

Senate Calendar

FRIDAY, APRIL 30, 2010

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ORDERS OF THE DAY

**ACTION CALENDAR
CONSIDERATION POSTPONED**

Third Reading

H. 213.

An act to provide fairness to tenants in cases of contested housing security deposit withholding.

Second Reading

Favorable

H. 769.

An act relating to the licensing and inspection of plant and tree nurseries.

Reported favorably by Senator Giard for the Committee on Agriculture.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 24, 2010, page 649)

House Proposal of Amendment

S.88

An act relating to health care financing and universal access to health care in Vermont.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * HEALTH CARE REFORM PROVISIONS * * *

Sec. 1. FINDINGS

The general assembly finds that:

(1) The escalating costs of health care in the United States and in Vermont are not sustainable.

(2) The cost of health care in Vermont is estimated to increase by \$1 billion, from \$4.9 billion in 2010 to \$5.9 billion, by 2012.

(3) Vermont's per-capita health care expenditures are estimated to be \$9,463.00 in 2012, compared to \$7,414.00 per capita in 2008.

(4) The average annual increase in Vermont per-capita health care expenditures from 2009 to 2012 is expected to be 6.3 percent. National

per-capita health care spending is projected to grow at an average annual rate of 4.8 percent during the same period.

(5) From 2004 to 2008, Vermont's per-capita health care expenditures grew at an average annual rate of eight percent compared to five percent for the United States.

(6) At the national level, health care expenses are estimated at 18 percent of GDP and are estimated to rise to 34 percent by 2040.

(7) Vermont's health care system covers a larger percentage of the population than that of most other states, but still about seven percent of Vermonters lack health insurance coverage.

(8) Of the approximately 47,000 Vermonters who remain uninsured, more than one-half qualify for state health care programs, and nearly 40 percent of those who qualify do so at an income level which requires no premium.

(9) Many Vermonters do not access health care because of unaffordable insurance premiums, deductibles, co-payments, and coinsurance.

(10) In 2008, 15.4 percent of Vermonters with private insurance were underinsured, meaning that the out-of-pocket health insurance expenses exceeded five to 10 percent of a family's annual income depending on income level or that the annual deductible for the health insurance plan exceeded five percent of a family's annual income. Out-of-pocket expenses do not include the cost of insurance premiums.

(11) At a time when high health care costs are negatively affecting families, employers, nonprofit organizations, and government at the local, state, and federal levels, Vermont is making positive progress toward health care reform.

(12) An additional 30,000 Vermonters are currently covered under state health care programs than were covered in 2007, including approximately 12,000 Vermonters who receive coverage through Catamount Health.

(13) Vermont's health care reform efforts to date have included the Blueprint for Health, a vision, plan, and statewide partnership that strives to strengthen the primary care health care delivery and payment systems and create new community resources to keep Vermonters healthy. Expanding the Blueprint for Health statewide may result in a significant systemwide savings in the future.

(14) Health information technology, a system designed to promote patient education, patient privacy, and licensed health care practitioner best practices through the shared use of electronic health information by health care facilities, health care professionals, public and private payers, and patients, has

already had a positive impact on health care in this state and should continue to improve quality of care in the future.

(15) Indicators show Vermont's utilization rates and spending are significantly lower than those of the vast majority of other states. However, significant variation in both utilization and spending are observed within Vermont which provides for substantial opportunity for quality improvements and savings.

(16) Other Vermont health care reform efforts that have proven beneficial to thousands of Vermonters include Dr. Dynasaur, VHAP, Catamount Health, and the department of health's wellness and prevention initiatives.

(17) Testimony received by the senate committee on health and welfare and the house committee on health care makes it clear that the current best efforts described in subdivisions (12), (13), (14), (15), and (16) of this section will not, on their own, provide health care coverage for all Vermonters or sufficiently reduce escalating health care costs.

(18) Only continued structural reform will provide all Vermonters with access to affordable, high quality health care.

(19) Federal health care reform efforts will provide Vermont with many opportunities to grow and a framework by which to strengthen a universal and affordable health care system.

(20) To supplement federal reform and maximize opportunities for this state, Vermont must provide additional state health care reform initiatives.

* * * HEALTH CARE SYSTEM DESIGN * * *

Sec. 2. PRINCIPLES FOR HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming health care in Vermont:

(1) It is the policy of the state of Vermont to ensure universal access to and coverage for essential health services for all Vermonters. All Vermonters must have access to comprehensive, quality health care. Systemic barriers must not prevent people from accessing necessary health care. All Vermonters must receive affordable and appropriate health care at the appropriate time in the appropriate setting, and health care costs must be contained over time.

(2) The health care system must be transparent in design, efficient in operation, and accountable to the people it serves. The state must ensure public participation in the design, implementation, evaluation, and accountability mechanisms in the health care system.

(3) Primary care must be preserved and enhanced so that Vermonters

have care available to them; preferably, within their own communities. Other aspects of Vermont's health care infrastructure must be supported in such a way that all Vermonters have access to necessary health services and that these health services are sustainable.

(4) Every Vermonter should be able to choose his or her primary care provider, as well as choosing providers of institutional and specialty care.

(5) The health care system will recognize the primacy of the patient-provider relationship, respecting the professional judgment of providers and the informed decisions of patients.

(6) Vermont's health delivery system must model continuous improvement of health care quality and safety and, therefore, the system must be evaluated for improvement in access, quality, and reliability and for a reduction in cost.

(7) A system for containing all system costs and eliminating unnecessary expenditures, including by reducing administrative costs; reducing costs that do not contribute to efficient, quality health services; and reducing care that does not improve health outcomes, must be implemented for the health of the Vermont economy.

(8) The financing of health care in Vermont must be sufficient, fair, sustainable, and shared equitably.

(9) State government must ensure that the health care system satisfies the principles in this section.

Sec. 3. GOALS OF HEALTH CARE REFORM

Consistent with the adopted principles for reforming health care in Vermont, the general assembly adopts the following goals:

(1) The purpose of the health care system design proposals created by this act is to ensure that individual programs and initiatives can be placed into a larger, more rational design for access to, the delivery of, and the financing of affordable health care in Vermont.

(2) Vermont's primary care providers will be adequately compensated through a payment system that reduces administrative burdens on providers.

(3) Health care in Vermont will be organized and delivered in a patient-centered manner through community-based systems that:

(A) are coordinated;

(B) focus on meeting community health needs;

(C) match service capacity to community needs;

(D) provide information on costs, quality, outcomes, and patient satisfaction;

(E) use financial incentives and organizational structure to achieve specific objectives;

(F) improve continuously the quality of care provided; and

(G) contain costs.

(4) To ensure financial sustainability of Vermont's health care system, the state is committed to slowing the rate of growth of total health care costs, preferably to reducing health care costs below today's amounts, and to raising revenues that are sufficient to support the state's financial obligations for health care on an ongoing basis.

(5) Health care costs will be controlled or reduced using a combination of options, including:

(A) increasing the availability of primary care services throughout the state;

(B) simplifying reimbursement mechanisms throughout the health care system;

(C) reducing administrative costs associated with private and public insurance and bill collection;

(D) reducing the cost of pharmaceuticals, medical devices, and other supplies through a variety of mechanisms;

(E) aligning health care professional reimbursement with best practices and outcomes rather than utilization;

(F) efficient health facility planning, particularly with respect to technology; and

(G) increasing price and quality transparency.

(6) All Vermont residents, subject to reasonable residency requirements, will have universal access to and coverage for health services that meet defined benefits standards, regardless of their age, employment, economic status, or their town of residency, even if they require health care while outside Vermont.

(7) A system of health care will provide access to health services needed by individuals from birth to death and be responsive and seamless through employment and other life changes.

(8) A process will be developed to define packages of health services, taking into consideration scientific and research evidence, available funds, and

the values and priorities of Vermonters, and analyzing required federal health benefit packages.

(9) Health care reform will ensure that Vermonters' health outcomes and key indicators of public health will show continuous improvement across all segments of the population.

(10) Health care reform will reduce the number of adverse events from medical errors.

(11) Disease and injury prevention, health promotion, and health protection will be key elements in the health care system.

Sec. 4. 2 V.S.A. § 901 is amended to read:

§ 901. CREATION OF COMMISSION

(a) There is established a commission on health care reform. The commission, under the direction of co-chairs who shall be appointed by the speaker of the house and president pro tempore of the senate, shall monitor health care reform initiatives and recommend to the general assembly actions needed to attain health care reform.

(b)(1) Members of the commission shall include four representatives appointed by the speaker of the house, four senators appointed by the committee on committees, ~~and~~ two nonvoting members appointed by the governor, one nonvoting member with experience in health care appointed by the speaker of the house, and one nonvoting member with experience in health care appointed by the president pro tempore of the senate.

(2) The two nonvoting members with experience in health care shall not:

(A) be in the employ of or holding any official relation to any health care provider or insurer or be engaged in the management of a health care provider or insurer;

(B) own stock, bonds, or other securities of a health care provider or insurer, unless the stock, bond, or other security is purchased by or through a mutual fund, blind trust, or other mechanism where a person other than the member chooses the stock, bond, or security;

(C) in any manner, be connected with the operation of a health care provider or insurer; or

(D) render professional health care services or make or perform any business contract with any health care provider or insurer if such service or contract relates to the business of the health care provider or insurer, except contracts made as an individual or family in the regular course of obtaining health care services.

* * *

Sec. 5. APPOINTMENT; COMMISSION ON HEALTH CARE REFORM

Within 15 days of enactment, the speaker of the house and the president pro tempore of the senate shall appoint the new members of the joint legislative commission on health care reform as specified in Sec. 4 of this act. All other current members, including those appointed by the governor and the legislative members, shall continue to serve their existing terms.

Sec. 6. HEALTH CARE SYSTEM DESIGN AND IMPLEMENTATION PLAN

(a)(1) By February 1, 2011, one or more consultants of the joint legislative commission on health care reform established in chapter 25 of Title 2 shall propose to the general assembly and the governor at least three design options, including implementation plans, for creating a single system of health care which ensures all Vermonters have access to and coverage for affordable, quality health services through a public or private single-payer or multipayer system and that meets the principles and goals outlined in Secs. 2 and 3 of this act.

(2)(A)(i) One option shall design a government-administered and publicly financed "single-payer" health benefits system decoupled from employment which prohibits insurance coverage for the health services provided by this system and allows for private insurance coverage only of supplemental health services.

(ii) One option shall design a public health benefit option administered by state government, which allows individuals to choose between the public option and private insurance coverage and allows for fair and robust competition among public and private plans.

(iii) One option shall design a system based on Vermont's current health care reform initiatives as provided for in 3 V.S.A. § 2222a, on the provisions in this act expanding the state's health care reform initiatives, and on the new federal insurance exchange, insurance regulatory provisions, and other provisions in the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, which further the principles in Sec. 2 of this act, the goals in Sec. 3, or the parameters described in this section.

