, the employee shall be entitled to receive his or her full award.

(i)(1) If the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary, that receives a suggestion rejects the suggestion, the employee may file a written request to review the suggestion with a copy of the form and the assessment to the appropriate review panel. The review panel shall then recommend to the secretary of administration or the court administrator, as appropriate, whether to affirm or overrule the decision of the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary, and the secretary's or court administrator's decision shall be final.

(2) If a suggestion is made by an employee of an agency, department, board, bureau, commission, or other administrative unit of the state, the appropriate review panel shall consist of two members of the Vermont State Employees' Association, Inc., appointed by the executive director of that association and three members from the agency of administration appointed by the secretary of administration.

(3) If a suggestion is made by an employee of the judiciary, the appropriate review panel shall consist of two members of the Vermont State Employees' Association, Inc., appointed by the executive director of that association and three members from the judiciary, appointed by the court administrator.

(4) The appropriate review panel shall meet within 30 days of receiving a written request and shall make a recommendation to the secretary of administration or court administrator, as appropriate, within 15 days of the meeting.

(j) If an employee believes that the agency, department, board, bureau, commission, other administrative unit of the state, or the judiciary has

erroneously calculated or underestimated the savings realized by the suggestion, the employee may submit a written request to the secretary of administration or the court administrator, as appropriate, that explains the employee's objection to the amount awarded in writing, within 30 days of the award. The secretary of administration or the court administrator shall review the amount awarded and may increase the amount of an award or affirm the award. The decision of the secretary or court administrator shall be final.

(k) In the event an employee's suggestion is denied on the basis of the criteria set forth in subdivision (d)(1) or (4) of this section, and is subsequently implemented within three years of the date the employee made the suggestion, the employee shall receive a monetary award in accordance with subsection (g) of this section.

(l) The secretary of administration and the court administrator shall file a report with the governor, the state auditor, and the general assembly for each fiscal year, beginning on January 1, 2012, summarizing the suggestions implemented and the savings realized. The secretary shall also identify the suggestions that were rejected and the rationale for these rejections. A copy of this report shall be provided to the director of the Vermont state employees' association.

(m) The joint legislative government accountability committee and the state auditor shall review the secretary of administration's and court administrator's reports on the program with the director of the Vermont state employees' association, or his or her designee, at least once during each fiscal year.

Sec. 2. REPEAL

Sec. 1 (3 V.S.A. § 266) of this act shall be repealed on July 1, 2012.

WILLIAM T. DOYLE
RANDOLPH D. BROCK
CLAIRE D. AYER

Committee on the part of the Senate

DEBBIE G. EVANS
LINDA J. MARTIN
PATRICIA A. MCDONALD

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Not Accepted by the Senate

S. 295.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to the creation of an agricultural development director.

Was taken up for immediate consideration.

Senator Kittell, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to the creation of an agricultural development director.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment, and that the bill be further amended as follows:

First: In Sec. 1, by striking out the following: "The general assembly finds" where it appears and inserting in lieu thereof the following: For purposes of Secs. 2, 3, and 4 of this act, the general assembly finds

Second: In Sec. 2, by adding subsection (c) to read as follows:

(c) Any change in employment titles or responsibilities resulting from the creation of the position of director of agricultural development shall be accomplished without increasing the overall salary expenditures of the agency of agriculture, food and markets.

Third: In Sec. 4, 6 V.S.A. § 2966, subdivision (a)(2), in subdivision (A), by striking out the following: ", implement," where it appears and in subdivision (D), by striking out the following: "balancing" where it appears and inserting in lieu thereof the following: balance

Fourth: In Sec. 4, 6 V.S.A. § 2966, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Powers and duties. The board shall have the authority and duty to:

(1) meet, at least quarterly, to conduct such business and take such action as is necessary to perform the duties set forth in this section;

(2) design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the board's activities;

(3) gain information through the use of experts, consultants, and data to perform analysis as needed;

(4) request services from state economists, state administrative agencies, and state programs;

(5) obtain information from other planning entities, including the farm-to-plate investment program;

(6) serve as a resource for and make recommendations to the administration and the general assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals of the comprehensive agricultural economic development plan; and

(7) develop an annual operating budget, and

(A) solicit any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5;

(B) expend any monies necessary to carry out the purposes of this section.

Fifth: In Sec. 4, 6 V.S.A. § 2966, in subsection (f), by striking out subdivisions (3) and (4) in their entirety and inserting in lieu thereof the following:

(3) The secretary of agriculture, food and markets or his or her designee shall be a nonvoting, ex officio member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be a nonvoting, ex officio member.

Sixth: In Sec. 4, 6 V.S.A. § 2966, in subsection (g), by striking out subdivision (1) in its entirety; in subdivision (2), by striking out "Unless a higher threshold is established by the board's rules, seven" where it appears and inserting in lieu thereof Eight; in subdivision (3)(A), by striking out "board shall be led by a chair who" where it appears and inserting in lieu thereof chair of the board; and by renumbering the subdivisions accordingly

Seventh: By striking out Secs. 5 and 6 in their entirety and inserting in lieu thereof the following:

Sec. 5. FINDINGS

For purposes of Secs. 6, 7, 8, and 9 of this act, the general assembly finds:

(1) Livestock is the core of dairy and livestock farming. The care of and management of livestock are important to the profitability of Vermont farms and the maintenance of Vermont's working landscape.

(2) The general public is increasingly interested in locally produced food, and local Vermont meat has an excellent reputation for quality and flavor.

(3) Livestock raised on Vermont farms offers profit potential and economic opportunity for Vermont producers.

(4) The state would benefit from a body charged with making policy recommendations regarding livestock care.

(5) It is the intent of this legislation to assure the continued success of livestock and dairy farming in Vermont and the continuance of a safe, local food supply.

Sec. 6. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

§ 792. DEFINITIONS

As used in this chapter:

(1) "Agency" means the agency of agriculture, food and markets.

(2) "Council" means the livestock care standards advisory council.

(3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following six members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state.

(B) A person from a statewide organization that represents the beef industry.

(C) A Vermont licensed livestock or poultry veterinarian.

(D) A representative of an agricultural department of a Vermont college or university.

(E) A representative of the Vermont slaughter industry.

(F) A representative of the Vermont livestock dealer, hauler, or auction industry.

(4) The following three members appointed by the committee on committees:

(A) A producer of species other than bovidae.

(B) An operator of a medium farm or large farm permitted by the agency.

(C) A professional in the care and management of equines and equine facilities.

(5) The following three members appointed by the speaker of the house:

(A) An operator of a small Vermont dairy farm.

(B) A representative of a local humane society or organization from Vermont registered with the agency and organized under state law.

(C) A person with experience investigating charges of animal cruelty involving livestock, provided that no such person who has received or is receiving compensation from a national humane society or organization may be appointed under this subdivision.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair, the state veterinarian, and the representative of the agricultural department of a Vermont college or university, no member of the council may serve for more than six consecutive years. Eight members of the council shall constitute a quorum.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) the overall health and welfare of livestock species;

(B) agricultural best management practices;

(C) biosecurity and disease prevention;

(D) animal morbidity and mortality data;

(E) food safety practices;

(F) the protection of local and affordable food supplies for consumers; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(4) Submit minutes of the council annually, on or before January 15, to the house and senate committees on agriculture.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 7. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

* * *

(e) The secretary may, after notice and opportunity for hearing, refuse to grant, suspend, or revoke a license, may impose terms or conditions for operation under a license, including video monitoring, or may take any other action which he or she deems appropriate concerning any license, if he or she determines that any false statement was made in the application or if he or she finds that there is any failure to comply with this chapter or the rules made under it.

* * *

(h) The secretary may deny a commercial slaughter license or the renewal of a commercial slaughter license under this chapter to a person who has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. The secretary may deny a commercial slaughter license or renewal of a commercial slaughter license under this chapter if a person responsibly connected to the applicant has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. For purposes of this subdivision, a "person responsibly connected to an applicant" is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock of the applicant's business or is an employee in a managerial or executive capacity at the applicant's business.

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan for review and approval by the secretary of agriculture, food and markets or designee. The secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

(j) Commercial slaughter facilities issued a license by the agency of agriculture, food and markets shall submit to the secretary or designee within five days of receipt any documentation received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted thereunder. The secretary shall review the documentation submitted under this subdivision for potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

Sec. 8. TRAINING OF SLAUGHTERHOUSE EMPLOYEES; APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of agriculture, food and markets up to $50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Sec. 9. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates ~~this chapter~~ section 3132 of this title shall be guilty of a misdemeanor and shall be fined upon conviction not more than ~~$100.00~~ $1,000.00 for the first violation, not more than $5,000.00 for the second violation, and not more than $10,000.00 per violation for the third and any subsequent violations, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalties provided ~~above~~ in this subsection, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer, or stockyard operator resides, or where such violations occur. The secretary may refer a violation of section 3132 of this title to the attorney general or the state's attorney for criminal prosecution. The secretary may also take any action authorized under chapter 1 of this title.

Sec. 10. 20 V.S.A. § 3901 is amended to read:

§ 3901. DEFINITIONS

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

* * *

(4) "Animal" means any dog or cat, rabbit, rodent, ~~nonhuman primate,~~ bird, or other warm-blooded vertebrate but shall not include horses, cattle, sheep, goats, swine, and domestic fowl.

* * *

(16) "Rescue organization" means any organization that accepts more than five animals in a calendar year for the purpose of finding adoptive homes for the animals, and that:

(A) holds a license as a pet shop;

(B) is recognized and approved as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, but is not registered as an animal shelter; or

(C) is registered as an animal shelter with the agency of agriculture, food and markets under section 3903 of this title.

Sec. 11. 20 V.S.A. § 3903 is amended to read:

§ 3903. REGISTRATION OF ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) No person may operate an animal shelter ~~after the expiration of six months following the effective date of this chapter~~ or rescue organization unless a certificate of registration for the animal shelter or rescue organization has been granted by the secretary. Application for the certificate shall be made in the manner provided by the secretary. No fee shall be required for the certificate. Certificates of registration shall be valid for a period of one year or until revoked, and may be renewed for like periods upon application in the manner provided.

(b) An animal shelter or rescue organization registered under this chapter shall not accept an animal unless the ~~donor~~ person transferring the animal to the shelter provides the following information: the name and address of the ~~donor~~ person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

Sec. 12. 20 V.S.A. § 3907 is amended to read:

§ 3907. DENIAL OR REVOCATION OF REGISTRATION OR LICENSE

Issuance of a certificate of registration may be denied to any animal shelter, rescue organization, or fair, or a license denied to any public auction, or pet merchants, or any certificate or license previously granted under this chapter, may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate for the purposes of this chapter, or if the feeding, watering, sanitizing, and housing practices of the animal shelter, rescue organization, fair, public auction, pet merchant as the case may be, are not consistent with this chapter or with rules adopted under this chapter.

Sec. 13. 20 V.S.A. § 3908 is amended to read:

§ 3908. ADOPTION OF REGULATIONS

The secretary may as he or she deems necessary adopt, amend, revise, and repeal rules consistent with this chapter for the purpose of carrying out its purposes. The rules may include, but need not be limited to, provisions relating to humane transportation to and from registered or licensed premises, records of purchase and sale, identification of animals, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, and adequate veterinary medical care, with respect to animals kept or cared for at premises licensed or registered under this chapter. The secretary may at his or her discretion, adopt in whole or in part those portions of the rules of the secretary of agriculture under Public Law 89-544, commonly known as the Laboratory Animal Welfare Act, which are consistent with the purposes of this chapter.

Sec. 14. 20 V.S.A. § 3911(b) is amended to read:

(b) Any person who operates a fair, or public auction, or who transacts business as a pet merchant, animal shelter, or rescue organization without being duly licensed or without possessing a proper certificate of registration, as the case may be, as required under this chapter, or who violates any provision of this chapter or of any rule lawfully adopted under its authority for which no other penalty is provided, shall be fined not more than $300.00 or imprisoned for not more than six months, or both.

Sec. 15. 20 V.S.A. § 3915 is added to read:

§ 3915. HEALTH CERTIFICATE FOR TRANSPORT INTO STATE

(a) A dog, cat, ferret, or wolf-hybrid imported into the state for sale, resale, exchange, or donation shall be accompanied by an official health certificate or similar certificate of inspection for the dog, cat, ferret, or wolf-hybrid issued by a veterinarian licensed in the state or country of origin. The certificate shall certify that:

(1) the dog, cat, ferret, or wolf-hybrid has been inspected and is free of visible signs of infections or contagious or communicable disease; and

(2) if the dog, cat, ferret, or wolf-hybrid is more than three months of age, the dog, cat, ferret, or wolf-hybrid has a current rabies vaccination or is a specific breed for which a rabies vaccination is not age-appropriate.

(b) The agency of agriculture, food and markets may adopt rules regarding the issuance and contents of any certificate required under subsection (a) of this section.

Sec. 16. EFFECTIVE DATES

(a) Secs. 1 (agricultural development findings), 2 (agricultural development director), 3 (elimination of references to commissioner of agricultural development), 4 (agricultural development board), 10 (rescue organization), 11 (registration of rescue organizations), 12 (denial or revocation of animal shelter or rescue organization license), 13 (adoption of animal importation regulations), 14 (animal importation penalties), and 15 (health certificate) of this act shall take effect on July 1, 2010.

(b) This section and Secs. 5 (livestock findings), 6 (livestock care standards advisory council), 7 (commercial slaughter facility licensing), 8 (training), and 9 (humane slaughter) shall take effect upon passage.

and that the title of the bill be amended to read: "An act relating to miscellaneous agricultural subjects"

SARA BRANON KITTELL
MATTHEW A. CHOATE
ROBERT A. STARR

Committee on the part of the Senate

WILLIAM C. STEVENS
JOHN W. MALCOLM
THERESE M. TAYLOR

Committee on the part of the House

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator Campbell raised a point of order on the ground that the Committee of Conference had not confined itself to reconciling the differences between the versions of the bill as passed by the Senate and the House in violation of *Mason's Manual of Legislative Procedure* Sec. 770.2, and therefore that the report could not be considered by the Senate. The President sustained the point of order and ruled that the report of the Committee of Conference could not be considered by the Senate.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 759.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to executive branch fees.

Was taken up for immediate consideration.

Senator Carris, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 759. An act relating to executive branch fees.

Respectfully reports that it has met and considered the same and recommends recommend that the Senate recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Department of Public Safety * * *

* * * Fire prevention and building code fees * * *

Sec. 1. 20 V.S.A. § 2731(c) is amended to read:

(c) The following fire prevention and building code fees are established:

(1) The permit application fee for a construction plan approval shall be~~:~~

~~(A) based on $4.50 per each $1,000.00 of the total valuation of the construction work proposed to be done for renovation to buildings constructed before 1983, but in no event shall the permit application fee exceed $135,000.00;~~

~~(B)~~ based on $5.50 per each $1,000.00 of the total valuation of the construction work proposed to be done for all ~~other~~ buildings, but in no event shall the permit application fee exceed ~~$135,000.00~~ $185,000.00 nor be less than $50.00.

(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be ~~$25.00~~ $125.00.

(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be ~~$10.00~~ $30.00.

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

(A) Water-based fire protection system design:

(i) Initial certification: $150.00.

(ii) Renewal: $50.00.

(B) Water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: $115.00.

(ii) Renewal: $50.00.

(C) Gas appliance installation, inspection, and service, $60.00.

(D) Oil burning equipment installation, inspection, and service, $60.00.

(E) Fire alarm system inspection and testing, $90.00.

(F) Limited oil burning equipment installation, inspection, and service, $60.00.

(G) Domestic water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: $60.00.

(ii) Renewal: $20.00.

(H) Fixed fire extinguishing system design, installation, inspection, servicing, and recharging:

(i) Initial certification: $60.00.

(ii) Renewal: $20.00.

(I) Emergency generator installation, maintenance, repair, and testing, $30.00;

(J) Chimney and solid fuel burning appliance cleaning, maintenance, and evaluation, $30.00.

Sec. 2. 20 V.S.A. § 2738 is amended to read:

§ 2738. FIRE ~~SAFETY~~ PREVENTION AND BUILDING INSPECTION SPECIAL FUND

(a) The fire ~~safety~~ prevention and building inspection special fund revenues shall be from the following sources:

(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;

(2) fees relating to boilers and pressure vessels under section 2883 of this title; ~~and~~

(3) fees relating to electrical installations and inspections and the licensing of electricians under ~~sections~~ 26 V.S.A. §§ 891-915 ~~of Title 26~~;

(4) fees relating to cigarette certification under section 2757 of this title; and

(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171–2199.

(b) Fees collected under subsection (a) of this section shall be available to the department of public safety to offset the costs of the division of fire safety ~~program~~.

* * *

* * * Cigarette certification fee * * *

Sec. 3. 20 V.S.A. § 2757(c) is amended to read:

(c) Each manufacturer shall submit to the commissioner written certification attesting that each cigarette has been tested in accordance with and has met the performance standard required under subsection (b) of this section. The description of each cigarette listed in the certification shall include the brand; style; length in millimeters; circumference in millimeters; flavor, if applicable; filter or nonfilter; package description, such as a soft pack or box; and the mark approved pursuant to subsection (d) of this section. Upon request, this certification shall be made available to the attorney general and department of liquor control. Each cigarette certified under this subsection shall be recertified every three years. For the certification or recertification of each brand style, the fee shall be $1,000.00. The fees shall be paid into the fire prevention and building inspection special fund established in 20 V.S.A. § 2738.

* * * Boiler inspection * * *

Sec. 4. 20 V.S.A. §§ 2883 and 2884 are amended to read:

§ 2883. ~~INSPECTIONS BY INSURANCE COMPANIES~~ BOILER INSPECTIONS

The commissioner has authority to obtain specific information from ~~boiler insurance companies,~~ boiler inspectors on forms ~~furnished by them,~~ which shall first be approved by the commissioner. The commissioner may authorize qualified inspectors ~~in the employ of insurance companies~~ to conduct inspections ~~under his or her control and~~ under such rules as the commissioner may prescribe. If a boiler or pressure vessel is insured, the inspection may be conducted by a qualified inspector who is employed, or contractually

authorized, by the insurer. If a boiler or pressure vessel is not insured, the inspection may be conducted by any qualified inspector authorized by the commissioner. In case the inspection is made by such an inspector, no fee shall be charged by the division, except a process fee of ~~$20.00~~ $30.00 for issuance of an operating certificate. The fee for a person requesting a three-year authorization to conduct inspections shall be $150.00. A licensed boiler inspector shall carry liability insurance in an amount determined by the department.

§ 2884. QUALIFICATIONS OF INSPECTORS

All boiler inspectors~~, employed by the state and insurance companies,~~ shall have passed the examination required by the National Board of Boiler and Pressure Vessel Inspectors, and hold annual certification from such board.

* * * Electrical work * * *

Sec. 5. 26 V.S.A. § 893(a) is amended to read:

(a) Electrical work in a complex structure shall not commence until a work notice accompanied by the required fee is submitted to the department and the work notice is validated by the department. There shall be a base fee of ~~$30.00~~ $40.00 for each work notice, except for electrical work done in one and two family residential dwellings. In addition to the base fee, the following fees shall be charged:

* * *

(4) Other electrical work

(A) Each panel and feeder after the main disconnect–~~$10.00~~ $35.00.

(B) Outlets for receptacles, switches, fixtures, electric baseboard (per 50 units or portion thereof)–$20.00.

(C) Yard lights signs–$5.00 each.

(D) Fuel oil, kerosene, LP, natural gas, and gasoline pumps–$15.00 each.

(E) Boilers, furnaces and other stationary appliances–$10.00 each.

(F) Elevators–$75.00 each.

(G) Platform lifts–$40.00 each.

(H) Fire alarm initiating, signaling, and associated devices (per 50 units or portions thereof)–$30.00.

(I) Fire alarm main panel and annunciator panels–$50.00 each.

(J) Fire pumps–$50.00.

(5) Reinspection fee. For each reinspection for code violations, there will be a fee of ~~$35.00~~ $125.00.

* * * Electrician license fees * * *

Sec. 6. 26 V.S.A. § 905 is amended to read:

§ 905. APPLICATION; EXAMINATIONS AND FEES

* * *

(d) Three-year electrical license fees shall be:

For a masters license (initial and renewal)	~~$120.00~~ $150.00;
For a journeyman's license (initial and renewal)	~~$ 90.00~~ $115.00;
For a type-S journeyman's license (initial and renewal) per field	~~$ 90.00~~ $115.00;
~~For~~ The fee for a certificate for framing shall be:	$ 10.00.

(e) If a license is allowed to lapse, it may be renewed within one year of its expiration date by the payment of $25.00 in addition to the renewal fee.

(f) The fee for replacement of a lost or damaged license shall be: $20.00.

* * * Plumbing work notice fees * * *

Sec. 7. 26 V.S.A. § 2175(a) is amended to read:

(a) Work in installations subject to the rules of the board shall not commence until a work notice has been received and validated by the department of public safety. The following schedule of work notice fees shall be paid to the commissioner or a designated representative prior to the validation of a work notice.

(1) For all plumbing work, identified as a priority for inspection and review under subsection 2173(b) of this title, the fee shall be:

(A) ~~$7.00~~ $10.00 for each plumbing fixture described as a washing machine, dishwasher, grease trap, oil interceptor, sand interceptor, sewage ejector pump, water closet, urinal, bidet, disposal, drinking fountain, water cooler, lavatory, bathtub, shower, sink, hose bib, floor drain, or similar device. The total shall not be less than ~~$20.00~~ $50.00.

(B) ~~$10.00~~ $15.00 for each plumbing fixture described as a water heater, hydronic heating unit, domestic hot water coil, or water treatment device.

(2) For all plumbing work, not identified as a priority for inspection and review under subsection 2173(b) of this title, the fee shall be~~:~~

~~(A) $20.00 for all plumbing work.~~

~~(B) $10.00 for all plumbing work involving a water heater, hydronic heating unit, domestic hot water coil or water treatment device~~ $50.00.

* * *

* * * Plumber license fees * * *

Sec. 8. 26 V.S.A. § 2193(c) is amended to read:

(c) License and renewal fees are as follows:

(1) Master plumber license	~~$ 100.00~~	$120.00
(2) Journeyman plumber license	~~$ 70.00~~	$90.00
(3) Specialist license	~~$ 40.00~~	$50.00
(4) Master renewal fee	~~$ 100.00~~	$120.00
(5) Journeyman renewal fee	~~$ 70.00~~	$90.00
(6) Specialist renewal fee	~~$ 40.00~~	$50.00
(7) License certificate	$ 10.00	

* * * Repeals * * *

Sec. 9. REPEALS

(a) Sec. 9(b) of No. 165 of the Acts of the 2007 Adj. Sess. (2008) (repeal of criminal history record check fees and the criminal history record check fund) is repealed.

(b) 20 V.S.A. § 2739 (inspection and licensing special fund) is repealed.

* * * Criminal conviction records * * *

Sec. 9a. 20 V.S.A. § 2056c is amended to read:

§ 2056c. DISSEMINATION OF CRIMINAL CONVICTION RECORDS TO THE PUBLIC

* * *

(c) Criminal conviction records shall be disseminated to the public by the center under the following conditions:

* * *

(10) No person entitled to receive a criminal conviction record pursuant to this section shall require an applicant to obtain, submit personally, or pay for a copy of his or her criminal conviction record, except that this subdivision shall not apply to a local governmental entity with respect to criminal conviction record checks for licenses or vendor permits required by the local governmental entity.

* * * Fingerprinting fees * * *

Sec. 9b. 20 V.S.A. § 2062 is amended to read:

§ 2062. FINGERPRINTING FEES

State, county and municipal law enforcement agencies may charge a fee of not more than ~~$15.00~~ $25.00 for providing persons with a set of classifiable fingerprints. No fee shall be charged to retake fingerprints determined by the Vermont criminal information center not to be classifiable. Fees collected by the state of Vermont under this section shall be credited to the fingerprint fee special fund established and managed pursuant to ~~32 V.S.A. chapter 7,~~ subchapter 5 of chapter 7 of Title 32, and shall be available to the department of public safety to offset the costs of providing these services.

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

* * * Commercial feed registration * * *

Sec. 10. 6 V.S.A. § 324(b) is amended to read:

(b) No person shall distribute in this state a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~$70.00~~ $75.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Sec. 11. 6 V.S.A. § 918(b) is amended to read:

(b) The registrant shall pay an annual fee of ~~$92.00~~ $100.00 for each product registered, and that amount shall be deposited in the special fund created in section 929 of this title, of which $5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and $5.00 from

each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. The annual registration year shall be from December 1 to November 30 of the following year.

* * * Pesticide dealer license* * *

Sec. 12. 6 V.S.A. § 1112(a) is amended to read:

(a) The secretary may adopt regulations requiring persons selling Class A and B pesticides to be licensed under this chapter. In addition, the secretary may adopt regulations requiring companies which hire applicators or conduct pesticide applications to be licensed, and applicators who use pesticides to be certified under this chapter. The secretary may establish reasonable requirements for obtaining licenses and certificates. The fees for dealers, licensed companies and applicator certificates under this chapter shall be as follows:

(1) Class A Dealer License-~~$25.00~~ $30.00;

(2) Class B Dealer License-~~$25.00~~ $30.00;

(3) Pesticide Company License-~~$50.00~~ $60.00;

(4) Commercial and Noncommercial Applicator Certification fee-$25.00 per category or subcategory with a maximum of $100.00;

(5) Second and third time examination fee for dealer licenses and applicator certification-$25.00.

* * * Bison and cervidae meat inspections * * *

Sec. 13. 6 V.S.A. § 3305(15) is amended to read:

(15) establish by rule the method for providing voluntary inspection, and withdrawal of inspection, of exotic animals, wild game, red deer, and cervidae. These rules may also provide for the inspection of meat and meat food products derived from those animals. The secretary shall provide voluntary inspection of bison~~,~~ and cervidae~~, and ratite~~ produced in Vermont, including the inspection of meat and meat food products processed in Vermont derived from bison~~,~~ and cervidae, ~~and ratite, for which~~ wherever produced. For such inspection the secretary shall charge a fee ~~of $5.00 per hour. The secretary shall charge $20.00 per hour per inspection of meat and meat food products processed in Vermont but derived from bison, cervidae, and ratite produced outside Vermont~~ equal to the rate for reimbursable inspection services provided under the Vermont meat and poultry inspection program;

* * * Meat cutting vendors * * *

Sec. 14. 6 V.S.A. § 3306(d) is amended to read:

(d) The annual fee for a license for a retail vendor is $15.00 ~~and~~ for vendors without meat cutting operations, $30.00 for vendors with meat cutting space of less than 300 square feet or meat display space of less than 20 linear feet, and $60.00 for vendors with 300 or more square feet of meat cutting space and 20 or more linear feet of meat display space. Fees collected under this section shall be deposited in a special fund managed pursuant to subchapter 5 of chapter 7 of Title 32, and shall be available to the agency to offset the cost of administering chapter 204 of this title. For all other plants, establishments, and related businesses listed under subsection (a) of this section, the annual license fee shall be $50.00. ~~All licenses issued under this section shall take effect January 1 and expire on December 31 of the same year.~~

* * * Dealers of weighing and measuring devices * * *

Sec. 15. 9 V.S.A. § 2721 is amended to read:

§ 2721. LICENSED PUBLIC WEIGHMASTER-LICENSE

Any person, who is 18 years of age or older, wishing to be a licensed public weighmaster shall apply to the secretary upon forms provided by the agency, and remit a fee of ~~$12.00~~ $15.00. Upon approval, the secretary shall issue to the applicant a license certificate which shall expire on June 30 unless sooner suspended or revoked under section 2723 of this title. Renewal applications shall be in such form as the secretary shall prescribe.

Sec. 16. 9 V.S.A. § 2725(a) is amended to read:

(a) Any person wishing to be registered as a dealer or service person shall apply to the secretary upon forms provided by the agency and each application shall be accompanied by a fee of ~~$25.00~~ $50.00. Upon approval, the secretary shall issue to the applicant a registration certificate which shall expire on June 30th unless sooner suspended or revoked under section 2726 of this title. Any service person who applies for such a registration certificate must have obtained a hand seal which has a number registered with the secretary. Any service person who has been granted a registration certificate shall, with such hand seal, seal all meters with a lead and wire seal at such time as he or she installs, repairs, or adjusts said meters.

* * * License to operate weighing and measuring devices * * *

Sec. 17. 9 V.S.A. § 2730(f)(1) is amended to read:

(f)(1) The secretary shall charge, per unit, the following annual license fees:

(A) Retail motor fuel dispenser meter: $15.00.

(B) Vehicle tank meter: $50.00.

(C) Scales: $10.00.

(D) Vehicle and heavy duty scales: $150.00.

(E) Taxi meter: $10.00.

(F) Meter: $5.00.

(G) Bulk plant meter: $100.00.

(H) Truck mounted propane meter: $150.00.

(I) Hopper scales: ~~$75.00~~ $100.00.

(J) Propane fill station: $50.00.

(K) Medium duty scales:

portable platform scales: $10.00.

all others: $30.00.

* * * Point-of-sale laser scanning licenses * * *

Sec. 18. 9 V.S.A. § 2643 is amended to read:

§ 2643. LICENSES; INSPECTIONS; PENALTIES

(a) No person shall operate a retail point-of-sale laser scanning check-out system with more than three point-of-sale scanning points without first obtaining a license from the secretary.

(1) The secretary may issue a license without first testing the accuracy and use of the point-of-sale laser scanning check-out system pursuant to subsection (b) of this section.

(2) The annual license fee shall be $10.00 per individual point-of-sale scanning point within a store. All single retail units that have three or fewer scanning points shall be exempt from this fee.

(b) The secretary shall, from time to time, test the accuracy and use of laser scanning and other computer assisted check-out systems in stores. The secretary shall compare the programmed computer price with the item price of

any consumer commodity offered by a store. The store shall provide access to the computer as is necessary to allow the secretary to conduct the accuracy test.

~~(b)~~ If, upon review, the programmed price of a commodity exceeds the price printed on or the advertised price of the commodity, the store may be subject to license denial, revocation, suspension or the ~~following~~ administrative penalties~~: $15.00 per violation identified in more than two percent but less than four percent of the commodities reviewed, rounded to the nearest whole number, $20.00 per violation in the next two percent reviewed, $50.00 per violation in the next two percent and $100.00 for each additional violation. In no event, however, shall the total amount of penalty for the review exceed $1,000.00~~ allowed by 6 V.S.A. § 15 for overcharge errors identified in more than two percent of the commodities reviewed.

~~(c) If a subsequent review within 12 months reveals further violations, the total amount of penalty due may be multiplied by the number of violations discovered.~~

* * *Department of Banking, Insurance, Securities,

and Health Care Administration * * *

Sec. 19. 8 V.S.A. § 2208a is added to read:

§ 2208a. MORTGAGE LOAN ORIGINATOR CHANGE OF EMPLOYER OR SPONSOR

(a) No mortgage loan originator may be employed, supervised, and sponsored by more than one licensed lender or licensed mortgage broker operating in this state. Alternatively, a mortgage loan originator may be an individual sole proprietor who is also licensed as a lender or mortgage broker in this state.

(b) A mortgage loan originator shall notify the commissioner and update its status on the National Mortgage Licensing System and Registry within 15 days of any change in the employer and sponsor of the mortgage loan originator subsequent to the initial employer and sponsor. A fee of $50.00 payable to the commissioner shall accompany notice of such change of employer and sponsor.

* * * Money transmission services; licensees * * *

Sec. 20. 8 V.S.A. § 2506 is amended to read:

§ 2506. APPLICATION FOR LICENSE

* * *

(d) A nonrefundable application fee of $1,000.00 ~~and~~, a license fee of $500.00 for the applicant, and a license fee of $25.00 for each authorized delegate location shall accompany an application for a license under this subchapter. The license fee shall be refunded if the application is denied.

* * *

Sec. 21. 8 V.S.A. § 2509 is amended to read:

§ 2509. RENEWAL OF LICENSE ~~AND~~, ANNUAL REPORT, AND ANNUAL ASSESSMENT

(a) A licensee under this subchapter shall pay an annual license renewal fee of $500.00, plus an annual renewal fee of $25.00 for each authorized delegate location, provided that the total renewal fee for all authorized delegate locations shall not exceed $3,500.00, no later than December 1 for the next succeeding calendar year.

* * *

(c) On or before April 1 of each year, the licensee shall pay the department an annual assessment equal to $0.0001 per dollar volume of money services activity performed for or sold or issued to Vermont customers for the most recent year ending December 31, which assessment shall not be less than $100.00 and shall not be greater than $15,000.00.

(d) If a licensee does not file an annual report on or before April 1, pay its annual assessment on or before April 1, or pay its renewal fee by December 1, or within any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. The licensee's license shall be suspended 10 calendar days after the commissioner sends the notice of suspension. The licensee has 20 days after its license is suspended in which to file an annual report, pay its annual assessment, or pay the renewal fee, plus $100.00 for each day after suspension that the commissioner does not receive the annual report, the annual assessment, or the renewal fee. The commissioner for good cause may grant an extension of the due date of the annual report or the renewal date.

~~(d)~~(e) The commissioner may require more frequent reports from any licensee for the purpose of determining the adequacy of the licensee's security.

Sec. 22. 8 V.S.A. § 2525(h) is added to read:

(h) A person may not be an authorized delegate of another authorized delegate. An authorized delegate must enter into a contract directly with a licensee.

Sec. 23. 8 V.S.A. § 2532(b) is amended to read:

(b) A licensee shall ~~file with~~ notify the commissioner in writing within ~~60~~ 30 days of any change in the list of ~~authorized delegates,~~ executive officers, managers, directors, individuals in control, or responsible individuals~~, or locations in this state where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list. Upon any such change, the licensee shall provide sufficient evidence that it is in compliance with section 2507 of this title~~.

Sec. 24. 8 V.S.A. § 2532a is added to read:

§ 2532a. CHANGE OF AUTHORIZED DELEGATES; CHANGE OF LOCATION

A licensee shall notify the commissioner in writing within 30 days of any change in the list of authorized delegates or locations in this state where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list. Upon any such change, the licensee shall provide sufficient evidence that it is in compliance with section 2507 of this title. The licensee shall submit with the notice a nonrefundable fee of $25.00 for each new authorized delegate location and for each change in location. There is no fee to remove authorized delegates or to remove locations.

* * * Simplified licensing process for certain commercial lenders * * *

Sec. 24a. 8 V.S.A. § 2200(1) is amended to read:

(1) "Commercial loan" means any loan or extension of credit that is described in subdivision 46(1), (2), or (4) of Title 9 ~~and that is in excess of $25,000.00~~. The term does not include a loan or extension of credit ~~for the purpose of farming, as defined in subdivision 6001(22) of Title 10 and does not include a loan or extension of credit for the purpose of financing~~ secured in whole or in part by an owner occupied one- to four-unit dwelling.