(B) Any additional options shall be designed by the consultant, in consultation with the commission, taking into consideration the principles in Sec. 2 of this act, the goals in Sec. 3, and the parameters described in this section.

(3) Each design option shall include sufficient detail to allow the

governor and the general assembly to consider the adoption of one design during the 2011 legislative session and to initiate implementation of the new system through a phased process beginning no later than July 1, 2012.

(4) The proposal to the general assembly and the governor shall include a recommendation for which of the design options best meets the principles and goals outlined in Secs. 2 and 3 of this act in an affordable, timely, and efficient manner. The recommendation section of the proposal shall not be finalized until after the receipt of public input as provided in subdivision (g)(1) of this section.

(b) No later than 45 days after enactment, the commission shall propose to the joint fiscal committee a recommendation, including the requested amount, for one or more outside consultants who have demonstrated experience in health care systems or designing health care systems that have expanded coverage and contained costs to provide the expertise necessary to do the analysis and design required by this act. Within seven days of the commission's proposal, the joint fiscal committee shall meet and may accept, reject, or modify the commission's proposal.

(c) In creating the designs, the consultant shall review and consider the following fundamental elements:

(1) the findings and reports from previous studies of health care reform in Vermont, including the Universal Access Plan Report from the health care authority, November 1, 1993; reports from the Hogan Commission; relevant studies provided to the state of Vermont by the Lewin Group; and studies and reports provided to the commission.

(2) existing health care systems or components thereof in other states or countries as models.

(3) Vermont's current health care reform efforts as defined in 3 V.S.A. § 2222a.

(4) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010; Employee Retirement Income Security Act (ERISA); and Titles XVIII (Medicare), XIX (Medicaid), and XXI (SCHIP) of the Social Security Act.

(d) Each design option shall propose a single system of health care which maximizes the federal funds to support the system and is composed of the following components, which are described in subsection (e) of this section:

(1) a payment system for health services which includes one or more packages of health services providing for the integration of physical and mental health; budgets, payment methods, and a process for determining payment amounts; and cost reduction and containment mechanisms;

- (2) coordinated local delivery systems;
- (3) health system planning, regulation, and public health;
- (4) financing and proposals to maximize federal funding; and
- (5) a method to address compliance of the proposed design option or options with federal law.

(e) In creating the design options, the consultant shall include the following components for each option:

- (1) A payment system for health services.

(A)(i) Packages of health services. In order to allow the general assembly a choice among varied packages of health services in each design option, the consultant shall provide at least two packages of health services providing for the integration of physical and mental health as further described in subdivision (A)(ii) of this subdivision (1) as part of each design option.

(ii)(I) Each design option shall include one package of health services which includes access to and coverage for primary care, preventive care, chronic care, acute episodic care, palliative care, hospice care, hospital services, prescription drugs, and mental health and substance abuse services.

(II) Each design option shall include at least one additional package of health services, which includes the services described in subdivision (A)(ii)(I) of this subdivision (1) and coverage for supplemental health services, such as home- and community-based services, services in nursing homes, payment for transportation related to health services, or dental, hearing, or vision services.

(iii)(I) Each proposed package of health services shall include a cost-sharing proposal that includes a waiver of any deductible and other cost-sharing payments for chronic care for individuals participating in chronic care management and for preventive care.

(II) Each package of health service shall include a proposal that has no cost-sharing, including the cost differential between subdivision (A)(iii)(I) of this subdivision (1) and this subdivision (II).

(B) Administration. The consultant shall include a recommendation for:

(i) a method for administering payment for health services, which may include administration by a government agency, under an open bidding process soliciting bids from insurance carriers or third-party administrators, through private insurers, or a combination.

(ii) enrollment processes.

(iii) integration of the pharmacy best practices and cost control program established by 33 V.S.A. §§ 1996 and 1998 and other mechanisms, to promote evidence-based prescribing, clinical efficacy, and cost-containment, such as a single statewide preferred drug list, prescriber education, or utilization reviews.

(iv) appeals processes for decisions made by entities or agencies administering coverage for health services.

(C) Budgets and payments. Each design shall include a recommendation for budgets, payment methods, and a process for determining payment amounts. Payment methods for mental health services shall be consistent with mental health parity. The consultant shall consider:

(i) amendments necessary to current law on the unified health care budget, including consideration of cost-containment mechanisms or targets, anticipated revenues available to support the expenditures, and other appropriate considerations, in order to establish a statewide spending target within which costs are controlled, resources directed, and quality and access assured.

(ii) how to align the unified health care budget with the health resource allocation plan under 18 V.S.A. § 9405; the hospital budget review process under 18 V.S.A. § 9456; and the proposed global budgets and payments, if applicable and recommended in a design option.

(iii) recommending a global budget where it is appropriate to ensure cost-containment by a health care facility, health care provider, a group of health care professionals, or a combination. Any recommendation shall include a process for developing a global budget, including circumstances under which an entity may seek an amendment of its budget, and any changes to the hospital budget process in 18 V.S.A. § 9456.

(iv) payment methods to be used for each health care sector which are aligned with the goals of this act and provide for cost-containment, provision of high quality, evidence-based health services in a coordinated setting, patient self-management, and healthy lifestyles. Payment methods may include:

(I) periodic payments based on approved annual global budgets;

(II) capitated payments;

(III) incentive payments to health care professionals based on performance standards, which may include evidence-based standard physiological measures, or if the health condition cannot be measured in that manner, a process measure, such as the appropriate frequency of testing or

appropriate prescribing of medications;

(IV) fee supplements if necessary to encourage specialized health care professionals to offer a specific, necessary health service which is not available in a specific geographic region;

(V) diagnosis-related groups;

(VI) global payments based on a global budget, including whether the global payment should be population-based, cover specific line items, provide a mixture of a lump sum payment, diagnosis-related group (DRG) payments, incentive payments for participation in the Blueprint for Health, quality improvements, or other health care reform initiatives as defined in 3 V.S.A. § 2222a; and

(VIII) fee for service.

(v) what process or processes are appropriate for determining payment amounts with the intent to ensure reasonable payments to health care professionals and providers and to eliminate the shift of costs between the payers of health services by ensuring that the amount paid to health care professionals and providers is sufficient. Payment amounts should be in an amount which provides reasonable access to health services, provides sufficient uniform payment to health care professionals, and assists to create financial stability of health care professionals. Payment amounts shall be consistent with mental health parity. The consultant shall consider the following processes:

(I) Negotiations with hospitals, health care professionals, and groups of health care professionals;

(II) Establishing a global payment for health services provided by a particular hospital, health care provider, or group of professionals and providers. In recommending a process for determining a global payment, the consultant shall consider the interaction with a global budget and other information necessary to the determination of the appropriate payment, including all revenue received from other sources. The recommendation may include that the global payment be reflected as a specific line item in the annual budget.

(III) Negotiating a contract including payment methods and amounts with any out-of-state hospital or other health care provider that regularly treats a sufficient volume of Vermont residents, including contracting with out-of-state hospitals or health care providers for the provision of specialized health services that are not available locally to Vermonters.

(IV) Paying the amount charged for a medically necessary health service for which the individual received a referral or for an emergency

health service customarily covered and received in an out-of-state hospital with which there is not an established contract;

(V) Developing a reference pricing system for nonemergency health services usually covered which are received in an out-of-state hospital or by a health care provider with which there is not a contract.

(VI) Utilizing one or more health care professional bargaining groups provided for in 18 V.S.A. § 9409, consisting of health care professionals who choose to participate and may propose criteria for forming and approving bargaining groups, and criteria and procedures for negotiations authorized by this section.

(D) Cost-containment. Each design shall include cost reduction and containment mechanisms. If the design option includes private insurers, the option may include a fee assessed on insurers combined with a global budget to streamline administration of health services.

(2) Coordinated regional health systems. The consultant shall propose in each design a coordinated regional health system, which ensures that the delivery of health services to the citizens of Vermont is coordinated in order to improve health outcomes, improve the efficiency of the health system, and improve patients' experience of health services. The consultant shall review and analyze Vermont's existing efforts to reform the delivery of health care, including the Blueprint for Health described in chapter 13 of Title 18, and recommend how to build on or improve current reform efforts. In designing coordinated regional health systems, the consultant shall consider:

(A) how to ensure that health professionals, hospitals, health care facilities, and home- and community-based service providers offer health services in an integrated manner designed to optimize health services at a lower cost, to reduce redundancies in the health system as a whole, and to improve quality;

(B) the creation of regional mechanisms to solicit public input for the regional health system; conduct a community needs assessment for incorporation into the health resources allocation plan; and plan for community health needs based on the community needs assessment; and

(C) the development of a regional entity to manage health services for that region's population, including by making budget recommendations and resource allocations for the region; providing oversight and evaluation regarding the delivery of care in its region; developing payment methodologies and incentive payments; and other functions necessary to manage the region's health system.

(3) Financing and estimated costs, including federal financing. The

consultant shall provide:

(A) an estimate of the total costs of each design option, including any additional costs for providing access to and coverage for health services to the uninsured and underinsured; any estimated costs necessary to build a new system; and any estimated savings from implementing a single system.

(B) all estimated cost savings and reductions for existing health care programs, including Medicaid or Medicaid-funded programs. Medicaid cost savings reductions shall be presented relative to actual fiscal 2009 expenditures and by the following service categories: nursing home; home- and community-based service – mental retardation; pharmacy; mental health clinic; physician; outpatient; interdepartmental diagnosis and prevention services; inpatient; day treatment mental health services; home- and community-based services; disproportionate hospital payments; Catamount premiums; assistive community care; personal care services; dental; physiologist; alcohol and drug abuse families in recovery; transportation; and federally qualified health care centers.

(C) financing proposals for sustainable revenue, including by maximizing federal revenues, or reductions from existing health care programs, services, state agencies, or other sources necessary for funding the cost of the new system.

(D) a proposal to the Centers on Medicare and Medicaid Services to waive provisions of Titles XVIII (Medicare), XIX (Medicaid), and XXI (SCHIP) of the Social Security Act if necessary to align the federal programs with the proposals contained within the design options in order to maximize federal funds or to promote the simplification of administration, cost-containment, or promotion of health care reform initiatives as defined by 3 V.S.A. § 2222a.

(E) a proposal to participate in a federal insurance exchange established by the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010 in order to maximize federal funds and, if applicable, for a waiver from these provisions when available.

(4) A method to address compliance of the proposed design option or options with federal law if necessary, including the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010; Employee Retirement Income Security Act (ERISA); and Titles XVIII (Medicare), XIX (Medicaid), and XXI (SCHIP) of the Social Security Act. In the case of ERISA, the consultant may propose a strategy to seek an ERISA exemption from Congress if necessary for one of the design options.

(f)(1) The agency of human services and the department of banking, insurance, securities, and health care administration shall collaborate to ensure the commission and its consultant have the information necessary to create the design options.

(2) The consultant may request legal and fiscal assistance from the office of legislative council and the joint fiscal office.

(3) The commission or its consultant may engage with interested parties, such as health care providers and professionals, patient advocacy groups, and insurers, as necessary in order to have a full understanding of health care in Vermont.

(g)(1) By January 1, 2011, the consultant shall release a draft of the design options to the public and provide 15 days for public review and the submission of comments on the design options. The consultant shall review and consider the public comments and revise the draft design options as necessary prior to the final submission to the general assembly and the governor.

(2) In the proposal and implementation plan provided to the general assembly and the governor, the consultant shall include a recommendation for key indicators to measure and evaluate the design option chosen by the general assembly and an analysis of each design option as compared to the current state of health care in Vermont, including:

(A) the financing and cost estimates outlined in subdivision (e)(3) of this section;

(B) the impacts on the current private and public insurance system;

(C) the expected net fiscal impact, including tax implications, on individuals and on businesses from the modifications to the health care system proposed in the design;

(D) impacts on the state's economy;

(E) the pros and cons of alternative timing for the implementation of each design, including the sequence and rationale for the phasing in of the major components; and

(F) the pros and cons of each design option and of no changes to the current system.

(h) After receipt of the proposal and implementation plan pursuant to subdivision (g)(2) of this section, the general assembly shall solicit input from interested members of the public and engage in a full and open public review and hearing process on the proposal and implementation plan.

Sec. 7. GRANT FUNDING

The staff director of the joint legislative commission on health care reform shall apply for grant funding, if available, for the design and implementation analysis provided for in Sec. 6 of this act. Any amounts received in grant funds shall first be used to offset any state funds that are appropriated or allocated in this act or in other acts related to the requirements of Sec. 6. Any grant funds received in excess of the appropriated amount may be used for the analysis.

* * * HEALTH CARE REFORM – MISCELLANEOUS * * *

Sec. 8. 18 V.S.A. § 9401 is amended to read:

§ 9401. POLICY

(a) It is the policy of the state of Vermont ~~to~~ that health care is a public good for all Vermonters, and that the state must ensure that all residents have access to quality health services at costs that are affordable. To achieve this policy, it is necessary that the state ensure the quality of health care services provided in Vermont and, until health care systems are successful in controlling their costs and resources, to oversee cost containment.

* * *

Sec. 9. 8 V.S.A. § 4062c is amended to read:

§ 4062c. COMPLIANCE WITH FEDERAL LAW

Except as otherwise provided in this title, health insurers, hospital or medical service corporations, and health maintenance organizations that issue, sell, renew, or offer health insurance coverage in Vermont shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (42 U.S.C., Chapter 6A, Subchapter XXV), and the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152. The commissioner shall enforce such requirements pursuant to his or her authority under this title.

Sec. 10. IMPLEMENTATION OF CERTAIN FEDERAL HEALTH CARE REFORM PROVISIONS

(a) From the effective date of this act through July 1, 2011, the commissioner of health shall undertake such planning steps and other actions as are necessary to secure grants and other beneficial opportunities for Vermont provided by the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

(b) From the effective date of this act through July 1, 2011, the commissioner of Vermont health access shall undertake such planning steps as are necessary to ensure Vermont's participation in beneficial opportunities created by the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

* * * HEALTH CARE DELIVERY SYSTEM PROVISIONS * * *

Sec. 11. INTENT

It is the intent of the general assembly to reform the health care delivery system in order to manage total costs of the system, improve health outcomes for Vermonters, and provide a positive health care experience for patients and providers. In order to achieve this goal and to ensure the success of health care reform, it is essential to pursue innovative approaches to a single system of health care delivery that integrates health care at a community level and contains costs through community-based payment reform, such as developing a network of community health systems. It is also the intent of the general assembly to ensure sufficient state involvement and action in designing and implementing community health systems in order to comply with federal anti-trust provisions by replacing competition between payers and others with state regulation and supervision.

Sec. 12. BLUEPRINT FOR HEALTH; COMMITTEES

It is the intent of the general assembly to codify and recognize the existing expansion design and evaluation committee and payer implementation work group and to codify the current consensus-building process provided for by these committees in order to develop payment reform models in the Blueprint for Health. The director of the Blueprint may continue the current composition of the committees and need not reappoint members as a result of this act.

Sec. 13. 18 V.S.A. chapter 13 is amended to read:

CHAPTER 13. CHRONIC CARE INFRASTRUCTURE AND PREVENTION MEASURES

§ 701. DEFINITIONS

For the purposes of this chapter:

(1) “Blueprint for Health” or “Blueprint” means the state’s plan for chronic care infrastructure, prevention of chronic conditions, and chronic care management program, and includes an integrated approach to patient self-management, community development, health care system and professional practice change, and information technology initiatives program for integrating a system of health care for patients, improving the health of the

overall population, and improving control over health care costs by promoting health maintenance, prevention, and care coordination and management.

(2) “Chronic care” means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, prevent complications related to chronic conditions, engage in advanced care planning, and promote appropriate access to palliative care. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental illness, spinal cord injury, hyperlipidemia, and chronic pain.

(3) “Chronic care information system” means the electronic database developed under the Blueprint for Health that shall include information on all cases of a particular disease or health condition in a defined population of individuals.

(4) “Chronic care management” means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for ~~the physician and patient relationship~~ licensed health care practitioners and their patients, and a plan of care emphasizing prevention of complications utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

(5) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or authorized by law to provide professional health care services.

(6) ~~“Health risk assessment” means screening by a health care professional for the purpose of assessing an individual’s health, including tests or physical examinations and a survey or other tool used to gather information about an individual’s health, medical history, and health risk factors during a health screening.~~ “Health benefit plan” shall have the same meaning as 8 V.S.A. § 4088h.

(7) “Health insurer” shall have the same meaning as in section 9402 of this title.

(8) “Hospital” shall have the same meaning as in section 9456 of this title.

§ 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

(a)(1) ~~As used in this section, “health insurer” shall have the same meaning as in section 9402 of this title.~~

(b) The department of Vermont health access shall be responsible for the Blueprint for Health.

(2) The director of the Blueprint, in collaboration with the commissioner of health and the commissioner of Vermont health access, shall oversee the development and implementation of the Blueprint for Health, including ~~the five-year~~ a strategic plan describing the initiatives and implementation timelines and strategies. Whenever private health insurers are concerned, the director shall collaborate with the commissioner of banking, insurance, securities, and health care administration.

~~(e)(b)(1)(A)~~ The secretary commissioner of Vermont health access shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall consist of no fewer than 10 individuals, including the commissioner of health; the commissioner of mental health; a representative from the department of banking, insurance, securities, and health care administration; a representative from the office of Vermont health access; a representative from the Vermont medical society; a representative from the Vermont nurse practitioners association; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine profession professions; a primary care professional serving low income or uninsured Vermonters; a representative of the Vermont assembly of home health agencies who has clinical experience, a representative from a self-insured employer who offers a health benefit plan to its employees, and a representative of the state employees' health plan, who shall be designated by the director of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan. In addition, the director of the commission on health care reform shall be a nonvoting member of the executive committee.

~~(2)(B)~~ The executive committee shall engage a broad range of health care professionals who provide health services as defined under section 8 V.S.A. § 4080f of Title 18, health insurance plans insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, and state and local government in developing and implementing a five-year strategic plan.

(2)(A) The director shall convene an expansion design and evaluation committee, which shall meet no fewer than six times annually, to recommend a design plan, including modifications over time, for the statewide

implementation of the Blueprint for Health and to recommend appropriate methods to evaluate the Blueprint. This committee shall be composed of the members of the executive committee, representatives of participating health insurers, representatives of participating medical homes and community health teams, the deputy commissioner of health care reform, a representative of the Bi-State Primary Care Association, a representative of the University of Vermont College of Medicine's Office of Primary Care, a representative of the Vermont information technology leaders, and consumer representatives. The committee shall comply with open meeting and public record requirements in chapter 5 of Title 1.

(B) The director shall also convene a payer implementation work group, which shall meet no fewer than six times annually, to design the medical home and community health team enhanced payments, including modifications over time, and to make recommendations to the expansion design and evaluation committee described in subdivision (A) of this subdivision (2). The work group shall include representatives of the participating health insurers, representatives of participating medical homes and community health teams, and the commissioner of Vermont health access or designee. The work group shall comply with open meeting and public record requirements in chapter 5 of Title 1.

~~(d)~~(c) The Blueprint shall be developed and implemented to further the following principles:

- (1) the primary care provider should serve a central role in the coordination of care and shall be compensated appropriately for this effort;
- (2) use of information technology should be maximized;
- (3) local service providers should be used and supported, whenever possible;
- (4) transition plans should be developed by all involved parties to ensure a smooth and timely transition from the current model to the Blueprint model of health care delivery and payment;
- (5) implementation of the Blueprint in communities across the state should be accompanied by payment to providers sufficient to support care management activities consistent with the Blueprint, recognizing that interim or temporary payment measures may be necessary during early and transitional phases of implementation; and
- (6) interventions designed to prevent chronic disease and improve outcomes for persons with chronic disease should be maximized, should target specific chronic disease risk factors, and should address changes in individual

behavior, the physical and social environment, and health care policies and systems.

(d) The Blueprint for Health shall include the following initiatives:

(1) technical assistance as provided for in section 703 of this title to implement:

(A) a patient-centered medical home;

(B) community health teams; and

(C) a model for uniform payment for health services by health insurers, Medicaid, Medicare if available, and other entities that encourage the use of the medical home and the community health teams.

(2) collaboration with Vermont information technology leaders established in section 9352 of this title to assist health care professionals and providers to create a statewide infrastructure of health information technology in order to expand the use of electronic medical records through a health information exchange and a centralized clinical registry on the Internet.

(3) in consultation with employers, consumers, health insurers, and health care providers, the development, maintenance, and promotion of evidence-based, nationally recommended guidelines for greater commonality, consistency, and coordination across health insurers in care management programs and systems.

(4) the adoption and maintenance of clinical quality and performance measures for each of the chronic conditions included in Medicaid's care management program established in 33 V.S.A. § 1903a. These conditions include asthma, chronic obstructive pulmonary disease, congestive heart failure, diabetes, and coronary artery disease.

(5) the adoption and maintenance of clinical quality and performance measures, aligned with but not limited to existing outcome measures within the agency of human services, to be reported by health care professionals, providers or health insurers and used to assess and evaluate the impact of the Blueprint for health and cost outcomes. In accordance with a schedule established by the Blueprint executive committee, all clinical quality and performance measures shall be reviewed for consistency with those used by the Medicare program and updated, if appropriate.

(6) the adoption and maintenance of clinical quality and performance measures for pain management, palliative care, and hospice care.

(7) the use of surveys to measure satisfaction levels of patients, health care professionals, and health care providers participating in the Blueprint.