Sec. 24b. 8 V.S.A. § 2202(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24c. 8 V.S.A. § 2202a is added to read:

§ 2202a. APPLICATION FOR COMMERCIAL LENDER LICENSE; FEES

(a) Application for a license for a lender making solely commercial loans shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain the name and address of the residence and the place of business of the applicant and, if the applicant is a partnership or association, of every member thereof, and, if a corporation, of each officer, director, and control person thereof; the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the commissioner may require.

(b) At the time of making application, the applicant shall pay to the commissioner a $500.00 fee for investigating the application and a $500.00 initial license fee for a period terminating on the last day of the current calendar year.

(c) In connection with an application for a commercial lender license, the applicant and each officer, director, and control person of the applicant shall furnish to the Nationwide Mortgage Licensing System and Registry (NMLSR) information concerning the applicant's identity and the identity of each of the applicant's officers, directors, and control persons, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation and for any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check.

(2) Personal history and experience in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR and the commissioner to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) Any other information required by the NMLSR or the commissioner.

Sec. 24d. 8 V.S.A. § 2203(f) is added to read:

(f) This section does not apply to a lender making only commercial loans.

Sec. 24e. 8 V.S.A. § 2204(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24f. 8 V.S.A. § 2204c is added to read:

§ 2204c. APPROVAL OF APPLICATION; ISSUANCE OF COMMERCIAL LENDER LICENSE

(a) Upon the filing of the application and payment of the required fees, the commissioner shall issue and deliver a commercial lender license to the applicant upon findings by the commissioner as follows:

(1) That the experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter. If the applicant is a partnership or association, such findings are required with respect to each partner, member, and control person. If the applicant is a corporation, such findings are required with respect to each officer, director, and control person.

(2) That the applicant and each officer, director, and control person of the applicant has never had a lender license, mortgage broker license, mortgage loan originator license, or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(3) That the applicant and each officer, director, and control person of the applicant has not been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(A) During the seven-year period preceding the date of the application for licensing, except a conviction for driving under the influence or a similarly titled offense in this state or in any other jurisdiction;

(B) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(C) Provided that any pardon of a conviction shall not be a conviction for purposes of this subsection.

(b) If the commissioner does not find as set forth in subsection (a) of this section, the commissioner shall not issue a license. Within 60 days of filing of the completed application, the commissioner shall notify the applicant of the denial, stating the reason or reasons therefor. If after the allowable period, no request for reconsideration under subsection 2205(a) of this title is received from the applicant, the commissioner shall return to the applicant the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application.

(c) If the commissioner makes findings as set forth in subsection (a) of this section, he or she shall issue the license within 60 days of filing the completed application. Provided the licensee annually renews the license, the license shall be in full force and effect until surrendered by the licensee or until revocation, suspension, termination, or refusal to renew by the commissioner.

Sec. 24g. 8 V.S.A. § 2209(a)(6) is added to read:

(6) For the renewal of a lender's license for a lender making only commercial loans, $500.00.

Sec. 24h. 8 V.S.A. § 2224(b) is amended to read:

(b) Annually, within 90 days of the end of its fiscal year, each licensed lender, mortgage broker, and sales finance company shall file financial statements with the commissioner in a form and substance satisfactory to the commissioner, which financial statements must include a balance sheet and income statement. This subsection does not apply to a lender making only commercial loans.

Sec. 24i. 9 V.S.A. § 46 is amended to read:

§ 46. EXCEPTIONS

Section 43 of this title relating to deposit requirements and section 45 of this title relating to prepayment penalties shall not apply and the parties may contract for a rate of interest in excess of the rate provided in section 41a of this title in the case of:

* * *

(2) obligations incurred by any person, partnership, association or other entity to finance in whole or in part income-producing business or activity, but not including obligations incurred to finance family dwellings of ~~two~~ four units or less when used as a residence by the borrower or to finance real estate which is devoted to agricultural purposes as part of an operating farming unit when used as a residence by the borrower; or

* * *

* * * Captive insurance fees * * *

Sec. 25. 8 V.S.A. § 6002(d) is amended to read:

(d) Each captive insurance company shall pay to the commissioner a nonrefundable fee of ~~$200.00~~ $500.00 for examining, investigating, and processing its application for license, and for issuing same, and the commissioner is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged against the applicant. The provisions of section 3576 of this title shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a license ~~fee for the year of registration and a~~ renewal fee for each year thereafter of ~~$300.00~~ $500.00.

* * * Department of Health * * *

* * * Hospital license fees * * *

Sec. 26. 18 V.S.A. § 1904(b) is amended to read:

(b) ~~License~~ Annual license fees.

(1) Base fee of $7,667.00 ~~in calendar years 2007, 2008, 2009, and 2010~~.

(2) Per-bed fee of $25.00 ~~in calendar years 2007, 2008, 2009, and 2010~~.

(3) The base fee for applicants presenting evidence of current accreditation by the Joint Commission on Accreditation of Health Care Organizations shall be reduced by $2,750.00 ~~in calendar years 2007, 2008, 2009, and 2010~~.

* * * X-ray equipment fees * * *

Sec. 27. 18 V.S.A. § 1652(e) is amended to read:

(e) Applicants for registration of X-ray equipment shall pay ~~a triannual~~ an annual registration fee of ~~$300.00~~ $30.00 per piece of equipment.

* * * Department of Labor * * *

* * * Workers' compensation fund * * *

Sec. 28. 21 V.S.A. § 711(a) is amended to read:

(a) A workers' compensation administration fund is created pursuant to subchapter 5 of chapter 7 of Title 32 to be expended by the commissioner for the administration of the worker's compensation and occupational disease programs. The fund shall consist of contributions from employers made at a rate of ~~0.96~~ 1.37 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of worker's compensation losses of corporations approved under ~~the chapter 9 of~~ this ~~title~~ chapter. Disbursements from the fund shall be on warrants drawn by the commissioner of finance and management in anticipation of receipts authorized by this section.

* * * Department of Fish and Wildlife * * *

* * * Hunting and fishing licenses * * *

Sec. 29. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	~~$20.00~~	$22.00
(2) Hunting license	~~$20.00~~	$22.00
(3) Combination hunting and fishing license	~~$32.00~~	$35.00
(4) Big game licenses (all require a hunting license)		
(A) archery license	~~$17.00~~	$20.00
(B) muzzle loader license	~~$17.00~~	$20.00
(C) turkey license	~~$17.00~~	$20.00
(D) second muzzle loader license	$17.00	
(E) second archery license	$17.00	
(F) moose license	$100.00	
(5) Trapping license	$20.00	
(6) Hunting license for persons under 18 years of age	$8.00	
(7) Trapping license for persons under 18 years of age	$10.00	
(8) Fishing license for persons aged 15 through 17	$8.00	
(9) Super sport license	$150.00	
(10) Three-day fishing license	$10.00	
(11) Combination hunting and fishing license for persons under 18 years of age	$12.00	

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	~~$41.00~~	$45.00
(2) One-day fishing license	~~$15.00~~	$20.00
(3) [Deleted.]		
(4) Hunting license	~~$90.00~~	$100.00
(5) Combination hunting and fishing license	~~$120.00~~	$130.00
(6) Big game licenses (all require a hunting license)		
(A) archery license	~~$25.00~~	$35.00

(B) muzzle loader license	~~$25.00~~	$40.00
(C) turkey license	~~$25.00~~	$35.00
(D) second muzzle loader license	$25.00	
(E) second archery license	$25.00	
(F) moose license	$350.00	
(7) Small game licenses		
(A) all season	~~$40.00~~	$50.00
(B) [Deleted.]		
(8) Trapping license	$300.00	
(9) Hunting licenses for persons under 18 years of age	$25.00	
(10) Three-day fishing license	~~$20.00~~	$22.00
(11) Seven-day fishing license	$30.00	
(12) Archery-only license (does not require hunting license)	~~$60.00~~	$75.00
(13) Fishing license for persons aged 15 through 17	$15.00	
(14) Super sport license	$250.00	
(15) Combination hunting and fishing license for persons under 18 years of age	$30.00	

* * *

(j) If the board determines that a moose season will be held in accordance with the rules adopted under sections 4082 and 4084 of this title, the commissioner annually may issue ~~one~~ three no-cost moose ~~license~~ licenses to a child or young adult age 21 years or under who has a life threatening disease or illness and who is sponsored by a qualified charitable organization. The child or young adult must comply with all other requirements of this chapter and the rules of the board. The commissioner shall adopt rules in accordance with chapter 25 of Title 3 to implement this subsection. The rules shall define the child or young adult qualified to receive the no-cost license, shall define a qualified sponsoring charitable organization, and shall provide the application process and criteria for issuing the no-cost moose license.

* * *

* * * Department of Environmental Conservation * * *

* * * Air contaminant permits; stormwater permits; groundwater extraction * * *

Sec. 30. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

* * *

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

(1) For air pollution control permits or registrations issued under ~~10 V.S.A.~~ chapter 23 of Title 10:

(A) Any persons subject to the provisions of ~~section~~ 10 V.S.A. § 556 ~~of Title 10~~ shall submit with each permit application or with each request for a permit amendment, a base service fee in accordance with the base fee schedule in subdivision (i) of this subdivision (1)(A). Prior to taking final action under ~~section~~ 10 V.S.A. § 556 ~~of Title 10~~ on any application for a permit for a nonmajor stationary source or on any request for an amendment of a permit for such a source, the secretary shall assess each applicant for any additional fees due to the agency, assessed in accordance with the base fee schedule and the supplementary fee schedule in subdivision (ii) of this subdivision (1)(A). The applicant shall submit any fees so assessed to the secretary prior to issuance of the final permit, notwithstanding the provisions of subsection (i) of this section. The base fee schedule and the supplementary fee schedule are applicable to all applications on which the secretary makes a final decision on or after the date on which this section is operative.

(i) Base fee schedule

(I) Application for permit to construct or modify source

(aa) Major stationary source	~~$11,500.00~~	$12,500.00
(bb) Nonmajor stationary source	~~$750.00~~	$1,000.00
~~(cc) Indirect source~~	~~$4,000.00~~	

(II) Amendments

~~(aa)~~ Change in business name, division name or plant name; mailing address; or company stack designation; or other

administrative amendments	$100.00	
~~(bb) Technical amendments~~	~~$500.00~~	
(ii) Supplementary fee schedule for nonmajor stationary sources		
(I) Engineering review	~~$1,460.00~~	$1,750.00
(II) Air quality impact analysis		
~~(aa) Review screening modeling~~	~~$600.00~~	
~~(bb)~~ Review refined modeling	~~$1,170.00~~	$1,250.00

* * *

(B) Any person required to register an air contaminant source under ~~subsection~~ 10 V.S.A. § 555(c) ~~of Title 10~~ shall submit an annual registration fee in accordance with the following registration fee schedule, where the sum of a source's emissions of the following air contaminants is greater than five tons per year: sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons:

Registration: ~~$0.021~~ $0.024 per pound of emissions of any of these contaminants. Where the sum of a source's emission of these contaminants is greater than ten tons per year:

Base registration fee ~~$924.00~~ $1,000.00; and ~~$0.021~~ $0.024 per pound of emissions of any of these contaminants.

(2) For discharge permits issued under ~~10 V.S.A.~~ chapter 47 of Title 10 and orders issued under 10 V.S.A. § 1272, an administrative processing fee of $100.00 shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (2)(A)(iii)(III) ~~and~~, (IV), and (V) of this subsection:

(A) Application review fee.

(i) Municipal, industrial, noncontact cooling water and thermal discharges.

* * *

(iii) Stormwater discharges.

(I) Individual operating permit or application to operate	~~$300.00~~ $360.00 per acre impervious area;

under general operating permit for collected stormwater runoff which is discharged to Class B waters: original application; amendment for increased flows; amendment for change in treatment process.	minimum ~~$150.00~~ $180.00 per application.

* * *

(III) Individual permit or application to operate under general permit for construction activities; original application; amendment for increased acreage.	
(aa) Projects with low risk to waters of the state.	~~$30.00~~ $36.00 per project; original application.
(bb) Projects with moderate risk to waters of the state.	~~$250.00~~ $300.00 per project; original application.
(cc) Projects that require an individual permit.	~~$500.00~~ $600.00 per project; original application.
(IV) Individual permit or application to operate under under general permit for stormwater runoff associated with industrial activities with specified SIC codes; original application; amendment for change in activities.	~~$150.00~~ $180.00 per facility.
(V) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems;	$1,000.00 per system

original application; amendment for change in activities.	
(VI) Renewal, transfer, or minor amendment of individual permit or approval under general permit.	$0.00

* * *

(B) Annual operating fee.

(i) Industrial, noncontact cooling water and thermal discharges.	~~$0.0009~~ $0.001 per gallon design capacity. ~~$100.00~~ $150.00 minimum; maximum ~~$27,500.00~~ $105,000.00.
(ii) Municipal.	~~$0.0027~~ $0.003 per gallon of actual flows. ~~$100.00~~ $150.00 minimum; maximum ~~$11,000.00~~ $12,500.00.
(iii) Pretreatment discharges.	~~$0.0315~~ $0.0385 per gallon design capacity. ~~$100.00~~ $150.00 minimum; maximum $27,500.00.
(iv) Stormwater	

* * *

(II) Individual operating permit or approval under general operating permit for collected stormwater runoff which is discharged to Class B waters.	~~$55.00~~ $66.00 per acre impervious area; ~~$50.00~~ $60.00 minimum.
(III) Individual permit or approval under general permit for stormwater runoff from industrial facilities with specified SIC codes.	~~$55.00~~ $66.00 per facility.

(IV) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems.	$66.00 per system.
(v) Indirect discharge or underground injection control, excluding stormwater discharges:	
(I) Sewage	
(aa) Individual permit.	~~$385.00~~ $400.00 plus ~~$0.0317~~ $0.035 per gallon of design capacity above 6,500 gpd. ~~$350.00 minimum;~~ maximum $27,500.00.
(bb) Approval under general permit.	$220.00.

* * *

(7) For public water supply and bottled water permits and approvals issued under ~~10 V.S.A.~~ chapter 56 of Title 10 and interim groundwater withdrawal permits and approvals issued under ~~10 V.S.A.~~ chapter 48 of Title 10:

* * *

(C) For source permit applications ~~for community~~:	
(i) Community water systems:	$615.00 per source.
(ii) Transient noncommunity:	$250.00 per source.
(iii) Nontransient, noncommunity:	$500.00 per source.
(iv) Amendments.	$110.00 per application.
(D) For public water supplies and bottled water facilities, annually:	

* * *

(iv) Bottled water:	~~$550.00~~ $900.00 per permitted facility.

* * *

(F) ~~For permit applications for interim groundwater withdrawal permits: $960.00 per facility. Amendments $110.00 per application.~~ For facilities permitted to withdraw groundwater pursuant to 10 V.S.A. § 1418: $1,500.00 annually per facility.

* * *

(10) For management of lakes and ponds permits issued under ~~29 V.S.A.~~ chapter 11 of Title 29:

(A) Nonstructural erosion control:	$155.00 per application.
(B) Structural erosion control:	~~$155.00~~ $250.00 per application.
(C) All other encroachments:	~~$155.00~~ $300.00 per application plus ~~0.5~~ one percent of construction costs.

(11) For stream alteration permits issued under ~~10 V.S.A.~~ chapter 41 of Title 10: ~~$105.00~~ $225.00 per application.

* * *

(15) For sludge or septage facility certifications issued under ~~10 V.S.A.~~ chapter 159 of Title 10:

(A) land application sites; facilities that further reduce pathogens; disposal facilities.	~~$840.00~~ $950.00 per application.
(B) all other types of facilities.	~~$95.00~~ $110.00 per application.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) ~~$0.07~~ $0.12 per square foot of proposed impact to Class I or II wetlands;

(B) ~~$0.05~~ $0.09 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, $200.00 per application. For purposes of this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees or vines and the production of Christmas trees;

(D) minimum fee, $50.00 per application.

* * *

(29) For salvage yards permitted under subchapter 10 of chapter 61 of Title 24:

(A) facilities that crush or shred junk motor vehicles.	$1,250.00 per facility.
(B) facilities that accept or dismantle junk motor vehicles.	$750.00 per facility.
(C) facilities that manage junk on site excluding junk motor vehicles.	$350.00 per facility.
(D) facilities the primary activity of which is handling total-loss vehicles from insurance companies.	$300.00 per facility.

* * *

(l) Commencing with registration year 1993 and for each year thereafter, any person required to pay a fee to register an air contaminant source under 10 V.S.A. § 555(c) in addition shall pay the following fees for emissions of hazardous air contaminants resulting from the combustion of any of the following fuels in fuel burning or manufacturing process equipment.

(1) Coal-$0.43 per ton burned;

(2)(A) Wood-$0.103 per ton burned; or

(B) Wood burned with an operational electrostatic precipitator and NOx reduction technologies-$0.025 per ton burned;

(3) No. 6 grade fuel oil-$0.0005 per gallon burned;

(4) No. 4 grade fuel oil-$0.0004 per gallon burned;

(5) No. 2 grade fuel oil-$0.0002 per gallon burned;

(6) Liquid propane gas-$0.0002 per gallon burned;

(7) Natural gas-$0.87 per million cubic feet burned.

* * *

* * * Brownfields oversight fee; innocent current owners * * *

Sec. 31. 10 V.S.A. § 6644 is amended to read:

§ 6644. GENERAL OBLIGATIONS

Any person participating in the program shall do all the following:

* * *

(5) If an innocent current owner, ~~pay the secretary an oversight fee of $5,000.00. Upon depletion of this $5,000.00 fee, the applicant shall~~ pay any additional costs of the secretary's review and oversight of the site investigation or corrective action plan, or both. ~~Upon completion of the secretary's review and oversight, any funds remaining shall be returned to the applicant, as determined by the commissioner.~~

* * *

* * * Repeals * * *

Sec. 32. REPEAL

(a) Sec. 4 of No. 135 of the Acts of the 2005 Adj. Sess. (2006) (sunset on pass through of solid waste funds and ability to transfer solid waste funds to the contingency fund) is repealed.

(b) Sec. 299(h) of No. 65 of the Acts of 2007 (sunset on the authority of the state to spend contingency funds at the Pownal Tannery Superfund Site) is repealed.

(c) 24 V.S.A. § 2263 (annual salvage yard licensing fee) is repealed.

* * * Natural Resources Board * * *

* * * Act 250 fees * * *

Sec. 33. 10 V.S.A. § 6083a(a) is amended to read:

(a) All applicants for a land use permit under section 6086 of this title shall be directly responsible for the costs involved in the publication of notice in a newspaper of general circulation in the area of the proposed development or subdivision and the costs incurred in recording any permit or permit amendment in the land records. In addition, applicants shall be subject to the following fees for the purpose of compensating the state of Vermont for the direct and indirect costs incurred with respect to the administration of the Act 250 program:

(1) For projects involving construction, ~~$4.75~~ $5.40 for each $1,000.00 of the first $15,000,000.00 of construction costs, and ~~$2.25~~ $2.50 for each $1,000.00 of construction costs above $15,000,000.00.

* * *

(4) For projects involving the extraction of earth resources, including but not limited to sand, gravel, peat, topsoil, crushed stone, or quarried material, a fee as determined under subdivision (1) of this subsection or a fee equivalent to the rate of ~~$0.10~~ $0.20 per cubic yard of maximum estimated annual extraction, whichever is greater.

* * *

(6) In no event shall a permit application fee exceed ~~$135,000.00~~ $150,000.00.

Sec. 34. 32 V.S.A. § 605 is amended to read:

§ 605. CONSOLIDATED EXECUTIVE BRANCH ANNUAL FEE REPORT AND REQUEST

* * *

(b) Fee reports shall be made as follows:

(1) A report covering all fees in existence on the prior July 1 within the areas of government identified by the department of finance and management accounting system as "general government," "labor," "general education," "development and community affairs" and "transportation" shall be submitted ~~by October 1, 1996 and every three years thereafter on~~ by the third Tuesday of the legislative session ~~beginning with 2000~~ beginning in 2011 and every three years thereafter.

(2) A report covering all fees in existence on the prior July 1 within the "human services" and "natural resources" areas of government shall be submitted ~~no later than~~ by the third Tuesday of the legislative session of ~~1998~~ 2012 and every three years thereafter.

(3) A report covering all fees in existence on the prior July 1 within the "protection to persons and property" area of government shall be submitted ~~no later than~~ by the third Tuesday of the legislative session of ~~1999~~ 2013 and every three years thereafter.

* * *

* * * Bill-back report * * *

Sec. 35. BILL-BACK REPORT

No later than January 15, 2011, the commissioner of finance and management shall provide to the house committee on ways and means and the senate committee on finance a detailed report concerning the use of bill-backs in general and in addition to or in lieu of fees. The report shall provide the committees with a working definition of a bill-back for services provided by the legislative, executive, and judicial branches of state government and shall address in specific detail each of the following issues:

(1) The appropriateness of using bill-backs in providing governmental services.

(2) The relationship between fees and bill-backs.

(3) The prevalence of the bill-back practice in Vermont state government.

(4) The statutory authority that exists for each bill-back program and whether the authority provides for maximum use of the bill-back process.

(5) Whether bill-back rates for various services adequately cover the costs of the governmental services being performed.

(6) Whether there should be limitations on amounts that may be subject to bill-back; and, if so, whether those limitations are adequate.

(7) Whether there ought to be oversight and reporting of bill-back programs and, if so, at what level.

(8) How bill-backs are categorized and accounted for in agency and departmental budgets.

* * * Legislative intent * * *

Sec. 36. CIGARETTE CERTIFICATION FEE; STATEMENT OF INTENT

It is the intent of the General Assembly that the fees collected under 20 V.S.A. § 2757 in excess of the amount needed by the department of public safety to administer the fire prevention and building inspection special fund be paid into the tobacco trust fund established in 18 V.S.A. § 9502 for the purpose of smoking prevention and cessation. This statement of intent shall be placed in the annotations to 20 V.S.A. § 2757 in the Vermont Statutes Annotated.

Sec. 37. LONG-TERM MONITORING OF WASTEWATER DISCHARGE

Pursuant to 3 V.S.A. § 2822(j)(2)(B)(i), the agency of natural resources charges an annual fee for the monitoring of certain wastewater discharges. It is the intent of the general assembly to create a special fund that will be used to cover the continuing costs of monitoring in the event that the facilities monitored cease discharging wastewater. The general assembly anticipates

that the special fund will be financed by a fee assessment on the facilities that are monitored prior to any cessation of their business.

* * * Effective dates * * *

Sec. 38. EFFECTIVE DATES

This section shall take effect on passage. Sec. 29 shall take effect on January 1, 2011 . Sec. 30 shall take effect July 1, 2010, except that subdivision (j)(29) (relating to salvage yard fees) shall take effect on passage. Sec. 32 shall take effect on July 1, 2010, except that subsection (c) (relating to repeal of annual salvage yard licensing fee) shall take effect on passage.

WILLIAM H. CARRIS
CLAIRE D. AYER
RICHARD J. MCCORMACK

Committee on the part of the Senate

CAROLYN W. BRANAGAN
JAMES W. MASLAND

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Brooks, Tayt of St. Albans - Commissioner of the Department of Economic, Housing and Community Development, - from October 5, 2009, to February 28, 2011.

Dorn, Kevin of Essex Junction – Secretary, Agency of Commerce and Community Development, - from March 1, 2009, to February 28, 2011.

Gibbs, Jason of Cambridge - Commissioner of the Department of Forests, Parks & Recreation, - from November 24, 2008, to February 28, 2009.

Gibbs, Jason of Cambridge - Commissioner of the Department of Forests, Parks & Recreation, - from March 1, 2009, to February 28, 2011.

Hyde, Bruce of Granville - Commissioner, Department of Tourism and Marketing, - from March 1, 2009, to February 28, 2011.

Johnson, Justin of Barre - Commissioner of the Department of Environmental Conservation, - from July 16, 2009, to February 28, 2011.

Laroche, Wayne Allen of Franklin - Commissioner of the Department of Fish and Wildlife, - from March 1, 2009, to February 28, 2011.

Westman, Richard A. of Cambridge - Commissioner of the Department of Taxes, - from August 24, 2009, to February 28, 2011.

Wood, Jonathan of Cambridge - Secretary of the Agency of Natural Resources, - from November 7, 2008, to February 28, 2009.

Wood, Jonathan of Cambridge - Secretary of the Agency of Natural Resources, - from March 1, 2009, to February 28, 2011.

Thomas, Brian of Shrewsbury – Member, Plumbers' Examining Board – March 2, 2009, to February 28, 2012.

Miller, Mary of Waterbury Center – Member, Vermont State Housing Authority – April 7, 2010, to February 28, 2015.

Ristau, Arthur of Barre – Member, Vermont Lottery Commission – April 7, 2010, to February 28, 2013.

Nesbitt, Thomas D. of Waterbury Center – Member, Plumbers' Examining Board – April 7, 2010, to February 28, 2013.

Goodrich, Steven V. of North Bennington – Member, Plumbers' Examining Board – May 15, 2008, to February 28, 2011.

Cioffi, Frank of St. Albans – Member, Vermont Lottery Commission and to serve as Chairman of the Commission – January 22, 2010, to February 28, 2011.

Ozarowski, Peter C. of South Burlington – Member, Parole Board – March 17, 2010, to February 28, 2013.

Blair, Susan K. of Colchester – Member, Parole Board – March 17, 2010, to February 28, 2013.

Pettengill, William J. of Guilford – Member, Parole Board – March 17, 2010, to February 28, 2013.

Rules Suspended; Bill Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 759.

Rules Suspended; Bills Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 90, S. 97, S. 182; S. 280.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 470.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to restructuring of the judiciary.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 470. An act relating to restructuring of the judiciary.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal and amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 1 is amended to read:

§ 1. ~~SUPREME COURT~~ UNIFIED COURT SYSTEM ESTABLISHED

~~There shall be a supreme court for the state, which shall be held at the times and places appointed by law.~~ The judiciary shall be a unified court system under the administrative control of the supreme court. It shall consist of an appellate division, which shall be the supreme court, and a trial division, which shall consist of a trial court of general jurisdiction to be known as the superior court, and a judicial bureau.

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

§ 2. SUPREME COURT ESTABLISHED; JURISDICTION

(a) The supreme court shall have exclusive jurisdiction of appeals from judgments, rulings, and orders of the superior court, ~~the district court and all other courts~~, administrative agencies, boards, commissions, and officers unless otherwise provided by law.

* * *

Sec. 3. 4 V.S.A. § 21a is amended to read:

§ 21a. DUTIES OF THE ADMINISTRATIVE JUDGE

(a) The administrative judge shall assign and specially assign superior ~~and district~~ judges, including himself or herself, and environmental judges to the superior~~, environmental, district, and family courts~~ court. ~~If the administrative judge determines that additional judicial time is needed to address cases filed in environmental court, the judge may assign or specially assign up to four judges on a part-time basis to the environmental court. When assigning or specially assigning judges to the environmental court, the administrative judge shall give consideration to experience and expertise in environmental and zoning law, and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state.~~ All superior judges except environmental judges shall be subject to the requirements of rotation as ordered by the supreme court. Assignments made pursuant to the rotation schedule shall be subject to the approval of the supreme court.

(b) In making any assignment under this section, the administrative judge shall give consideration to the experience, temperament, and training of a judge and the needs of the court. In making an assignment to the environmental ~~court~~ division, the administrative judge shall give consideration to experience and expertise in environmental and land use law and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state.

(c) In making any assignments to the environmental ~~court~~ division under this section, the administrative judge shall regularly assign ~~both environmental judges through August 2008 and a minimum of~~ two judges ~~thereafter~~, at least one of whom shall be an environmental judge. An environmental judge may be assigned to ~~another~~ other divisions in the superior court ~~only with the judge's consent and~~ for a period of time not exceeding two years. When assigned to other divisions in the superior court, the environmental judge shall have all the powers and responsibilities of a superior judge.

Sec. 4. 4 V.S.A. § 22(a) and (b) are amended to read:

(a) The chief justice may appoint and assign a retired justice or judge with his or her consent or a superior judge ~~or district judge~~ to a special assignment on the supreme court. The chief justice may appoint, and the administrative judge shall assign, an active or retired justice or a retired judge, with his or her consent, to any special assignment in the ~~district, family, environmental or~~ superior ~~courts~~ court or the judicial bureau. The administrative judge shall assign a judge to any special assignment in the ~~district, family, environmental or~~ superior court. ~~Preference shall be given to superior judges to sit in superior courts. Preference shall be given to district judges to sit in district courts.~~

(b) The administrative judge may appoint and assign a member of the Vermont bar residing within the state of Vermont to serve temporarily as:

(1) an acting judge in ~~a district, family, environmental, or~~ superior court;

(2) an acting magistrate; or

(3) an acting hearing officer to hear cases in the judicial bureau.

Sec. 5. 4 V.S.A. § 25(c) is amended to read:

(c) The supreme court may allow supreme court justices, superior ~~court~~ judges, ~~district court judges~~, environmental ~~court~~ judges, magistrates, hearing officers, probate ~~court~~ judges, superior court clerks, or any ~~state-compensated~~ state-compensated employees of the judicial branch not covered by a collective bargaining agreement to take an administrative leave of absence without pay, or with pay if the person is called to active duty in support of an extended national or state military operation. These judicial officers and state employees shall be entitled to be compensated in the same manner as judicial branch employees covered by a collective bargaining agreement called to active duty. The court administrator, at the direction of the supreme court, shall include provisions in the personnel rules of the judiciary to administer these leaves of absence.

Sec. 6. 4 V.S.A. § 26 is amended to read:

§ 26. HALF-TIME JUDGES

Of the superior ~~and district~~ judge positions authorized by this title, up to two may be shared, each by two half-time judges. Of the magistrate positions authorized by this title, one may be shared by two half-time magistrates. Of the hearing officer positions authorized by this title, one may be shared by two half-time hearing officers. Half-time superior ~~and district~~ judges, magistrates, and hearing officers shall be paid proportionally and shall receive the same benefits as state employees who share a job. Half-time superior judges,

magistrates, and hearing officers shall not engage in the active practice of law for remuneration.

Sec. 7. 4 V.S.A. § 30 is added to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

(A) A civil division, which shall be a court of record and have jurisdiction over the matters described in section 31 of this title. The Vermont Rules of Civil Procedure shall apply in the civil division.

(B) A criminal division, which shall be a court of record and have jurisdiction over the matters described in section 32 of this title. The Vermont Rules of Criminal Procedure shall apply to criminal matters in the criminal division, and the Vermont Rules of Civil Procedure shall apply to civil matters in the criminal division.

(C) A family division, which shall be a court of record and have jurisdiction over the matters described in section 33 of this title. The Vermont Rules of Family Procedure shall apply in the family division.

(D) An environmental division, which shall be a court of record and have jurisdiction over the matters described in section 34 of this title. The Vermont Rules for Environmental Proceedings shall apply in the environmental division.

(2) The supreme court shall promulgate rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which establish criteria for the transfer of cases between divisions.

(b) The supreme court shall by rule divide the superior court into 14 geographical units which shall follow county lines, except that, subject to the venue requirements of subsection 1001(e) of this title, the environmental division shall be a court of statewide jurisdiction and shall not be otherwise divided into geographical units. The superior court shall be held in each unit of the state.

(c) Terms of the superior court shall be stated by administrative orders of the supreme court. The court administrator shall provide appropriate security services for each court in the state.

* * * Delayed Effective Date * * *

Sec. 7a. 4 V.S.A. § 30 is amended to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

* * *

(E) A probate division, which shall have jurisdiction over the matters described in section 35 of this title. The Vermont Rules of Probate Procedure shall apply in the probate division.

* * *

Sec. 7b. 4 V.S.A. § 31 is added to read:

§ 31. JURISDICTION; CIVIL DIVISION

The civil division shall have:

(1) original and exclusive jurisdiction of all original civil actions, except as otherwise provided in sections 2, 32, 33, 34, 35, and 1102 of this title;

(2) appellate jurisdiction of causes, civil and criminal, appealable to the court; and

(3) original jurisdiction, concurrent with the supreme court, of proceedings in certiorari, mandamus, prohibition, and quo warranto;

(4) exclusive jurisdiction to hear and dispose of any requests to modify or enforce orders in civil cases previously issued by the superior or district court other than orders relating to those actions listed in sections 437 and 454 of this title; and

(5) any other matter brought before the court pursuant to law that is not subject to the jurisdiction of another division.

Sec. 7c. 4 V.S.A. § 32 is added to read:

§ 32. JURISDICTION; CRIMINAL DIVISION

(a) The criminal division shall have jurisdiction to try, render judgment, and pass sentence in prosecutions for felonies and misdemeanors.

(b) The criminal division shall have jurisdiction to try and finally determine prosecutions for violations of bylaws or ordinances of a village, town, or city, except as otherwise provided.

(c) The criminal division shall have jurisdiction of the following civil actions:

(1) Appeals of final decisions of the judicial bureau.

(2) DUI license suspension hearings filed pursuant to chapter 24 of Title 23.

(3) Extradition proceedings filed pursuant to chapter 159 of Title 13.

(4) Drug forfeiture proceedings under subchapter 2 of chapter 84 of Title 18.

(5) Fish and wildlife forfeiture proceedings under chapter 109 of Title 10.

(6) Liquor forfeiture proceedings under chapter 19 of Title 7.

(7) Hearings relating to refusal to provide a DNA sample pursuant to 20 V.S.A. § 1935.

(8) Automobile forfeiture and immobilization proceedings under chapters 9 and 13 of Title 23.

(9) Sex offender proceedings pursuant to 13 V.S.A. §§ 5411(e) and 5411d(f).

(10) Restitution modification proceedings pursuant to 13 V.S.A. § 7043(h).

(11) Municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e), if the municipality has established an administrative procedure enabling a person to contest the violation, and the person has exhausted the administrative procedure.

(12) Proceedings to enforce chapter 74 of Title 9, relating to energy efficiency standards for appliances and equipment.

(13) Proceedings to enforce 21 V.S.A. § 268, relating to commercial building energy standards.

Sec. 7d. 4 V.S.A. § 33 is added to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

(1) All desertion and support proceedings and all parentage actions filed pursuant to chapter 5 of Title 15.

(2) All rights of married women proceedings filed pursuant to chapter 3 of Title 15.

(3) All enforcement of support proceedings filed pursuant to Title 15B.

(4) All annulment and divorce proceedings filed pursuant to chapter 11 of Title 15.

(5) All parent and child proceedings filed pursuant to chapter 15 of Title 15.

(6) Grandparents' visitation proceedings filed pursuant to chapter 18 of Title 15.

(7) All uniform child custody proceedings filed pursuant to chapter 19 of Title 15.

(8) All juvenile proceedings filed pursuant to chapters 51, 52, and 53 of Title 33, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281 whether the matter originated in the criminal or family division of the superior court.

(9) All enforcement of support proceedings filed pursuant to chapter 39 of Title 33.

(10) All protective services for developmentally disabled persons proceedings filed pursuant to chapter 215 of Title 18.

(11) All mental health proceedings filed pursuant to chapters 179, 181, and 185 of Title 18.

(12) All involuntary sterilization proceedings filed pursuant to chapter 204 of Title 18.

(13) All care for mentally retarded persons proceedings filed pursuant to chapter 206 of Title 18.

(14) All abuse prevention proceedings filed pursuant to chapter 21 of Title 15. Any superior judge may issue orders for emergency relief pursuant to 15 V.S.A. § 1104.

(15) All abuse and exploitation proceedings filed pursuant to subchapter 2 of chapter 69 of Title 33.

(16) All proceedings relating to the dissolution of a civil union.

(17) All requests to modify or enforce orders previously issued by the district or superior court relating to any of the proceedings identified in subdivisions (1)–(16) of this section.

Sec. 7e. 4 V.S.A. § 34 is added to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The environmental division shall have:

(1) jurisdiction of matters arising under chapters 201 and 220 of Title 10;

(2) jurisdiction of matters arising under chapter 117 and subchapter 12 of chapter 61 of Title 24; and

(3) original jurisdiction to revoke permits under chapter 151 of Title 10.

Sec. 7f. 4 V.S.A. § 35 is added to read:

§ 35. JURISDICTION; PROBATE DIVISION

The probate division shall have jurisdiction of:

(1) the probate of wills;

(2) the settlement of estates;

(3) the administration of trusts pursuant to Title 14A;

(4) trusts of absent persons' estates;

(5) charitable, cemetery, and philanthropic trusts;

(6) the appointment of guardians, and of the powers, duties, and rights of guardians and wards;

(7) proceedings concerning chapter 231 of Title 18;

(8) accountings of attorneys-in-fact where no guardian has been appointed and the agent has reason to believe the principal is incompetent;

(9) adoptions and relinquishment for adoption;

(10) uniform gifts to minors;

(11) changes of name;

(12) issuance of new birth certificates and amendment of birth certificates;

(13) correction or amendment of civil marriage certificates and death certificates;

(14) emergency waiver of premarital medical certificates;

(15) proceedings relating to cemetery lots;

(16) trusts relating to community mausoleums or columbaria;

(17) civil actions brought under subchapter 3 of chapter 107 of Title 18, relating to disposition of remains;

(18) proceedings relating to the conveyance of a homestead interest of a spouse under a legal disability;

(19) the issuance of declaratory judgments;

(20) issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age;

(21) appointment of administrators to discharge mortgages held by deceased mortgagees;

(22) appointment of trustees for persons confined under sentences of imprisonment;

(23) fixation of compensation and expenses of boards of arbitrators of death taxes of Vermont domiciliaries;

(24) emancipation of minors proceedings filed pursuant to chapter 217 of Title 12;

(25) grandparent visitation proceedings under chapter 18 of Title 15; and

(26) other matters as provided by law.

Sec. 8. 4 V.S.A. § 36 is added to read:

§ 36. COMPOSITION OF THE COURT

(a) Unless otherwise specified by law, when in session, a superior court shall consist of:

(1) For cases in the civil or family division, one presiding superior judge and two assistant judges, if available.

(2)(A) For cases in the family division, except as provided in subdivision (B) of this subdivision, one presiding superior judge and two assistant judges, if available.

(B) The family court shall consist of one presiding superior judge sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to chapters 51, 52, and 53 of Title 33, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281 whether the matter originated in the criminal or family division of the superior court.

(ii) All protective services for developmentally disabled persons proceedings filed pursuant to chapter 215 of Title 18.

(iii) All mental health proceedings filed pursuant to chapters 179, 181, and 185 of Title 18.

(iv) All involuntary sterilization proceedings filed pursuant to chapter 204 of Title 18.

(v) All care for mentally retarded persons proceedings filed pursuant to chapter 206 of Title 18.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate.

(3) For cases in the criminal division, one superior judge sitting alone.

(4) For cases in the probate division, one probate judge sitting alone.

(5) For cases in the environmental division, one environmental judge sitting alone.

(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. In cases not tried before a jury, questions of fact shall be decided by the court. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts related therein, except that the presiding judge, in his or her discretion, may order a hearing on any such stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.

(c) Availability of assistant judges. If two assistant judges are not available, the court shall consist of one presiding judge and one assistant judge. In the event that court is being held by the presiding judge and one assistant judge and they do not agree on a decision, a mistrial shall be declared. If neither assistant judge is available, the court shall consist of the presiding judge alone, and the unavailability of an assistant judge shall not constitute reversible error.

(d) Method of determining availability. Before commencing a hearing in any matter in which the court by law may consist of the presiding judge and assistant judges, the assistant judges physically present in the courthouse shall determine whether they are available for the case. If two or more cases are being heard at one time and assistant judges may by law participate in either, each assistant judge may determine in which case he or she will participate.

(e) Duty to complete hearing or trial. After an assistant judge has decided to participate in a hearing or trial, he or she shall not withdraw therefrom except for cause. However, if the assistant judge is not available for a scheduled hearing or trial or becomes unavailable during trial, the matter may continue without his of her participation, and he or she may not return to participate.

(f) Emergency relief. A presiding judge may hear a petition for emergency relief when the court is not sitting and may issue temporary orders as necessary.

(g) Jury trial. In order to preserve the right to trial by jury, when issues sounding in law and in equity are presented in the same action, the supreme court shall provide by rule for trial by jury, when demanded, of issues sounding in law.

Sec. 9. 4 V.S.A. § 37 is added to read:

§ 37. VENUE

(a) The venue for all actions filed in the superior court, whether heard in the civil, criminal, family, environmental, or probate division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the supreme court may promulgate venue rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which are consistent with the following policies:

(1) Proceedings involving a case shall be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the court is authorized to promulgate rules establishing an electronic case-filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge,

makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

Sec. 10. 4 V.S.A. § 71(a) and (e) are amended to read:

(a) There shall be ~~15~~ 32 superior judges, whose terms of office shall, except in the case of an appointment to fill a vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

(e) The supreme court shall designate one of the superior ~~or district~~ judges to serve as administrative judge. The administrative judge shall serve at the pleasure of the supreme court.

Sec. 11. 4 V.S.A. § 73 is amended to read:

§ 73. ASSIGNMENT

(a) ~~The supreme court may establish no more than three geographic divisions for the assignment of superior judges.~~ In accordance with the direction of the supreme court, the administrative judge shall assign the superior judges among the ~~geographic~~ units and divisions ~~and shall establish a rotation schedule, both within and outside the division to which the judges are regularly assigned. The rotation schedule shall be on file in the office of the clerk of each superior court, and copies shall be furnished upon request~~ of the superior court. The administrative judge shall assign a presiding judge to each unit and may assign a judge to preside in more than one unit. ~~Only in~~ In a case where a superior judge is disqualified or unable to attend any term of court or part thereof to which he or she has been assigned ~~may,~~ the administrative judge may assign another superior judge to act as ~~presiding~~ judge at that term or part thereof ~~and only~~ for that period during which the assigned judge is disqualified or unable to attend. If during a term of the superior court the court in a unit is unable to complete all or part of the work before it in a reasonable time, the administrative judge, with the approval of the supreme court, may modify judge assignments to reduce delays in that unit. The court shall publish the judicial rotation schedule in electronic format and distribute it electronically to attorneys licensed in Vermont.

(b) Pursuant to section 21a of this title, the administrative judge shall ~~specially~~ assign superior judges to hear and determine family court matters. The administrative judge shall insure that such hearings are held promptly. Any contested divorce case which has been pending for more than one year shall be advanced for prompt hearing upon the request of any party.

(c) ~~Notwithstanding subsection (b) of this section, the administrative judge may, pursuant to section 21a of this title, specially assign a district court judge~~

~~to family court to hear matters specified in subsection (b).~~ As necessary to ensure the efficient operation of the superior court, the presiding judge of the unit may specially assign a superior judge assigned to a division in the unit, including the presiding judge, to preside over one or more cases in a different division. As the administrative judge determines necessary for the operation of the superior court throughout the state, and with the approval of the supreme court, the administrative judge may additionally assign for a specified period of time a superior judge to preside over a particular type of case, or over a particular type of motion or other judicial proceeding, in all or part of the units in the state.

Sec. 12. 4 V.S.A. § 75 is amended to read:

§ 75. POWERS OF JUSTICE~~,~~ OR SUPERIOR JUDGE ~~OR DISTRICT JUDGE~~ AFTER EXPIRATION OF TERM OR VACATION OF OFFICE

Whenever the term of office of a justice, superior judge ~~or district judge,~~ environmental judge, magistrate, or hearing officer expires or he or she otherwise vacates the office, ~~he~~ the justice, judge, magistrate, or hearing officer shall have the same authority to conclude causes he or she has partly or fully heard ~~before him~~ that he or she would have had if ~~he had remained~~ remaining in that office. ~~He~~ The justice, judge, magistrate, or hearing officer may make and sign findings and orders for judgments or decrees in causes pending before him ~~and~~ or her, may make interlocutory orders and decrees~~. He~~, and shall be paid compensation commensurate with that paid specially assigned judicial officers as provided by section 23 of this title.

Sec. 13. 4 V.S.A. § 111 is amended to read:

§ 111. SUPERIOR COURT SESSIONS

(a) ~~A superior court shall be held in each county at the times and places appointed by law.~~

~~(b)~~ When the business of a superior court cannot otherwise be disposed of with reasonable dispatch, by direction of the administrative judge, there may be held additional sessions of that superior court simultaneously with the regular session consisting of a presiding judge and one or more assistant judges, if available.

~~(c)~~(b) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place ~~in the county~~ having adequate facilities, when the regular facilities at the ~~county~~ designated courthouse are not adequate.

~~(d) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place outside the county having adequate facilities, when the regular facilities at the county courthouse are not adequate and when the court and all litigants in the case agree to said transfer.~~

~~(e)~~(c) The administrative judge may assign assistant judges, with their consent, to a special assignment in a court where they have jurisdiction in another county when assistant judges of that county are unavailable or the business of the courts so require.

Sec. 14. 4 V.S.A. § 112 is amended to read:

§ 112. [Repealed.]

Sec. 15. 4 V.S.A. § 115 is amended to read:

§ 115. STATED TERMS OF SUPERIOR COURT

~~Terms of the superior court shall be stated by the administrative orders of the supreme court.~~ The superior court shall operate continuously irrespective of the term in which events occur. Terms are designated for purposes of determining the rotation schedule of superior judges and the responsibility of a superior judge once a term has expired. When at the expiration of a term a superior judge is no longer assigned to a specified unit, the judge shall complete any matters that have been heard or taken under advisement for that unit. The administrative judge, pursuant to rules of the supreme court, may specially assign a superior judge to continue to preside over one or more cases even though the judge is no longer assigned to the unit of origin of the case or cases. In the absence of such a direction or of an assignment made pursuant to subsection 73(c) of this title, a judge who at the end of a term is no longer assigned to a unit shall have no further responsibility for cases in that unit.

Sec. 16. 4 V.S.A. § 219 is amended to read:

§ 219. POWERS OF CHANCELLOR

The powers and jurisdiction of the courts that were heretofore vested in the courts of chancery are vested in the superior court. ~~District~~ Superior, environmental, and probate judges have the powers of a chancellor in passing upon all civil matters which may come before them.

Sec. 17. 4 V.S.A. § 272 is added to read:

§ 272. PROBATE DISTRICTS; PROBATE JUDGES

(a) There shall be one probate district in each county, which shall be designated by the name of the county. Each probate district shall elect one probate judge.

(b) To hold the position of probate judge, a person shall be admitted by the supreme court to practice law. This subsection shall not apply to any person who holds the office of probate judge on July 1, 2010.

(c) The administrative judge may specially assign a probate judge to hear a case in a geographical district other than the district for which the probate judge was elected.

Sec. 17a. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES

(a) An assistant judge or a candidate for the office of assistant judge may also seek election to the office of probate judge, and, if otherwise qualified and elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge shall be disqualified from hearing and deciding the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over the same or related probate matter in the superior court, the probate judge shall be disqualified from hearing and deciding the probate matter in the probate court.

Sec. 18. DELETED

Sec. 18a. 4 V.S.A. § 311a is amended to read:

§ 311a. VENUE GENERALLY

For proceedings authorized to the probate ~~courts~~ division of superior court, venue shall lie as provided in Title 14A for the administration of trusts, and otherwise in a probate district ~~of the court~~ as follows:

* * *

(26) Declaratory judgments (unless otherwise provided in Title 14A for proceedings relating to the administration of trusts):

(A) if any related proceeding is then pending in any probate division of the superior court, in that district;

(B) if no proceeding is pending:

(i) in the district where the petitioner resides; or

(ii) if a decedent's estate, a guardian or ward, or trust governed by Title 14 is the subject of the proceeding, in any district where venue lies for a proceeding thereon.

(27) Issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age: in the district or ~~county~~ unit where either applicant resides, if either is a resident of the state; otherwise in the district or ~~county~~ unit in which the civil marriage is sought to be consummated.

(28) Appointment of a trustee for a person confined under a sentence of imprisonment: in the district or ~~county~~ unit in which the person resided at the time of sentence, or in the district or ~~county~~ unit in which the sentence was imposed.

* * *

Sec. 19. DELETED

Sec. 20. 4 V.S.A. § 355 is amended to read:

§ 355. DISQUALIFICATION OR DISABILITY OF JUDGE

When a probate judge is incapacitated for the duties of ~~his~~ office by absence, removal from the district, resignation, sickness, death, or otherwise or if ~~he, his wife~~ the judge or the judge's spouse or child is heir or legatee under a will filed in ~~his~~ the judge's district, or if ~~he~~ the judge is executor or administrator of the estate of a deceased person in his or her district, or is interested as a creditor or otherwise in a question to be decided by the court, he or she shall not act as judge. ~~His~~ The judge's duties shall be performed by ~~the register, if not disqualified, or a judge of another district or an assistant judge of the superior court of the county in which such district is situated. The register or judge shall have jurisdiction to act while such disqualification, incapacity or vacancy exists~~ a superior judge assigned by the presiding judge of the unit.

Sec. 21. 4 V.S.A. § 356 is amended to read:

§ 356. AUTHORITY OF JUDGE AFTER END OF TERM

(a) A probate judge whose term of office has expired, or who has vacated such office, shall have authority to act in the capacity of probate judge to conclude causes and proceedings partly or fully heard before ~~him~~ the judge as

probate judge as fully and effectively as he or she could ~~had~~ if he or she remained in such office. He or she may make, sign, and enter findings, decisions, orders, and decrees in causes or proceedings so pending before him or her as probate judge, and all such acts so performed by ~~him~~ the judge shall have as full force and effect as they would have had if he or she had remained in office.

(b) The jurisdiction conferred by subsection (a) of this section shall not be exercised ~~unless the successor to the retiring judge shall file and cause to be recorded in such cause or proceeding within 30 days from the time of assuming office a certificate stating that such cause or proceeding was partly or fully heard before such retiring judge and that jurisdiction thereof shall be retained by such retiring judge~~ if the presiding judge of the unit determines that the successor to the probate judge will assume jurisdiction for all or part of the cases.

(c) A probate judge who exercises the jurisdiction conferred by subsection (a) of this section shall receive compensation at a rate fixed by the ~~successor judge, and the compensation and necessary expenses allowed by the successor judge shall be paid by the state~~ court administrator.

Sec. 22. 4 V.S.A. § 357 is amended to read:

§ 357. REGISTERS OF PROBATE; APPOINTMENT AND REMOVAL; COMPENSATION; CLERKS

~~(a)~~ The ~~probate judge shall appoint and remove registers of probate and clerical assistants for the probate courts, who shall be paid by the state and shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, as determined by the court administrator subject to any applicable statutory limits, unless otherwise covered by the provisions of a collective bargaining agreement setting forth the terms and conditions of employment, negotiated pursuant to chapter 28 of Title 3~~ court administrator, in consultation with the probate judge, shall appoint a register of probate for each district. The probate judge may request that the court administrator designate one or more staff persons as additional registers.

~~(b) Subject to the approval of the court administrator, more than one register of probate may be appointed in any probate district as the business of the court requires.~~

Sec. 23. 4 V.S.A. § 362 is amended to read:

§ 362. OATHS

A probate judge or register may administer oaths ~~necessary in the transaction of business before the probate court and oaths required to be administered to persons executing trusts under the appointment of such court~~.

Sec. 23a. 4 V.S.A. § 363 is amended to read:

§ 363. POWERS

(a) ~~A~~ The probate division of the superior court may issue warrants, subpoenas, and processes in conformity with the law necessary to compel the attendance of witnesses or to produce books, papers, documents, or tangible things, or to carry into effect the orders, sentences, or decrees of the probate ~~court~~ division or the powers granted it by law.

(b) ~~A~~ The probate division of the superior court may appoint not more than three masters to report on a particular issue or to do or perform particular acts or to receive and report evidence.

Sec. 24. 4 V.S.A. § 364 is amended to read:

§ 364. COMMITMENT TO ENFORCE ORDERS

If a person does not comply with an order, sentence, or decree of the probate division of the superior court in a proceeding formerly within the jurisdiction of the probate court, the court may issue a warrant committing the person to the custody of the commissioner of corrections until compliance is given.

Sec. 25. 4 V.S.A. § 369 is amended to read:

§ 369. NONRESIDENT'S ESTATE; NOTICE TO COMMISSIONER OF TAXES; INFORMATION TO BANKS

(a) When an executor or administrator is appointed to administer within this state an estate of a deceased person who resided in another state or country at the time of his or her death, the judge ~~of probate so appointing~~ who issued the appointment shall forthwith notify ~~in writing forthwith~~ the commissioner of taxes in writing of ~~such~~ the appointment, giving the name and residence of ~~such~~ the deceased person at the time of his or her death, the name and residence of the executor or administrator, the date of his or her appointment, and ~~identifying~~ the ~~probate~~ court making ~~such~~ the appointment.

(b) The commissioner shall keep a full record in each case and upon inquiry made of him or her by any savings bank or savings institution in the state shall at once notify ~~such~~ the bank or institution whether, as shown by his or her record, an executor or administrator has been appointed by any ~~probate~~ court in the state to administer the estate of the deceased person named in ~~such~~

the inquiry. If there has been such an appointment, the commissioner shall furnish the above information to ~~such~~ the bank or institution forthwith.

Sec. 26. DELETED

Sec. 27. 4 V.S.A. § 436a is amended to read:

§ 436a. —SPECIAL CIRCUIT AT WATERBURY

There is hereby established a special unit of the ~~district~~ family division of the superior court to hold sessions in the town of Waterbury for the sole purpose of exercising jurisdiction over applications for treatment of mentally ill individuals under Title 18. That unit shall have exclusive jurisdiction of any application for involuntary hospitalization arising under the provisions of 18 V.S.A. §§ 7801, 7803, and 8001 where the proposed patient is confined to the Vermont State Hospital at Waterbury. The special unit shall not exercise any other civil or criminal jurisdiction otherwise exercised by the ~~district court created under section 436 of this title~~ superior court. A ~~district~~ superior judge shall be assigned by the administrative judge to the special unit~~, who need not be a resident of the town of Waterbury or of the territorial unit in which the town of Waterbury is otherwise located. The district judge assigned to the special unit may be assigned by the administrative judge to serve temporarily in another unit where he may exercise the same jurisdiction as any district judge. If another district judge is assigned to the special unit temporarily, he shall exercise only the jurisdiction conferred on that unit~~.

Sec. 28. DELETED

Sec. 28a. 4 V.S.A. § 455 is amended to read:

§ 455. TRANSFER OF PROBATE PROCEEDINGS

(a) Any guardianship action filed in the probate division of the superior court pursuant to chapter 111, subchapter 2, article 1 of Title 14 and any adoption action filed in the probate ~~court~~ division pursuant to Title 15A may be transferred to the family division of the superior court as provided in this section.

(b) The family ~~court~~ division shall order the transfer of the proceeding on motion of a party or on its own motion if it finds that the identity of the parties, issues, and evidence are so similar in nature to the parties, issues, and evidence in a proceeding pending in the family ~~court~~ division that transfer of the probate action to the family ~~court~~ division would expedite resolution of the issues or would best serve the interests of justice.

Sec. 29. 4 V.S.A. § 461 is amended to read:

§ 461. OFFICE OF MAGISTRATE; JURISDICTION; SELECTION; TERM

(a) The office of magistrate is created within the family division of the superior court. Except as provided in section 463 of this title, the office of magistrate shall have nonexclusive jurisdiction ~~concurrent with the family court~~ to hear and dispose of the following cases and proceedings:

(1) Proceedings for the establishment, modification, and enforcement of child support.

(2) Cases arising under the Uniform Interstate Family Support Act.

(3) Child support in parentage cases after parentage has been determined.

(4) Cases arising under ~~section 5533 of Title 33~~ 33 V.S.A. § 5116, when delegated by ~~the family~~ a presiding judge of the superior court.

(5) Proceedings to establish, modify, or enforce temporary orders for spousal maintenance in accordance with ~~sections~~ 15 V.S.A. §§ 594a and 752 ~~of Title 15~~.

(6) Proceedings to modify or enforce temporary or final parent-child contact orders issued pursuant to this title.

(7) Proceedings to establish parentage.

(8) Proceedings to establish temporary parental rights and responsibilities and parent-child contact.

(b) A magistrate shall be an attorney admitted to practice in Vermont with at least four years of general law practice. Magistrates shall be nominated, appointed, and confirmed in the manner of superior judges.

(c) ~~The term of office of a magistrate shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A magistrate may be reappointed by the governor under this section without review by the judicial nominating board, but a reappointment shall require the consent of the senate.~~

(1) Terms of office of magistrates, except in the case of an appointment to fill a vacancy or unexpired term, shall be for a term of six years from and including April 1 in the year of the magistrate's appointment or retention. A magistrate shall remain in office until a successor is appointed and qualified, unless sooner removed for cause or unless he or she resigns.

(2) A magistrate may file in the office of the secretary of state, on or before September 1 of the year preceding the expiration of the term for which he or she was appointed or retained, a declaration that he or she will be a candidate to succeed himself or herself. However, a magistrate appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a magistrate files such a declaration, his or her name shall be submitted to the general assembly for a vote on retention. The general assembly shall vote upon one ballot on the question: "Shall the following magistrates be retained in office?" The names of the magistrates shall be listed followed by "Yes__ No__." If a majority of those voting on the question vote against retaining a magistrate in office, upon the expiration of the term, a vacancy shall exist which shall be filled in accordance with the constitution and chapter 15 of this title. If the majority vote is in favor of retention, the magistrate shall, unless removed for cause, remain in office for another term, and at its end, shall be eligible for retention in office in the manner herein prescribed.

(3) The court administrator shall notify the secretary of state whenever a magistrate is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the magistrate has succeeded, thereby resulting in automatic notification of an intention to continue in office. Whenever a magistrate files a declaration under subsection (a) of this section or when notification occurs automatically, the secretary of state shall notify the president of the senate, the speaker of the house, and the legislative council forthwith.

(d) Magistrates shall be exempt employees of the judicial branch, subject to the Code of Judicial Conduct, and, except as provided in section 26 of this title, shall devote full time to their duties. The supreme court shall prescribe training requirements for magistrates.

(e) A magistrate shall have received training on the subject of parent-child contact before being assigned to hear and determine motions filed pursuant to subdivision (a)(6) of this section.

(f) [Repealed.]

Sec. 29a. 4 V.S.A. § 461a is amended to read:

§ 461a. ESSEX COUNTY; POWERS OF ASSISTANT JUDGES AND MAGISTRATES IN FAMILY COURT PROCEEDINGS

(a) Notwithstanding any other provision of law to the contrary, an assistant judge of Essex County who has satisfactorily completed the training provided

by the Vermont supreme court pursuant to Sec. 20 of Act No. 221 of the 1990 adjourned session, or a similar course of training that has been approved by the supreme court, shall act as a magistrate and hear and dispose of proceedings for the establishment, modification and enforcement of child support and establishment of parentage in all cases filed or pending in the family division of the superior court in Essex County.

(b) The administrative judge may appoint and may specially assign ~~the~~ a magistrate ~~assigned to Essex County~~ to serve as the presiding ~~family court~~ judge in the family division of the superior court in Essex County. ~~The magistrate assigned shall not hear and dispose of proceedings assigned to the assistant judges in subsection (a) of this section, unless authorized by section 463 of this title.~~

(c) No Vermont family court action filed or pending in Essex County, except for temporary abuse prevention ~~orders that are sought as emergency relief pursuant to V.R.F.P. 9(c) after regular court hours~~ proceedings and juvenile proceedings under Title 33, shall be heard at or transferred to ~~any other location, except Guildhall~~ the family division in another unit of the superior court.

Sec. 29b. 4 V.S.A. § 461c is amended to read:

§ 461c. POWERS OF ASSISTANT JUDGES IN DIVORCE PROCEEDINGS

(a) Notwithstanding any other provision of law to the contrary, an assistant judge ~~who has served in that office for a minimum of two years~~ may elect to hear and determine a complaint or action which seeks a divorce, legal separation, or civil union dissolution in cases where a final stipulation of the parties has been ~~reached~~ filed with the court.

(b) When an assistant judge elects to hear such cases, the clerk shall set it for hearing before the assistant judge if available. ~~In the event both assistant judges elect to hear such cases, the senior assistant judge shall make case assignments.~~

(c) ~~Assistant judges~~ Prior to hearing an uncontested domestic matter, an assistant judge shall sit with a superior judge on domestic proceedings for a minimum of 100 hours, satisfactorily complete a minimum of 30 hours of training ~~on the subjects of child support and divorce, which shall be provided by the office of child support, and in order to hear and determine complaints under this section upon completion of the training, assistant judges not already conducting hearings under this section as of July 1, 1995, shall~~ on subjects relevant to domestic proceedings and the code of judicial conduct, and conduct a minimum of three uncontested ~~divorce~~ domestic hearings with a ~~family court~~

superior judge who shall, in his or her sole discretion, certify to the ~~supreme court~~ administrative judge that the assistant judge is qualified to preside over matters under this section. Upon application of an assistant judge, some or all of these requirements may be waived by the administrative judge based on equivalent experience. The requirements set forth herein shall only apply to assistant judges who elect to conduct uncontested final hearings in domestic cases after July 1, 2010. An assistant judge already conducting hearings under this section as of July 1, 2010, shall be deemed to have complied with these requirements.

Sec. 30. 4 V.S.A. § 462 is amended to read:

§ 462. FINDINGS; ORDERS; STIPULATIONS

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

(b) A magistrate may issue an order based on a stipulation regarding any preliminary matter necessary to issue a child support order.

(c) If the stipulation of the parties regarding child support includes matters other than preliminary matters necessary to issue a child support order, the stipulation may be accepted and approved by the magistrate in respect to those preliminary matters and signed by the magistrate as an order of the family division of the superior court.

(d) A magistrate shall issue an order for child support based upon the actual physical living arrangements of the children during the prior three months if the parties have not stipulated concerning parental rights and responsibilities. If parental rights and responsibilities are contested, the family division of the superior court shall make an order allocating parental rights and responsibilities.

Sec. 31. 4 V.S.A. § 463 is amended to read:

§ 463. JURISDICTION OF FAMILY DIVISION OF SUPERIOR COURT OVER CHILD SUPPORT

Upon motion of either party, upon motion of the magistrate, or upon the ~~family~~ court's own motion, a judge of the family division of the superior court may hear and determine the issue of child support, provided there is a prior

existing support order in effect or an interim or temporary order and the court finds one of the following:

* * *

(4) Such good and substantial cause as the ~~family~~ court may find, consistent with the principle that support cases shall be heard in a timely manner.

Sec. 32. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) A judicial nominating board is created for the nomination of supreme court justices, ~~and~~ superior ~~and district~~ judges, magistrates, the chair of the public service board, and members of the public service board.

* * *

(d) The judicial nominating board shall adopt rules under chapter 25 of Title 3 which shall establish criteria and standards for the nomination of qualified candidates for ~~judicial appointment including~~ justices of the supreme court, superior judges, magistrates, the chair of the public service board, and members of the public service board. The criteria and standards shall include, but not be limited to, such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service.

* * *

Sec. 33. 4 V.S.A. § 602 is amended to read:

§ 602. —DUTIES

(a) Prior to submission of names of qualified candidates for justices of the supreme court, superior judges ~~and district judges~~, magistrates, the chair of the public service board, and members of the public service board to the governor ~~or general assembly as set forth in subsection (b) of this section~~, the board shall submit to the court administrator of the supreme court a list of all candidates, and ~~he~~ the administrator shall disclose to the board information solely about professional disciplinary action taken or pending concerning any candidate. From the list of candidates presented, the judicial nominating board shall select by majority vote, provided that a quorum is present, qualified candidates ~~as set forth in subsection (b)~~ for the position to be filled.

(b) Whenever a vacancy occurs in the office of a supreme court justice~~,~~ or a superior ~~or district~~ judge, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself, the judicial nominating board

shall submit to the governor the names of as many persons as it deems qualified to be appointed to the office. There shall be included in the qualifications for appointment that the person shall be an attorney at law who has been engaged in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding ~~his~~ appointment, and with respect to a candidate for superior ~~or district~~ judge particular consideration shall be given to the nature and extent of ~~his~~ the candidate's trial practice.

* * *

Sec. 34. 4 V.S.A. § 603 is amended to read:

§ 603. ~~JUDGES;~~ APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES, PUBLIC SERVICE BOARD CHAIRS, AND MEMBERS

Whenever the governor appoints a supreme court justice ~~or,~~ a superior ~~or district~~ judge, a magistrate, a chair of the public service board, or a member of the public service board, he ~~shall do so~~ or she shall select from the list of names of qualified persons submitted ~~to him~~ by the judicial nominating board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

Sec. 35. 4 V.S.A. § 605 is amended to read:

§ 605. POLITICAL ACTIVITY BY JUDGES PROHIBITED

Superior ~~and district~~ judges shall not make any contribution to or hold any office in a political party or organization or take part in any political campaign.

Sec. 36. 4 V.S.A. § 608 is amended to read:

§ 608. FUNCTIONS

(a) Declarations submitted to the general assembly by a supreme court justice under subsection 4(c) of this title, by a superior court judge under subsection 71(b) of this title, or by a ~~district court judge under subsection 604(a) of this title~~ magistrate under subsection 461(c) of this title shall be referred immediately to the joint committee on judicial retention. The declarations shall be accompanied by a supporting statement by the judge ~~or,~~ the justice, or the magistrate seeking retention. In the case of a ~~district or~~ superior court judge or magistrate, the declaration shall also be accompanied by information on the next succeeding rotation schedule for the judge seeking retention.

(b) The joint committee responsible for the recommendation of retention shall review the candidacies of those justices, superior judges, and ~~district judges~~ magistrates desiring to succeed themselves. In conducting its review

the committee shall evaluate judicial performance, including but not limited to such factors as integrity, judicial temperament, impartiality, health, diligence, legal knowledge and ability, and administrative and communicative skills.

* * *

(d) A judge ~~or~~, a justice, or a magistrate seeking retention has the right to present oral or written testimony to the committee relative to his or her retention, may be represented by counsel, and may present witnesses to testify in his or her behalf. Copies of written comments received by the committee shall be forwarded to the judge ~~or~~, the justice, or the magistrate. A judge ~~or~~, a justice, or a magistrate seeking retention has the right to a reasonable time period to prepare and present to the committee a response to any testimony or written complaint adverse to his or her retention and has the right to be present during any public hearing conducted by the committee.

* * *

(g) The votes on retention under subsections 4(c), 71(b), and ~~604(a)~~ 461(c) of this title shall be conducted in one joint assembly of the general assembly, except that in the event that the joint committee reports to the general assembly that it is not able to make its recommendation on a particular justice, ~~or~~ judge, or magistrate under subsection (b) of this section on or before the date set for such joint assembly, the vote on such individual or individuals shall be deferred to a subsequent joint assembly, and separate ballots shall be used despite any other statutory provisions relating to the votes on retention.

Sec. 37. 4 V.S.A. § 651 is amended to read:

§ 651. ~~COUNTY CLERK AS CLERK~~ CLERKS OF COURTS

~~Each county clerk shall be clerk of the superior court for the county.~~ The court administrator shall act as clerk of the supreme court as provided in section 8 of this title. The court administrator shall appoint a superior court clerk for each unit. The court administrator may appoint the same person to be clerk in more than one unit. With approval of the court administrator, the clerk shall hire office staff. The clerk shall have the powers and responsibilities formerly held by the clerk of the district court or the family court and may delegate specific powers and responsibilities to assigned staff. Unless so designated by the assistant judges of a specific county, with the approval of the court administrator, a superior court clerk shall not also serve as a county clerk.

Sec. 38. 4 V.S.A. § 652 is amended to read:

§ 652. RECORDS OF JUDGMENTS AND OTHER PROCEEDINGS; DOCKETS; CERTIFIED COPIES

The clerk shall:

* * *

(4) Except as provided in section 22 V.S.A. § 454 ~~of Title 22~~, ~~he shall~~ keep on file and preserve all process, pleadings, and papers relating to causes in superior court which together with the records of the court, he or she shall give to any person, on demand and tender of the legal fees, certified copies of any of the records, proceedings or minutes in his or her office, and all proper certificates, under the seal of the court. However, the clerk shall not disclose the filing of an action or release any records, proceedings, or minutes pertaining to it until service of process has been completed; nor shall ~~he~~ the clerk disclose any materials or information required by law to be kept confidential. Original court records shall be maintained for two years after final court action and thereafter may be maintained on microfilm or electronic media.

Sec. 39. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the court clerk's office become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, by an order in writing recorded in the court clerk's office, the court administrator shall direct the court clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, ~~he~~ the clerk shall certify under ~~his~~ official signature and the seal of the court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~county~~ state.

Sec. 40. 4 V.S.A. § 658 is amended to read:

§ 658. SUPREME COURT RECORDS

Whenever the records of the supreme court are transcribed by the ~~county~~ superior court clerk, ~~he~~ the clerk shall forthwith transmit the original of such record to the court administrator for safekeeping, together with a certified copy thereof. The ~~county~~ superior court clerk shall keep on file an additional certified copy of such transcription in place of the original so transmitted. A copy of such original record certified by the court administrator from the original or a copy certified by the ~~county~~ superior court clerk from the transcript retained on file ~~by him~~ shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript and of transmittal of the original record shall be paid by the state.

Sec. 41. 4 V.S.A. § 659 is amended to read:

§ 659. ~~MICROFILMING~~ PRESERVATION OF COURT RECORDS

(a) The supreme court by administrative order may provide for permanent preservation of all court records by ~~microfilming, or by~~ any ~~other~~ photographic or electronic process which will provide compact records in reduced size, in accordance with standards established by the ~~department of buildings and general services of the Vermont agency of administration~~ secretary of state which take into account the quality and security of the ~~microphotographed~~ records, and ready access to the ~~micrographic~~ record of any cause so recorded.