~~(e)(1) The strategic plan shall include:~~

~~(A) a description of the Vermont Blueprint for Health model, which includes general, standard elements established in section 1903a of Title 33, patient self management, community initiatives, and health system and information technology reform, to be used uniformly statewide by private insurers, third party administrators, and public programs;~~

~~(B) a description of prevention programs and how these programs are integrated into communities, with chronic care management, and the Blueprint for Health model;~~

~~(C) a plan to develop and implement reimbursement systems aligned with the goal of managing the care for individuals with or at risk for conditions in order to improve outcomes and the quality of care;~~

~~(D) the involvement of public and private groups, health care professionals, insurers, third party administrators, associations, and firms to facilitate and assure the sustainability of a new system of care;~~

~~(E) the involvement of community and consumer groups to facilitate and assure the sustainability of health services supporting healthy behaviors and good patient self-management for the prevention and management of chronic conditions;~~

~~(F) alignment of any information technology needs with other health care information technology initiatives;~~

~~(G) the use and development of outcome measures and reporting requirements, aligned with existing outcome measures within the agency of human services, to assess and evaluate the system of chronic care;~~

~~(H) target timelines for inclusion of specific chronic conditions in the chronic care infrastructure and for statewide implementation of the Blueprint for Health;~~

~~(I) identification of resource needs for implementing and sustaining the Blueprint for Health and strategies to meet the needs; and~~

~~(J) a strategy for ensuring statewide participation no later than January 1, 2011 by health insurers, third party administrators, health care professionals, hospitals and other professionals, and consumers in the chronic care management plan, including common outcome measures, best practices and protocols, data reporting requirements, payment methodologies, and other standards. In addition, the strategy should ensure that all communities statewide will have implemented at least one component of the Blueprint by January 1, 2009.~~

~~(2) The strategic plan developed under subsection (a) of this section shall be reviewed biennially and amended as necessary to reflect changes in priorities. Amendments to the plan shall be included in the report established under subsection (i) of this section section 709 of this title.~~

~~(f) The director of the Blueprint shall facilitate timely progress in adoption and implementation of clinical quality and performance measures as indicated by the following benchmarks:~~

~~(1) by July 1, 2007, clinical quality and performance measures are adopted for each of the chronic conditions included in the Medicaid Chronic Care Management Program. These conditions include, but are not limited to, asthma, chronic obstructive pulmonary disease, congestive heart failure, diabetes, and coronary artery disease.~~

~~(2) at least one set of clinical quality and performance measures will be added each year and a uniform set of clinical quality and performance measures for all chronic conditions to be addressed by the Blueprint will be available for use by health insurers and health care providers by January 1, 2010.~~

~~(3) in accordance with a schedule established by the Blueprint executive committee, all clinical quality and performance measures shall be reviewed for consistency with those used by the Medicare program and updated, if appropriate.~~

~~(g) The director of the Blueprint shall facilitate timely progress in coordination of chronic care management as indicated by the following benchmarks:~~

~~(1) by October 1, 2007, risk stratification strategies shall be used to identify individuals with or at risk for chronic disease and to assist in the determination of the severity of the chronic disease or risk thereof, as well as the appropriate type and level of care management services needed to manage those chronic conditions.~~

~~(2) by January 1, 2009, guidelines for promoting greater commonality, consistency, and coordination across health insurers in care management programs and systems shall be developed in consultation with employers, consumers, health insurers, and health care providers.~~

~~(3) beginning July 1, 2009, and each year thereafter, health insurers, in collaboration with health care providers, shall report to the secretary on evaluation of their disease management programs and the progress made toward aligning their care management program initiatives with the Blueprint guidelines.~~

~~(h)(1) No later than January 1, 2009, the director shall, in consultation with employers, consumers, health insurers, and health care providers, complete a comprehensive analysis of sustainable payment mechanisms. No later than January 1, 2009, the director shall report to the health care reform commission and other stakeholders his or her recommendations for sustainable payment mechanisms and related changes needed to support achievement of Blueprint goals for health care improvement, including the essential elements of high quality chronic care, such as care coordination, effective use of health care information by physicians and other health care providers and patients, and patient self management education and skill development.~~

~~(2) By January 1, 2009, and each year thereafter, health insurers will participate in a coordinated effort to determine satisfaction levels of physicians and other health care providers participating in the Blueprint care management initiatives, and will report on these satisfaction levels to the director and in the report established under subsection (i) this section.~~

~~(i) The director shall report annually, no later than January 1, on the status of implementation of the Vermont Blueprint for Health for the prior calendar year, and shall provide the report to the house committee on health care, the senate committee on health and welfare, the health access oversight committee, and the commission on health care reform. The report shall include the number of participating insurers, health care professionals and patients; the progress for achieving statewide participation in the chronic care management plan, including the measures established under subsection (e) of this section; the expenditures and savings for the period; the results of health care professional and patient satisfaction surveys; the progress toward creation and implementation of privacy and security protocols; information on the progress made toward the requirements in subsections (g) and (h) of this section; and other information as requested by the committees. The surveys shall be developed in collaboration with the executive committee established under subsection (e) of this section.~~

~~(j) It is the intent of the general assembly that health insurers shall participate in the Blueprint for Health no later than January 1, 2009 and shall engage health care providers in the transition to full participation in the Blueprint.~~

§ 703. HEALTH PREVENTION; CHRONIC CARE MANAGEMENT

(a) The director shall develop a model for integrating a system of health care for patients, improving the health of the overall population, and improving control over health care costs by promoting health maintenance, prevention, and care coordination and management through an integrated system, including a patient-centered medical home and a community health team; and uniform payment for health services by health insurers, Medicaid, Medicare if

available, and other entities that encourage the use of the medical home and the community health teams.

(b) When appropriate, the model may include the integration of social services provided by the agency of human services or may include coordination with a team at the agency of human services to ensure the individual's comprehensive care plan is consistent with the agency's case management plan for that individual or family.

(c) In order to maximize the participation of federal health care programs and to maximize federal funds available, the model for care coordination and management may meet the criteria for medical home, community health team, or other related demonstration projects established by the U.S. Department of Health and Human Services and the criteria of any other federal program providing funds for establishing medical homes, community health teams, or associated payment reform.

(d) The model for care coordination and management shall include the following components:

(1) a process for identifying individuals with or at risk for chronic disease and to assist in the determination of the risk for or severity of a chronic disease, as well as the appropriate type and level of care management services needed to manage those chronic conditions.

(2) evidence-based clinical practice guidelines, which shall be aligned with the clinical quality and performance measures provided for in section 702 of this title.

(3) models for the collaboration of health care professionals in providing care, including through a community health team.

(4) education for patients on how to manage conditions or diseases, including prevention of disease; programs to modify a patient's behavior; and a method of ensuring compliance of the patient with the recommended behavioral change.

(5) education for patients on health care decision-making, including education related to advance directives, palliative care, and hospice care.

(6) measurement and evaluation of the process and health outcomes of patients.

(7) a method for all health care professionals treating the same patient on a routine basis to report and share information about that patient.

(8) requirements that participating health care professionals and providers have the capacity to implement health information technology that meets the requirements of 42 U.S.C. § 300jj in order to facilitate coordination

among members of the community health team, health care professionals, and primary care practices; and, where applicable, to report information on quality measures to the director of the Blueprint.

(9) a sustainable, scalable, and adaptable financial model reforming primary care payment methods through medical homes supported by community health teams that lead to a reduction in avoidable emergency room visits and hospitalizations and a shift by health insurer expenditures from disease management contracts to local community health teams in order to promote health, prevent disease, and manage care in order to increase positive health outcomes and reduce costs over time.

(e) The director of the Blueprint shall provide technical assistance and training to health care professionals, health care providers, health insurers, and others participating in the Blueprint.

§ 704. MEDICAL HOME

Consistent with federal law to ensure federal financial participation, a health care professional providing a patient's medical home shall:

(1) provide comprehensive prevention and disease screening for his or her patients and managing his or her patients' chronic conditions by coordinating care;

(2) enable patients to have access to personal health information through a secure medium, such as through the Internet, consistent with federal health information technology standards;

(3) use a uniform assessment tool provided by the Blueprint in assessing a patient's health;

(4) collaborate with the community health teams, including by developing and implementing a comprehensive plan for participating patients;

(5) ensure access to a patient's medical records by the community health team members in a manner compliant with the Health Insurance Portability and Accountability Act, 12 V.S.A. § 1612, 18 V.S.A. §§ 1852, 7103, 9332, and 9351, and 21 V.S.A. § 516; and

(6) meet regularly with the community health team to ensure integration of a participating patient's care.

§ 705. COMMUNITY HEALTH TEAMS

(a) Consistent with federal law to ensure federal financial participation, the community health team shall consist of health care professionals from multiple disciplines, including obstetrics and gynecology, pharmacy, nutrition and diet, social work, behavioral and mental health, chiropractic, other complementary

and alternative medical practice licensed by the state, home health care, public health, and long-term care.

(b) The director shall assist communities to identify the service areas in which the teams work, which may include a hospital service area or other geographic area.

(c) Health care professionals participating in a community health team shall:

(1) collaborate with other health care professionals and with existing state agencies and community-based organizations in order to coordinate disease prevention, manage chronic disease, coordinate social services if appropriate, and provide an appropriate transition of patients between health care professionals or providers. Priority may be given to patients willing to participate in prevention activities or patients with chronic diseases or conditions identified by the director of the Blueprint.

(2) support a health care professional or practice which operates as a medical home, including by:

(A) assisting in the development and implementation of a comprehensive care plan for a patient that integrates clinical services with prevention and health promotion services available in the community and with relevant services provided by the agency of human services. Priority may be given to patients willing to participate in prevention activities or patients with chronic diseases or conditions identified by the director of the Blueprint.

(B) providing a method for health care professionals, patients, caregivers, and authorized representatives to assist in the design and oversight of the comprehensive care plan for the patient;

(C) coordinating access to high-quality, cost-effective, culturally appropriate, and patient- and family-centered health care and social services, including preventive services, activities which promote health, appropriate specialty care, inpatient services, medication management services provided by a pharmacist, and appropriate complementary and alternative (CAM) services.

(D) providing support for treatment planning, monitoring the patient's health outcomes and resource use, sharing information, assisting patients in making treatment decisions, avoiding duplication of services, and engaging in other approaches intended to improve the quality and value of health services;

(E) assisting in the collection and reporting of data in order to evaluate the Blueprint model on patient outcomes, including collection of data on patient experience of care, and identification of areas for improvement; and

(F) providing a coordinated system of early identification and referral for children at risk for developmental or behavioral problems such as through the use of health information technology or other means as determined by the director of the Blueprint.

(3) provide care management and support when a patient moves to a new setting for care, including by:

(A) providing on-site visits from a member of the community health team, assisting with the development of discharge plans and medication reconciliation upon admission to and discharge from the hospitals, nursing homes, or other institution settings;

(B) generally assisting health care professionals, patients, caregivers, and authorized representatives in discharge planning, including by assuring that postdischarge care plans include medication management as appropriate;

(C) referring patients as appropriate for mental and behavioral health services;

(D) ensuring that when a patient becomes an adult, his or her health care needs are provided for; and

(E) serving as a liaison to community prevention and treatment programs.