(b) After ~~microfilming~~ preservation in accordance with subsection (a) of this section, the supreme court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to ~~an appropriate institutional facility such as~~ the archives of the secretary of state, ~~the department of buildings and general services of the agency of administration,~~ the Vermont historical society, or the ~~university~~ University of Vermont.

Sec. 42. 4 V.S.A. § 691 is amended to read:

§ 691. CLERKS AND ASSISTANTS; APPOINTMENT; COMPENSATION

(a) The superior court clerk, with the approval of the court administrator, ~~with the advice of the district judge concerned,~~ may ~~appoint~~ hire and remove ~~clerks and assistant clerks~~ staff for the ~~district~~ superior court subject to the terms of any applicable collective bargaining agreement. The clerks and ~~assistant clerks~~ staff shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, subject to any applicable statutory limits, unless covered by a collective bargaining agreement that sets forth the terms and conditions of employment negotiated pursuant to the provisions of chapter 28 of Title 3.

(b) A staff person for the superior court may also serve as the county clerk if the court administrator approves of such service with the concurrence of the assistant judges. If a superior court staff person serves as county clerk pursuant to this subsection, the court administrator and the assistant judges shall enter into a memorandum of understanding with respect to the duties, work schedule, and compensation of the person serving.

Sec. 42a. 3 V.S.A. § 1011 is amended to read:

§ 1011. DEFINITIONS

For the purposes of this chapter:

* * *

(8) "Employee," means any individual employed and compensated on a permanent or limited status basis by the judiciary department, including permanent part-time employees and any individual whose employment has ceased as a consequence of, or in connection with, any current labor dispute or because of an unfair labor practice. "Employee" does not include any of the following:

* * *

(J) ~~A~~ An employee paid by the state who is appointed part-time as county clerk ~~who is compensated~~ pursuant to ~~32 V.S.A. § 1181~~ 4 V.S.A. § 651 or 691.

* * *

Sec. 43. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The supreme court by administrative order shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all ~~family~~ court records and the provision, subject to confidentiality requirements of ~~chapter 55 of Title 33~~ law or court rules, of certified copies of those records to persons requesting them.

Sec. 44. 4 V.S.A. § 798 is amended to read:

§ 798. PROBATIVE FORCE OF TRANSCRIPTS

All transcripts of evidence or proceedings in a cause or hearing tried in superior court~~, probate court or district court~~ or before an auditor, referee, or commissioner, ordered to be reported by ~~the presiding judge,~~ a probate or ~~district~~ superior judge, and made by or under the direction of the reporter and duly certified by him or her to be a verbatim transcript of ~~his~~ the verbatim stenographic notes of such evidence or proceedings, shall be received as evidence in any action, civil or criminal, if relevant thereto.

Sec. 44a. 4 V.S.A. § 799 is amended to read:

§ 799. PROBATE COURT REPORTERS

~~The court administrator, upon~~ Upon request of a probate judge, the superior court clerk shall appoint and assign a ~~stenographic reporter~~ staff member to make a verbatim report of the proceeding in a probate court.

Sec. 45. 4 V.S.A. § 803(a) and (b) are amended to read:

(a) Subject to any rules prescribed by the supreme court pursuant to law, electronic sound or sound and video recording equipment may be used for the recording of any ~~civil, criminal, or probate proceedings~~ superior court or judicial bureau proceeding, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements, and remarks made by any attorney or judge, oral instructions given by the judge, and any other judicial proceedings to the same extent as any recording by a stenographer or reporter permitted or required under existing statutes.

(b) For the purpose of operating ~~the sound~~ recording equipment, the judge may appoint or designate the official reporter of that court, a special reporter, the clerk of the court, any ~~assistant clerks~~ staff of the court, the court officer, or any other designated court personnel. The person operating ~~the sound~~ recording equipment shall subscribe to an oath that the operator will well and truly operate it to record all matters and proceedings.

Sec. 46. 4 V.S.A. § 952(a) is amended to read:

(a) The court administrator, subject to the approval of the supreme court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each ~~jury commission~~ superior court clerk shall, in conformity with ~~said~~ the rules, prepare a list of jurors from residents of its ~~county~~ unit. The rules shall be designed to assure that the list of jurors prepared by the jury commission shall be representative of the citizens of its ~~county~~ unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 47. 4 V.S.A. § 953(a), (b), and (e) are amended to read:

(a) The ~~jury commission~~ clerk, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the court administrator may obtain the names, addresses, and dates of birth of persons which are contained in the records of the department of motor vehicles, the department of labor, the department of taxes, the department of health, and the department for children and families. The court administrator may also obtain the names of voters from the secretary of state. After the names have been obtained, the court administrator shall compile them and provide the names, addresses, and dates of birth to the ~~jury commission~~ clerk in a form that will not reveal the source of

the names. The ~~jury commission~~ clerk shall include the names provided by the court administrator in the list of potential jurors.

(e) All public officers shall, on request, furnish the ~~jury commission~~ clerk or the court administrator without charge, any information it may require to enable it to select eligible persons, ascertain their qualifications, or determine the number needed.

Sec. 48. 4 V.S.A. § 954 is amended to read:

§ 954. DEPOSIT OF LIST

Prior to the first day of July in each biennial year, the ~~jury commission~~ clerk shall prepare and file a current master list of jurors ~~in the office of the county clerk~~ and certify its completion and filing to the court administrator. The current master lists shall contain the number of names necessary adequately to serve the needs of the courts involved for a two-year period beginning July 1.

Sec. 49. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The ~~jury commission~~ clerk shall send a jury questionnaire prepared by the court administrator to each person selected. When returned, it shall be retained in the ~~county~~ superior court clerk's office~~, except that those questionnaires submitted by prospective jurors for service in the district court of Vermont shall be deposited with the clerk of the district court concerned~~. The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.

Sec. 50. 4 V.S.A. § 957 is amended to read:

§ 957. DRAWING AND SUMMONING JURORS

The manner of drawing and summoning jurors from the lists provided shall be in accordance with the rules of the court in which they are called to serve and all applicable statutes, including section 952 of this title, requiring that the panel shall be representative of the citizens of the ~~county~~ unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 51. 4 V.S.A. § 959 is amended to read:

§ 959. GRAND JURORS; VENIRE

The ~~jury commission~~ clerk, as directed by the judges of each superior court, shall summon 18 judicious persons within the ~~county~~ unit to appear at any stated or special term of that court to serve as grand jurors of the ~~county~~ unit. The clerk of the court shall issue a venire accordingly.

Sec. 52. 4 V.S.A. § 961(a) is amended to read:

(a) Any person who fails to return a completed questionnaire within ten days of its receipt may be summoned by the ~~county~~ superior court clerk ~~forthwith~~ to appear forthwith before the clerk to fill out a jury questionnaire. Any person so summoned who fails to appear as directed shall be ordered forthwith by the presiding judge to appear and show cause for his or her failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance may be found in contempt of court and shall be subject to the penalties for contempt.

Sec. 53. 4 V.S.A. § 1001 is amended to read:

§ 1001. ENVIRONMENTAL ~~COURT~~ DIVISION

(a) ~~An environmental court having statewide jurisdiction is created as a court of record subject to the authority granted to the supreme court.~~ The environmental ~~court~~ division shall consist of two judges, each sitting alone.

(b) Two environmental judges shall be appointed ~~within the judicial branch who shall~~ to hear matters ~~arising under 10 V.S.A. chapters 201 and 220 and matters arising under 24 V.S.A. chapter 117 and chapter 61, subchapter 12. In addition, the judges shall have original jurisdiction to revoke permits under 10 V.S.A. chapter 151~~ in the environmental division and to hear other matters in the superior court when so assigned by the administrative judge pursuant to subsection 21a(c) of this title.

(c) An environmental judge shall be an attorney admitted to practice before the Vermont supreme court. An environmental judge shall be nominated, appointed, confirmed, paid, and retained, and shall receive all benefits in the manner of a superior ~~court~~ judge.

(d) An environmental judge shall be appointed on April 1, for a term of six years or the unexpired portion thereof.

(e) Evidentiary proceedings in the environmental ~~court~~ division shall be held in the county in which all or a portion of the land which is the subject of the appeal is located or where the violation is alleged to have occurred, unless the parties agree to another location; provided, however, that the environmental judge shall offer expeditious evidentiary hearings so that no such proceedings are moved to another county to obtain an earlier hearing. Unless otherwise ordered by the court, all nonevidentiary hearings may be conducted by telephone or video conferencing using an audio or video record. If a party objects to a telephone hearing, the court may require a personal appearance for good cause.

(f) ~~The environmental court shall be provided with a dedicated minimum of one court manager, two law clerks, one case manager, and two docket clerk-courtroom operators. These positions shall not be subject to any rotation with other courts. The environmental court shall receive the same funding and provisions for security as provided to county courthouses.~~ [Repealed.]

(g) The supreme court may enact rules and develop procedures consistent with this chapter to govern the operation of the environmental ~~court~~ division and proceedings in ~~the court~~ it. In adopting these rules, the supreme court shall ensure that the rules provide for:

(1) expeditious proceedings that give due consideration to the needs of pro se litigants;

(2) the ability of the judge to hold pretrial conferences by telephone;

(3) the use of scheduling orders under the Vermont Rules of Civil Procedure in order to limit discovery to that which is necessary for a full and fair determination of the proceeding; and

(4) the appropriate use of site visits by the presiding judge to assist the court in rendering a decision.

Sec. 53a. 4 V.S.A. § 1002 is amended to read:

§ 1002. CONDUCT OF HEARINGS

Hearings before the environmental ~~court~~ division shall be conducted in an impartial manner subject to rules of the supreme court providing for a summary, expedited proceeding.

Sec. 53b. 4 V.S.A. § 1004 is amended to read:

§ 1004. ACCESS TO INFORMATION

(a) In connection with any proceedings under chapter 201 of Title 10, each party shall provide all other parties with all written statements and information in the possession, custody, or control of the party relative to the violation, including any technical studies, tests and reports, maps, architectural and engineering plans and specifications, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, the names and addresses of the party's witnesses, and any other information which the environmental ~~court~~ division deems necessary, in its sole discretion, to a fair and full determination of the proceeding.

(b) No other discovery or depositions, written interrogatories or requests to admit shall be permitted except that which is necessary for a full and fair determination of the proceeding.

Sec. 53c. 10 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(12) "Environmental court" means the environmental division of the superior court established by 4 V.S.A. § 30.

Sec. 53d. 10 V.S.A. § 8221 is amended to read:

§ 8221. CIVIL ENFORCEMENT

(a) The secretary, or the land use panel of the natural resources board with respect to matters relating to land use permits under chapter 151 of this title only, may bring an action in the civil division of the superior court to enforce the provisions of law specified in subsection 8003(a) of this title, to ensure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the attorney general in the name of the state.

* * *

Sec. 53e. 10 V.S.A. § 8502 is amended to read:

§ 8502. DEFINITIONS

As used in this chapter:

* * *

(3) "Environmental court" means the environmental ~~court established under 4 V.S.A. chapter 27~~ division of the superior court established by 4 V.S.A. § 30.

* * *

Sec. 54. 4 V.S.A. § 1103 is amended to read:

§ 1103. VENUE

Venue for violation hearings in the judicial bureau shall be in the unit of the ~~district~~ superior court where the violation is alleged to have occurred.

Sec. 55. 4 V.S.A. § 1104 is amended to read:

§ 1104. APPOINTMENT OF HEARING OFFICERS

The administrative judge shall appoint members of the Vermont bar to serve as hearing officers to hear cases. Hearing officers shall be subject to the Code

of Judicial Conduct. ~~At least one hearing officer shall reside in each territorial unit of the district court.~~

Sec. 55a. 4 V.S.A. § 1108 is amended to read:

§ 1108. ~~CIVIL ORDINANCE AND TRAFFIC~~ JUDICIAL BUREAU VIOLATIONS; JURISDICTION OF ASSISTANT JUDGES

(a) Subject to the limits of this section and notwithstanding any provision of law to the contrary, an assistant judge sitting alone shall have the same jurisdiction, powers, and duties to hear and decide ~~civil ordinance and traffic violations~~ matters within the jurisdiction of the judicial bureau under 4 V.S.A. § 1102 as a hearing officer has under the provisions of this chapter.

(b)(1) An assistant judge who elects to hear and decide ~~civil ordinance and traffic violations~~ matters in the judicial bureau shall:

(A) ~~have served in that office for a minimum of two years;~~ [Repealed.]

(B) have successfully completed at least 40 hours of training, which shall be provided by the ~~bureau~~ court administrator; and

(C) annually complete eight hours of continuing education ~~every year relating to jurisdiction exercised under this section~~ supervised by the court administrator.

(2) ~~Training shall be paid for by the county, which expenditure is hereby authorized.~~ The training and education required by this subsection shall be developed by the court administrator in consultation with the association of administrative judges. Law clerk assistance shall be available to the assistant judges.

(c) The administrative judge may assign or direct assignment of an assistant judge with his or her consent to hear ~~a civil ordinance or traffic violation case~~ matters in the judicial bureau within the county in which the assistant judge presides or in a county other than the county in which the assistant judge presides if the assistant judge has elected to hear and decide ~~civil ordinance and traffic violations under this section~~ such matters.

Sec. 55b. 4 V.S.A. § 1106(d) is amended to read:

(d) ~~With approval of his or her supervisor, a~~ A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement

officer may void or amend a complaint issued by that officer ~~subject to the approval of the hearing~~ in the discretion of that officer.

Sec. 56. 5 V.S.A. § 43 is amended to read:

§ 43. REVIEW BY SUPERIOR COURT

A party to a cause who feels aggrieved by the final order, judgment, or decree of the board may appeal to a superior court under Rule 74 of the Vermont Rules of Civil Procedure. However, the board, before final judgment, may permit an appeal to be taken by any party to a superior court for determination of questions of law in the same manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or a district court~~. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided in this section, shall operate as a stay of enforcement of an order of the board unless the board or a superior court grants a stay under the provisions of section 44 of this title.

Sec. 57. 5 V.S.A. § 3535 is amended to read:

§ 3535. RIGHT OF ACTION ON NONPAYMENT OF DAMAGES

When a railroad corporation has entered upon and used land and real estate for the construction and accommodation of its railroad, and has, by its engineers, agents, or servants, entered upon land contiguous to the railroad or the works connected therewith, and taken materials to use in the construction of its road, and has not paid the owner therefor, nor, within two years from such entry, had the damages appraised by commissioners, and an award made and delivered, a person claiming damages, within six years after such entry, may bring an action therefor before a ~~district~~ superior court~~, if the claim is not over $200.00, otherwise in the superior court~~. An answer justifying the entry under the act incorporating the company shall not bar the action, but the plaintiff shall recover only his or her actual damages.

Sec. 58. 6 V.S.A. § 484(b) is amended to read:

(b) The secretary or his or her inspector may enter upon the premises of a licensed dealer or processor, at reasonable times, for purposes of inspecting the premises, records, equipment, and inventory in a reasonable manner to determine whether the provisions of this chapter and the rules adopted hereunder are being observed. If entry is refused, the secretary may apply to a superior ~~or district~~ court judge for an administrative search warrant.

Sec. 59. 6 V.S.A. § 3316(b) is amended to read:

(b) ~~Washington County superior court, or any other~~ The superior court~~,~~ has legal and equitable jurisdiction to enforce, prevent, and restrain violations of this chapter and has legal and equitable jurisdiction in all other cases arising under this chapter. The superior ~~and district~~ courts are granted jurisdiction to handle criminal matters arising under this chapter and rules.

Sec. 60. 9 V.S.A. § 2154 is amended to read:

§ 2154. ASSIGNEE'S BOND

The assignee shall execute to the superior court for the ~~county~~ unit in which the assignor resides a bond with sureties to the satisfaction of such court and conditioned for the faithful performance of such trust. The assignee shall execute such bond at the time of making such assignment, and the same may be prosecuted by parties aggrieved as provided in chapter 101 of Title 14, relative to bonds ~~taken to the probate court~~ governed by that chapter.

Sec. 61. 10 V.S.A. § 497 is amended to read:

§ 497. REMOVAL OF SIGNS

The owner of a sign which is not licensed under this chapter and which is not a legal on-premise or exempt sign meeting the requirements set forth in this chapter, other than a sign which was lawfully erected and maintained prior to March 23, 1968, shall be in violation of this chapter until it is removed. The travel information council, or the secretary of transportation or ~~his~~ designee pursuant to authority delegated by the council, may, upon failure of the owner to remove such sign, order its removal by the agency of transportation, and the agency of transportation shall thereupon remove the sign without notice or further proceeding, at the expense of the owner. The expense may be recovered by the state in an action on this statute, which shall be instituted in the superior court ~~or Vermont district court having jurisdiction~~ in the unit for the area in which the sign is located. A copy of the notice of removal shall be sent by certified mail to the owner at the last known address. If an illegal sign is re-erected after the initial removal notice is executed, the agency of transportation shall have the authority to remove that illegal sign without additional prior notice to the owner. The agency of transportation or the legislative body of a municipality shall have the authority to remove or relocate, or both, without prior notice, any sign, device, or display which is temporary in nature and not affixed to a substantive structure which is erected within 24.75 feet of the actual centerline of any highway under its jurisdiction and within the public highway right-of-way.

Sec. 62. 10 V.S.A. § 6205(c) is amended to read:

(c) A leaseholder may bring an action against the park owner for a violation of sections 6236–6243 of this title. The action shall be filed in ~~district~~ superior court for the ~~district~~ unit in which the alleged violation occurred. ~~If the leaseholder's claim against the owner exceeds the jurisdictional limit of the district court, an action may be brought in superior court in the county in which the alleged violation occurred.~~ No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the action. During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided by law, which rental amount shall be deposited in an escrow account as directed by the court.

Sec. 63. 10 V.S.A. § 8014(a) and (b) are amended to read:

(a) The secretary may seek enforcement of a final administrative order or a landfill extension order in the civil, criminal, or environmental division of the superior ~~or district court or before the environmental~~ court.

(b) If a penalty is assessed and the respondent fails to pay the assessed penalty within the time prescribed, the secretary may bring a collection action in any civil or criminal division of the superior ~~or district~~ court. In addition, when a respondent, except for a municipality, fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel shall stay the effective date or the processing of any pending permit application or renewal application in which the respondent is involved until payment in full of all outstanding penalties has been received. When a municipality fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel may stay the effective date or the processing of any pending permit application or renewal application in which the municipality is involved until payment in full of all outstanding penalties has been received. For purposes of this subsection, "municipality" shall mean a city, town, or village. The secretary or the land use panel may collect interest on an assessed penalty that a respondent fails to pay within the prescribed time. The secretary or the land use panel shall collect interest on a contribution under subdivision 8007(b)(2) of this title that a respondent fails to pay within the prescribed time.

Sec. 64. 11 V.S.A. § 441 is amended to read:

§ 441. CORPORATION TO PRODUCE BOOKS ON NOTICE

(a) A corporation doing business within this state, whether organized under the laws of this or any other state or country, when notice therefor is served upon it according to the provisions of section 442 of this title, shall produce before any court, magistrate, grand jury, tribunal, or commission, acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which have been made or kept at any time within this state, and are in the custody or control of the corporation in this state or elsewhere at the time of service of the notice upon it.

(b) When notice therefor is served upon it according to the provisions of section 442 of this title, the corporation shall produce before any court, magistrate, grand jury, tribunal, or commission acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which in any way relate to or contain entries, data, or memoranda concerning any transaction within this state or with any party residing or having a place of business within this state, and which are in the custody or control of the corporation in this state or elsewhere at the time of service of notice upon it.

Sec. 65. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records ~~or family court case records~~. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the ~~district or family~~ superior court, or opinions of the ~~district~~ criminal division of the superior court; or

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records.

Sec. 66. 12 V.S.A. § 122 is amended to read:

§ 122. SUPERIOR JUDGE~~,~~ OR SUPERIOR COURT ~~AND DISTRICT COURT~~

When a party violates an order made against him or her in a cause brought to or pending before a superior judge or a superior court ~~or the district court~~ after service of the order upon that party, contempt proceedings may be instituted against him or her before the court or any superior judge. When, in a cause no longer on the docket of the court, the proceedings are brought before a superior judge, that judge forthwith shall order ~~forthwith~~ the cause to be brought forward on the docket of the court and may issue concurrently with the order a summons or capias against the party. The issuing of the summons or capias and any further proceedings thereon shall be minuted on the docket.

Sec. 67. 12 V.S.A. § 402 is amended to read:

§ 402. SUPERIOR COURT ACTIONS, VENUE GENERALLY~~;~~ ~~RAILROADS~~

(a) An action before a superior court shall be brought in the ~~county~~ unit in which one of the parties resides, if either resides in the state; otherwise, on motion, the complaint shall be dismissed. If neither party resides in the state, the action may be brought in any ~~county~~ unit. Actions concerning real estate shall be brought in the ~~county~~ unit in which the lands, or some part thereof, lie.

(b) An action brought by a domestic railroad corporation to the superior court may be brought either in the ~~county~~ unit in which the corporation has its principal office for the transaction of business, or in the ~~county~~ unit in which a defendant resides. An action or suit brought to the superior court, in which the corporation is defendant, may be brought in any ~~county~~ unit in which a road owned or operated by the corporation is located.

Sec. 67a. 12 V.S.A. § 403 is amended to read:

§ 403. PATENT RIGHTS

An action to recover a debt or demand, arising from the sale of or license to use a patent right, whether such demand is in the form of a promissory note or otherwise, shall be brought and tried in the ~~county~~ unit where the defendant resides or where such patent right was sold when such note or obligation purports to be given for a patent right, unless otherwise provided by law.

Sec. 68. 12 V.S.A. § 404 is amended to read:

§ 404. REMOVAL TO ANOTHER ~~COUNTY~~ UNIT

(a) When it appears to a presiding judge of a superior court that there is reason to believe that a civil action pending in such court cannot be impartially tried in the ~~county~~ unit where it is pending, on petition of either party, such judge shall order the cause removed to the superior court in another ~~county~~ unit for trial.

(b) ~~Such petition shall be verified by affidavit and served upon the adverse party like a writ of summons, at least twelve days before the time of hearing. If the adverse party resides without the state, it may be served upon his attorney of record in the cause.~~

~~(c) When an order is made to remove a cause from one superior court to another and such order is filed with the clerk of the court in which the cause is pending, he shall forthwith transmit to the clerk of the court to which such cause is removed, the original papers with a certified copy of the docket entries therein and of the order of removal. He shall thereupon enter the same upon the docket and further proceedings shall be had as if the cause had been originally brought to and entered in such court.~~

~~(d)~~ Attachments, recognizances, bonds, and orders in such cause, made before such removal, shall have the same validity as if the cause had continued in the court to which it was originally brought.

Sec. 69. 12 V.S.A. § 654(b) is amended to read:

(b) The signing of original writs is a ministerial act and may be done in advance of issuance. The signature of an attorney, except when he or she is the plaintiff, to a writ, pleading, notice of appeal, or other form, constitutes and shall be deemed security, by way of recognizance, for the issuance of such writ or the filing of such pleading, notice of appeal, or other form, and such attorney shall be liable to each defendant ~~in the sum of $10.00 for writs returnable before the district court and~~ in the sum of $50.00 for writs returnable to a superior court.

Sec. 70. 12 V.S.A. § 1644 is amended to read:

§ 1644. WITNESSES MAY BE EXAMINED SEPARATELY

On the trial of a civil cause, in its discretion, upon the application of either party, the superior court ~~or district court~~ may order the witnesses of the adverse party examined separately and apart from each other.

Sec. 71. 12 V.S.A. § 1691(a) is amended to read:

(a) In the trial of actions at law, and on motion and due notice ~~thereof given~~, supreme~~,~~ and superior ~~and district~~ courts may require the parties to produce any books or writings in their possession or power~~,~~ which contain evidence pertinent to the issue or relative to the action, and if the party fails to comply with the order, the court may render judgment against such party by nonsuit or default.

Sec. 72. 12 V.S.A. § 2136 is amended to read:

§ 2136. COSTS IN SUPREME~~, COUNTY,~~ AND ~~DISTRICT~~ SUPERIOR COURTS WHEN NOMINAL DAMAGES ARE RECOVERED

When the plaintiff in an action in ~~district,~~ superior or supreme court recovers judgment for a nominal sum for debt or damages, in its discretion, the court may make such order in respect to plaintiff's costs as is equitable, but not to exceed his or her taxable costs.

Sec. 73. 12 V.S.A. § 2357 is amended to read:

§ 2357. APPEALS ~~FROM PROBATE COURT~~ IN PROBATE PROCEEDINGS–FRAUD, ACCIDENT, OR MISTAKE

When the petitioner has been prevented from taking or entering an appeal in a probate proceeding by fraud, accident, or mistake, on petition and proof thereof, the supreme or superior court in its discretion may grant leave to file a notice of appeal from an order, sentence, decree, or denial of ~~a~~ the probate division of the superior court or from a determination of commissioners on the estate of a deceased person in those cases which are by law appealable.

Sec. 74. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts~~,~~ or the probate courts, ~~or the district court,~~ an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

(b) In its discretion and before final judgment, a superior court ~~or the district court~~ may permit an appeal to be taken by the respondent or the state in a criminal cause to the supreme court for determination of questions of law. The supreme court shall hear and determine the questions and render final judgment thereon or remand the proceedings as justice and the state of the cause may require.

Sec. 74a. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts ~~or the probate courts~~, an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

* * *

Sec. 75. 12 V.S.A. § 2551 is amended to read:

§ 2551. SUPREME COURT JURISDICTION OF PROBATE PROCEEDINGS IN SUPERIOR ~~AND PROBATE~~ COURTS

The supreme court shall have jurisdiction of questions of law arising in the course of the proceedings of the superior ~~and probate~~ courts in probate matters, as in other causes.

Sec. 76. 12 V.S.A. § 2556(a) is amended to read:

(a) In the two following cases, an executor, administrator, or creditor may appeal to the superior court from the decision and report of the commissioners, if notice of appeal is filed with the clerk of the superior court appealed to ~~and the register of the probate court~~ within ~~thirty~~ 30 days after the return of the commissioner's report:

* * *

Sec. 77. 12 V.S.A. § 3011 is amended to read:

§ 3011. ACTIONS

Trustee process may be used in any civil action commenced in a superior court ~~or the district court~~ except in actions for malicious prosecution, libel, slander, or alienation of affections.

Sec. 78. 12 V.S.A. § 3087 is amended to read:

§ 3087. —RECOGNIZANCE FOR TRUSTEE'S COSTS

The plaintiff in a trustee process shall give security for costs to the trustee by way of recognizance by some person other than the plaintiff. The security shall be ~~in the sum of $10.00 for a summons returnable before the district court and~~ in the sum of $50.00 for a summons returnable to a superior court. If trustee process issues without a minute of the recognizance, with the name of the surety and the sum in which he or she is bound, signed by the clerk, thereon, the trustee shall be discharged.

Sec. 79. 12 V.S.A. § 3151 is amended to read:

§ 3151. —TRUSTEE MAY FILE BOND AND SELL PROPERTY

When such action is pending in the supreme~~,~~ or superior~~, or district~~ court, the trustee may sell the property, and the purchaser shall hold the same released from the mortgage and attachment, if such trustee files with the clerk of ~~such~~ the court ~~or with the judge of such district court~~:

* * *

Sec. 80. 12 V.S.A. § 4251 is amended to read:

§ 4251. ACTIONS FOR ACCOUNTING—JURY

The superior ~~courts~~ court shall have original jurisdiction~~, exclusive of the district court,~~ in actions for an accounting other than accountings involved in the administration of trusts under Title 14A. When the defendant in such an action brought in one of the following ways pleads in defense an answer which, if true, makes him or her not liable to account, the issue thus raised may be tried to a jury:

* * *

Sec. 81. 12 V.S.A. § 4711 is amended to read:

§ 4711. DECLARATORY JUDGMENT; SCOPE

Superior courts ~~and probate courts~~ within their ~~respective~~ jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.

Sec. 82. 12 V.S.A. § 5136(c) is amended to read:

(c) The office of the court administrator shall ensure that the superior court ~~and the district court have~~ has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

Sec. 83. 12 V.S.A. § 5531(c) is amended to read:

(c) In small claims actions where the plaintiff makes a claim for relief greater than $3,500.00, the defendant shall have the right to request a special assignment of a judicial officer. Upon making this request, a superior judge~~, a~~

~~district judge,~~ or a member of the Vermont bar appointed pursuant to 4 V.S.A. § 22(b) shall be assigned to hear the action.

Sec. 84. 12 V.S.A. § 5538 is amended to read:

§ 5538. APPEALS

Any party may appeal from a small claims judgment to superior court. The administrative judge shall assign the appeal to a ~~district or~~ superior judge who shall not have participated in any way in the decision being appealed. The appeal shall be heard and decided, based on the record made in the small claims ~~court~~ procedure. No appeal as of right exists to the supreme court. On motion made to the supreme court by a party to the action, the supreme court may allow an appeal from the superior court.

Sec. 84a. 12 V.S.A. § 5540a is amended to read:

§ 5540a. JURISDICTION OVER SMALL CLAIMS; ASSISTANT JUDGES

(a)(1) Subject to the limitations in this section and notwithstanding any provision of law to the contrary, assistant judges of Essex, Caledonia, Rutland, and Bennington ~~counties~~ Counties sitting alone shall hear and decide small claims actions filed under this chapter with the Essex, Caledonia, Rutland, and Bennington superior courts. This subdivision shall apply only to assistant judges holding office on July 1, 2010.

(2) Subject to the limitations in this section and notwithstanding any provision of law to the contrary, assistant judges of Addison, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Washington, Windham, and Windsor ~~counties~~ Counties sitting alone shall hear and decide small claims actions filed under this chapter with the appropriate superior court if the assistant judges first elect to successfully complete the training required in subsection (b) of this section.

(b) With the exception of assistant judges authorized to preside in small claims matters prior to the effective date of this act who have successfully completed the testing requirements established herein, an assistant judge hearing cases under this section shall have completed at least 100 hours of relevant training and testing, and observed 20 hours of small claims hearings in accordance with the protocol for said training and observation which shall be established by ~~a majority of the assistant judges of the state, which shall include attendance at colleges or classes available in various locations in and outside the state to lay judges~~ the court administrator in consultation with the association of assistant judges. An assistant judge who hears cases under this section shall annually complete 16 hours of continuing education ~~every year,~~ established by the court administrator in consultation with the association of

assistant judges, relating to jurisdiction exercised under this section and shall file a certificate to such effect with the court administrator. ~~Training shall be paid for on a per capita basis of those judges electing to take the training by the county, which expenditure is hereby authorized.~~ Law clerk assistance available to superior ~~court~~ judges shall be available to the assistant judges.

* * *

(e) Subdivision (a)(2) of this section shall be repealed effective on ~~July 1, 2012~~ January 31, 2011.

Sec. 84b. INTENT; REPORT

On or before January 15, 2011, the association of assistant judges shall report to the senate and house committees on judiciary:

(1) participation rates describing the number and percentage of assistant judges who have elected to hear cases in the matters in which they are permitted by law to do so; and

(2) changes in county budgets directly attributable to the restructuring of the judiciary under this act.

Sec. 85. 12 V.S.A. § 5541 is amended to read:

§ 5541. COMPOSITION OF ~~SMALL CLAIMS~~ COURT IN SMALL CLAIMS CASES

For the purposes of this chapter, the superior court in small claims cases shall consist of the presiding judge sitting alone, an assistant judge sitting alone pursuant to section 5540 of this chapter, ~~or~~ an acting judge assigned pursuant to ~~section 22(b) of Title~~ 4 V.S.A. § 22(b).

Sec. 86. 12 V.S.A. § 5702 is amended to read:

§ 5702. JURISDICTION AND VENUE

The Vermont ~~district~~ superior court shall have exclusive jurisdiction over proceedings under this chapter, any provision of any statute, municipal charter, or ordinance to the contrary notwithstanding, except as provided in chapter 24 of Title 23. Venue for adjudicating offenses prosecuted by use of the uniform snowmobile/boating complaint shall be in the unit of the ~~district~~ superior court having jurisdiction over the geographical area where the offense is alleged to have occurred.

Sec. 87. 12 V.S.A. § 5705(b) and (d) are amended to read:

(b) Three ~~district~~ superior court judges appointed by the court administrator shall establish schedules, within the limits prescribed by law, of the amounts of

fines to be imposed. The court administrator shall appoint three persons who shall meet with the ~~district~~ superior judges and recommend a fine schedule. One person appointed shall be a member of the department of public safety, one shall be a delegate from the Vermont association of snow travelers, and one shall be a member of the general public who has an interest in boating and boating safety.

(d) If a defendant fails to answer or appear as directed on a uniform snowmobile/boating complaint or by the ~~district~~ superior court judge, or fails to pay the fine imposed after judgment, the court may proceed under section 5704 of this title.

Sec. 88. 12 V.S.A. § 5852 is amended to read:

§ 5852. OATHS OF OFFICE; BY WHOM ADMINISTERED

When other provision is not made by law, oaths of office may be administered by any justice of the supreme court, superior judge, assistant judge, justice of the peace, ~~judge of the district court,~~ notary public, or the presiding officer, secretary, or clerk of either house of the general assembly, or by the governor.

Sec. 89. 12 V.S.A. § 7105 is amended to read:

§ 7105. RULES OF PROCEDURE

Windsor ~~county~~ County court diversion, in conjunction with the Windsor County youth court advisory board established pursuant to section 7109 of this title, and after consultation with the youth court officers, the Windsor ~~county~~ County state's attorney, the office of the public defender for Windsor ~~county~~ County, and the presiding judges in ~~Windsor family and district courts~~ the unit of the superior court that includes Windsor County, shall adopt rules of procedure for the youth court prior to its first hearing.

Sec. 90. 12 V.S.A. § 7109(a) is amended to read:

(a) The Windsor ~~county~~ County youth court advisory board is created. The board shall consist of the presiding ~~family court~~ superior judge ~~in~~ for the unit that includes Windsor ~~county~~ County or designee, the Windsor ~~county~~ County state's attorney or designee, the superintendents of the Hartford, Springfield, and Windsor southeast supervisory union school districts or their designees, three youth court officers, three persons to be appointed by the Vermont supreme court, and the chair of the Windsor ~~county~~ County court diversion or designee. ~~All members of the board shall be appointed or designated by August 15, 1995, for terms expiring on June 30, 1999.~~ The supreme court appointees shall each be licensed to practice law in this state, and at least one

of the supreme court appointees shall have at least three years' experience in representing delinquent children. The members of the board shall serve on a voluntary basis without compensation.

Sec. 91. 12 V.S.A. § 7152 is amended to read:

§ 7152. JURISDICTION

The probate division of the superior court shall have exclusive jurisdiction over all proceedings concerning the emancipation of minors.

Sec. 92. 12 V.S.A. § 7153(a) is amended to read:

(a) A minor may petition the probate division of the superior court in the probate district in which the minor resides at the time of the filing for an order of emancipation. The petition shall state:

(1) The minor's name and date of birth.

(2) The minor's address.

(3) The names and addresses, if known, of the minor's parents.

(4) The names and addresses of any guardians or custodians, including the commissioner ~~of social and rehabilitation services~~ for children and families, appointed for the minor, if appropriate.

(5) Specific facts in support of the emancipation criteria in section 7151(b) of this chapter.

(6) Specific facts as to the reasons why emancipation is sought.

Sec. 93. 12 V.S.A. § 7155(d) is amended to read:

(d) Any order of guardianship or custody shall be vacated before the court may issue an order of emancipation. Other orders of any division of the ~~family or probate~~ superior court may be vacated, modified, or continued in this proceeding if such action is necessary to effectuate the order of emancipation. Child support orders relating to the support of the minor shall be vacated, except for the duty to make past-due payments for child support, which, under all circumstances, shall remain enforceable.

Sec. 94. 13 V.S.A. § 4 is amended to read:

§ 4. ACCESSORY BEFORE THE FACT

A person who is accessory before the fact by counseling, hiring, or otherwise procuring an offense to be committed may be informed against or indicted, tried, convicted, and punished as if he or she were a principal

offender in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where the principal might be prosecuted.

Sec. 95. 13 V.S.A. § 6 is amended to read:

§ 6. —PROSECUTION AND VENUE

~~Such~~ An accessory after the fact may be prosecuted, convicted, and punished whether the principal has or has not been previously convicted, or is or is not amenable to justice, in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where such person became an accessory or where the principal offense is committed.

Sec. 96. 13 V.S.A. § 901 is amended to read:

§ 901. DUTIES OF OFFICERS

A ~~district~~ superior judge, sheriff, deputy sheriff, or constable having notice or knowledge of the unlawful, tumultuous, or riotous assemblage of three or more persons within his or her jurisdiction, among or as near as he or she can safely come to such rioters, shall command them in the name of the state of Vermont immediately and peaceably to disperse. If after such command ~~such~~ the rioters do not disperse, such officer or magistrate and ~~such~~ any other person as he or she commands to assist him or her shall apprehend and forthwith take them before a ~~district~~ criminal division of a superior court.

Sec. 97. 13 V.S.A. § 2502 is amended to read:

§ 2502. PETIT LARCENY

~~Superior and district courts shall have concurrent jurisdiction of the~~ For offenses mentioned in section 2501 of this title where the money or other property stolen does not exceed $900.00 in value, ~~and~~ the court may sentence the person convicted to imprisonment for not more than one year or to pay a fine of not more than $1,000.00, or both.

Sec. 98. 13 V.S.A. § 2561(c) is amended to read:

(c) A buyer, receiver, seller, possessor, or concealer under subsection (a) or (b) of this section may be prosecuted and punished in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where the person stealing the property might be prosecuted, although such property is bought, received, or concealed in another county or ~~territorial~~ unit.

Sec. 99. 13 V.S.A. § 3011 is amended to read:

§ 3011. OFFICERS IN CHARGE OF JURY

An officer, sworn to take charge of a jury impaneled by the superior ~~or district~~ court for the trial of a cause, who, after they have been charged by the court, suffers a person to speak to them upon matters submitted to their charge, or speaks to them himself or herself about the same, except to ask if they are agreed upon a verdict, before they deliver their verdict in court, or are discharged, shall be fined not more than $500.00. The constable or other person having charge of a jury impaneled by a justice, who in like manner offends, shall be fined not more than $200.00.

Sec. 100. 13 V.S.A. § 3256(a) is amended to read:

(a) The victim of an offense involving a sexual act may obtain an order from the ~~district~~ criminal or family division of the superior court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. If requested by the victim, the state's attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.

Sec. 101. 13 V.S.A. § 4601 is amended to read:

§ 4601. GENERAL RULE

When not otherwise provided, criminal causes shall be tried in the criminal division of the superior court in the ~~county, or in the district court in the territorial~~ unit~~,~~ where an offense within the jurisdiction of such court is committed.

Sec. 101a. 13 V.S.A. § 4602 is amended to read:

§ 4602. WHEN ACT IN ONE COUNTY OR ~~TERRITORIAL~~ UNIT CAUSES DEATH IN ANOTHER

A person feloniously wounding or poisoning a person in one ~~county or territorial~~ unit of the ~~district~~ superior court, whose death results therefrom in another ~~county or territorial~~ unit, may be tried in the criminal division of the superior court in either ~~county or in the district court in either territorial~~ unit, if the offense is within the jurisdiction of such court.

Sec. 101b. 13 V.S.A. § 4603 is amended to read:

§ 4603. OFFENSE ON BOUNDARY

If an offense is committed on the boundary of two or more ~~counties or territorial~~ units of the ~~district~~ superior court, or within 100 rods of such boundary, such offense may be alleged in the information or indictment to have been committed and may be prosecuted in the criminal division of the superior court in any of such counties or in the ~~district~~ criminal division of the superior court in any of such ~~territorial~~ units, if the offense is within the jurisdiction of such court.

Sec. 102. 13 V.S.A. § 4631 is amended to read:

§ 4631. AUTHORITY

The supreme court may by rule provide for change of venue in criminal prosecutions ~~in the superior and district courts~~ upon motion, for the prevention of prejudice to the defendant or for the convenience of parties and witnesses and in the interests of justice. The court to which a prosecution is transferred shall thereby have jurisdiction of the cause, and the same proceedings shall be had therein as though ~~such court were in the county or territorial unit in which the offense was committed~~ the venue had not been changed.

Sec. 103. 13 V.S.A. § 4635 is amended to read:

§ 4635. ORDER FOR REMOVAL OF DEFENDANT

When a motion for change of venue has been granted and the defendant is in custody, the judge granting the motion shall issue an order in writing to the officer having the defendant in custody, commanding him or her to deliver the defendant to the keeper of the jail serving the ~~county or territorial~~ unit ~~of the district court~~ in which the ~~trial is~~ further proceedings are ordered to be had.

Sec. 104. 13 V.S.A. § 4638 is amended to read:

§ 4638. WHICH STATE'S ATTORNEY TO PROSECUTE

The state's attorney of the county in which the respondent is informed or complained against or indicted shall appear in behalf of the state ~~at the trial of the respondent~~ in the court to which the ~~trial~~ case is removed, and in proceedings relating thereto he or she shall have the same powers and be subject to the same duties and liabilities as though the trial were had in the county for which he or she is ~~such~~ the attorney.

Sec. 105. 13 V.S.A. § 4903 is amended to read:

§ 4903. TRANSPORTING PRISONER THROUGH STATE

Whenever an offender is apprehended in a neighboring state, and it may be necessary to transport him or her through this state to the place where the offense was committed, ~~the superior court, a presiding judge thereof,~~ a superior judge ~~or a judge of a district court,~~ upon application and proof that lawful process has issued against ~~such~~ the offender, shall issue a warrant under his or her hand and seal, directed to a sheriff or his or her deputy, or to a person by name who shall be sworn to the faithful performance of his or her duty, authorizing such conveyance.

Sec. 106. 13 V.S.A. § 4953 is amended to read:

§ 4953. ARREST PRIOR TO REQUISITION

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under section 4946 of this title, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole, or whenever complaint shall have been before a superior judge~~, assistant judge of the superior court, or judge of a district court~~ within this state, setting forth on the affidavit of a credible person in another state that a crime has been committed in such other state and that the accused has been charged in ~~such~~ that state with the commission of a crime, and, except in cases arising under section 4946, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole and is believed to have been found in this state, such judge shall issue a warrant ~~directed~~ to any sheriff or constable directing him or her to apprehend the person charged, wherever he or she may be found in this state, and bring him or her before the same or any other superior judge~~, assistant judge of the superior court or judge of a district court~~ who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 107. 13 V.S.A. § 4954 is amended to read:

§ 4954. ARREST WITHOUT A WARRANT

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested, the accused shall be taken before a superior judge~~, assistant judge of the superior court, or~~

~~judge of a district court~~ as soon as may be, and complaint shall be made against him or her under oath, setting forth the ground for the arrest as in section 4953 of this title; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

Sec. 108. 13 V.S.A. § 5043 is amended to read:

§ 5043. HEARING, COMMITMENT, DISCHARGE

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 5042 of this title, he or she shall without unnecessary delay take the person arrested before a superior judge~~, assistant judge of the superior court, or a judge of a district court~~ of the ~~county~~ unit in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If ~~such~~ the judge determines that the arrest was lawful, he or she shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state or admit such person to bail pending the issuance of such warrant. If ~~such~~ the judge determines that the arrest was unlawful, he or she shall discharge the person arrested.

Sec. 109. 13 V.S.A. § 5131 is amended to read:

§ 5131. APPLICATION FOR INQUEST

Upon the written application of the state's attorney, a judge of the superior court~~, or of a district court,~~ may institute and conduct an inquest upon any criminal matter under investigation by the state's attorney.

Sec. 109a. 13 V.S.A. § 5317 is amended to read:

§ 5317. GENERAL REQUIREMENTS FOR INFORMATION

(a) The information required to be furnished to victims under this chapter shall be provided upon request of the victim and, unless otherwise specifically provided, may be furnished either orally or in writing.

(b) A person responsible for furnishing information may rely upon the most recent name, address, and telephone number furnished by the victim.

(c) The court, state's attorneys, public defenders, law enforcement agencies, and the departments of corrections and of public safety shall develop and implement an automated notification system to deliver the information required to be furnished to victims under this chapter.

Sec. 109b. REPORT

Prior to implementing the automated victim notification system required by Sec. 109a of this act, the court, state's attorneys, public defenders, law

enforcement agencies, and the departments of corrections and of public safety shall report on the costs of the system to the senate and house committees on appropriations and on judiciary.

Sec. 110. 13 V.S.A. § 6642 is amended to read:

§ 6642. SUMMONING WITNESSES IN THIS STATE TO TESTIFY IN ANOTHER STATE

If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in an action in this state, certifies under the seal of such court that there is ~~such~~ an action pending in ~~such~~ that court, that a person being within this state is a material witness in ~~such~~ the action, and that his or her presence will be required for a specified number of days, upon presentation of ~~such~~ the certificate to any superior judge ~~or a judge of a district court~~ in the ~~county~~ unit in which ~~such~~ the person is, ~~such~~ the judge shall fix a time and place for a hearing in ~~such county~~ the unit and shall notify the witness ~~thereof~~ by an order stating the purpose of the hearing and directing him or her to appear therefor at a time and place certain.

Sec. 111. 13 V.S.A. § 6646 is amended to read:

§ 6646. WITNESS FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE

If a person in any state~~,~~ which by its laws has made provision for commanding persons within its borders to attend and testify in an action in this state~~,~~ is a material witness in ~~such~~ an action pending in a court of record in this state, a superior judge ~~or a judge of a district court~~ may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. ~~Such~~ The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his or her attendance in this state. ~~Such~~ The certificate shall be presented to a judge of a court of record of the state in which the witness is found.

Sec. 112. 13 V.S.A. § 7004 is amended to read:

§ 7004. RECORD OF CONVICTIONS; REPORT TO COMMISSIONER OF PUBLIC SAFETY

In all cases of felony or misdemeanor in which a conviction or plea of guilty is had in their respective courts, clerks of the superior ~~and district courts~~ court shall forthwith forward to the commissioner of public safety, on quadruplicate forms to be furnished by him or her, for file in the identification

and records division of the department of public safety, a certified report of ~~such~~ the conviction, together with the sentence and ~~such~~ any other facts ~~as~~ which may be required by the commissioner. A fee of ~~50 cents~~ $0.50 for such certified report shall be allowed by the commissioner of finance and management in settlement of the accounts of such courts.

Sec. 113. 13 V.S.A. § 7034 is amended to read:

§ 7034. ~~WHEN APPEALS FROM SEVERAL JUSTICE'S JUDGMENTS ARE NOT ENTERED~~

~~If such person appeals to the county or district court from two or more judgments by the same justice at different times, and fails to enter his or her appeals within the time required, the justice may issue a single mittimus to carry his or her judgments into effect, as provided in section 7033 of this title, and the 24 hours shall commence from the time of signing the mittimus, and such time shall be indorsed thereon.~~ [Repealed.]

Sec. 114. 13 V.S.A. § 7043(i) is amended to read:

(i) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior ~~or small claims~~ court of the ~~county~~ unit where the offender resides or in the ~~county~~ unit where the order was issued. In an action under this subsection, a restitution order issued by the ~~district~~ criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims ~~court~~ procedure in the same manner as a civil judgment. Superior and small claims ~~court~~ filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

Sec. 115. 13 V.S.A. § 7178 is amended to read:

§ 7178. SUSPENSION OF FINES

A superior ~~or district court~~ judge, in his or her discretion, may suspend all or any part of the fine assessed against a respondent.

Sec. 116. 13 V.S.A. § 7401 is amended to read:

§ 7401. APPEAL

In criminal actions or proceedings ~~in the superior courts or the district court~~, the defendant may appeal to the supreme court as of right all questions of law involved in any judgment of conviction and in any other order or judgment as to which the state has appealed, provided that if the state fails to perfect or prosecute such appeal, the appeal of the defendant shall not be heard.

Sec. 117. 13 V.S.A. § 7403 is amended to read:

§ 7403. APPEAL BY THE STATE

(a) In a prosecution for a misdemeanor, questions of law decided against the state ~~by a superior or district court~~ shall be allowed and placed upon the record before final judgment. The court may pass the same to the supreme court before final judgment. The supreme court shall hear and determine the questions and render final judgment thereon, or remand the cause ~~to such superior or district court~~ for further trial or other proceedings, as justice and the state of the cause may require.

(b) In a prosecution for a felony, the state shall be allowed to appeal to the supreme court any decision, judgment, or order ~~of a district or superior court~~ dismissing an indictment or information as to one or more counts.

(c) In a prosecution for a felony, the state shall be allowed to appeal to the supreme court from a decision or order ~~of a district or superior court~~:

* * *

Sec. 118. 13 V.S.A. § 7554(d) and (f) are amended to read:

(d)(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours shall, within 48 hours of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any ~~district or~~ superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any ~~district or~~ superior judge may review such conditions.

(f) The term "judicial officer" as used in this section and section 7556 of this title shall mean a clerk of a superior ~~or district~~ court or a superior ~~or district court~~ judge.

Sec. 119. 13 V.S.A. § 7560a(a) is amended to read:

(a) If a person who has been released on a secured or unsecured appearance bond or a surety bond fails to appear in court as required:

(1) The court may:

(A) issue a warrant for the arrest of the person; and

(B) upon hearing and notice thereof to the bailor or surety, forfeit any bail posted on the person.

(2)(A) The state's attorney may file a motion to forfeit the amount of the bond against the surety in the civil or criminal division of the superior ~~or district~~ court where the bond was executed.

(B) A motion filed under this subdivision shall:

(i) include a copy of the bond;

(ii) state the facts upon which the motion is based; and

(iii) be served upon the surety.

Sec. 120. 14 V.S.A. § 101 is amended to read:

§ 101. WILL NOT EFFECTIVE UNTIL ALLOWED

A will shall not pass either real or personal estate unless it is proved and allowed in the probate division of the superior court, or by appeal in the superior or supreme court.

Sec. 121. 14 V.S.A. § 203 is amended to read:

§ 203. PROBATE PROCEEDINGS ~~WITHIN THE EXCLUSIVE JURISDICTION OF PROBATE COURT~~; SERVICE; JURISDICTION OVER PERSONS

In proceedings within the exclusive jurisdiction of the probate division of the superior court where notice is required, interested persons may be bound by the orders of the court in respect to property in or subject to the laws of this state by notice in conformity with law or the rules of probate procedure. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

Sec. 122. 14 V.S.A. § 1728 is amended to read:

§ 1728. COURT TO DETERMINE QUESTIONS OF ADVANCEMENT

Questions as to an advancement made~~,~~ or alleged to have been made by the deceased to an heir~~,~~ may be heard and determined by the probate division of the superior court and shall be specified in the decree assigning the estate. The final decree of the probate ~~court~~ division, or of the ~~superior or~~ supreme court on appeal, shall be binding on the persons interested in the estate.

Sec. 123. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) The family division of the superior court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5528, or a delinquency proceeding pursuant to 33 V.S.A. § 5529. The court shall also issue an order permitting or denying visitation, contact, or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court. Appeal of any decision by the probate court shall be de novo to the family court.

Sec. 123a. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate division of the superior court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate ~~court~~ division. Appeal of any decision by the probate division of the superior court shall be de novo to the family ~~court~~ division.

Sec. 124. 14 V.S.A. § 2927 is amended to read:

§ 2927. REMEDY, AFTER GUARDIAN'S DISCHARGE, REEXAMINATION OF ACCOUNTS

After the trust of a guardian is terminated, if the ward or the ward's legal representatives are dissatisfied with the account as allowed by the probate division of the superior court during the continuance of the trust, within two years, and if the ward or the legal representatives do not at the time of the termination of the trust reside in this state, within four years thereafter, they may file a motion to reopen the estate for a reexamination of the account. After notice as provided by the rules of probate procedure, the court shall reexamine accounts previously allowed. A party may appeal from the decision of the probate ~~court~~ division to the civil division of the superior court. The final allowance of accounts in these proceedings shall be conclusive between the parties.

Sec. 125. 14 V.S.A. § 3062 is amended to read;

§ 3062. JURISDICTION; REVIEW OF GUARDIAN'S ACTIONS

(a) The probate division of the superior court shall have exclusive original jurisdiction over all proceedings brought under the authority of this chapter or pursuant to ~~section~~ 18 V.S.A. § 9718 ~~of Title 18~~.

(b) The probate division of the superior court shall have supervisory authority over guardians. Any interested person may seek review of a guardian's proposed or past actions by filing a motion with the court.

Sec. 126. 15 V.S.A. § 658(d) and (e) are amended to read:

(d) The ~~family~~ superior court judge or magistrate may order a parent who is in default of a child support order, to participate in employment, educational, or training related activities if the court finds that participation in such activities would assist in addressing the causes of the default. The court may also order the parent to participate in substance abuse or other counseling if the court finds that such counseling may assist the parent to achieve stable employment. Activities ordered under this section shall not be inconsistent with any requirements of a state or federal program in which the parent is participating. For the purpose of this subsection, "employment, educational, or training related activities" shall mean:

* * *

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the ~~family~~ court. Unpaid support installments accrued prior to adoption are not discharged and are subject to the jurisdiction of the ~~family~~ court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall file the consent or

relinquishment with the family division of the superior court ~~that issued~~ in the case in which the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 126a. 15 V.S.A. § 658(e) is amended to read:

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the court. Unpaid support installments accrued prior to adoption are not discharged and are subject to the jurisdiction of the court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall also file the consent or relinquishment with the family division of the superior court in the case in which the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 127. 15 V.S.A. § 1011(a) is amended to read:

(a) A ~~superior, juvenile or probate~~ court which has considered or is considering the custody or visitation of a minor child may award visitation rights to a grandparent of the child, upon written request of the grandparent filed with the court, if the court finds that to do so would be in the best interest of the child.

Sec. 128. 15 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

The following words as used in this chapter shall have the following meanings:

* * *

(3) A "foreign abuse prevention order" means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont ~~Family Court~~ Rules for Family Proceedings, chapter 69 of Title 33, or chapter 178 of Title 12.

* * *

Sec. 129. 15 V.S.A. § 1102 is amended to read:

§ 1102. JURISDICTION AND VENUE

(a) The family division of the superior court shall have jurisdiction over proceedings under this chapter.

(b) Emergency orders under section 1104 of this title may be issued by a judge of the ~~district,~~ criminal, civil, or family division of the superior ~~or family~~ court.

* * *

Sec. 130. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the ~~family court rules~~ Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to ~~district,~~ superior ~~and family~~ courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The office of the court administrator shall ensure that the ~~family court and the district~~ superior court ~~have~~ has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.

Sec. 131. 15A V.S.A. § 6-102(c) is amended to read:

(c) Within 30 days after a decree of adoption becomes final, the ~~register~~ clerk of the ~~probate~~ superior court ~~or the clerk of the family court~~ shall send to the registry a copy of any document signed pursuant to section 2-105 of this title.

Sec. 132. DELETED

Sec. 133. DELETED

Sec. 134. DELETED

Sec. 135. DELETED

Sec. 136. DELETED

Sec. 137. DELETED

Sec. 138. DELETED

Sec. 139. DELETED

Sec. 140. 17 V.S.A. § 2602(b) is amended to read:

(b) In the case of recounts other than specified in subsection (a) of this section, the following procedure shall apply. A petition for a recount shall be filed within 10 days after the election. The petition shall be filed with the civil division of the superior court, Washington County, in the case of candidates for state or congressional office, or for a presidential election; the petition shall be filed with the superior court in any county in which votes were cast for the office to be recounted, in the case of any other office. The petition shall be supported, if possible, by a certified copy of the certificate of election prepared by the canvassing committee, verifying the total number of votes cast and the number of votes cast for each candidate.

Sec. 141. 17 V.S.A. § 2603(c) is amended to read:

(c) The complaint shall be filed within 15 days after the election in question, or if there is a recount, within 10 days after the court issues its judgment on the recount. In the case of candidates for state or congressional office, for a presidential election, or for a statewide public question, the complaint shall be filed with the civil division of the superior court, Washington ~~county~~ County. In the case of any other candidate or public question, the complaint shall be filed with the superior court in any county in which votes were cast for the office or question being challenged.

Sec. 142. DELETED

Sec. 143. DELETED

Sec. 144. 18 V.S.A. § 1055 is amended to read:

§ 1055. TUBERCULOSIS—COMPULSORY EXAMINATIONS

When the commissioner of health has reasonable cause to believe that any person has tuberculosis in an active stage or in a communicable form, ~~he~~ the commissioner may request the person to undergo an examination at a clinic or hospital approved by the secretary of the agency of human services for that purpose at the expense of the state by a physician qualified in chest diseases. If the person refuses the examination, the commissioner may petition the ~~district~~ superior court for the ~~district~~ unit where the person resides for an order requiring the person to submit to examination. When the court finds that there

is reasonable cause to believe that the person has tuberculosis in an active stage or in a communicable form, it may order the person to be examined.

Sec. 145. 18 V.S.A. § 4053(b) is amended to read:

(b) In addition to the other remedies provided in this chapter, the board is hereby authorized through the attorney general or state's attorneys to apply to the civil or criminal division of any superior ~~or district~~ court ~~to apply for~~, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter, irrespective of whether or not there exists an adequate remedy at law.

Sec. 146. 18 V.S.A. § 4055 is amended to read:

§ 4055. MARKING; NOTICE

(a) Whenever a duly authorized agent of the board finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he or she shall affix to such article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article by sale or otherwise without that permission.

(b) When an article detained or embargoed under subsection (a) has been found by the agent to be adulterated, or misbranded, he or she shall petition the ~~presiding judge~~ civil or criminal division of the superior court ~~or district court~~ in ~~whose jurisdiction~~ the unit where the article is detained or embargoed, for a libel for condemnation of the article. When the agent has found that an article so detained or embargoed is not adulterated or misbranded, he or she shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his or her agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, may by order direct

that the article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of the supervision shall be paid by the claimant. The bond shall be returned to the claimant of the article on representation to the court by the board that the article is no longer in violation of this chapter and that the expenses of supervision have been paid.

* * *

Sec. 147. 18 V.S.A. § 5144(a) is amended to read:

(a) Marriages may be solemnized by a supreme court justice, a superior ~~court~~ judge, ~~a district judge,~~ a judge of probate, an assistant judge, a justice of the peace, a magistrate, an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate ~~court of the district~~ division of the superior court in the unit within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if ~~such~~ the probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

Sec. 148. 18 V.S.A. § 5231(a) and (f) are amended to read:

(a) Any individual who is a near relative of the decedent or the custodian of the decedent's remains may file an action in the probate division of the superior court requesting the court to appoint an individual to make decisions regarding the disposition of the decedent's remains or to resolve a dispute regarding the appropriate disposition of remains, including any decisions regarding funeral goods and services. The court or the individual filing the action may move to join any necessary person under the jurisdiction of the court as a party. The agency of human services may also be joined as a party if it is suggested on the record that there will be insufficient financial resources to pay for funeral goods and services.

(f) Any appeal from the probate court shall be on the record to the civil division of the superior court. There shall be no appeal as a matter of right to the supreme court.

Sec. 149. 18 V.S.A. § 5531(c) is amended to read:

(c) The probate division of the superior court shall have jurisdiction to determine all questions arising under the provisions of this section.

Sec. 150. 18 V.S.A. § 7106 is amended to read:

§ 7106. NOTICE OF HOSPITALIZATION AND DISCHARGE

Whenever a patient has been admitted to a hospital ~~or training school~~ other than upon his or her own application, the head of the hospital ~~or school~~ shall immediately notify the patient's legal guardian, spouse, parent or parents, or nearest known relative or interested party, if known. If the involuntary hospitalization or admission was without court order, notice shall also be given to the ~~district~~ superior court judge for the ~~district~~ family division of the superior court in the unit wherein the hospital is located. If the hospitalization or admission was by order of any court, the head of the hospital ~~or training school~~ admitting or discharging an individual shall forthwith make a report thereof to the commissioner and to the court which entered the order for hospitalization or admission.

Sec. 150a. 18 V.S.A. § 7112 is amended to read:

§ 7112. APPEALS

A patient ~~or student~~ may appeal any decision of the board. The appeal shall be to the family division of the superior court of the county wherein the hospital ~~or school~~ is located. The appeal shall be taken in such manner as the supreme court may by rule provide, except that there shall not be any stay of execution of the decision appealed from.

Sec. 150b. 18 V.S.A. § 7903 is amended to read:

§ 7903. TRANSFERS TO FEDERAL FACILITIES

Upon receipt of a certificate from an agency of the United States that accommodations are available for the care of any individual hospitalized under this part of this title, and that the individual is eligible for care or treatment in a hospital or institution of that agency, the commissioner may cause his transfer to that agency for hospitalization. The ~~district~~ judge who ordered the individual to be hospitalized, and the attorney, guardian, if any, spouse, and parent or parents, or if none be known, an interested party, in that order, shall be notified immediately of the transfer by the commissioner. No person may

be transferred to an agency of the United States if he or she is confined pursuant to conviction of any felony or misdemeanor, or if he or she has been acquitted of a criminal charge solely on the ground of mental illness, unless prior to transfer the ~~district~~ judge who originally ordered hospitalization of such person enters an order for the transfer after appropriate motion and hearing. Any person so transferred shall be deemed to be hospitalized by that agency pursuant to the original order of hospitalization.

Sec. 150c. 18 V.S.A. § 8009 is amended to read:

§ 8009. ADMINISTRATIVE DISCHARGE

* * *

(b) The head of the hospital shall discharge a judicially hospitalized patient when the patient is no longer a patient in need of further treatment. When a judicially hospitalized patient is discharged, the head of the hospital shall notify the applicant, the certifying physician ~~and~~, the family division of the superior court, and anyone who was notified at the time the patient was hospitalized.

(c) A person responsible for providing treatment other than hospitalization to an individual ordered to undergo a program of alternative treatment, under ~~sections~~ section 7618 or 7621 of this title, may terminate the alternative treatment to the individual if the provider of this alternative treatment considers him clinically suitable for termination of treatment. Upon termination of alternative treatment, the family division of the superior court shall be so notified by the provider of the alternative treatment.

Sec. 151. 18 V.S.A. § 8010(b) is amended to read:

(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four-day period the head of the hospital shall either release the patient or apply to the ~~district~~ family division of the superior court in the ~~district~~ unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.

Sec. 152. 18 V.S.A. § 8845(a) and (b) are amended to read:

(a) A person committed under this subchapter may be discharged from custody by a ~~district~~ superior judge after judicial review as provided herein or by administrative order of the commissioner.

(b) Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title except that proceedings shall be brought in the ~~district~~ criminal division of the superior court in the unit in which the person resides or, if the person resides out of state, in the unit which issued the original commitment order.

Sec. 153. 18 V.S.A. § 9052 is amended to read:

§ 9052. TRANSFER OF PATIENTS

The compact administrator shall consult with the immediate family of any person whom he or she proposes to transfer from a state institution to an institution in another state which is a party to this compact and shall take final action as to the transfer of such person only with the approval of the ~~district~~ superior court of the ~~district~~ unit of original commitment.

Sec. 154. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the family division of the superior court for the county in which the person with developmental disabilities is residing.

* * *

Sec. 154a. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the family division of the superior court for the ~~county~~ unit in which the person with developmental disabilities is residing.

(b)(1) The probate division of the superior court shall have concurrent jurisdiction to appoint the commissioner to serve as a temporary guardian for a person in need of guardianship when:

(A) a petition has been filed pursuant to ~~section~~ 14 V.S.A. § 3063 ~~of Title 14~~;

(B) the probate division of the superior court finds that the respondent is a person in need of guardianship as defined in subdivision 9302(5) of this title; and

(C) no suitable private guardian can be located.

(2) Within 60 days after appointment as a temporary guardian, the commissioner shall file a petition in the family division of the superior court for appointment under this chapter and for modification or termination of the probate ~~court~~ division order.

Sec. 155. 18 V.S.A. § 9316(a) and (b) are amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the probate or family division of the superior court until termination or modification thereof by the court.

(b) The commissioner, the person with developmental disabilities, or any interested person may petition the appointing court, if it exists, or the ~~family~~ superior court for the ~~district~~ unit where the person resides to modify or terminate the judgment pursuant to which the commissioner is providing guardianship. The petitioner, or the commissioner as petitioner, and the respondent shall be the parties to a petition to modify or terminate guardianship.

Sec. 155a. 18 V.S.A. § 9316(a) is amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the probate division or family division of the superior court until termination or modification thereof by the court.

Sec. 156. 20 V.S.A. § 26 is amended to read:

§ 26. CHANGE OF VENUE BECAUSE OF ENEMY ATTACK

In the event that the place where a civil action or a criminal prosecution is required by law to be brought~~,~~ has become and remains unsafe because of an attack upon the United States or Canada, such action or prosecution may be brought in or, if already pending, may be transferred to the superior ~~or district~~ court ~~as appropriate~~ in an unaffected ~~county or territorial~~ unit and there tried in the place provided by law for such court.

Sec. 157. 20 V.S.A. § 1882 is amended to read:

§ 1882. SUBPOENAS

In connection with any investigation into the internal affairs of the department, the commissioner may request subpoenas for the testimony of witnesses or the production of evidence. The fees for travel and attendance of witnesses shall be the same as for witnesses and officers before a ~~district~~ superior court. The fees in connection with subpoenas issued on behalf of the commissioner or the department shall be paid by the state, upon presentation of

proper bills of costs to the commissioner. Notwithstanding 3 V.S.A. §§ 809a and 809b, subpoenas requested by the commissioner shall be issued and enforced by the ~~district~~ superior court of the ~~district~~ unit in which the person subpoenaed resides in accordance with the Vermont ~~District Court Civil~~ Rules of Civil Procedure.

Sec. 158. 20 V.S.A. § 1935 is amended to read:

§ 1935. PROCEDURE IF PERSON REFUSES TO GIVE SAMPLE

(a) If a person who is required to provide a DNA sample under this subchapter refuses to provide the sample, the commissioner of the department of corrections or public safety shall file a motion in the ~~district~~ superior court for an order requiring the person to provide the sample.

* * *

(f) Venue for proceedings under this section shall be in the territorial unit of the ~~district~~ superior court where the conviction occurred. Hearings under this section shall be conducted by the ~~district~~ superior court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of witnesses shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(g) A decision of the ~~district~~ superior court under this section may be appealed as a matter of right to the supreme court. The court's order shall not be stayed pending appeal unless the respondent is reasonably likely to prevail on appeal.

Sec. 159. 20 V.S.A. § 2056 is amended to read:

§ 2056. CERTIFIED RECORDS

Upon the request of a superior ~~or district court~~ judge, the attorney general, or a state's attorney, the center shall prepare the record of arrests, convictions, or sentences of a person. The record, when duly certified by the commissioner of public safety or the director of the center, shall be competent evidence in the courts of this state. Such other information as is contained in the center may be made public only with the express approval of the commissioner of public safety.

Sec. 160. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the ~~district~~ criminal division of the superior court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

* * *

(3) If you wish to request a hearing before the ~~district~~ superior court, you must mail or deliver your request for a hearing within seven (7) days after (date of notice).

* * *

(f) Review by ~~district~~ superior court. Within seven days following receipt of a notice of intention to suspend and of suspension, a person may make a request for a hearing before the ~~district~~ superior court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the commissioner of motor vehicles, who shall then notify the ~~district~~ criminal division of the superior court that a hearing has been requested and ~~who shall then~~ provide the state's attorney with a copy of the notice of intention to suspend and of suspension and the officer's affidavit.

* * *

(h) Final hearing.

* * *

(2) No less than seven days before the final hearing, and subject to the requirements of ~~District Court Civil Rule~~ Vermont Rule of Civil Procedure 11, the defendant shall provide to the state and file with the court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(j) Venue and conduct of hearings. Venue for proceedings under this section shall be in the territorial unit of the ~~district~~ superior court where the

offense is alleged to have occurred. Hearings under this section shall be summary proceedings conducted by the ~~district~~ criminal division of the superior court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure only as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of law enforcement officers, chemists of either party, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(k) Appeal. A decision of the ~~district~~ criminal division of the superior court under this section may be appealed as a matter of right to the supreme court. The suspension shall not be stayed pending appeal unless the defendant is reasonably likely to prevail on appeal.

* * *

Sec. 161. 23 V.S.A. § 1213c(c) is amended to read:

(c) Service of notice. The notice of hearing shall be served as provided for in the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure on the registered owner or owners and any lienholders as shown on the certificate of title for the vehicle as shown in the records of the department of motor vehicles in the state in which the vehicle is registered or titled.

Sec. 162. 23 V.S.A. § 3021(b) and (d) are amended to read:

(b) In addition to the powers specifically granted to the commissioner in this chapter, he or she may:

* * *

(5) compel the attendance of witnesses and order the production of any relevant books, records, papers, vouchers, accounts, or other documents of any person the commissioner has reason to believe is liable for the payment of a tax or of any person believed to have information pertinent to any matter under investigation by the commissioner at any hearing held under this chapter. The fees for travel and attendance of witnesses summoned or used by the commissioner and fees for officers shall be the same as for witnesses and officers before ~~a district~~ the criminal division of the superior court and shall be paid by the state upon presentation of proper bills of cost to the commissioner of finance and management, but no fees or expenses shall be payable to a witness charged with a use tax liability.