§ 706. HEALTH INSURER PARTICIPATION

(a) As provided for in 8 V.S.A. § 4088h, health insurance plans shall be consistent with the Blueprint for Health as determined by the commissioner of banking, insurance, securities, and health care administration.

(b) No later than January 1, 2011, health insurers shall participate in the Blueprint for Health as a condition of doing business in this state as provided for in this section and in 8 V.S.A. § 4088h. Under 8 V.S.A. § 4088h, the commissioner of banking, insurance, securities, and health care administration may exclude or limit the participation in the Blueprint of Health insurers offering a stand-alone dental plan or specific disease or other limited benefit coverage. Health insurers shall be exempt from participation if the insurer only offers benefit plans which are paid directly to the individual insured or the insured's assigned beneficiaries and for which the amount of the benefit is not based upon potential medical costs or actual costs incurred.

(c)(1) The Blueprint payment reform methodologies shall include per-person per-month payments to medical home practices by each health insurer and Medicaid for their attributed patients and for contributions to the shared costs of operating the community health teams. Per-person per-month payments to practices shall be based on the official National Committee for Quality Assurance's Physician Practice Connections – Patient Centered

Medical Home (NCQA PPC-PCMH) score and shall be in addition to their normal fee-for-service or other payments.

(2) Consistent with the recommendation of the Blueprint expansion design and evaluation committee, the director of the Blueprint may implement changes to the payment amounts or to the payment reform methodologies described in subdivision (1) of this subsection, including by providing for enhanced payment to health care professional practices which operate as a medical home, payment toward the shared costs for community health teams, or other payment methodologies required by the Centers for Medicare and Medicaid Services (CMS) for participation by Medicaid or Medicare.

(3) Health insurers shall modify payment methodologies and amounts to health care professionals and providers as required for the establishment of the model described in sections 703 through 705 of this title and this section, including any requirements specified by the Centers for Medicare and Medicaid Services (CMS) in approving federal participation in the model to ensure consistency of payment methods in the model.

(4) In the event that the secretary of human services is denied permission from the Centers for Medicare and Medicaid Services (CMS) to include financial participation by Medicare, health insurers shall not be required to cover the costs associated with individuals covered by Medicare.

(d) An insurer may appeal a decision of the director to require a particular payment methodology or payment amount to the commissioner of Vermont health access, who shall provide a hearing in accordance with chapter 25 of Title 3. An insurer aggrieved by the decision of the commissioner may appeal to the superior court for the Washington district within 30 days after the commissioner issues his or her decision.

§ 707. PARTICIPATION BY HEALTH CARE PROFESSIONALS AND HOSPITALS

(a) No later than July 1, 2011, hospitals shall participate in the Blueprint for Health by creating or maintaining connectivity to the state's health information exchange network as provided for in this section and in section 9456 of this title. The director of health care reform or designee and the director of the Blueprint shall establish criteria by rule for this requirement consistent with the state health information technology plan required under section 9351 of this title. The criteria shall not require a hospital to create a level of connectivity that the state's exchange is not able to support.

(b) The director of health care reform or designee shall ensure hospitals have access to state and federal resources to support connectivity to the state's health information exchange network.

(c) The director of the Blueprint shall engage health care professionals and providers to encourage participation in the Blueprint, including by providing information and assistance.

§ 708. CERTIFICATION OF HOSPITALS

(a) The director of health care reform or designee shall establish a process for annually certifying that a hospital meets the participation requirements established under section 707 of this title. Once a hospital is fully connected to the state's health information exchange, the director of health care reform or designee shall waive further certification. The director may require a hospital to resume certification if the criteria for connectivity change, if the hospital loses connectivity to the state's health information exchange, or for another reason which results in the hospital not meeting the participation requirement in section 707 of this title. The certification process, including a time for appeal, shall be completed prior to the hospital budget review required under section 9456 of this title.

(b) Once the hospital has been certified or certification has been waived, the director of health care reform or designee shall provide the hospital with documentation to include in its annual budget review as required by section 9456 of this title.

(c) A denial of certification by the director of health care reform or designee may be appealed to the commissioner of Vermont health access, who shall provide a hearing in accordance with chapter 25 of Title 3. A hospital aggrieved by the decision of the commissioner may appeal to the superior court for the district in which the hospital is located within 30 days after the commissioner issues his or her decision.

§ 709. ANNUAL REPORT

(a) The director of the Blueprint shall report annually, no later than January 15, on the status of implementation of the Vermont Blueprint for Health for the prior calendar year, and shall provide the report to the house committee on health care, the senate committee on health and welfare, the health access oversight committee, and the joint legislative commission on health care reform.

(b) The report shall include the number of participating insurers, health care professionals, and patients; the progress for achieving statewide participation in the chronic care management plan, including the measures established under this subchapter; the expenditures and savings for the period; the results of health care professional and patient satisfaction surveys; the progress toward creation and implementation of privacy and security protocols; information on the progress made toward the requirements in this subchapter; and other information as requested by the committees.

Sec. 14. COMMUNITY HEALTH SYSTEMS; PILOT

(a)(1) The department of Vermont health access shall be responsible for developing pilot programs which develop community health systems as provided for under this section. The director of community health systems shall oversee the development, implementation, and evaluation of the community health system pilot projects. Whenever health insurers are concerned, the director shall collaborate with the commissioner of banking, insurance, securities, and health care administration. The terms used in this section shall have the same meanings as in chapter 13 of Title 18.

(2) The director of community health systems shall convene a broad-based group of stakeholders, including health care professionals who provide health services as defined under 8 V.S.A. § 4080f, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, and state and local government to advise the director in developing and implementing the pilot projects.

(3) Community health system pilot projects shall be developed and implemented to manage the total costs of the health care delivery system in a region, improve health outcomes for Vermonters, provide a positive health care experience for patients and providers, and further the following objectives:

(A) community health systems should be organized around primary care providers;

(B) community health systems should align with the Blueprint for Health strategic plan and the statewide health information technology plan;

(C) health care providers and professionals should integrate patient care through a local entity or organization facilitating this integration;

(D) health insurers, Medicaid, Medicare, and all other payers should reimburse the entity or organization of health care providers and professionals for integrated patient care through a single system of coordinated payments and a global budget;

(E) the design and implementation of the community health system should be aligned with the requirements of federal law to ensure the full participation of Medicare in multi-payer payment reform.

(F) the global budget should include a broad, comprehensive set of services, including prescription drugs, diagnostic services, and services received in a hospital, from a licensed health care practitioner.

(G) after consultation with long-term care providers, the global budget may also include home health services, and long-term care services if feasible.

(H) transition plans should be developed by all involved parties to ensure a smooth and timely transition from the current model to community health systems;

(I) financial performance of an integrated community of care should be measured instead of the financial viability of a single institution.

(4) The strategic plan for the pilot projects shall include:

(A) A description of the proposed community health system pilot projects organized around primary care professionals. The population served by a community health system pilot project would be those who use the primary care professionals in the community health system.

(B) An implementation time line for pilot projects with the first project to become operational no later than January 1, 2012, and with two or more additional pilot projects to become operational no later than July 1, 2012.

(C) A description of the possible organizational model or models for health care providers or professionals to become part of a community health system pilot project, including a description of the legal or contractual mechanisms available. The models considered should include traditional physician hospital organizations, regional structures that support more than one community health system, and community health foundations that include providers but are not necessarily provider-based.

(D) A design of the financial model or models, including:

(i) gradual modification over time of existing reimbursement methods used by health insurers, Medicaid, Medicare, and other payers to pay health care providers and professionals from existing models to a global budget with a single system of payment for the community health system;

(ii) cost-containment targets to reduce health care system inflation in a particular community, which may include shared savings, risk-sharing, or other incentives for the community health system to reduce costs while maintaining or improving health outcomes and patient satisfaction;

(iii) health care outcome target to encourage both effective care and prevention programs, which may include shared savings or other incentives for the community health system;

(iv) patient satisfaction targets to ensure that individuals have positive experiences with their community health systems, which may include shared savings or other incentives for the community health system.

(v) An estimate of savings to the health care system from cost reductions due to reduced administration and from a reduction in health care inflation.

(vi) The scope of services to be included in a comprehensive global budget in order to contain costs and ensure high quality and patient satisfaction.

(vii) Ongoing program evaluation and improvement protocols.

(b) Health insurer participation.

(1)(A) Health insurers shall participate in the development of the community health system strategic plan for the pilot projects and in the implementation of community health systems pilot projects, including by providing incentives or fees, as required in this section. This requirement may be enforced by the department of banking, insurance, securities, and health care administration to the same extent as the requirement to participate in the Blueprint for Health provided for in 8 V.S.A. § 4088h.

(B) In consultation with the director of the Blueprint for Health and the director of health care reform, the commissioner of banking, insurance, securities, and health care administration may establish procedures to exempt or limit the participation of health insurers offering a stand-alone dental plan, specific disease, or other limited benefit coverage, or insurers with a minimal number of covered lives as defined by the commissioner. Health insurers shall be exempt from participation if the insurer only offers benefit plans which are paid directly to the individual insured or the insured's assigned beneficiaries and for which the amount of the benefit is not based upon potential medical costs or actual costs incurred.

(C) Health insurers shall have the same appeal rights provided for in 18 V.S.A. § 706 for participation in the Blueprint for Health.

(2) In the event that the secretary of human services is denied permission from the Centers for Medicare and Medicaid Services to include financial participation by Medicare in the pilot projects, health insurers shall not be required to cover the costs associated with individuals covered by Medicare.

(c) To the extent required to avoid federal anti-trust violations, the commissioner of banking, insurance, securities, and health care administration shall facilitate and supervise the participation of health care professionals, health care facilities, and insurers in the planning and implementation of the community health system pilot projects, including creating a shared incentive pool. The department shall ensure that the process and implementation includes sufficient state supervision over these entities to comply with federal anti-trust provisions.

(d) The commissioner of Vermont health access or designee shall apply for grant funding, if available, for the design and implementation of the pilot

projects described in this act. Any amounts received in grant funds shall first be used to offset any state funds that are appropriated or allocated in this act or in other acts related to the pilot projects described in this section. Any grant funds received in excess of the appropriated amount may be used for the analysis.

(e) The director shall report to the house committee on health care and senate committee on health and welfare by March 15, 2011, on the implementation of the first pilot project and present a detailed description of and a timetable for the implementation of the additional pilot projects.

(f)(1) Beginning in 2012, the director of community health systems shall report annually by January 15 on the status of implementation of the community health systems for the prior calendar year, and shall provide the report to the house committee on health care, the senate committee on health and welfare, the health access oversight committee, and the commission on health care reform.

(2) The report shall include the number of participating insurers, health care professionals, and patients; the progress for achieving statewide participation in the community health systems; the expenditures and savings for the period; the results of health care professional and patient satisfaction surveys; and other information as requested by the committees.