(d) Any superior ~~or district~~ judge upon application of the commissioner may compel the attendance of witnesses, the giving of testimony, and the

production of any books, records, papers, vouchers, accounts, or documents before the commissioner in the same manner, to the same extent, and subject to the same penalties as if before a superior ~~or district~~ court.

Sec. 163. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court and probate court, together with suitable offices for the county clerk, assistant judges, and probate judges. Office space for the probate court may be provided elsewhere by the county. ~~Each county shall provide fireproof safes or vaults for the safekeeping of the official files and records required to be kept by county officials, including the files and records of a justice of the peace who has vacated his or her office. Use of the county courthouse by the supreme court, district court, family court or the judicial bureau may be permitted by the assistant judges when such use does not conflict with the use of the building by the superior court, provided that the office of court administrator shall pay the cost of any such use should the assistant judges choose not to pay the cost by use of county funds.~~ The county shall provide at least the facilities for judicial operations, including staff, that it provided on July 1, 2009.

(b) If ~~the state provides a building in which the superior court is held~~ all judicial operations in a county are contained in one court building owned by the state, the county clerk and assistant judges may also be located in the same building. The ~~assistant judges, the~~ court administrator and the commissioner of buildings and general services shall be the superintendents of the building. They shall make decisions regarding building construction, space allocations, and use of the facility after consulting with the ~~district court and the~~ superior court presiding ~~judges~~ judge and the ~~probate judge if housed in the building~~ assistant judges. The county shall no longer be required to maintain a courthouse.

(c) The court administrator, in consultation with the presiding judge of the superior court, shall determine what judicial operations will occur in the county courthouse.

Sec. 163a. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court ~~and probate~~

~~court~~, together with suitable offices for the county clerk, assistant judges, and probate judges. Office space for the probate division of the superior court may be provided elsewhere by the county. The county shall provide at least the facilities for judicial operations~~, including staff,~~ that it provided on July 1, 2009.

* * *

Sec. 164. 24 V.S.A. § 72 is amended to read:

§ 72. —EXPENSES OF THE SUPERIOR COURT

~~(a)~~ The expenses connected with the superior court, unless otherwise provided, shall be paid by the state.

~~(b) All filing fees in small claims actions, including postjudgment fees, shall be held by the county in which they are filed.~~

Sec. 165. 24 V.S.A. § 75 is amended to read:

§ 75. TELEPHONE

Each county shall provide adequate telephone service for the county courthouse, the offices of the county clerk, ~~probate judge or register thereof,~~ and the sheriff.

Sec. 165a. 24 V.S.A. § 76 is amended to read:

§ 76. COUNTY LAW LIBRARY

Each county ~~shall~~ may maintain a complete set of Vermont Reports including the digest thereof in the county clerk's office and in each probate office. The county may maintain in the courthouse or elsewhere such additional law books as in the opinion of the assistant judges are needful for the judges and officials having offices in the county.

Sec. 166. 24 V.S.A. § 77 is amended to read:

§ 77. COUNTY LANDS; PURCHASE; CONDEMNATION

(a) Each county may acquire and own such lands and rights in lands as in the opinion of the assistant judges are needful for county purposes.

(b) A county may condemn land in situations similar to those in which a municipality may condemn under section 2805 of this title by complying with the procedures established in sections 2805 through 2812 of this title, with the assistant judges performing the duties assigned by those sections to the selectmen.

(c) In any proceeding brought by a county under subsection (b) of this section, the assistant judges shall be disqualified, and the proceeding shall be heard by the presiding judge~~,~~ sitting alone.

Sec. 167. 24 V.S.A. § 131 is amended to read:

§ 131. POWERS AND DUTIES

The assistant judges ~~of the superior court~~ shall have the care and superintendence of county property, may take deeds and leases of real estate to the county, rent or sell and convey unused lands belonging to the county, keep the courthouse, jail, and other county buildings insured, and make needed repairs and improvements in and around the same.

Sec. 168. 24 V.S.A. § 137 is amended to read:

§ 137. JURISDICTION

~~District and superior~~ Superior courts, within their respective jurisdictions, may take cognizance of actions in favor of or against the county.

Sec. 169. 24 V.S.A. § 171 is amended to read:

§ 171. APPOINTMENT

The assistant judges ~~of the superior court, with the concurrence of the presiding judge of such court,~~ shall appoint a county clerk who shall be sworn and hold his or her office during the pleasure of such judges and until his or her successor is appointed and has qualified.

Sec. 170. 24 V.S.A. § 175 is amended to read:

§ 175. BOND TO COUNTY

Before entering upon the duties of his or her office, a county clerk shall become bound to the county in the sum of $3,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. Such bonds of county clerks shall be taken biennially in the month of February and recorded in the office of the county clerk.

Sec. 171. 24 V.S.A. § 176 is amended to read:

§ 176. DEPUTY CLERK

A county clerk may, subject to the approval of the assistant judges, appoint one or more deputies who may perform the duties of clerk for whose acts he or she shall be responsible and whose deputations he or she may revoke at

pleasure. A record of the appointments shall be made in the office of the clerk. In case of the death of the clerk or his or her inability to act, the deputy or deputies in order of appointment shall perform the duties of the office until a clerk is appointed. In case of the suspension of the clerk's duties as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the office until the charge of violating 13 V.S.A. § 2537 is resolved. ~~If the assistant judges cannot agree upon appointing a person, the judge of the superior court of the county shall make the appointment.~~ The compensation for the clerk and deputy clerk shall be fixed by the assistant judges and paid for by the county. Such compensation may include such employment benefits as are presently provided to state employees, including~~, but not limited to,~~ health insurance, life insurance, and pension plan, the expense for which shall be borne by the county and the employees.

Sec. 172. 24 V.S.A. § 178 is amended to read:

§ 178. RECORD OF SHERIFF'S COMMISSION; COPIES; EVIDENCE

~~Such~~ The county clerk shall record, in a book kept for that purpose, sheriffs' commissions with the oath of office indorsed thereon~~, and recognizances taken by the judges of the superior court, out of court, for the appearance of criminals confined in jail~~. In case of loss or destruction of an original commission or recognizance, a certified copy of the record may be used in court as evidence of the facts therein contained.

Sec. 173. 24 V.S.A. § 183 is amended to read:

§ 183. CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC ~~OR MASTER~~

Immediately after the appointment of a notary public ~~or master~~, the county clerk shall send to the secretary of state a certificate of such appointment, on blanks furnished by ~~such~~ the secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. ~~Such~~ The secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, ~~such~~ the secretary may certify the appointment, qualification, and signature of ~~such~~ a notary public ~~or master~~ on tender of his or her legal fees.

Sec. 174. 24 V.S.A. § 211 is amended to read:

§ 211. APPOINTMENT; VACANCY

Biennially, on February 1, the assistant judges ~~of the superior court~~ shall appoint a treasurer for the county who shall hold office for two years and until

his or her successor is appointed and qualified. If ~~such~~ the treasurer dies or in the opinion of the assistant judges becomes disqualified, they may appoint a treasurer for the unexpired term. If the treasurer has his or her duties suspended as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the treasurer until the charge of violating 13 V.S.A. § 2537 is resolved. If the assistant judges cannot agree upon whom to appoint, the auditor of accounts shall make the appointment.

Sec. 175. 24 V.S.A. § 212 is amended to read:

§ 212. BOND

Before entering upon the duties of his or her office, a county treasurer shall become bound to the county in the sum of $5,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. ~~Such~~ The recognizance or bond shall be lodged with and recorded by the county clerk~~. Such bond shall be~~ and renewed annually in the month of February.

Sec. 176. 24 V.S.A. § 291 is amended to read:

§ 291. BOND; OATH

Before entering upon the duties of his or her office, a sheriff shall become bound to the treasurer of the county in the sum of $100,000.00, with two or more sufficient sureties by way of recognizance, before ~~a justice of the supreme court or~~ the two assistant judges ~~of the superior court~~ in such county, or give a bond to the treasurer executed by such sheriff with sufficient sureties in like sum to be approved by ~~a justice of the supreme court or by~~ the two assistant judges ~~of the superior court~~, conditioned for the faithful performance of his or her duties and shall take the oath of office before one of ~~such~~ the judges, who shall certify the same on the sheriff's commission. Such recognizance or bond and the commission shall be forthwith recorded in the office of the county clerk.

Sec. 177. 24 V.S.A. § 294 is amended to read:

§ 294. SHERIFF IMPRISONED

If a sheriff is confined in prison by legal process, his or her functions as sheriff shall be suspended. When ~~he~~ the sheriff is released from imprisonment during his or her term of office, he or she shall file a certificate of his or her

discharge signed by one of the judges of the superior court, in the office of the county clerk, and deliver a like certificate to the high bailiff. Thereupon he or she shall resume the powers and execute the duties of sheriff.

Sec. 178. 24 V.S.A. § 361(a) is amended to read:

(a) A state's attorney shall prosecute for offenses committed within his or her county, and all matters and causes cognizable by the supreme~~,~~ and superior ~~and district~~ courts in behalf of the state~~;~~, file informations and prepare bills of indictment, deliver executions in favor of the state to an officer for collection immediately after final judgment, taking duplicate receipts therefor, one of which shall be sent to the commissioner of finance and management, and take measures to collect fines and other demands or sums of money due to the state or county.

Sec. 179. 24 V.S.A. § 441 is amended to read:

§ 441. APPOINTMENT; JURISDICTION; EX OFFICIO NOTARIES; APPLICATION

(a) The assistant judges ~~of the superior court~~ may appoint as many notaries public for the county as the public good requires~~, to hold~~. Notaries public so appointed shall hold office until ten days after the expiration of the term of office of such judges, ~~whose~~ and their jurisdiction shall extend throughout the state.

(b) The clerk of the supreme court, county clerks, ~~district~~ superior court clerks, ~~family~~ deputy superior court clerks, justices of the peace, and town clerks and their assistants shall be ex officio notaries public.

(c) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the county clerk ~~of the superior court~~ stating that the applicant is a resident of the county and has reached the age of majority, giving his or her business or home address and providing a handwritten specimen of the applicant's official signature.

(d) An ex officio notary public shall cease to be a notary public when he or she vacates the office on which his or her status as a notary public depends.

Sec. 180. 24 V.S.A. § 441a is amended to read:

§ 441a. NONRESIDENT NOTARY PUBLIC

A nonresident may be appointed as a notary public, provided the individual resides in a state adjoining this state and maintains, or is regularly employed in, a place of business in this state. Before a nonresident may be appointed as a notary public, the individual shall file with the assistant judges ~~of the superior~~

~~court~~ in the county where the individual's place of employment is located an application setting forth the individual's residence and the place of employment in this state. A nonresident notary public shall notify the assistant judges ~~of the superior court~~, in writing, of any change of residence or of place of employment in this state.

Sec. 181. 24 V.S.A. § 442 is amended to read:

§ 442. OATH; CERTIFICATE OF APPOINTMENT RECORDED; FORM

(a) A person appointed as notary public shall cause the certificate of his or her appointment to be filed and recorded in the office of the county clerk where issued. Before entering upon the duties of ~~his~~ office, he or she, as well as an ex officio notary, shall take the oath prescribed by the constitution, and shall duly subscribe the same with his or her correct signature, which oath thus subscribed shall be kept on file by the county clerk as a part of the records of such county.

(b) The certificate of appointment shall be substantially in the following form:

STATE OF VERMONT, ss.

_____ County

This is to certify that A.B. of _____ in such county, was, on the _____ day of _____, 20 _____, appointed by the assistant judges ~~of the superior court~~ for such county a notary public for the term ending on February 10, 20 _____.

_____ Assistant Judges ~~of the~~
_____ ~~superior court~~.
_____

And at _____ in such county, on this _____ day of _____, 20 _____ personally appeared A.B. _____ and took oath of office prescribed in the constitution.

Before me,

C. D. _____

(Designation of the officer administering the oath).

Sec. 182. 24 V.S.A. § 1974(c) is amended to read:

(c) Prosecutions of criminal ordinances shall be brought before the ~~district~~ superior court pursuant to ~~section~~ 4 V.S.A. § 441 ~~of Title 4~~.

Sec. 183. 24 V.S.A. § 3117 is amended to read:

§ 3117. APPEAL FROM ORDER

An owner or person interested who is aggrieved by such order may appeal as provided in the case of a person aggrieved by an order of a building inspector. However, the provisions of this section shall not prevent ~~such~~ the municipality from recovering the forfeiture provided in section 3116 of this title from the date of the service of the original notice, unless ~~such~~ the order is annulled by the board of arbitration~~, district court~~ or a superior judge, as the case may be.

Sec. 184. 24 V.S.A. § 3808 is amended to read:

§ 3808. LIABILITY OF PERSON BOUND TO BUILD FENCE

When a person bound to support a portion of the division fence does not make or maintain his or her portion, he or she shall be liable for damages done to or suffered by the opposite party in consequence of such neglect. An owner or occupant of adjoining lands, after 10 days from the time notice is given to the opposite party, may make or put in repair the fence and recover from the opposite party damages arising from the neglect, with the expense of building or repairing the fence. ~~Actions under this section may be brought before a district court when the amount claimed does not exceed $200.00.~~

Sec. 185. 28 V.S.A. § 103 is amended to read:

§ 103. INQUIRIES AND INVESTIGATIONS INTO THE ADMINISTRATION OF THE DEPARTMENT

* * *

(c) In any inquiry or investigation conducted by the commissioner, he or she shall have the same powers as are possessed by ~~district court or~~ superior judges in chambers, and which shall include the power to:

(1) Administer oaths;

(2) Compel the attendance of witnesses;

(3) Compel the production of documentary evidence.

(d) If any person disobeys any lawful order or subpoena issued by the commissioner pursuant to this section or refuses to testify to any matter regarding which he or she may be questioned lawfully, any ~~district court or~~ superior judge, upon application by the commissioner, shall order the obedience of the person in the same manner as if the person had disobeyed an order or subpoena of the ~~district court or~~ superior judge.

(e) The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the ~~district or~~ superior courts of the state and shall be reimbursed by the commissioner out of any appropriation or funds at the disposal of the department.

Sec. 186. 28 V.S.A. § 1531 is amended to read:

§ 1531. APPROPRIATE COURT

The phrase "appropriate court" as used in the agreement on detainers, with reference to the courts of this state, means the superior court where the Vermont charge is pending ~~or the district court~~.

Sec. 187. 29 V.S.A. § 1158 is amended to read:

§ 1158. —ACTS AND RESOLVES; VERMONT STATUTES ANNOTATED; DISTRIBUTION

(a) The state librarian shall deliver the acts and resolves as follows: to the secretary of state, six copies; to the clerk of the United States supreme court for the use of the court, one copy; to the governor's office and to the governor and lieutenant governor, one copy each; to the ~~library~~ Library of Congress, four copies; to each county clerk, three copies; one to each of the following officers and institutions: each department of the United States government and upon request to federal libraries, elective and appointive state officers, the clerk of each state board or commission, superintendent of each state institution, the library of the ~~university~~ University of Vermont, the libraries of Castleton, Johnson, and Lyndon ~~state colleges~~ State Colleges, Vermont ~~technical college~~ Technical College, Middlebury ~~college~~ College, Norwich ~~university~~ University, St. Michael's ~~college~~ College, senators and representatives of this state in Congress, members of the general assembly during the session at which such laws were adopted, the secretary and assistant secretary of the senate, clerk and assistant clerks of the house of representatives, the judges, attorney, marshall, and clerk of the United States district court in this state, the judge of the second circuit United States court of appeals from Vermont, justices and ex-justices of the supreme court, superior judges, ~~district court judges,~~ the reporter of decisions, judges and registers of probate, sheriffs, state's attorneys, town clerks; one each, upon request and as the available supply permits, to assistant judges ~~of the superior court~~, justices of the peace, chairman of the legislative body of each municipality and town treasurers; one within the state, to the Vermont historical society, to each county or regional bar law library, and one copy to each state or territorial library or supreme court library, and foreign library which makes available to Vermont its comparable publication, provided that if any of these officials hold more than one of the offices named, that official shall be entitled to only one copy.

(b) The state librarian shall distribute the copies of Vermont Statutes Annotated and cumulative pocket part supplements thereto, when issued, as follows: one each to the governor, lieutenant governor, speaker of the house of representatives, the state treasurer, secretary of state, auditor of accounts, adjutant general, commissioner of buildings and general services, commissioner of taxes, sergeant at arms, and the head of each administrative department; four copies to the attorney general; one to each town clerk, three to each county clerk; one to each probate judge and two to the clerk of the supreme court; one to each ex-justice and justice of the supreme court, each superior judge~~, district judge,~~ and state's attorney; two to the judge of the second circuit United States court of appeals from Vermont and four to the United States district judges for the district of Vermont. One copy shall be given to each state institution, each county or regional bar law library, each university, college, and public library, as requested, and as many sets as are needed to effect exchange with state libraries and state law libraries. Current copies of the Vermont Statutes Annotated and supplements shall be kept for use in the offices of the officers and institutions mentioned. One copy shall be given to each member of the commission established by chapter 3 of Title 1 and counsel therefor, unless they are authorized to receive one in another capacity, and one to each of the ~~fifteen~~ 15 members of the joint special committee on revision of the laws authorized by No. 86 of the Acts of 1959. Additional copies may be sold to parties identified in this subsection at a price to be fixed by the state librarian.

Sec. 188. 30 V.S.A. § 12 is amended to read:

§ 12. REVIEW BY SUPREME COURT

A party to a cause who feels ~~himself or herself~~ aggrieved by the final order, judgment, or decree of the board may appeal to the supreme court. However, the board, in its discretion and before final judgment, may permit an appeal to be taken by any party to the supreme court for determination of questions of law in such manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or the district court~~. Notwithstanding the provisions of the Vermont ~~rules of civil procedure~~ Rules of Civil Procedure or the Vermont ~~rules of appellate procedure~~ Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided herein, shall operate as a stay of enforcement of an order of the board unless the board or the supreme court grants a stay under the provisions of section 14 of this title.

Sec. 189. 32 V.S.A. § 467 is amended to read:

§ 467. ACCOUNTS WITH ~~COUNTY~~ SUPERIOR COURT CLERKS

The commissioner of finance and management shall issue ~~his or her~~ a warrant in favor of each ~~county~~ superior court clerk when ~~such~~ the clerk requires money for election or court expenses, and the state treasurer shall charge the same to the clerk. The clerk shall be credited for moneys properly disbursed by him or her, and the balance shall be paid by the clerk into the treasury.

Sec. 190. 32 V.S.A. § 469 is amended to read:

§ 469. REQUISITION FOR COURT EXPENSES

With the approval of the court administrator, the supreme court, ~~the environmental court,~~ the judicial bureau, ~~the probate court,~~ and the superior court~~, the district court and the family court~~ may requisition money from the state to pay fees and expenses related to grand and petit jurors, fees and expenses of witnesses approved by the judge, expenses of guardians ad litem, expenses of elections, and other expenses of court operations. The cash advances shall be administered under the provisions of section 466 of this title.

Sec. 191. 32 V.S.A. § 503 is amended to read:

§ 503. PAYMENT OF MONEYS INTO TREASURY

Quarterly and oftener if the commissioner of finance and management so directs, ~~county~~ superior court clerks and other collectors and receivers of public money, except justices, shall pay all such money collected or held by them into the state treasury.

Sec. 192. 32 V.S.A. § 504 is amended to read:

§ 504. FINES PAID ~~COUNTY~~ SUPERIOR COURT CLERK

Damages and costs received in actions to which the state is a party, and fines and the amount of bonds and recognizances to the state taken in any county, shall be paid to the ~~county~~ superior clerk. His or her receipt shall be the only valid discharge thereof and he or she shall pay the same into the state treasury.

Sec. 193. 32 V.S.A. § 506 is amended to read:

§ 506. FAILURE OF ~~COUNTY~~ SUPERIOR COURT CLERK TO PAY OVER

If a ~~county~~ superior court clerk neglects to make a return or pay into the state treasury any money as provided in this chapter, the commissioner of

finance and management shall forthwith notify the state's attorney, who shall immediately prosecute the clerk and the sureties on his or her official bond.

Sec. 194. 32 V.S.A. § 508 is amended to read:

§ 508. RECEIPTS GIVEN BY STATE OFFICERS

State officers, except ~~county~~ superior court clerks and ~~district~~ superior judges, and every person in the employ of the state under salary or per diem established by statute, receiving money belonging to or for the use of the state, shall give the person paying such money a receipt therefor in such form as shall be prescribed by the state treasurer.

Sec. 195. 32 V.S.A. § 541 is amended to read:

§ 541. COLLECTION OF FINES AND COSTS

All fines, costs, including costs taxed as state's attorneys' and court fees, bail, and unclaimed fees collected by judges ~~of district courts~~ shall be paid into the proper treasury.

Sec. 196. 32 V.S.A. § 581 is amended to read:

§ 581. UNCLAIMED COSTS TO REVERT TO STATE

Fees allowed in a bill of costs to a ~~justice or~~ judge which are not demanded by the party to whom such fees are due within six months after such bill is allowed~~,~~ shall revert to the use of the state ~~and, in the case of a justice, shall be paid by the justice to the county clerk within 30 days from the expiration of such period of six months;,~~ and ~~such justice or~~ the judge, after the expiration of six months, shall be relieved from all liability to parties to whom ~~such~~ the fees were due.

Sec. 197. 32 V.S.A. § 809 is amended to read:

§ 809. AUDITING OF COURT CLERK ACCOUNTS AND OF PROBATE JUDGES

The auditor shall examine the accounts of the judges of probate and superior court clerks and ascertain whether their fees are properly and uniformly charged and rendered, and if ~~he or she~~ the auditor finds they are not, he or she shall direct the proper corrections to be made. ~~He or she~~ The auditor shall endeavor to obtain a uniform practice in the ~~probate~~ superior courts in that respect.

Sec. 198. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES ~~OF SUPERIOR COURTS~~

(a)(1) The compensation of each assistant judge of the superior court~~, which shall be paid by the state,~~ shall be ~~$136.28 a day as of July 9, 2006 and~~ $142.04 a day as of July 8, 2007 for time spent in the performance of official duties and necessary expenses as allowed to classified state employees. Compensation under this section shall be based on a ~~half-day~~ two-hour minimum and hourly thereafter.

(2)(A) The compensation paid to an assistant judge pursuant to this section shall be paid by the state except as provided in subdivision (B) of this subdivision.

(B) The compensation paid to an assistant judge pursuant to this section shall be paid by the county at the state rate established in subdivision (a)(1) of this section when an assistant judge is sitting with a presiding superior judge in the civil or family division of the superior court.

(b) Assistant judges of the superior court shall receive pay for such days as they attend court when it is in actual session, or during a court recess when engaged in the special performance of official duties.

Sec. 199. 32 V.S.A. § 1142 is amended to read:

§ 1142. ~~JUDGES OF~~ PROBATE JUDGES

(a) The annual salaries of the ~~judges of~~ probate judges in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	~~Annual Salary as of July 8, 2007~~	
(1) Addison	~~$59,321~~	$48,439
(2) Bennington	~~59,321~~	61,235
(3) Caledonia	~~59,321~~	42,956
(4) Chittenden	~~91,402~~	91,395
(5) Essex	~~28,853~~	12,000
(6) ~~Fair Haven~~	~~43,594~~	
~~(7)~~ Franklin	~~59,321~~	48,439
~~(8)~~(7) Grand Isle	~~28,853~~	12,000

~~(9) Hartford~~	~~59,321~~	
~~(10)~~(8) Lamoille	~~53,594~~	33,816
~~(11) Marlboro~~	~~51,559~~	
~~(12)~~(9) Orange	~~51,559~~	40,214
~~(13)~~(10) Orleans	~~51,559~~	39,300
~~(14)~~(11) Rutland	~~75,859~~	86,825
~~(15)~~(12) Washington	~~75,859~~	66,718
~~(16)~~(13) ~~Westminster~~ Windham	~~43,594~~	53,923
~~(17)~~(14) Windsor	~~51,559~~	73,116

(b) ~~Judges of probate~~ Probate judges shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees. The compensation for the probate judge of the Chittenden district shall be for full-time service.

(c) A probate judge whose salary is less than $45,701.00 shall be eligible only for the least expensive medical benefit plan option available to state employees or may apply the state share of a single-person premium for the least expensive benefit plan option toward the purchase of another state or private health insurance plan. A probate judge whose salary is less than $45,701.00 may participate in other state employee benefit plans.

Sec. 200. 32 V.S.A. § 1143 is amended to read:

§ 1143. –COMPENSATION OF APPOINTEES

Persons acting under the authority of the probate division of the superior court shall be paid as follows:

(1) For each day's attendance by executor, administrator, trustee, agent, or guardian, on the business of their appointment, $4.00;

(2) For each day's attendance of commissioners, appraisers, or committee, $4.00; and

(3) The probate division of the superior court may allow in cases of unusual difficulty or responsibility, such further sum as it judges reasonable.

Sec. 201. 32 V.S.A. § 1144 is amended to read:

~~§ 1144. COMPENSATION OF APPRAISERS~~

~~An appraiser appointed in accordance with the provisions of chapters 181 and 183 of this title shall receive $4.00 a day and his or her necessary expenses~~

~~shall be paid by the state on the certificate of the judge of probate. But in cases requiring the appointment of an expert, the judge of probate may allow such further sum as he or she deems reasonable.~~ [Repealed.]

Sec. 202. DELETED

Sec. 203. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME~~,~~ AND SUPERIOR~~, DISTRICT, FAMILY, AND ENVIRONMENTAL~~ COURTS

(a) Prior to the entry of any cause in the supreme court, there shall be paid to the clerk of the court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section.

(b)(1) ~~Prior~~ Except as provided in subdivisions (2)–(5) of this subsection, prior to the entry of any cause in the superior court ~~or environmental court,~~ there shall be paid to the clerk of the court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section.

(2) Prior to the entry of any divorce or annulment proceeding in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section; however, if the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be $75.00.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under chapter 5 of Title 15 in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 in lieu of all other fees not otherwise set forth in this section; however, if the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be $25.00.

(4) Prior to the entry of any motion or petition to enforce an order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify an order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order acceptable to the court, the fee shall be $25.00. All motions or petitions filed by one party at one time shall be assessed one fee.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $35.00 in lieu of all other fees not otherwise set forth in this section; however, if the motion or petition is filed with a stipulation for an order acceptable to the court, there shall be no fee. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the ~~subdivision (4)~~ fee under subdivision (4) shall be the only fee assessed.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior~~, environmental, or district~~ court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the superior ~~or environmental~~ court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the ~~family~~ superior court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title.

(e) Prior to the filing of any postjudgment motion in the superior~~, environmental, or district~~ court, including motions to reopen civil suspensions, there shall be paid to the clerk of the court for the benefit of the state a fee of $75.00 except for small claims actions.

(f) The filing fee for all actions filed in the judicial bureau shall be $50.00; the state or municipality shall not be required to pay the fee; however, if the respondent denies the allegations on the ticket, the fee shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title and shall be paid to the clerk of the bureau for the benefit of the state.

(g) Prior to the filing of any postjudgment motion in the judicial bureau there shall be paid to the clerk of the bureau, for the benefit of the state, a fee of $35.00. Prior to the filing of any appeal from the judicial bureau to the ~~district~~ superior court, there shall be paid to the clerk of the court, for the benefit of the state, a fee of $100.00.

(h) Pursuant to Vermont Rules of Civil Procedure 3.1~~,~~ or Vermont Rules of Appellate Procedure 24(a)~~, or District Court Civil Rules 3.1~~, part or all of the filing fee may be waived if the court finds that the applicant is unable to pay it. The clerk of the court or the clerk's designee shall establish the in forma

pauperis fee in accordance with procedures and guidelines established by administrative order of the supreme court.

Sec. 203a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(c)(1) Prior to the entry of a small claims action, there shall be paid to the clerk ~~for the benefit of the county~~ in lieu of all other fees not otherwise set forth in this section, a fee of $75.00 if the claim is for more than $1,000.00 and $50.00 if the claim is for $1,000.00 or less. Prior to the entry of any postjudgment motion in a small claims action, there shall be paid to the clerk ~~for the benefit of the county~~ a fee of $50.00. The fee for every counterclaim in small claims proceedings shall be $25.00, payable to the ~~county~~ clerk, if the counterclaim is for more than $500.00, and $15.00 if the counterclaim is for $500.00 or less.

(2) All fees paid to the clerk pursuant to this subsection shall be for the benefit of the county, except that such fees shall be for the benefit of the state in a county where court facilities are provided by the state.

* * *

Sec. 203b. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(c)(1) Prior to the entry of a small claims action, there shall be paid to the clerk in lieu of all other fees not otherwise set forth in this section, a fee of $75.00 if the claim is for more than $1,000.00 and $50.00 if the claim is for $1,000.00 or less. Prior to the entry of any postjudgment motion in a small claims action, there shall be paid to the clerk a fee of $50.00. The fee for every counterclaim in small claims proceedings shall be $25.00, payable to the clerk, if the counterclaim is for more than $500.00, and $15.00 if the counterclaim is for $500.00 or less.

(2) ~~All fees paid to the clerk pursuant to this subsection shall be for the benefit of the county, except that such fees shall be for the benefit of the state in a county where court facilities are provided by the state.~~

(A) Except as provided in subdivision (B) of this subdivision (2), fees paid to the clerk pursuant to this subsection shall be divided as follows: 50 percent of the fee shall be for the benefit of the county and 50 percent of the fee shall be for the benefit of the state.

(B) In a county where court facilities are provided by the state, all fees paid to the clerk pursuant to this subsection shall be for the benefit of the state.

* * *

Sec. 204. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE ~~COURTS~~ CASES

(a) The following entry fees shall be paid to the probate division of the superior court for the benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

* * *

(14) Guardianships for minors	~~$35.00~~	$85.00
(15) Guardianships for adults	~~$50.00~~	$100.00
(16) Petitions for change of name	~~$75.00~~	$125.00

* * *

(23) Petitions for partial decree	$100.00
(24) Petitions for license to sell real estate	$50.00

* * *

(b) For economic cause, the probate judge may waive this fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

(c) A fee of $5.00 shall be paid for each additional certification of appointment of a fiduciary.

Sec. 204a. 32 V.S.A. § 1434a is added to read:

§ 1434a. SURCHARGE ON FEES

(a) A surcharge of five percent shall be added to all fees paid under sections 1431 and 1434 of this title except for fees paid with respect to adoptions under subdivision 1434(13). A surcharge required by this section shall be paid to the clerk in the same manner as the fee.

(b) This section shall be repealed on July 1, 2014.

Sec. 205. 32 V.S.A. § 1436 is amended to read:

§ 1436. FEE FOR CERTIFICATION OF APPOINTMENT AS NOTARY PUBLIC

~~(a)~~ For the issuance of a certificate of appointment as a notary public, the county clerk shall collect a fee of ~~$20.00~~ $30.00, of which ~~$5.00~~ $15.00 shall accrue to the state and $15.00 shall accrue to the county.

~~(b) Notwithstanding any statute to the contrary, fees collected as a result of this section shall be in lieu of any payments by the state to the county for the use of the county courthouse by the supreme, district, family, and environmental courts or by the judicial bureau.~~

Sec. 206. 32 V.S.A. § 1471 is amended to read:

§ 1471. TAXATION OF COSTS

(a) There shall be taxed in the bill of costs to the recovering party in the supreme~~,~~ and superior~~, family, district, or environmental~~ courts or the judicial bureau a fee equal to the entry fees, the cost of service fees incurred, and the total amount of the certificate of witness fees paid.

(b) Any costs taxed to the respondent in any action filed by the office of child support shall be paid to the clerk of the court for deposit in the general fund.

Sec. 207. 32 V.S.A. § 1511 is amended to read:

§ 1511. GRAND AND PETIT JURORS IN SUPERIOR ~~AND DISTRICT~~ COURT

There shall be allowed to grand and petit jurors in the superior ~~and district~~ court the following fees and expenses:

(1) For attendance, $30.00 a day, on request, unless the jurors were otherwise compensated by their employer;

(2) For each talesman, $30.00 a day, on request, unless the talesmen were otherwise compensated by their employer;

(3) Upon request and upon a showing of hardship, reimbursement for expenses necessarily incurred for travel from home to court, and return, at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 208. 32V.S.A. § 1514 is amended to read:

§ 1514. BOARD AND LODGING OF JURORS

When in a grand jury investigation or in the trial of a criminal or civil cause jurors are kept together by order of the court, their board and lodging and that of the officers having such jurors in charge shall be paid by the state. ~~This provision shall apply only to grand jurors and petit jurors in superior courts and petit jurors in district courts.~~

Sec. 209. 32 V.S.A. § 1518 is amended to read:

§ 1518. TOWN GRAND JURORS

In criminal causes ~~before a district court~~, the grand juror or other prosecuting officer shall be paid:

(1) If the cause is disposed without trial, $1.50;

(2) For trial by court, $2.00;

(3) For trial by jury, $2.50;

(4) For each subsequent day, $2.00 additional;

(5) Ten cents a mile travel one way for one trip for each cause, provided a separate trip for such cause has been made; but if a separate trip has not been made, then at $0.05 a mile one way for each cause;

(6) No grand juror shall receive in fees more than $400.00 in any one year.

Sec. 210. 32 V.S.A. § 1551 is amended to read:

§ 1551. ATTENDANCE FEES

There shall be allowed to witnesses the following fees:

(1) For attendance before a ~~district or superior~~ court ~~or court of jail delivery,~~ or to give a deposition before a notary public, $30.00 a day;

(2) For attendance before an appraiser appointed by the commissioner of taxes, $30.00 a day; such fees to be apportioned as the appraiser may direct;

(3) For attendance on other courts or tribunals, $30.00 a day;

(4) For travel in the state, all witnesses shall receive mileage at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 211. 32 V.S.A. § 1596 is amended to read:

§ 1596. FEES FORBIDDEN

Fees shall not be allowed to an officer for the service of a capias, bench warrant, or other writ for the arrest of a person who is under a recognizance

taken before ~~a district court judge or other~~ an officer authorized by law to take such recognizance, requiring the appearance of such person before the superior court.

Sec. 212. 32 V.S.A. § 1631 is amended to read:

§ 1631. TRUSTEES' FEES

The person summoned as trustee shall be allowed $0.06 a mile for his or her travel, and $1.50 for each day's attendance before the superior court, the same for travel and $0.75 for each day's attendance before a commissioner ~~or district court~~.

Sec. 213. 32 V.S.A. § 1751 is amended to read:

§ 1751. FEES WHEN NOT OTHERWISE PROVIDED

(a)(1) Officers and persons whose duty it is to record deeds, proceedings, depositions, or make copies of records, proceedings, docket entries, or minutes in their offices, when no other provision is made, shall be allowed:

~~(1)~~(A) The sum of $0.60 a folio therefor with a minimum fee of $1.00;

~~(2)~~(B) The sum of $2.00 for each official certificate;

~~(3)~~(C) For the authentication of documents, $2.00;

~~(4)~~(D) For other services such sum as is in proportion to the fees established by law.