Sec. 15. 8 V.S.A. § 4088h is amended to read:

§ 4088h. HEALTH INSURANCE AND THE BLUEPRINT FOR HEALTH

(a)(1) A health insurance plan shall be offered, issued, and administered consistent with the blueprint for health established in chapter 13 of Title 18, as determined by the commissioner.

~~(b)(2)~~ As used in this section, “health insurance plan” means any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in ~~section 18 V.S.A. § 9402 of Title 18.~~ The term shall include the health benefit plan offered by the state of Vermont to its employees and any health benefit plan offered by any agency or instrumentality of the state to its employees. The term shall not include benefit plans providing coverage for specific disease or other limited benefit coverage unless so directed by the commissioner.

(b) Health insurers as defined in 18 V.S.A. § 701 shall participate in the Blueprint for Health as specified in 18 V.S.A. § 706. In consultation with the director of the Blueprint for Health and the director of health care reform, the commissioner may establish procedures to exempt or limit the participation of

health insurers offering a stand-alone dental plan or specific disease or other limited benefit coverage. Health insurers shall be exempt from participation if the insurer only offers benefit plans which are paid directly to the individual insured or the insured's assigned beneficiaries and for which the amount of the benefit is not based upon potential medical costs or actual costs incurred.

Sec. 16. 18 V.S.A. § 9456(a) is amended to read:

(a) The commissioner shall conduct reviews of each hospital's proposed budget based on the information provided pursuant to this subchapter, and in accordance with a schedule established by the commissioner. The commissioner shall require the submission of documentation certifying that the hospital is participating in the Blueprint for Health if required by section 708 of this title.

Sec. 17. FEDERAL HEALTH CARE REFORM; DEMONSTRATION PROGRAMS

(a)(1) Medicare waivers. Upon establishment by the Secretary of the U.S. Department of Health and Human Services (HHS) of an advanced practice primary care medical home demonstration program or a community health team demonstration program pursuant to Sec. 3502 of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, the secretary of human services may apply to the Secretary of HHS to enable Vermont to include Medicare as a participant in the Blueprint for Health as described in chapter 13 of Title 18.

(2) Upon establishment by the Secretary of the U.S. Department of Health and Human Services (HHS) of a shared savings program pursuant to Sec. 3022 of H.R. 3590, the Patient Protection and Affordable Care Act, as amended by H.R. 4872, the Health Care and Education Reconciliation Act of 2010, the secretary of human services may apply to the Secretary of HHS to enable Vermont to participate in the program by establishing community health system pilot projects as provided for in Sec. 14 of this act.

(b)(1) Medicaid waivers. The intent of this section is to provide the secretary of human services with the authority to pursue Medicaid participation in the Blueprint for Health through any existing or new waiver.

(2) Upon establishment by the Secretary of the U.S. Department of Health and Human Services (HHS) of a health home demonstration program pursuant to Sec. 3502 of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, the secretary of human services may apply to the Secretary of HHS to include Medicaid as a participant in the Blueprint for Health as described in chapter 13 of Title 18. In the alternative, under Section 1115 of the Social Security Act, the secretary of human services may apply for an amendment to an existing

Section 1115 waiver or may include in the renegotiation of the Global Commitment for Health Section 1115 waiver a request to include Medicaid as a participant in the Blueprint for Health as described in chapter 13 of Title 18.

Sec. 18. EXPEDITED RULES

Notwithstanding the provisions of chapter 25 of Title 3, the agency of human services shall specify the requirements and time frame that an insurer or health care provider must meet to be considered participating in the Blueprint for Health as required by chapter 13 of Title 18 or the community health systems as required by this act by adopting rules pursuant to the following process:

(1) The secretary shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841, after publication online of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The secretary shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review, and may approve or object to, the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The secretary may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to chapter 25 of Title 3. Rules filed by the secretary of the agency of human services with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the secretary of the agency of human services that the rule is required to meet the purposes of this section.

Sec. 19. BLUEPRINT FOR HEALTH; EXPANSION

The commissioner of Vermont health access shall expand the Blueprint for Health as described in chapter 13 of Title 18 to at least two primary care practices in every hospital services area no later than July 1, 2011, and statewide to primary care practices who wish to participate no later than October 1, 2013.

* * * IMMEDIATE COST-CONTAINMENT PROVISIONS * * *

Sec. 20. HOSPITAL BUDGETS

(a)(1) The commissioner of banking, insurance, securities, and health care administration shall implement this section consistent with the goals identified in Sec. 50 of No. 61 of the Acts of 2009, 18 V.S.A. § 9456, the goals of systemic health care reform, containing costs, solvency for efficient and effective hospitals, and promoting fairness and equity in health care financing. The authority provided in this section shall be in addition to the commissioner's authority under subchapter 7 of chapter 221 of Title 8 (hospital budget reviews).

(2) Except as provided for in subdivision (3) of this subsection, the commissioner of banking, insurance, securities, and health care administration shall target hospital budgets consistent with the following:

(A) For fiscal years 2011 and 2012, the commissioner shall aim to minimize rate increases for each hospital in an effort to balance the goals outlined in this section and shall ensure that the systemwide increase shall be lower than the prior year's increase.

(B)(i) For fiscal year 2011, the total systemwide net patient revenue increase for all hospitals reviewed by the commissioner shall not exceed 4.5 percent.

(ii) For fiscal year 2012, the total systemwide net patient revenue increase for all hospitals reviewed by the commissioner shall not exceed 4.0 percent.

(3)(A) Consistent with the goals of lowering overall cost increases in health care without compromising the quality of health care, the commissioner may restrict or disallow specific expenditures, such as new programs. In his or her own discretion, the commissioner may identify or may require hospitals to identify the specific expenditures to be restricted or disallowed.

(B) In calculating the hospital budgets as provided for in subdivision (2) of this subsection and if necessary to achieve the goals identified in this section, the commissioner may exempt hospital revenue and expenses associated with health care reform, hospital expenses related to electronic medical records or other information technology, hospital expenses related to

acquiring or starting new physician practices, and other expenses, such as all or a portion of the provider tax. The expenditures shall be specifically reported, supported with sufficient documentation as required by the commissioner and may only be exempt if approved by the commissioner.

(b) Notwithstanding 18 V.S.A. § 9456(e), permitting the commissioner to waive a hospital from the budget review process, and consistent with this section and the overarching goal of containing health care and hospital costs, the commissioner may waive a hospital from the hospital budget process for more than two years consecutively. This provision does not apply to a tertiary teaching hospital.

(c) Upon a showing that a hospital's financial health or solvency will be severely compromised, the commissioner may approve or amend a hospital budget in a manner inconsistent with subsection (a) of this section.

Sec. 21. 18 V.S.A. § 9440(b)(1) is amended to read:

(b)(1) The application shall be in such form and contain such information as the commissioner establishes. In addition, the commissioner may require of an applicant any or all of the following information that the commissioner deems necessary:

* * *

(I) additional information as needed by the commissioner, including information from affiliated corporations or other persons in the control of or controlled by the applicant.

Sec. 22. 18 V.S.A. § 9456(g) is amended to read:

(g) The commissioner may request, and a hospital shall provide, information determined by the commissioner to be necessary to determine whether the hospital is operating within a budget established under this section. For purposes of this subsection, subsection (h) of this section, and subdivision 9454(a)(7) of this title, the commissioner's authority shall extend to an affiliated corporation or other person in the control of or controlled by the hospital, to the extent such authority is necessary to carry out the purposes of this subsection, subsection (h) of this section, or subdivision 9454(a)(7) of this title. As used in this subsection, a rebuttable presumption of "control" is created if the entity, hospital, or other person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 20 percent or more of the voting securities or membership interest or other governing interest of the hospital or other controlled entity.

Sec. 23. 18 V.S.A. § 9456(h)(2) is amended to read:

(2)(A) After notice and an opportunity for hearing, the commissioner may impose on a person who knowingly violates a provision of this

subchapter, or a rule adopted pursuant to this subchapter, a civil administrative penalty of no more than \$40,000.00, or in the case of a continuing violation, a civil administrative penalty of no more than \$100,000.00 or one-tenth of one percent of the gross annual revenues of the hospital, whichever is greater. This subdivision shall not apply to violations of subsection (d) of this section caused by exceptional or unforeseen circumstances.

(B)(i) The commissioner may order a hospital to:

(I)(aa) cease material violations of this subchapter or of a regulation or order issued pursuant to this subchapter; or

(bb) cease operating contrary to the budget established for the hospital under this section, provided such a deviation from the budget is material; and

(II) take such corrective measures as are necessary to remediate the violation or deviation, and to carry out the purposes of this subchapter.

(ii) Orders issued under this subdivision (B) shall be issued after notice and an opportunity to be heard, except where the commissioner finds that a hospital's financial or other emergency circumstances pose an immediate threat of harm to the public, or to the financial condition of the hospital. Where there is an immediate threat, the commissioner may issue orders under this subdivision (B) without written or oral notice to the hospital. Where an order is issued without notice, the hospital shall be notified of the right to a hearing at the time the order is issued. The hearing shall be held within 30 days of receipt for the hospital's request for a hearing, and a decision shall be issued within 30 days after conclusion of the hearing. The commissioner may enlarge the time to hold the hearing or render the decision for good cause shown. Hospitals may appeal any decision in this subsection to superior court. Appeal shall be on the record as developed by the commissioner in the administrative proceeding and the standard of review shall be as provided in 8 V.S.A. § 16.

Sec. 24. 18 V.S.A. § 9456(b) is amended to read:

(b) In conjunction with budget reviews, the commissioner shall:

- (1) review utilization information;
- (2) consider the goals and recommendations of the health resource allocation plan;
- (3) consider the expenditure analysis for the previous year and the proposed expenditure analysis for the year under review;
- (4) consider any reports from professional review organizations;

(5) solicit public comment on all aspects of hospital costs and use and on the budgets proposed by individual hospitals;

(6) meet with hospitals to review and discuss hospital budgets for the forthcoming fiscal year;

(7) give public notice of the meetings with hospitals, and invite the public to attend and to comment on the proposed budgets;

(8) consider the extent to which costs incurred by the hospital in connection with services provided to Medicaid beneficiaries are being charged to non-Medicaid health benefit plans and other non-Medicaid payers;

(9) require each hospital to file an analysis that reflects a reduction in net revenue needs from non-Medicaid payers equal to any anticipated increase in Medicaid, Medicare, or another public health care program reimbursements, and to any reduction in bad debt or charity care due to an increase in the number of insured individuals;

(10) require each hospital to provide information on administrative costs, as defined by the commissioner, including specific information on the amounts spent on marketing and advertising costs.