(2) Provided, however, that no fees shall be charged to honorably discharged veterans of the armed forces of the United States, or to their dependents or beneficiaries, for copies of records required in the prosecution of any claim for benefits from the United States government, or any state agency, and fees for copies of records so furnished at the rates provided by law shall be paid such officers by the town or city wherein such record is maintained.

(b)(1) Whenever ~~probate, district, environmental, family, or superior~~ court officers and employees or officers and employees of the judicial bureau furnish copies or certified copies of records, the following fees shall be collected for the benefit of the state:

~~(1)~~(A) The sum of $0.60 a folio with a minimum fee of $1.00 when a copy is reproduced by typewriter or hand;

~~(2)~~(B) The sum of $0.25 a page with a minimum fee of $1.00 when a copy is reproduced photographically;

~~(3)~~(C) For each official certificate, $5.00; however, one conformed copy of any document issued by a court shall be furnished without charge to a party of record to the action;

~~(4)~~(D) For the authentication of documents, $5.00;

~~(5)~~(E) For a response to a request for a record of criminal history of a person based upon name and date of birth, $30.00.

~~(6)~~(F) For appointment as an acting judge pursuant to 4 V.S.A § 22(b) for the purpose of performing a civil marriage, $100.00.

(2) However, the fees provided for in this subsection shall not be assessed by these officers and employees in furnishing copies or certified copies of records to any agency of any municipality, state, or federal government or to veterans honorably discharged from the armed forces of the United States, their dependents or beneficiaries, in the prosecution of any claim for benefits from the United States government, or any state agency.

Sec. 214. 32 V.S.A. § 1753 is amended to read:

§ 1753. INQUESTS

The fees and expenses of inquests on the dead~~,~~ and buildings burned shall be the same as in criminal causes before a ~~district~~ court.

Sec. 215. 32 V.S.A. § 1760 is amended to read:

§ 1760. FEES OF COUNTY CLERKS FOR INDEX OF DEEDS AND INDEX OF RECORDS

The county clerks shall receive from the county, for making the general index of existing land records under ~~section~~ 27 V.S.A. § 401 ~~of Title 27~~, $1.00 for each 100 entries upon such index; and for making an index as provided in ~~section~~ 4 V.S.A. § 656 ~~of Title 4~~, such sum as the assistant judges ~~of the superior court~~ certify to be reasonable, to be allowed by the commissioner of finance and management in the accounts of the clerks.

Sec. 216. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(8) "Court" means a superior court~~, a district court,~~ or the judicial bureau.

* * *

Sec. 217. 32 V.S.A. § 5936(b) is amended to read:

(b) The final determination of any claimant agency regarding the validity and amount of any debt may be appealed within 30 days to the civil division of the superior court of the ~~county~~ unit in which the taxpayer resides, except that if the claimant agency is the office of child support the appeal shall be to the family division of the superior court. Upon appeal, the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules for Family Proceedings, as appropriate, shall apply, and the court shall proceed de novo to determine the debt owed.

Sec. 218. DELETED

Sec. 219. 32 V.S.A. § 8171 is amended to read:

§ 8171. RECOVERY OF TAXES AND PENALTIES

Taxes imposed by this chapter may be recovered in the name of the state in a civil action, on the statute imposing them, returnable to any superior ~~or district~~ court. The penalties so imposed may be so recovered in a civil action on the statute imposing them. The amount of taxes assessed or penalties accrued up to the time of trial may be recovered in such suit; but a court wherein an action is pending to recover a forfeiture, in its discretion, may remit such part thereof as it shall deem just and equitable in the circumstances. The state shall not be required in any proceeding under this chapter to furnish recognizance or bond for costs, nor injunction bonds. Upon final judgment, the court may make such order relating to the payment of costs, by the state or the defendant, as it shall deem just and equitable.

Sec. 220. 32 V.S.A. § 10102(a) is amended to read:

(a) In addition to any other powers granted to the commissioner and the secretary in this chapter, they may:

* * *

(5) require the attendance of, the giving of testimony by, and the production of any books and records of any person believed to be liable for the payment of tax or to have information pertinent to any matter under investigation by the commissioner or the secretary. The fees of witnesses required to attend any hearing shall be the same as those allowed witnesses appearing in the superior court, but no fees shall be payable to a person charged with a tax liability under this chapter. Any superior ~~or district~~ judge may, upon application of the commissioner or the secretary, compel the attendance of witnesses, the giving of testimony, and the production of books and records before the commissioner or the secretary in the same manner, to

the same extent, and subject to the same penalties as if before a superior ~~or district~~ court.

Sec. 221. 33 V.S.A. § 4916a(c)(2) is amended to read:

(2) The administrative review may be stayed upon request of the person alleged to have committed abuse or neglect if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated. During the period the review is stayed, the person's name shall be placed on the registry. Upon resolution of the superior court criminal or family ~~court~~ case, the person may exercise his or her right to review under this section.

Sec. 222. 33 V.S.A. § 4916b(c) is amended to read:

(c) A hearing may be stayed upon request of the petitioner if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated.

Sec. 223. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(8) "Custodian" means a person other than a parent or legal guardian to whom legal custody of the child has been given by order of a Vermont ~~family or probate~~ superior court or a similar court in another jurisdiction.

* * *

(12) "Guardian" means a person who, at the time of the commencement of the juvenile judicial proceeding, has legally established rights to a child pursuant to an order of a Vermont ~~probate~~ court or a ~~similar~~ court in another jurisdiction.

Sec. 224. 33 V.S.A. § 5103(a) and (b) are amended to read:

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other family ~~court~~ division proceedings and any order of another court of this state, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

Sec. 225. 33 V.S.A. § 5104(a) is amended to read:

(a) The family division of the superior court may retain jurisdiction over a youthful offender up to the age of 22.

Sec. 226. 33 V.S.A. § 5203(e) is amended to read:

(e) Motions to transfer a case to the family division of the superior court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 227. 33 V.S.A. § 5281 is amended to read:

§ 5281. MOTION IN ~~DISTRICT~~ CRIMINAL DIVISION OF SUPERIOR COURT

(a) A motion may be filed in the ~~district~~ criminal division of the superior court requesting that a defendant under 18 years of age in a criminal proceeding who had attained the age of 10 but not the age of 18 at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the state's attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section and the entering of a conditional plea of guilty by the youth, the ~~district court~~ criminal division shall enter an order deferring the sentence and transferring the case to the family ~~court~~ division for a hearing on the motion. Copies of all records relating to the case shall be forwarded to the family ~~court~~ division. Conditions of release and any department of corrections supervision or custody shall remain in effect until the family ~~court~~ division approves the motion for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title.

(c) A plea of guilty entered by the youth pursuant to subsection (b) of this section shall be conditional upon the family ~~court~~ division granting the motion for youthful offender status.

(d)(1) If the family ~~court~~ division denies the motion for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be returned to the ~~district court~~ criminal division, and the youth shall be permitted to withdraw the plea. The conditions of release imposed by the ~~district court~~

criminal division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment had not been made.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the family ~~court's~~ division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent criminal division proceeding ~~in district court~~.

Sec. 228. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the family ~~court~~ division, unless the court extends the period for good cause shown, the department shall file a report with the family division of the superior court.

(b) A report filed pursuant to this section shall include the following elements:

(1) A recommendation as to whether youthful offender status is appropriate for the youth.

(2) A disposition case plan including proposed services and proposed conditions of juvenile probation in the event youthful offender status is approved.

(3) A description of the services that may be available for the youth when he or she reaches 18 years of age.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than the department, the court, the state's attorney, the youth, the youth's attorney, the youth's guardian ad litem, the department of corrections, or any other person when the court determines that the best interests of the youth would make such a disclosure desirable or helpful.

Sec. 229. 33 V.S.A. § 5283 is amended to read:

§ 5283. HEARING IN FAMILY ~~COURT~~ DIVISION

(a) Timeline. A hearing on the motion for youthful offender status shall be held no later than 35 days after the transfer of the case from ~~district court~~ the criminal division.

(b) Notice. Notice of the hearing shall be provided to the state's attorney; the youth; the youth's parent, guardian, or custodian; the department; and the department of corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

Sec. 230. 33 V.S.A. § 5285 is amended to read:

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the family division of the superior court. The court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained the age of 18 for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of his or her probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender status and return the case to the ~~district court~~ criminal division for sentencing; or

(3) transfer supervision of the youth to the department of corrections.

(d) If a youth's status as a youthful offender is revoked and the case is returned to the ~~district court~~ criminal division under subdivision (c)(2) of this

section, the ~~district~~ court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the ~~district~~ court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The ~~district court~~ criminal division shall have access to all family ~~court~~ division records of the proceeding.

Sec. 231. 33 V.S.A. § 5286(a) and (c) are amended to read:

(a) The family ~~court~~ division shall review the youth's case before he or she reaches the age of 18 and set a hearing to determine whether the court's jurisdiction over the youth should be continued past the age of 18. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the state's attorney, the youth, the department, and the department of corrections.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The department shall report its recommendations, with supporting justifications, as to whether the family ~~court~~ division should continue jurisdiction over the youth past the age of 18 and, if continued jurisdiction is recommended, whether the department or the department of corrections should be responsible for supervision of the youth.

* * *

Sec. 232. 33 V.S.A. § 5287(a) and (c) are amended to read:

(a) A motion may be filed at any time in the family ~~court~~ division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the state's attorney, the youth, the department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the state's attorney, the youth, and the department.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the family ~~court~~ division case. The family ~~court~~ division shall provide notice of the dismissal to the ~~district court~~ criminal division, which shall dismiss the ~~district court~~ criminal case.

Sec. 233. 33 V.S.A. § 6932(a) and (b) are amended to read:

(a) The family division of the superior court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 6936 of this title may be issued by a judge of the ~~district,~~ criminal, civil, or family division of the superior ~~or family~~ court.

Sec. 234. 33 V.S.A. § 6938(a) and (c) are amended to read:

(a) Except as otherwise provided in this subchapter, proceedings commenced under this subchapter shall be in accordance with the Rules for Family ~~Court Rules~~ Proceedings and shall be in addition to any other available civil or criminal remedies.

(c) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist persons to seek relief and to gain access to ~~district,~~ superior ~~and family~~ court judges. Law enforcement agencies shall assist in carrying out the intent of this section.

Sec. 235. Sec. 121(a) of No. 4 of the Acts of 2009 is amended to read:

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011~~, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district~~. The records of the probate courts of the probate districts of Bennington and Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate

services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 235a. AMERICANS WITH DISABILITIES ACT; COURT FACILITIES; REPORT

The commissioner of the department of buildings and general services and the court administrator shall study the county courthouses to evaluate whether the courthouses comply with ADA accessibility standards and shall report the results of the study to the general assembly, along with any recommendations and estimates of the costs of bringing courthouses into compliance, on or before December 15, 2010. Where it is necessary that expenses be incurred in order to bring a courthouse into compliance with the ADA, the judiciary shall submit a capital budget request to the commissioner of buildings and general services for consideration in the capital budget request process.

Sec. 235b. WEIGHTED CASELOAD STUDY

The court administrator shall conduct a weighted caseload study and analysis or equivalent study within the superior court and judicial bureau every three years. The results of the study shall be reported to the senate and house committees on judiciary and government operations. The study may be used to review and consider adjustments to the compensation of probate judges.

Sec. 236. LEGISLATIVE COUNCIL STATUTORY REVISION AUTHORITY

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words "superior court," "civil division," "criminal division," "family division," environmental division," or "probate division," as appropriate, for the words "district court," "family court," "probate court," and environmental court." These amendments shall be made when new legislation is proposed or where there is a republication of a volume of the Vermont Statutes Annotated.

Sec. 237. TRANSITIONAL PROVISIONS

(a) The judicial office of district judge is eliminated. On the effective date of Sec. 9 of this act, each district judge shall become a superior judge and have all of the powers and duties of a superior judge. The term of each superior judge who reached the office by virtue of this subsection shall be the same as if the person had remained a district judge.

(b) On July 1, 2010:

(1) the superior court as it formerly existed shall be redesignated as the civil division of the superior court, and all cases and files of the former superior court shall be transferred to the civil division of the superior court;

(2) the family court as it formerly existed shall be redesignated as the family division of the superior court, and all cases and files of the former family court shall be transferred to the family division of the superior court;

(3) the district court as it formerly existed shall be redesignated as the criminal division of the superior court, and all cases and files of the former district court shall be transferred to the criminal division of the superior court; and

(4) the environmental court as it formerly existed shall be redesignated as the environmental division of the superior court, and all cases and files of the former environmental court shall be transferred to the environmental division of the superior court.

(c) On February 1, 2011, the probate court shall be redesignated as the probate division of the superior court, and all cases and files of the former probate court shall be transferred to the probate division of the superior court.

(d) Until February 1, 2011, each county clerk shall provide each superior clerk with deputies to work in the superior court. The number of deputies provided shall be equal to the number of deputies working in the superior court on July 1, 2009.

(e)(1) The court administrator shall assign, from the positions currently authorized for the judicial branch, the positions that will provide staff support to the divisions of the superior court. The court administrator shall establish the organizational structure of the positions assigned to the units of the court. In the transition from the existing courts to the superior court, hiring preference shall be given to current state and county judiciary employees. Any county employee hired in connection with the transition shall be credited, for purposes of determining eligible judicial branch service, with all continuous past service to a superior court as if that service had been provided while the person was a state judiciary employee, shall accrue future leave based on that seniority, and shall be able to transfer accrued sick leave and annual leave up to the state cap for that seniority, provided that this subsection shall not be construed to create any state liability for any act or omission that occurred while the person was a county employee. Where the position of an incumbent permanent state judiciary employee is reassigned to the superior court, the employee may choose to continue in the position or exercise reduction in force rights.

(2) Upon passage of this act and until February 1, 2011, the salaries of county employees working as chief deputy clerks, deputy clerks, assistant clerks, office clerks, docket clerks, office assistants, assistant deputy clerks, senior deputy clerks, senior accounting clerks, or court recorders for the superior court shall be frozen at the employee's current level, unless a collective bargaining agreement in effect on the date of passage of this act requires otherwise. Also upon passage, no change may be made to leave policies covering the county positions described in this subdivision except if a collective bargaining agreement in effect on that date requires otherwise.

(3) Upon passage of this act and until February 1, 2011, vacancies that occur in positions listed in subdivision (2) of this subsection may not be filled without the authorization of the court administrator.

(4) By December 31, 2010, the county shall report to the court administrator the current employees of the county who serve the superior court, each employee's hire date with the county, hourly rate, and leave balances, and a description of the employee's benefits.

(5) Any county employee who becomes a state employee pursuant to this act shall be immediately eligible to enroll in the state health plan.

(f) Sec. 17 of this act shall establish probate districts for the November 2, 2010 probate judge election, and for all probate judge elections thereafter. Probate judges in office upon passage of this act shall continue to serve, and probate districts in effect upon passage of this act shall continue to exist, until February 1, 2011.

(g) On the effective date of this subsection, the newly consolidated probate court district within each county is deemed to be a continuation of the prior probate court districts within the county. The newly consolidated court shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the prior probate districts within the county, including all pending matters and appeals. The records of the prior probate court districts shall become the records of the probate court of the newly consolidated probate district. The newly consolidated probate court district shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The current probate registers of the prior probate districts shall be allowed to maintain their employment status that was in effect on January 31, 2011 for six months, at which time the probate judge, in consultation with the court administrator, shall appoint a single probate register for the district. The assistant judges of these counties shall maintain offices for the newly formed district in the former districts which may be used by the probate court full- or part-time to provide

access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

(h) Notwithstanding any law to the contrary, a probate judge who, on January 31, 2011, is in office, has completed 12 years of service as a probate judge, and is a member of group D of the Vermont state employees' retirement system shall receive a group D retirement benefit based upon the judge's salary at retirement or upon the highest salary earned in a fiscal year during the judge's employment as a probate judge, whichever provides the greater benefit.

(i) The establishment of six new exempt positions for the superior court with position titles to be assigned by the court administrator is authorized in FY 2011.

(j) Notwithstanding any other provision of law, the terms of office of magistrates holding office on the effective date of this act shall be extended as follows:

(1) The term of office for the magistrate whose term is scheduled to expire on September 1, 2010, shall be extended until April 1, 2012.

(2) The term of office for the magistrate whose term is scheduled to expire on September 1, 2012, shall be extended until April 1, 2013.

(3) The terms of office for magistrates whose terms are scheduled to expire on September 1, 2014, shall be extended until April 1, 2015.

Sec. 238. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 24 (designation and special assignment of district or superior judge to hear child support enforcement actions), 111a (designation and jurisdiction of superior court), 113 (jurisdiction of superior court), 114 (criminal jurisdiction of superior court), 116 (special sessions of superior court), 117 (special hearings of superior court), 119 (completion of cases commenced in superior court), 151 (opening and adjournment of court by judge or sheriff), 152 (adjournment of court to another day), 153 (change in time of holding sessions), 154 (designation of time of commencement of term), 436 (district court created), 437 (civil jurisdiction of district court), 439 (jurisdiction of district court in felony cases), 440 (jurisdiction of district court in misdemeanor cases), 441 (jurisdiction of district court with respect to violations of bylaws or ordinances), 442 (powers of the district court), 443 (appeals from district court), 444 (number, appointment, and assignment of

district judges), 446 (court officer in district court), 451 (family court created), 452 (composition of family court), 453 (powers of family court), 454 (jurisdiction of family court), 456 (appeals from family court), 4 V.S.A. § 461b (powers of assistant judges in Essex and Orleans Counties in parentage proceedings), 604 (district judge declaration of intent to continue office), 651a (county clerk to be superior court clerk), 693 (district court docket and records), 694 (filing of process with judge or clerk in district court), and 951 (office of jury commission established).

(2) 12 V.S.A. §§ 1949 (district court jury), 5805 (contents of juror's oath for civil cases in district court), and 5809 (contents of jury officer's oath in district court);

(3) 24 V.S.A. §§ 174 (superior court seal may be used as county seal), 182 (county clerk's return of fees to commissioner of finance and management), 401 (superior court judges to appoint commissioners of jail delivery), 402 (vacancy in office of commissioner of jail delivery), 403 (quorum for transaction of business by commission of jail delivery), and 404 (procedure when commissioners of jail delivery disqualified); and

(4) 32 V.S.A. §§ 526 (fees disallowed when justice has not filed return with county clerk), 527 (bill of costs disallowed when justice has not filed returns with county clerk), 528 (penalty when justice fails to make returns), 1146 (expenses and fees for district judges), 1181 (salaries of county clerks), and 1474 (costs and fees allowed in district courts); and

(5) the following sections of No. 4 of the Acts of 2009: Secs. 122 (single probate districts in each county); 123 (salaries of probate judges); 124 (repeal of multiple probate district counties); 125 (transitional provisions); and 130(c) (February 1, 2011 effective date of Secs. 122–125).

(b) In the following sections, the phrase "district court," wherever it appears, is replaced with "criminal division of the superior court":

(1) 3 V.S.A. §§ 965 and 1030;

(2) 4 V.S.A. §§ 23, 1107, 1109, and 1110;

(3) 7 V.S.A. §§ 563, 572, and 657;

(4) 9 V.S.A. § 2575;

(5) 10 V.S.A. §§ 2671, 2674, 4552, and 4555;

(6) 12 V.S.A. §§ 5717 and 5854;

(7) 13 V.S.A. §§ 353, 354, 1460, 4822, 4823, 5132, 5411, 5411d, 6504, 6606, 7002, and 7573;

(8) 17 V.S.A. § 2616;

(9) 18 V.S.A. §§ 1060, 7312, 7510, 7612, 7615, 7801, 7802, 8403, and 8840;

(10) 19 V.S.A. §§ 5, 7a, and 726;

(11) 20 V.S.A. §§ 2056c and 2864;

(12) 21 V.S.A. §§ 1352, 1622, and 1727;

(13) 23 V.S.A. §§ 105, 304a, 1209a, 1215, 2202, 2205, and 3318;

(14) 24 V.S.A. §§ 299, 1311, 1932, 1936a, 1981, 1983, and 3109;

(15) 28 V.S.A. §§ 373, 374, 504, and 705;

(16) 32 V.S.A. §§ 542, 543, 544, and 7781; and

(17) 33 V.S.A. §§ 5203, 5204, and 5293.

(c) In the following sections, the phrase "family court," wherever it appears, is replaced with "family division of the superior court":

(1) 3 V.S.A. § 476a;

(2) 4 V.S.A. §§ 458, 465, and 466;

(3) 14 V.S.A. §§ 2663 and 2667;

(4) 15 V.S.A. §§ 293, 303, 606, 653, 668a, 782, 787, 798, 799, 1108, and 1206;

(5) 15A V.S.A. §§ 1-112, 2-407, 3-101, and 3-207;

(6) 15B V.S.A. § 102;

(7) 16 V.S.A. § 1946b;

(8) 18 V.S.A. §§ 5004, 7624, 9305, 9306, 9309, 9314, and 9315;

(9) 24 V.S.A. § 5066a; and

(10) 33 V.S.A. §§ 3901, 4102, 4103, 4105, 4108, 4916, 5102, 5117, 5118, 5252, 5301, and 6940.

Sec. 238a. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 271 (probate districts), 275 (Fair Haven and Rutland probate districts), 276 (Marlboro and Westminster probate districts), 277 (Hartford and Windsor probate districts), § 311 (probate court jurisdiction), 314 (probate court retention of jurisdiction over estate once taken), 315

(contest of probate court jurisdiction), 351 (record and seal of probate court), 352 (impression of probate court seal to be kept by governor), 353 (probate court always open), 358 (duties of probate court register), 359 (judge may perform probate court register's duties), 360 (card index required in probate court), 361 (maintenance of ledger in probate court), 363 (powers of probate court), 366 (costs taxed to witnesses in probate court), and 367 (security for costs taxed to witnesses in probate court);

(2) 12 V.S.A. §§ 2553 (appellate jurisdiction of superior court in probate matters) and 2555 (standing to appeal probate matter to superior court);

(3) 14 V.S.A. § 905 (appeal to superior court of probate court order appointing administrator);

(4) 24 V.S.A. § 71b (assistant judge and sheriff responsible for county courthouse security); and

(5) 32 V.S.A. § 1558 (costs for witnesses in probate court).

(b) In the following sections, the phrase "probate court," wherever it appears, is replaced with "probate division of the superior court":

(1) 3 V.S.A. §§ 465 and 468;

(2) 8 V.S.A. §§ 2201, 2407, 12602, 14205, and 14405;

(3) 9 V.S.A. §§ 2480n and 4359;

(4) 12 V.S.A. §§ 2358, 5136(c), 7154, and 7159;

(5) 14 V.S.A. §§ 2, 103, 104, 105, 106, 107, 113, 114, 116, 202, 312, 313, 314, 315, 681, 684, 902, 903, 904, 906, 907, 909, 917, 917a, 919, 921, 922, 923, 924, 928, 929, 931, 961, 962, 963, 964, 965, 1051, 1054, 1056, 1059, 1065, 1066, 1068, 1201, 1204, 1206, 1210, 1410, 1416, 1455, 1492, 1551, 1554, 1557, 1558, 1559, 1611, 1612, 1613, 1614, 1615, 1651, 1652, 1653, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1665, 1721, 1729, 1730, 1731, 1736, 1737, 1739, 1741, 1742, 1743, 1801, 1804, 1952, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2201, 2202, 2203, 2303, 2305, 2306, 2307, 2318, 2327, 2402, 2403, 2501, 2502, 2602, 2603, 2645, 2650, 2653, 2654, 2656, 2658, 2665, 2666, 2667, 2671, 2684, 2687, 2711, 2712, 2751, 2752, 2753, 2754, 2791, 2792, 2794, 2795, 2800, 2802, 2803, 2804, 2841, 2843, 2846, 2881, 2882, 2886, 2887, 2890, 2921, 2923, 2924, 2925, 2928, 2961, 2963, 2964, 3001, 3004, 3011, 3063, 3064, 3069, 3075, 3076, 3076, 3081, 3091, 3093, 3094, 3095, 3101, 3201, and 3509;

(6) 15 V.S.A. §§ 811, 812, 813, and 816;

(7) 15A V.S.A. §§ 1-101, 1-105, 1-110, 1-113, 2-105, 2-206, 3-101, 3-102, 5-104, 6-102, 6-103, and 6-105;

(8) 16 V.S.A. §§ 1940 and 1941;

(9) 18 V.S.A. §§ 5075, 5076, 5077, 5150, 5151, 5168, 5169, 5202a, 5212, 5212a, 5219, 5227, 5228, 5230, 5232, 5308, 5438, 5534, 5537, 5576, 7401, 9701, 9703, 9707, 9711, 9714, and 9718;

(10) 24 V.S.A. §§ 5059 and 5061;

(11) 27 V.S.A. §§ 105, 106, 143, 145, 184, 185, 465, 466, and 1270;

(12) 28 V.S.A. § 814;

(13) 32 V.S.A. §§ 7109, 7303, 7304, 7450, 7451, and 745; and

(14) 33 V.S.A. §§ 102, 123, 302, and 4921.

Sec. 238b. LEGISLATIVE INTENT; FORENSIC LABORATORY ACCREDITATION

It is the intent of the general assembly that the Vermont crime laboratory remain continuously accredited by an accreditation organization. As used in this section, "accreditation organization" means a nonprofit professional association of persons who are actively involved in forensic science and who have substantial expertise in accrediting forensic laboratories.

Sec. 238c. PRESERVATION OF EVIDENCE

(a)(1) The general assembly finds that it is in the interest of justice that Vermont establish a system for the preservation of any item of physical evidence containing biological material that is secured in connection with a criminal case or investigation by the government entity having custody of the evidence for the period of time that:

(A) the statute of limitations has not expired for a crime that remains unsolved; and

(B) a person remains incarcerated, on probation or parole, or subject to registration as a sex offender in connection with a criminal case.

(2) For purposes of this section, criminal case or investigation shall include only the following offenses:

(A) arson causing death as defined in 13 V.S.A. § 501;

(B) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(C) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);

(D) aggravated assault as defined in 13 V.S.A. § 1024;

(E) aggravated murder as defined in 13 V.S.A. § 2311 and murder as defined in 13 V.S.A. § 2301;

(F) manslaughter as defined in 13 V.S.A. § 2304;

(G) kidnapping as defined in 13 V.S.A. § 2405;

(H) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(I) maiming as defined in 13 V.S.A. § 2701;

(J) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(K) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(L) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); and

(M) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602.

(3) For purposes of this section, "biological evidence" means:

(A) a sexual assault forensic examination kit; or

(B) semen, blood, saliva, hair, skin tissue, or other identified biological material.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary no later than January 15, 2011.

(c) The department of public safety, the department of buildings and general services, the police chiefs' association, and the sheriffs' association shall develop a proposal for establishing one or more facilities for retention of items of physical evidence containing biological material that is secured in connection with a criminal case or investigation. Such facilities would be available for use by all Vermont law enforcement agencies. The proposal shall be presented to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011.

Sec. 238d. RECORDING CUSTODIAL INTERROGATIONS; ADMISSIBILITY OF DEFENDANT'S STATEMENT

(a) It is the intent of the general assembly that on and after July 1, 2012, a law enforcement agency shall make an audio or an audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

(c) In the first year of the 2011–2012 biennium, the senate and house committees on judiciary shall consider the proposal required by subsection (b) of this section for the purpose of enacting statutes by the date of adjournment in 2012 to implement a plan for audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

Sec. 238e. EYEWITNESS IDENTIFICATION BEST PRACTICES

(a) The general assembly finds that eyewitness misidentification remains the single largest contributing factor to wrongful conviction. According to the Innocence Project, there are currently 249 DNA exonerations across the nation, and in nearly 80 percent of them, there was at least one misidentification.

(b) A statewide study committee created by No. 60 of the Acts of 2007 reported that the Vermont police academy currently teaches best practices regarding eyewitness identification.

(c) To ensure that law enforcement agencies statewide are employing best practices with regard to eyewitness identification, the Vermont law enforcement advisory board shall develop a proposal to establish best practices that are well suited for Vermont and its many small rural law enforcement agencies, including consideration of conditions for the use and administration of show-ups, use of blind administrators for lineups, proper filler selection in live or photo lineups, instructions for eyewitnesses prior to a live or photo lineup, and confidence statements from eyewitnesses. The Vermont law enforcement advisory board shall present its proposal to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The

proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

Sec. 238f. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SILENCERS

A person who manufactures, sells ~~or,~~ uses, or possesses with intent to sell or use~~,~~ an appliance known as or used for a gun silencer shall be fined $25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers ~~for military purposes when so used or possessed under proper military authority and restriction~~ by:

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

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

Sec. 239. EFFECTIVE DATES

(a) Except as provided in subsection (b), (c), or (d) of this section, this act shall take effect on July 1, 2010.

(b) Sec. 42 of this act shall take effect on July 1, 2010, except that the power to hire and remove staff, which is currently performed by county employees, as set forth in 4 V.S.A. § 491 as amended by Sec. 42 of this act, shall take effect on February 1, 2011.

(c) The following sections of this act shall take effect on February 1, 2011: Secs. 7a, 7f, 18, 18a, 19, 20, 21, 23, 23a, 24, 25, 28a, 44a, 73, 74a, 75, 76, 81, 91, 92, 120, 121, 122, 124, 125, 126a, 148, 149, 154a, 155a, 163a, 165, 197, 199, 200, 201, 203b, 204, and 238a.

(d) Secs. 17a, 237(f), 238b, 238c, 238d, 238e, and 238f of this act and this subsection shall take effect on passage.

RICHARD W. SEARS
JOHN F. CAMPBELL
ALICE W. NITKA

Committee on the part of the Senate

WILLIAM J. LIPPERT
THOMAS F. KOCH
WILLEM W. JEWETT

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Mullin.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 295, H. 470, H. 780.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 103.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to the study and recommendation of ignition interlock device legislation.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 103. An act relating to the study and recommendation of ignition interlock device legislation.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

* * *

(b) ~~A~~ Except as authorized in section 1213 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 1201 of this title or has been suspended under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before reinstatement of the license shall be imprisoned not more than two years or fined not more than $5,000.00, or both. The sentence shall be subject to the following mandatory minimum terms:

* * *

Sec. 2. 23 V.S.A. § 1130 is amended to read:

§ 1130. ~~PERMITTING~~ EMPLOYING AN UNLICENSED PERSON ~~TO OPERATE~~; PERMITTING UNAUTHORIZED OPERATION

No person shall knowingly employ, as operator of a motor vehicle, a person not licensed as provided in this title. No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a person who has no legal right to do so, or in violation of a provision of this title.

Sec. 3. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(8) "Ignition interlock device" means a device that is capable of measuring a person's alcohol concentration and that prevents a motor vehicle from being started by a person whose alcohol concentration is 0.02 or greater.

(9) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the commissioner allowing a person whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

Sec. 4. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration of 0.08 or more; suspension periods.

For a first suspension under this subchapter:

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.08 or more at the time of operating, attempting to operate or being in actual physical control, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time and location of the district court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license.

* * *

(m) Second and subsequent suspensions. For a second suspension under this ~~section~~ subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of this 18-month period unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another. For a third or subsequent suspension under this ~~section~~ subchapter, the period of suspension shall be life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

* * *

Sec. 5. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE~~, REINSTATEMENT~~; FIRST CONVICTIONS

(a) ~~First conviction~~ First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the court shall forward

the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) ~~Extended suspension~~ Extended suspension—fatality. In cases resulting in a fatality, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

(c) Extended suspension—refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201~~(b) or~~ (c) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title.

Sec. 6. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of this 18-month period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately revoke

the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

Sec. 7. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license suspended or revoked under this subchapter, except a license suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license shall ~~not~~ be reinstated ~~until the person has~~ only:

(A) after the person has successfully completed an alcohol and driving education program, at the person's own expense, followed by an assessment of the need for further treatment by a state designated counselor, at the person's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the person and the drinking driver rehabilitation program director; ~~and~~

(B) if the screening indicates that therapy is needed, after the person has satisfactorily completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director;

(C) if electing to operate under an ignition interlock RDL, after the person has operated under a valid RDL for a period of six months, or if the RDL is permanently revoked, after one year from the date of suspension; and

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license shall not be reinstated until the person has successfully completed an alcohol and driving rehabilitation program ~~and~~; has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for 18 months; and has no pending criminal charges,

civil citations, or unpaid fines or penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until two years from the date of suspension.

(3) In the case of a third or subsequent suspension or a revocation, a license shall not be reinstated until the person has successfully completed an alcohol and driving rehabilitation program; has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director; has satisfied the requirements of subsection (b) of this section; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for a period of three years; and has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until four years from the date of suspension.

* * *

Sec. 8. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE; ARREST UPON VIOLATION

(a) At the first appearance before a judicial officer of a person charged with violation of section 1201 of this title, the court, upon a plea of not guilty, shall consider whether to establish conditions of release. Those conditions may include a requirement that the defendant not operate a motor vehicle if there is a likelihood that the defendant will operate a motor vehicle in violation of section 1201 or section 1213 of this title. The court may consider all relevant evidence, including whether the defendant has a motor vehicle or criminal record indicating prior convictions for one or more alcohol-related offenses. Prior convictions may be established for this purpose by a noncertified photocopy of a motor vehicle record, a computer printout or an affidavit. Nothing in this section limits the authority of a judicial officer to impose other conditions of release, nor does it limit or modify other statutory provisions concerning license suspension or revocation or the right of a person to operate a motor vehicle.

* * *

Sec. 9. 23 V.S.A. § 1213 is amended to read:

§ 1213. ~~[RESERVED FOR FUTURE USE.]~~ IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE; PENALTIES

(a) First offense. A person whose license or privilege to operate is suspended for a first offense under this subchapter shall be permitted to operate

a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under sections 1205(a)(2), 1206(a), or 1216(a)(1) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving education program. The RDL shall be valid after expiration of the applicable shortened period specified in subsection 1205(a)(2), 1206(a), or 1216(a)(1) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under subsection 1205(m), 1208(a), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in subsection 1205(m), 1208(a), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under subsection 1205(m), 1208(b), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment

in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in subsection 1205(m), 1208(b), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the court may order that the fine of an indigent person conditionally be reduced by one half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL as set forth in this section.

(e) The holder of an ignition interlock RDL shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the commissioner. The holder of an ignition interlock RDL shall notify the commissioner and the department of corrections in writing if the device is removed or if the vehicle in which the device is installed is sold, repossessed, or otherwise conveyed. Notice shall be provided within 10 days of such removal or conveyance, and the commissioner shall cancel the person's ignition interlock RDL upon receipt of notice under this subsection.

(f) The holder of an ignition interlock RDL shall operate only motor vehicles equipped with an ignition interlock device until his or her license or privilege to operate is reinstated, shall not attempt or take any action to tamper with or otherwise circumvent the holder's ignition interlock device, and shall not continue to drive after failing a retest.

(g) A person who violates any provision of subsection (f) of this section before reinstatement of a license or privilege to operate suspended under this subchapter commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and upon conviction shall have his or her ignition interlock RDL permanently revoked. A person convicted of a separate criminal offense under this title also shall have his or her ignition interlock RDL permanently revoked.

(h) A person who violates a rule adopted by the commissioner pursuant to subsection (l) of this section commits a civil traffic violation subject to the

jurisdiction of the judicial bureau and shall be subject to a civil penalty of up to $500.00 and up to a one-year recall of the person's ignition interlock RDL.

(i) Upon receipt of notice that the holder of an ignition interlock RDL has been adjudicated of a separate civil offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the commissioner shall recall the person's ignition interlock RDL for the same period that the license or privilege to operate would have been suspended, revoked, or recalled.

(j) Upon expiration of a recall imposed under subsection (h) or (i) of this section and receipt of satisfactory proof of installation of an approved ignition interlock device, financial responsibility as provided in section 801 of this title, and enrollment in or completion of an alcohol and driving education or rehabilitation program, the commissioner shall reinstate the ignition interlock RDL. The commissioner may charge a fee for reinstatement in the amount specified in section 675 of this title.

(k) A person shall not knowingly and voluntarily tamper with an ignition interlock device on behalf of another person or otherwise assist another person to circumvent an ignition interlock device. A person adjudicated of a violation of this subsection shall be subject to a civil penalty of $500.00.

(l)(1) The commissioner, in consultation with the commissioner of corrections and any individuals or entities the commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section.

(2) The commissioner shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices.

Sec. 10. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE

(a) A person under the age of 21 who operates, attempts to operate or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the

jurisdiction of the judicial bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this six-month period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches the age of 21 or for one year, whichever is longer, and complies with ~~section~~ subdivision 1209a(a)(2) of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of the applicable suspension period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) ~~Notwithstanding the provisions in subsection (a) of this section to the contrary, a~~ A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:

(1) the commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and the provider of the therapy program has been paid in full;

(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and

(3)(A) a person operating under an ignition interlock RDL for a first offense has operated under a valid RDL for a period of nine months or, if the RDL is permanently revoked, after one year from the date of suspension; or

(B) a person operating under an ignition interlock RDL for a second or subsequent offense has operated under a valid RDL for a period of 18 months or until the person is 21, whichever is longer, or if the RDL is permanently revoked, after two years from the date of suspension or until the person is 21, whichever is longer.

* * *

Sec. 11. TRANSITION RULE

On July 1, 2011, ignition interlock restricted driver's licenses shall be available to persons suspended for a violation of 23 V.S.A. § 1201 or 1216 or pursuant to 23 V.S.A. § 1205 prior to July 1, 2011, if such persons otherwise

would be eligible for an ignition interlock RDL under this act. Persons who elect to obtain an ignition interlock RDL pursuant to this section shall be subject to all of the provisions of this act but shall not be eligible for the reduced fine specified in subsection (d) of Sec. 9, and shall be so notified by the commissioner in advance of obtaining an ignition interlock RDL.

Sec. 12. STUDY, IMPLEMENTATION PLANNING, REPORTING, AND RECOMMENDATIONS

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections and other any individuals or entities the commissioner deems appropriate, shall study:

(1) whether creation of a fund to assist indigent persons in defraying the costs associated with ignition interlock devices is likely to promote the use of ignition interlock devices, as well as potential funding sources and mechanisms;

(2) how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment;

(3) the factors that have contributed to the varying success of states in promoting use of ignition interlock devices and reducing DUI recidivism; and

(4) any other issues pertaining to ignition interlock devices and restricted drivers' licenses that the commissioner deems relevant to successful implementation of ignition interlock legislation in Vermont.

In studying these issues, the commissioner shall review ignition interlock laws and regulations as well as administrative practices in other states.

(b) The commissioner also shall study the costs associated with issuing and renewing ignition interlock RDLs and the minimum fees that will be required to defray the costs of issuing and renewing ignition interlock RDLs.

(c) The commissioner shall provide a report of the findings of the studies conducted pursuant to subsections (a) and (b) of this section to the senate and house committees on judiciary and on transportation by January 15, 2011.

(d) The commissioner shall formulate an implementation plan that shall include a timeline and steps that the department of motor vehicles will undertake prior to July 1, 2011, to prepare for issuance of ignition interlock restricted drivers' licenses in accordance with this act. The commissioner shall provide a copy of this implementation plan and any recommendations

concerning additional legislation needed for effective implementation of ignition interlock restricted drivers' licenses in Vermont to the senate and house committees on judiciary and on transportation by January 15, 2011.

Sec. 13. PILOT PROJECT

(a) Pilot project established. The commissioner of corrections and the commissioner of motor vehicles shall conduct an ignition interlock device pilot project as provided in this section to inform the process of ignition interlock program implementation. The pilot project shall commence no later than January 1, 2011, and continue until July 1, 2011.

(b) Device certification. The commissioner of motor vehicles shall determine appropriate ignition interlock device performance standards and certify ignition interlock devices for the pilot project. Only devices certified by the commissioner of motor vehicles shall be used in the pilot project.

(c) Restricted driver's license eligibility; issuance. Persons under the supervision of the department of corrections through the Intensive Substance Abuse Program whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration are eligible for an ignition interlock restricted driver's license under the pilot project established by this section unless the suspension or revocation arises from an offense involving refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or an offense involving a collision resulting in serious bodily injury or death to another. The commissioner of motor vehicles may issue an ignition interlock RDL to an eligible person upon the approval of the commissioner of corrections and receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated and of financial responsibility as provided in section 801 of this title. The privilege to operate a motor vehicle by persons issued an RDL under this section may be restricted by the department of corrections.

(d) A person eligible for an ignition interlock RDL under this section whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1, 2010, shall be eligible for subsidies from the department of corrections to defray the costs of installing, calibrating, or leasing an approved ignition interlock device. By October 1, 2010, the commissioner of corrections shall submit for approval by the joint legislative

corrections oversight committee recommendations concerning the levels of such subsidies.

(e) By October 1, 2010, the commissioners of corrections and of motor vehicles may submit for approval by the joint legislative corrections oversight committee and the joint transportation oversight committee additional guidelines for participation in the pilot project and the terms of operation under an ignition interlock RDL under the pilot project.

(f) The holder of an ignition interlock RDL under the pilot project shall operate only motor vehicles equipped with an approved ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent the holder's ignition interlock device, and shall not continue to drive after failing a retest. A person who violates any of these provisions commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and upon conviction shall have his or her ignition interlock RDL permanently revoked. A person convicted of a separate criminal offense under this title also shall have his or her ignition interlock RDL permanently revoked.

(g) The commissioners of corrections and of motor vehicles shall submit a report by January 15, 2012, to the senate and house committees on judiciary and on transportation evaluating the pilot project established by this section, including information on program costs, savings generated by reduced recidivism, and any recommendations concerning the design and implementation of ignition interlock program legislation.

Sec. 14. EFFECTIVENESS STUDY

The commissioner of motor vehicles shall monitor and calculate the rate of use of ignition interlock devices in Vermont after July 1, 2011, by different classes of offenders suspended for a violation of 23 V.S.A. § 1201 or 1216 or pursuant to 23 V.S.A. § 1205. The commissioner, in consultation with the commissioner of corrections and any other individuals or entities the commissioner deems appropriate, shall study whether changes to this act, including mandating installation of ignition interlock devices and reducing the 30-day period of hard suspension for first offenders, are likely to promote usage. The commissioner shall report the findings of this study and any recommendations to the senate and house committees on judiciary and on transportation by January 15, 2013.

Sec. 15. EFFECTIVE DATES

(a) This section, Sec. 12, Sec. 13, and subsection 1213(l) of Sec. 9 (ignition interlock rulemaking) shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2011.

M. JANE KITCHEL
PHILIP B. SCOTT
RICHARD W. SEARS

Committee on the part of the Senate

MAXINE JO GRAD
ELDRED M. FRENCH
RICHARD J. MAREK

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

House Proposal of Amendment; Proposals of Amendment; Consideration Postponed

S. 292.

House proposal of amendment to Senate bill entitled:

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

Was taken up.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with the following amendments thereto:

First: After Sec. 17, by inserting an internal caption and four new sections to be Secs. 17a through 17d to read:

* * * Employment History * * *

Sec. 17a. 16 V.S.A. § 1699a is added to read:

(a) If the commissioner for children and families receives a report of suspected child abuse pursuant to subchapter 2 of chapter 49 of Title 33 concerning a licensed educator and determines that the report merits investigation, then the commissioner shall forward to the commissioner of education a copy of the report.

(b) The commissioner of education shall ensure that the report and all related information remain confidential while the commissioner for children and families investigates the complaint.

(c) When the commissioner for children and families issues a determination that the report is substantiated or not substantiated, a copy of the determination shall be simultaneously forwarded to the commissioner of education.

(d) Upon receiving notification that a report is not substantiated, the commissioner of education shall destroy and expunge the report and all related documents and information in the department of education's files.

Sec. 17b. 21 V.S.A. § 306 is added to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT SEPARATION AGREEMENTS

In support of the state's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the state of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

Sec. 17c. 21 V.S.A. § 307 is added to read:

§ 307. DISCLOSURE OF INFORMATION; WAIVER

(a) Each prospective employee whose duties may place that person in a position of power, authority, or supervision over or permit unsupervised contact with a minor or vulnerable adult shall sign a waiver prior to employment authorizing:

(1) the prospective employer to request information about the prospective employee from current employers and former employers who employed the person within the previous ten years regarding conduct jeopardizing the safety of a minor or vulnerable adult; and

(2) the current and former employers to disclose the requested information as provided in subsection (c) of this section.

(b) The prospective employer of a prospective employee described in subsection (a) of this section shall request in writing that the current and former employers disclose all factual information that would lead a reasonable person to conclude that the prospective employee engaged in conduct jeopardizing the safety of a minor or vulnerable adult.

(c) Upon receiving an inquiry from a prospective employer pursuant to subsection (b) of this section, a current or former employer promptly shall disclose in writing all factual information in its possession that is responsive to that inquiry; provided that the affected employee shall have had the opportunity to review and respond to the information and the employee's response, if any, shall be included with the disclosure. Current and former employers shall provide a copy of the disclosure, or a statement that there is nothing to disclose, to both the prospective employer and the prospective employee.

Sec. 17d. REPORT

Legislative counsel shall review the potential impacts on hiring practices in Vermont if the state were to grant civil immunity for prospective, current, and former employers in connection with the disclosure of information concerning conduct jeopardizing the safety of a minor or vulnerable adult contained in a prospective employee's personnel file from the previous ten years, including the manner in which these matters are addressed in other jurisdictions. On or before January 15, 2011, the legislative counsel shall submit a report regarding the review to the general assembly.

Second: By striking Sec. 18 in its entirety and inserting in lieu thereof a new Sec. 18 to read:

Sec. 18. EFFECTIVE DATES

(a) Sec. 17c of this act shall take effect on April 1, 2011.

(b) Secs. 17a, 17b, and 17d of this act shall take effect on passage.

(c) This section and Secs. 1-17 of this act shall take effect on July 1, 2010

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with proposals of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with the following amendments thereto:

First: In Sec. 3, 13 V.S.A. § 5411(l), in the last sentence by striking out the following: "rule 75 of the Vermont rules of civil procedure" and inserting in lieu thereof the following: Rule 75 of the Vermont Rules of Civil Procedure

Second: In Sec. 10(a)(2), following "13 V.S.A. § 5301(7)" by inserting the following; , or

Third: In Sec. 12, at the end of the Sec. by adding a new subdivision (b)(4) to read as follows:

(4) a plan to improve and increase restorative justice, diversion, and other innovative municipal programs in each county so that the need for correctional services shall be reduced. The plan 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.

Fourth: By striking out Sec. 17 in its entirety and by renumbering the remaining sections to be numerically correct.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with proposals of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with the following amendment thereto:

By striking out Sec. 15 in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. 24 V.S.A. § 1940(c) is amended to read:

(c) A specialized investigative unit grants board is created which shall be comprised of the attorney general, the secretary of administration, the executive director of the department of state's attorneys, the commissioner of the department of public safety, a representative of the Vermont sheriffs' association, a representative of the Vermont association of chiefs of police, the executive director of the center for crime victim services, and the executive director of the Vermont League of Cities and Towns~~, Inc~~. Specialized investigative units organized and operating under this section for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities may apply to the board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the department of public safety, the department for children and families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region. However, a sheriff's department in a county with a population of less than 8,000 residents may receive a grant of up to $20,000.00 to support one part-time specialized investigative unit investigator, provided that the department matches the amount of the grant with in-kind service.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposals of amendment?, on motion of Senator Sears, consideration of the bill was postponed to the next legislative day.

Rules Suspended; Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment; Rules Suspended; Bill Messaged

H. 792.

Pending entry on the Calendar for third reading, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to implementation of challenges for change.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senator Bartlett moved to amend the Senate proposal of amendment as follows:

First: In Sec. C8, in subdivision (7), by striking out the word "detention" following "juvenile" and inserting in lieu thereof the word "rehabilitation"

Second: In Sec. C24, in subdivision (1), following "creating", by striking out the word "of", and in subdivision (8), by striking out the word "establishing" and inserting in lieu thereof the words "establishment of"

Third: In Sec. C24, in subdivision (16), by striking out "and" at the end of the sentence; in subdivision (17) by striking out the period at the end of the sentence and inserting in lieu thereof "; and" and by adding a new subdivision (18) to read:

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

Fourth: In Sec. C25, by striking out subdivision (a)(1) and inserting a new subdivision (a)(1) in lieu thereof to read:

(a)(1) The agency of human services and the agencies designated under chapter 207 of Title 18 shall reduce the fiscal year 2011 appropriation for mental health to the designated agencies by 2.0 percent and for developmental services by a total of 1.0 percent. The designated agencies shall minimize service reductions. The commissioner of finance and management and the secretary of human services are authorized to use available funding to minimize negative impacts on the designated agencies' cash flow, including by providing a higher proportion of funding in the first two quarters of the fiscal year.

Fifth: In Sec. C27, in subsection (b), following "Upon enactment", by inserting the words "of this act"

Sixth: In Sec. C35, in subsection (d), following "After receiving", by striking out the words "requests for"

Seventh: In Sec. C37, by striking out "March 30, 2010l" and inserting in lieu thereof "March 30, 2010" and by striking out "No. 38" and inserting in lieu thereof "No. 68"

Eighth: In Sec. C38, in subdivision (2), by striking out "of the department's" and inserting in lieu thereof "by the department of disabilities, aging, and independent living"; in subdivision (3), by striking out the word "detention" following "juvenile" and inserting in lieu thereof the word "rehabilitation"; and in subdivision (4), by striking out the words "an update on" and inserting in lieu thereof "the implementation of"

Ninth: In Sec. D9(a), in the first sentence, by striking "$6,350,200.00" and inserting in lieu there of "$6,350,500.00"

Tenth: In Sec. E2, subsection (e), in the second sentence, by striking out the date "January 15, 2011" and inserting in lieu thereof the date "December 15, 2010"

Eleventh: In Sec. E2, subsection (e), after the second sentence, by inserting a new sentence to read: "Also on December 15, 2010, each technical center district shall notify the commissioner of its ability to meet the recommended reduction allocated to it under subsection (c) of this section."

Twelfth: In Sec. E2, subsection (e), after the final sentence, by inserting two new sentences to read: "On or before January 15, 2011, the commissioner shall report to these committees with the total projected amount by which FY 2012 budgets will fail to meet the necessary reductions, together with a detailed proposal by which the legislature can ensure that the targets will be met in FY 2012. In addition, the commissioner shall post the recommended individual spending amounts and actual approved budgets for each supervisory union, with a breakdown for each budgeting entity within it, and technical center district on the department of education's website on or before July 1, 2011."

Thirteenth: In Sec. F19, 3 V.S.A. § 2809, in subdivision (a)(3), by striking "potentially responsible person" where it appears and inserting in lieu thereof "person who caused the agency to incur expenditures"

Fourteenth: By striking Sec. F31 (public service board rules for notice of interested parties) and renumbering the remaining sections of "F. Regulatory Challenge" to be numerically correct

Fifteenth: By striking out H1 in its entirety and inserting in lieu thereof "[DELETED]"

Sixteenth: In H2, 2 V.S.A. § 970, in subsection (a), by inserting new subdivisions (5) through (10) to read:

(5) Determine that data-based performance measures have been adopted for each agency and department.

(6) Determine whether each agency and department is taking actions to achieve the required outcomes, as shown by application of the data-based performance measures.

(7) Ensure that outcomes, measures, performance data, and descriptions of actions taken, or proposed to be taken, are transparent and readily accessible to the public via electronic publication.

(8) Assess the effectiveness of the performance measures for measuring progress in achieving outcomes.

(9) Recommend the addition, amendment, or elimination of any performance measures.

(10) By November 1 of each year, report to the general assembly its findings.

Seventeenth: By inserting a Sec. H4a to read:

Sec. H4a. REVIEW BY JOINT FISCAL COMMITTEE

The general assembly recognizes that acts of appropriations and their sources of funding reflect the priorities for expenditures of public funds enacted by the general assembly, and that reductions in expenditures and programs which are considered as a means of accomplishing the goals of No. 68 of the Acts of the 2009 Adj. Sess. (2010), and this act ought to reflect these legislated priorities. Therefore, if the general assembly is not in session, the secretary of administration shall report to the joint fiscal committee any proposal for a reduction in excess of five percent of the expenditure of the appropriated funding for any single function, program, or service as a part of its plan of implementation of Challenges for Change, and will include in the report an analysis of how the reduction is designed to achieve the outcomes expressed in the Challenges for Change, and how the reduction is designed to achieve legislated policy priorities. The joint fiscal committee may within 21

days after receipt of the secretary's report consider the proposed reduction in expenditures and report its approval or disapproval, and the reasons in support of its decision, to the secretary and to the general assembly. If the report is disapproved, the secretary may submit a revised plan to the joint fiscal committee for its review and approval or disapproval.

Eighteenth: In Sec. H5, by inserting a subdivision (6) to read:

(6) Sec. H4a (review by joint fiscal committee) shall take effect upon passage.

And by renumbering the sections and internal cross-references to be alphanumerically correct

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the Senate proposal of amendment as follows:

* * * RPC/RDC: Reduction in General Funds * * *

First: In Sec. 64, subsection (c), by striking out "90" and by inserting in lieu thereof "95"

Second: In 64e, by striking out subdivision (e)(1) in its entirety and by inserting in lieu thereof the following:

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

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

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

Third: In Sec. 64f, by striking out subdivision (c)(1) in its entirety and by inserting in lieu thereof the following:

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

* * * RPCs: Eight-Year Regional Plans * * *

Fourth: In Sec. 64c, 24 V.S.A. § 4345a(9), by striking out "five ~~ten~~" and by inserting in lieu thereof "eight"

Fifth: In Sec. 64c, 24 V.S.A. § 4348b(b), in the last sentence, by striking out "~~five~~ ten" and by inserting in lieu thereof "eight"

* * * Frequency of Performance Contract Negotiations * * *

Sixth: In Sec. 64c, 24 V.S.A. § 4341a(a), by striking out the word "annually"

* * * Economic and Outcome Measures * * *

Seventh: In Sec. 64h, by striking out "RESERVED." and by inserting in lieu thereof a new Sec. 64h to read:

Sec. 64h. ECONOMIC OUTCOME AND PERFORMANCE MEASURES

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

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

(1) program outcomes achieved in fiscal year 2010;

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

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

(c) Review and Approval of Initial Measures. The GAC, upon recommendation from the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs, shall vote whether the proposed outcome and performance measures are sufficient and should be accepted, in whole or in part. For any proposed measure not accepted, the GAC may request the economists to revise and resubmit a new measure to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs for their review and recommendation to the GAC, followed by the GAC's vote for acceptance or further request to the economists for revision and resubmission.

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

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

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

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

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

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

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

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

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

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

(3) cost per job created.

(g) New Programs or Initiatives. The secretary of commerce and community development shall provide the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs a detailed rationale for any economic development program or initiative creation, elimination, or reorganization proposed under challenges for change, with specific reference to the relevant, accepted, program-specific outcome and performance measures.

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

* * * Economic Development Reductions ($834k) * * *

Eighth: By striking out Sec. 64v in its entirety and by inserting in lieu thereof a new Sec. 64v to read:

Sec. 64v. ECONOMIC DEVELOPMENT REDUCTIONS

Except as otherwise provided in Sec. 64e(e) and 64f(c):

(1) A total of $834,000.00 in reduced state funds in fiscal year 2011, reflects a 5 percent reduction to all the state funded programs in the unified economic development budget and the state funds for administration in the agency of commerce and community development, including the central office and the department of tourism and marketing, but excluding the clean energy development fund and the Vermont telecommunications authority.

(2) A total of $131,600.00 in reduced state funds for the regional planning commissions in fiscal year 2011 reflects a 5 percent reduction.

(3) Nothwithstanding any other provision of law to the contrary, the secretary of administration shall have the authority to reduce appropriations or transfer funds as is necessary to reduce by 5% the state funding to each grant-funded program in the unified economic development budget, including state grants to the regional planning commissions, and excluding the clean energy development fund and the Vermont telecommunications authority. The remainder of the savings for the Economic Development challenge shall be achieved by the secretary through reductions from non-grant funded sources, including administrative costs.

(4) From the Challenges for Change reinvestment funds that are appropriated to the secretary to implement the economic development components of this act, the secretary of administration shall reimburse the joint fiscal office for costs incurred to implement Sec. 64h (economic performance measures) of this act.

Ninth: By adding a in Sec. 64l, in § 542(b) after the period in the first sentence the following: The amount of funding to each WIB so authorized shall be based on the performance contract entered into between the council and the WIB.

* * * Challenges for Change Investments * * *

Tenth: By striking out 64w in its entirety and by inserting in lieu thereof a new Sec. 64w to read as follows:

Sec. 64w. CHALLENGES FOR CHANGE INVESTMENTS

(a) The secretary of administration is authorized to expend any Challenges for Change reinvestment funds that are appropriated to the secretary for that purpose to implement the economic development components of this act, which may include the following activities:

(1) Funding to the regional planning commissions and regional development corporations to facilitate reorganization pursuant to this act.

(2) Funding for the services of one or more economists or fiscal analysts to assist the agency of commerce and community development in the preparation of economic measures for regional job creation and retention.

(3) Funding for the implementation of the brownfield project challenge.

* * * Effective Dates * * *

Eleventh: By striking out Sec. 64z in its entirety and by inserting in lieu thereof a new Sec. 64z to read:

Sec. 64z. EFFECTIVE DATES

(a) Secs. 64 through 64z of this act (economic development) shall take effect upon passage, except that:

(A) Sec. 64o (repeal of Vermont sustainable jobs fund provisions in H.789 as enacted) shall take effect upon passage and, notwithstanding any other provision of law to the contrary, shall apply retroactively to the effective date of H.789 of 2010 as enacted.

(B) Secs. 64p and 64q (Vermont sustainable jobs fund program) shall take effect upon the cessation of state funding to the program from the general fund.

And by renumbering the bill and any internal cross-references to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 64k1 to read as follows:

Sec. 64k1. 10 V.S.A. § 531(c)(4) is added to read:

(4) contribute at least 50 percent of the cost of training, which for purposes of this subdivision shall not include any subsidy of the salary or benefits of participating workers or any overhead costs incurred by the employer in the normal course of business, but may include the cost of the training course, course materials, an instructor who is not an employee of the employer at the time of instruction, and any costs incurred from the use of an offsite training facility.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Ashe?, Senator Ashe requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill, Senator Miller moved to amend the Senate proposal of amendment to Sec. E2 as follows:

First: In the section title, by striking out the words "Targeted Recommendations" and inserting in lieu thereof the words Targeted Reductions

Second: In subsection (c), in the first sentence, by striking out the words "a recommended" and inserting in lieu thereof the word an and in the second sentence by striking out the word "recommended"

Third: In subsections (d) and (e), by striking out the word "recommended" wherever it appears

Fourth: By adding a new subsection to be subsection (g) to read as follows:

(g) For any district that is unable to meet the targeted reduction, the district spending adjustment for that district under 32 V.S.A. § 5401(13) shall be calculated as the fraction in which the numerator is the district's education spending plus the amount by which the district failed to meet the targeted reduction and the denominator is the base education amount for the school year.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Miller?, Senator Miller requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill Senators Lyons, Doyle, Ayer, Flory, Hartwell, MacDonald, McCormack, Racine, and White moved that the Senate proposal of amendment be amended as follows:

First: By striking out Secs. 64 through 64f in their entirety and inserting in lieu thereof the following:

Sec. 64. REGIONAL PLANNING CHALLENGE

(a) **Challenge.**

Each regional planning commission shall improve regional planning outcomes through performance contracts and regional coordination with regional development corporations, while achieving a five percent savings in fiscal year 2011 and a ten percent savings in fiscal year 2012.

(b) **Performance contracts for regional planning commissions.**

Notwithstanding any other provision of law to the contrary:

(1) Beginning July 1, 2010, the secretary of the agency of commerce and community development shall annually enter into a performance contract with each current regional planning commission to provide regional planning services in its region.

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

(3) Base funding to regional planning commissions shall be determined formula pursuant to 24 V.S.A. § 4306.

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

(c) **Regional coordination.**

On or before July 1, 2010, each regional planning commission shall evaluate efficiencies, and as appropriate enter into one or more memoranda of understanding, to improve outcomes and achieve savings through improved coordination with regional development corporations and other regional service providers, including:

(1) Regular joint meetings of staff and board leadership.

(2) Regional work plans.

(3) Consolidation of administrative or related functions.

(4) Joint performance contracts.

(5) Co-location or merger with other local, regional, or state service providers.

Sec. 64a. REGIONAL ECONOMIC DEVELOPMENT CHALLENGE

(a) **Challenge.**

Each regional development corporation shall improve regional economic development outcomes through performance contracts and regional coordination with regional planning commissions, while achieving a five percent savings in fiscal year 2011 and a five percent savings in fiscal year 2012.

(b) **Performance contracts for regional development corporations.**

Notwithstanding any provision of law to the contrary:

(1) Beginning July 1, 2010, the secretary of the agency of commerce and community development shall annually negotiate and enter into a performance contract with each current regional development corporation to provide regional economic development services in its region.

(2) A performance contract shall identify specific outcomes and benchmarks to measure regional economic development performance.

(3) Base funding allocations to regional development corporations shall be made in the same proportions as in fiscal year 2010.

(4) The secretary and the regional development corporation shall negotiate terms for frequency and method of assessing performance, and for

establishing incentives and holdbacks based on achievement of identified outcomes.

(c) **Regional coordination.**

On or before July 1, 2010, each regional development corporation shall evaluate efficiencies, and as appropriate enter into one or more memoranda of understanding, to improve outcomes and achieve savings through improved coordination with regional planning commissions and other regional service providers, including:

(1) Regular joint meetings of staff and board leadership.

(2) Regional work plans.

(3) Consolidation of administrative or related functions.

(4) Joint performance contracts.

(5) Co-location or merger with other local, regional, or state service providers.

Sec. 64b. DELIVERY OF ECONOMIC AND WORKFORCE DEVELOPMENT SERVICES; REORGANIZATION

(a) **Committee created.**

(1) There is created a committee to design a proposal for reorganizing the state and regional delivery of economic development and workforce development services to improve the economic development outcomes identified in Sec. 8 of No. 68 of the Acts of 2010 (2009 Adj. Sess.) while also achieving cost savings.

(2) The committee shall consist of five members drawn from the business community who represent a diversity of business sectors and geographic areas of the state. Members shall be appointed as follows:

(A) One member by the speaker of the house.

(B) One member by the senate committee on committees.

(C) One member by the governor.

(D) Two at-large members appointed unanimously by the speaker of the house, the senate committee on committees, and the governor.

(3) Notwithstanding subdivision (2) of this subsection, if a member vacancy remains as of June 15, 2010, either because one of the three appointing authorities fails to appoint its member, or one of the three appointing authorities fails to agree to the appointment of any at-large member

that has been approved by the other two appointing authorities, then the other two appointing authorities may proceed to unanimously fill such vacancy.

(b) **Duties of committee**.

(1) The committee shall perform a comprehensive assessment of the state and regional delivery systems of economic development and workforce development services, including:

(A) The appropriate balance of what functions are performed at the state level and the regional level.

(B) The appropriate configuration of economic development regions of the state.

(C) The potential for improved outcomes and efficiencies between and among regional economic and workforce development service providers through:

(i) Regular joint meetings of staff and board leadership.

(ii) Regional work plans.

(iii) Consolidation of administrative or related functions.

(iv) Joint performance contracts.

(v) Co-location or merger with other local, regional, or state service providers.

(D) The most effective organization of regional workforce investment boards.

(E) How regional development corporations can work more effectively in coordination with regional planning commissions.

(2) The committee shall address additional opportunities to improve outcomes and achieve savings through specific programs and expenditures identified in the unified economic development budget.

(3) On or before September 15, 2010, the committee shall submit its findings and proposal to the governor, the joint fiscal committee, the joint government accountability committee, the secretary of commerce and community development, the senate committee on economic development, housing and general affairs, the house committee on commerce and community development, the house and senate committees on natural resources and energy, and the house committee on fish, wildlife and water resources.

Second: In Sec. 64h, by striking out "RESERVED." and inserting in lieu thereof a new Sec. 64h to read as follows:

Sec. 64h. ECONOMIC OUTCOME AND PERFORMANCE MEASURES

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

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

(1) program outcomes achieved in fiscal year 2010;

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

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

(c) Review and Approval of Initial Measures. The GAC, upon recommendation from the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs, shall vote whether the proposed outcome and performance measures are sufficient and should be accepted, in whole or in part. For any proposed measure not accepted, the GAC may request the economists to revise and resubmit a new measure to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs for their review and recommendation to the GAC, followed by the GAC's vote for acceptance or further request to the economists for revision and resubmission.

(d) Review and Approval of Measures for New Programs. Upon request by the GAC, the economists shall establish outcome and performance measures for any new economic development program created by the general

assembly, and shall revise existing outcome and performance measures, as necessary. Before implementation, however, all outcome and performance measures shall be accepted by the GAC pursuant to the process described in subsection (c) of this section.

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

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

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

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

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

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

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

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

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

(3) cost per job created.

(g) New Programs or Initiatives. The secretary of commerce and community development shall provide the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs a detailed rationale for any economic development program or initiative creation, elimination, or reorganization proposed under challenges for change, with specific reference to the relevant, accepted, program-specific outcome and performance measures.

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

Third: In Sec. 64i(b) by adding before the period at the end of the last sentence after the word "development" the following: , House and Senate natural resources committees, and House and Senate government operations committees

Fourth: By striking out Sec. 64v in its entirety and inserting in lieu thereof a new Sec. 64v. to read as follows:

Sec. 64v. ECONOMIC DEVELOPMENT REDUCTIONS

(a) A total of $834,000 in reduced state funds in fiscal year 2011, reflects a 5% reduction to all the state funded programs in the unified economic development budget and the state funds for administration in the agency of commerce and community development, including the central office and the department of tourism and marketing, but excluding the clean energy development fund and the Vermont telecommunications authority.

(b) A total of $131,600 in reduced state funds for the regional planning commissions in fiscal year 2011 reflects a 5% reduction.

(c) Nothwithstanding any other provision of law to the contrary, the secretary of administration shall have the authority to reduce appropriations or transfer funds as is necessary to reduce by 5% the state funding to each grant-funded program in the unified economic development budget, including state grants to the regional planning commissions, and excluding the clean energy development fund and the Vermont telecommunications authority. The remainder of the savings for the Economic Development challenge shall be achieved by the secretary through reductions from non-grant funded sources, including administrative costs.

Fifth: By striking out 64w in its entirety and inserting in lieu thereof a new Sec. 64w to read as follows:

Sec. 64w. CHALLENGES FOR CHANGE INVESTMENTS

(a) The secretary of administration is authorized to expend any Challenges for Change reinvestment funds that are appropriated to the secretary for that purpose to implement the economic development components of act, which may include the following activities:

(1) Funding to the regional planning commissions and regional development corporations to facilitate reorganization pursuant to this act.

(2) Funding for the services of one or more economists or fiscal analysts to assist the agency of commerce and community development in the preparation of economic measures for regional job creation and retention.

(3) Funding for the implementation of the brownfield project challenge.

(b) From the Challenges for Change reinvestment funds that are appropriated to the secretary to implement the economic development components of this act, the secretary of administration shall reimburse the joint fiscal office for costs incurred to implement Sec. 64h (economic performance measures) of this act.

Sixth: By striking out Sec. 64z in its entirety and inserting in lieu thereof a new Sec. 64z to read as follows:

Sec. 64z. EFFECTIVE DATES

(a) Secs. 64 through 64z of this act (economic development) shall take effect upon passage, except that:

(A) Sec. 64o (repeal of Vermont sustainable jobs fund provisions in H.789 as enacted) shall take effect upon passage and, notwithstanding any other provision of law to the contrary, shall apply retroactively to the effective date of H.789 of 2010 as enacted.

(B) Secs. 64p and 64q (Vermont sustainable jobs fund program) shall take effect upon the cessation of state funding to the program from the general fund.

And by renumbering the bill and any internal cross-references to be numerically correct

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Lyons, Doyle, Ayer, Flory, Hartwell, MacDonald, McCormack, Racine, and White?, Senator Illuzzi raised a point of order that the first amendment would substantially negate the amendment previously adopted and therefore could not be considered by the Senate pursuant to Senate Rule 61. The President sustained the point of order

and ruled that the Senate could not consider the first amendment offered by Senator Lyons and the other senators.

In addition, the President ruled that the amendments set forth as the *second*, *fourth*, *fifth* and *sixth* ones contained provisions that were identical to the wording of other proposals of amendment theretofore adopted and, therefore, were unnecessary for consideration by the Senate.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senators Lyons, Doyle, Ayer, Flory, Hartwell, MacDonald, McCormack, Racine, and White?, in the *third* proposal of amendment?, was agreed to.

Senator Lyons moved to suspend the rules to consider the *first* proposal of amendment?, which was disagreed to on a division of the Senate, Yeas 12 Nays 15.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 24, Nays 3.

Senator Bartlett having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Illuzzi, Kitchel, Kittell, Lyons, Mazza, Miller, Nitka, Racine, Scott, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Flory, MacDonald, McCormack.

Those Senators absent and not voting were: Hartwell, Mullin, Sears.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eleven o’clock and thirty minutes in the forenoon on Tuesday, May 11, 2010.