Sec. 25. 18 V.S.A. § 9439(f) is amended to read:

~~(f) The commissioner shall establish, by rule, annual cycles for the review of applications for certificates under this subchapter, in addition to the review cycles for skilled nursing and intermediate care beds established under subsections (d) and (e) of this section. A review cycle may include in the same group some or all of the types of projects subject to certificate of need review. Such rules may exempt emergency applications, pursuant to subsection 9440(d) of this title. Unless an application meets the requirements of subsection 9440(e) of this title, the commissioner shall consider disapproving a certificate of need application for a hospital if a project was not identified prospectively as needed at least two years prior to the time of filing in the hospital's four-year capital plan required under subdivision 9454(a)(6) of this title. The commissioner shall review all hospital four-year capital plans as part of the review under subdivision 9437(2)(B) of this title.~~

Sec. 26. INSURANCE REGULATION; INTENT

It is the intent of the general assembly that the commissioner of banking, insurance, securities, and health care administration use the insurance rate review and approval authority to control the costs of health insurance unrelated to the cost of medical care where consistent with other statutory obligations, such as ensuring solvency. Rate review and approval authority could include imposing limits on producer commissions in specified markets or limiting administrative costs as a percentage of the premium.

Sec. 27. 8 V.S.A § 4080a(h)(2)(D) is added to read:

(D) The commissioner may require a registered small group carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall be at the time of seeking a rate increase and shall be in the manner and form as directed by the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

Sec. 28. 8 V.S.A § 4080b(h)(2)(D) is added to read:

(D) The commissioner may require a registered nongroup carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall be at the time of seeking a rate increase and shall be in the manner and form as directed by the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

Sec. 29. RULEMAKING; REPORTING OF INFORMATION

The commissioner of banking, insurance, securities, and health care administration shall adopt rules pursuant to chapter 25 of Title 3 requiring each health insurer licensed to do business in this state to report to the department of banking, insurance, securities, and health care administration, at least annually, information specific to its Vermont contracts, including enrollment data, loss ratios, and such other information as the commissioner deems appropriate.

Sec. 30. 8 V.S.A. § 4089b(g) is amended to read:

(g) On or before July 15 of each year, health insurance companies doing business in Vermont, ~~and~~ whose individual share of the commercially-insured Vermont market, as measured by covered lives, comprises at least five percent of the commercially-insured Vermont market, shall file with the commissioner, in accordance with standards, procedures, and forms approved by the commissioner:

* * *

(2) The health insurance plan's revenue loss and expense ratio relating to the care and treatment of mental health conditions covered under the health insurance plan. The expense ratio report shall list amounts paid in claims for services and administrative costs separately. A managed care organization providing or administering coverage for treatment of mental health conditions on behalf of a health insurance plan shall comply with the minimum loss ratio

requirements pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, applicable to the underlying health insurance plan with which the managed care organization has contracted to provide or administer such services. The health insurance plan shall also bear responsibility for ensuring the managed care organization's compliance with the minimum loss ratio requirement pursuant to this subdivision.

* * * HEALTH CARE WORKFORCE PROVISIONS * * *

Sec. 31. INTERIM STUDY OF VERMONT'S PRIMARY CARE WORKFORCE DEVELOPMENT

(a) Creation of committee. There is created a primary care workforce development committee to determine the additional capacity needed in the primary care delivery system if Vermont achieves the health care reform principles and purposes established in Secs. 1 and 2 of No. 191 of the Acts of the 2005 Adj. Sess. (2006) and to create a strategic plan for ensuring that the necessary workforce capacity is achieved in the primary care delivery system. The primary care workforce includes physicians, advanced practice nurses, and other health care professionals providing primary care as defined in 8 V.S.A. § 4080f.

(b) Membership. The primary care workforce development committee shall be composed of 18 members as follows:

(1) the commissioner of Vermont health access;

(2) the deputy commissioner of the division of health care administration or designee;

(3) the director of the Blueprint for Health;

(4) the commissioner of health or designee;

(5) a representative of the University of Vermont College of Medicine's Area Health Education Centers (AHEC) program;

(6) a representative of the University of Vermont College of Medicine's Office of Primary Care, a representative of the University of Vermont College of Nursing and Health Sciences, a representative of nursing programs at the Vermont State Colleges, and a representative from Norwich University's nursing programs;

(7) a representative of the Vermont Association of Naturopathic Physicians;

(8) a representative of Bi-State Primary Care Association;

(9) a representative of Vermont Nurse Practitioners Association;

(10) a representative of Physician Assistant Academy of Vermont;

(11) a representative of the Vermont Medical Society;

(12) a representative from a voluntary group of organizations known as the Vermont health care workforce development partners;

(13) a mental health or substance abuse treatment professional currently in practice;

(14) a representative of the Vermont assembly of home health agencies;
and

(15) the commissioner of labor or designee.

(c) Powers and duties.

(1) The committee shall study the primary care workforce development system in Vermont, including the following issues:

(A) the current capacity and capacity issues of the primary care workforce and delivery system in Vermont, including the number of primary care professionals, issues with geographic access to services, and unmet primary health care needs of Vermonters.

(B) the resources needed to ensure that the primary care workforce and the delivery system are able to provide sufficient access to services should all or most of Vermonters become insured, to provide sufficient access to services given demographic factors in the population and in the workforce, and to participate fully in health care reform initiatives, including participation in the Blueprint for Health and transition to electronic medical records; and

(C) how state government, universities and colleges, and others may develop the resources in the primary care workforce and delivery system to achieve Vermont's health care reform principles and purposes.

(2) The committee shall create a detailed and targeted five-year strategic plan with specific action steps for attaining sufficient capacity in the primary care workforce and delivery system to achieve Vermont's health care reform principles and purposes. By November 15, 2010, the department of health, in collaboration with AHEC and the department of Vermont health access, shall report to the joint legislative commission on health care reform, the house committee on health care, and the senate committee on health and welfare its findings, the strategic plan, and any recommendations for legislative action.

(3) For purposes of its study of these issues, the committee shall have administrative support from the department of health. The department of health, in collaboration with AHEC, shall call the first meeting of the committee and shall operate as co-chairs of the committee.

(d) Term of committee. The committee shall cease to exist on January 31, 2011.

* * * PRESCRIPTION DRUG PROVISIONS * * *

Sec. 32. 18 V.S.A. § 4631a is amended to read:

§ 4631a. ~~GIFTS~~ EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

(1) "Allowable expenditures" means:

(A) Payment to the sponsor of a significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) the payment is not made directly to a health care ~~provider~~ professional or pharmacist;

(ii) funding is used solely for bona fide educational purposes, except that the sponsor may, in the sponsor's discretion, apply some or all of the funding to provide meals and other food for all conference participants; and

(iii) all program content is objective, free from industry control, and does not promote specific products.

(B) Honoraria and payment of the expenses of a health care professional who serves on the faculty at a bona fide significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) there is an explicit contract with specific deliverables which are restricted to medical issues, not marketing activities; and

(ii) consistent with federal law, the content of the presentation, including slides and written materials, is determined by the health care professional.

(C) For a bona fide clinical trial:

(i) gross compensation for the Vermont location or locations involved;

(ii) direct salary support per principal investigator and other health care professionals per year; and

(iii) expenses paid on behalf of investigators or other health care professionals paid to review the clinical trial.

(D) For a research project that constitutes a systematic investigation, is designed to develop or contribute to general knowledge, and reasonably can

be considered to be of significant interest or value to scientists or health care professionals working in the particular field of inquiry:

- (i) gross compensation;
- (ii) direct salary support per health care professional; and
- (iii) expenses paid on behalf of each health care professional.

(E) Payment or reimbursement for the reasonable expenses, including travel and lodging-related expenses, necessary for technical training of individual health care professionals on the use of a medical device if the commitment to provide such expenses and the amounts or categories of reasonable expenses to be paid are described in a written agreement between the health care provider and the manufacturer.

(F) Royalties and licensing fees paid to health care providers in return for contractual rights to use or purchase a patented or otherwise legally recognized discovery for which the health care provider holds an ownership right.

(G) The payment of the reasonable expenses of an individual related to the interview of the individual by a manufacturer of prescribed products in connection with a bona fide employment opportunity.

~~(G)~~(H) Other reasonable fees, payments, subsidies, or other economic benefits provided by a manufacturer of prescribed products at fair market value.

(2) “Bona fide clinical trial” means an FDA-reviewed clinical trial that constitutes “research” as that term is defined in 45 C.F.R. § 46.102 and reasonably can be considered to be of interest to scientists or health care professionals working in the particular field of inquiry.

(3) “Clinical trial” means any study assessing the safety or efficacy of prescribed products administered alone or in combination with other prescribed products or other therapies, or assessing the relative safety or efficacy of prescribed products in comparison with other prescribed products or other therapies.

(4) “Free clinic” means a health care facility operated by a nonprofit private entity that:

(A) in providing health care, does not accept reimbursement from any third-party payor, including reimbursement from any insurance policy, health plan, or federal or state health benefits program that is individually determined;

(B) in providing health care, either:

(i) does not impose charges on patients to whom service is provided; or

(ii) imposes charges on patients according to their ability to pay;

(C) may accept patients' voluntary donations for health care service provision; and

(D) is licensed or certified to provide health services in accordance with Vermont law.

(5) "Gift" means:

(A) Anything of value provided to a health care provider for free; or

(B) Any Except as otherwise provided in subdivision (a)(1)(A)(ii) of this section, any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider, unless:

(i) it is an allowable expenditure as defined in subdivision (a)(1) of this section; or

(ii) the health care provider reimburses the cost at fair market value.

(6) "Health benefit plan administrator" means the person or entity who sets formularies on behalf of an employer or health insurer.

~~(5)(7)~~(A) "Health care professional" means:

(i) a person who is authorized by law to prescribe or to recommend prescribed products, who regularly practices in this state, and who either is licensed by this state to provide or is otherwise lawfully providing health care in this state; or

(ii) a partnership or corporation made up of the persons described in subdivision (i) of this subdivision ~~(5)(7)~~(A); or

(iii) an officer, employee, agent, or contractor of a person described in subdivision (i) of this subdivision ~~(5)(7)~~(A) who is acting in the course and scope of employment, of an agency, or of a contract related to or supportive of the provision of health care to individuals.

(B) The term shall not include a person described in subdivision (A) of this subdivision ~~(5)(7)~~ who is employed solely by a manufacturer.

~~(6)(8)~~ "Health care provider" means a health care professional, a hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to dispense or purchase for distribution prescribed products in this state. The term does not include a hospital foundation that is organized as a nonprofit entity separate from a hospital.

~~(7)~~(9) “Manufacturer” means a pharmaceutical, biological product, or medical device manufacturer or any other person who is engaged in the production, preparation, propagation, compounding, processing, marketing, packaging, repackaging, distributing, or labeling of prescribed products. The term does not include a wholesale distributor of biological products, a retailer, or a pharmacist licensed under chapter 36 of Title 26.

~~(8)~~(10) “Marketing” shall include promotion, detailing, or any activity that is intended to be used or is used to influence sales or market share or to evaluate the effectiveness of a professional sales force.

~~(9)~~(11) “Pharmaceutical manufacturer” means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale distributor of prescription drugs, a retailer, or a pharmacist licensed under chapter 36 of Title 26.

~~(10)~~(12) “Prescribed product” means a drug or device as defined in section 201 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321, ~~or a compound drug or drugs, or a biological product as defined in section 351 of the Public Health Service Act, 42 U.S.C. § 262,~~ for human use.

(13) “Sample” means a unit of a prescription drug, biological product, or medical device that is not intended to be sold and is intended to promote the sale of the drug, product, or device. The term includes starter packs and coupons or other vouchers that enable an individual to receive a prescribed product free of charge or at a discounted price.

~~(11)~~(14) “Significant educational, scientific, or policy-making conference or seminar” means an educational, scientific, or policy-making conference or seminar that:

(A) is accredited by the Accreditation Council for Continuing Medical Education or a comparable organization, or is presented by an approved sponsor of continuing education, provided that the sponsor is not a manufacturer of prescribed products; and

(B) offers continuing ~~medical~~ education credit, features multiple presenters on scientific research, or is authorized by the ~~sponsoring association~~ sponsor to recommend or make policy.

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

(A) Samples of a prescribed product or reasonable quantities of an over-the-counter drug, nonprescription medical device, or item of nonprescription durable medical equipment provided to a health care provider for free distribution to patients.

(B) The loan of a medical device for a short-term trial period, not to exceed 90 days, to permit evaluation of a medical device by a health care provider or patient.

(C) The provision of reasonable quantities of medical device demonstration or evaluation units to a health care provider to assess the appropriate use and function of the product and determine whether and when to use or recommend the product in the future.

(D) The provision, distribution, dissemination, or receipt of peer-reviewed academic, scientific, or clinical articles or journals and other items that serve a genuine educational function provided to a health care provider for the benefit of patients.

(E) Scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference or seminar of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(F) Rebates and discounts for prescribed products provided in the normal course of business.

(G) Labels approved by the federal Food and Drug Administration for prescribed products.

(H) The provision of free prescription drugs or over-the-counter drugs, medical devices, biological products, medical equipment or supplies, or financial donations to a free clinic.

(I) The provision of free prescription drugs to or on behalf of an individual through a prescription drug manufacturer's patient assistance program.

(J) Fellowship salary support provided to fellows through grants from manufacturers of prescribed products, provided:

(i) such grants are applied for by an academic institution or hospital;

(ii) the institution or hospital selects the recipient fellows;

(iii) the manufacturer imposes no further demands or limits on the institution's, hospital's, or fellow's use of the funds; and

(iv) fellowships are not named for a manufacturer, and no individual recipient's fellowship is attributed to a particular manufacturer of prescribed products.

(K) The provision of coffee or other snacks or refreshments at a booth at a conference or seminar.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees and may impose on a manufacturer that violates this section a civil penalty of no more than \$10,000.00 per violation. Each unlawful gift shall constitute a separate violation.

Sec. 33. 18 V.S.A. § 4632 is amended to read:

§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1) Annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the previous June 30th the value, nature, purpose, and recipient information of:

(A) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title;

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; ~~and~~

~~(iv) samples of a prescription drug or biological product provided to a health care professional for free distribution to patients~~ interview expenses as described in subdivision 4631a(a)(1)(G) of this title; and

(v) coffee or other snacks or refreshments at a booth at a conference or seminar.

(B) ~~any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to an academic institution, to a nonprofit hospital foundation, or to a professional, educational, or patient organization representing or serving health care providers or consumers, located in or providing services in Vermont, except:~~

(i) ~~royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;~~

(ii) ~~rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and~~

(iii) ~~payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; and~~

~~(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.~~

(2)(A)(i) Subject to the provisions of subdivision (B) of this subdivision (a)(2) and to the extent allowed under federal law, annually on or before October 1 of each year, each manufacturer of prescribed products shall disclose to the office of the attorney general all free samples of prescribed products, including starter packs, provided to health care providers during the fiscal year ending the previous June 30, identifying for each sample the product, recipient, number of units, and dosage.

(ii) The office of the attorney general may contract with academic researchers to release to such researchers data relating to manufacturer distribution of free samples, subject to confidentiality provisions and without including the names or license numbers of individual recipients, for analysis and aggregated public reporting.

(iii) Any public reporting of manufacturer distribution of free samples shall not include information that allows for the identification of

individual recipients of samples or connects individual recipients with the monetary value of the samples provided.

(B) Subdivision (A) of this subdivision (a)(2) shall not apply to samples of prescription drugs required to be reported under Sec. 6004 of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, if, as of January 1, 2011, the office of the attorney general has determined that the U.S. Department of Health and Human Services will collect and report state- and recipient-specific information regarding manufacturer distribution of free samples of such prescription drugs.

~~(2)~~(3) Annually on July 1, each manufacturer of prescribed products also shall disclose to the office of the attorney general the name and address of the individual responsible for the manufacturer's compliance with the provisions of this section.

~~(3)~~(4) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

(A) except as otherwise provided in subdivision (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, and gift permitted under subdivision 4631a(b)(2) of this title according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number.

~~(4)~~(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall be presented in both aggregate form and by selected types of health care providers or individual health care providers, as prioritized each year by the office.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

~~(5)~~(6) After issuance of the report required by subdivision ~~(a)~~(5) of this ~~section~~ subsection and except as otherwise provided in subdivision (2)(A)(i) of this subsection, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

~~(6)~~(7) The office of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The office may select the data most relevant to its analysis. The office shall report its analysis annually to the general assembly and the governor on or before October 1.

(b)(1) Annually on July 1, the office of the attorney general shall collect a \$500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under sections 4631a and 4632 of ~~Title 18~~ of this title. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer of prescribed products that fails to disclose as required by subsection (a) of this section a civil penalty of no more than \$10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(d) The terms used in this section shall have the same meanings as they do in section 4631a of this title.

* * * HEALTH INSURANCE COVERAGE PROVISIONS * * *

Sec. 34. 8 V.S.A. chapter 107, subchapter 12 is added to read:

Subchapter 12. Coverage for Dental Procedures

§ 4100i. ANESTHESIA COVERAGE FOR CERTAIN DENTAL PROCEDURES

(a) A health insurance plan shall provide coverage for the hospital or ambulatory surgical center charges and administration of general anesthesia administered by a licensed anesthesiologist or certified registered nurse anesthetist for dental procedures performed on a covered person who is:

(1) a child seven years of age or younger who is determined by a dentist licensed pursuant to chapter 13 of Title 26 to be unable to receive needed dental treatment in an outpatient setting, where the provider treating the patient certifies that due to the patient's age and the patient's condition or problem, hospitalization or general anesthesia in a hospital or ambulatory surgical center is required in order to perform significantly complex dental procedures safely and effectively;

(2) a child 12 years of age or younger with documented phobias or a documented mental illness, as determined by a physician licensed pursuant to chapter 23 of Title 26 or by a licensed mental health professional, whose dental needs are sufficiently complex and urgent that delaying or deferring treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity; for whom a successful result cannot be expected from dental care provided under local anesthesia; and for whom a superior result can be expected from dental care provided under general anesthesia; or

(3) a person who has exceptional medical circumstances or a developmental disability, as determined by a physician licensed pursuant to chapter 23 of Title 26, which place the person at serious risk.

(b) A health insurance plan may require prior authorization for general anesthesia and associated hospital or ambulatory surgical center charges for dental care in the same manner that prior authorization is required for these benefits in connection with other covered medical care.

(c) A health insurance plan may restrict coverage for general anesthesia and associated hospital or ambulatory surgical center charges to dental care that is provided by:

(1) a fully accredited specialist in pediatric dentistry;

(2) a fully accredited specialist in oral and maxillofacial surgery; and

(3) a dentist to whom hospital privileges have been granted.

(d) The provisions of this section shall not be construed to require a health insurance plan to provide coverage for the dental procedure or other dental care for which general anesthesia is provided.

(e) The provisions of this section shall not be construed to prevent or require reimbursement by a health insurance plan for the provision of general anesthesia and associated facility charges to a dentist holding a general anesthesia endorsement issued by the Vermont board of dental examiners if the dentist has provided services pursuant to this section on an outpatient basis in his or her own office and the dentist is in compliance with the endorsement's terms and conditions.

(f) As used in this section:

(1) “Ambulatory surgical center” shall have the same meaning as in 18 V.S.A. § 9432.

(2) “Anesthesiologist” means a person who is licensed to practice medicine or osteopathy under chapter 23 or 33 of Title 26 and who either:

(A) has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology or their predecessors or successors; or

(B) is credentialed by a hospital to practice anesthesiology and engages in the practice of anesthesiology at that hospital full-time.

(3) “Certified registered nurse anesthetist” means an advanced practice registered nurse licensed by the Vermont board of nursing to practice as a certified registered nurse anesthetist.

(4) “Health insurance plan” means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(5) “Licensed mental health professional” means a licensed physician, psychologist, social worker, mental health counselor, or nurse with professional training, experience, and demonstrated competence in the treatment of mental illness.

Sec. 35. 8 V.S.A. chapter 107, subchapter 13 is added to read:

Subchapter 13. Tobacco Cessation

§ 4100j. COVERAGE FOR TOBACCO CESSATION PROGRAMS

(a) A health insurance plan shall provide coverage of at least one three-month supply of tobacco cessation medication per year if prescribed by a licensed health care practitioner for an individual insured under the plan. A health insurance plan may require the individual to pay the plan’s applicable prescription drug co-payment for the tobacco cessation medication.

(b) As used in this subchapter:

(1) “Health insurance plan” means any health insurance policy or health benefit plan offered by a health insurer, as defined in section 9402 of Title 18, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

(2) “Tobacco cessation medication” means therapies approved by the federal Food and Drug Administration for use in tobacco cessation.

* * * CATAMOUNT PROVISIONS * * *

Sec. 36. 2 V.S.A. § 903(b)(2) is amended to read:

(2) If the commission determines that the market is not cost-effective, the agency of administration shall issue a request for proposals for the administration only of Catamount Health as described in section 4080f of Title 8. A contract entered into under this subsection shall not include the assumption of risk. If Catamount Health is administered under this subsection, the agency shall purchase a stop-loss policy for an aggregate claims amount for Catamount Health as a method of managing the state’s financial risk. The agency shall determine the amount of aggregate stop-loss reinsurance and may purchase additional types of reinsurance if prudent and cost-effective. ~~The agency may include in the contract the chronic care management program established under section 1903a of Title 33.~~

Sec. 37. 8 V.S.A. § 4080f is amended to read:

§ 4080f. CATAMOUNT HEALTH

* * *

(c)(1) Catamount Health shall provide coverage for primary care, preventive care, chronic care, acute episodic care, and hospital services. The benefits for Catamount Health shall be a preferred provider organization plan with:

* * *

(2) Catamount Health shall provide a chronic care management program ~~that has criteria substantially similar to the chronic care management program established in section 1903a of Title 33~~ in accordance with the Blueprint for Health established under chapter 13 of Title 18 and shall share the data on enrollees, to the extent allowable under federal law, with the secretary of administration or designee in order to inform the health care reform initiatives under section 2222a of Title 3.

* * *

(f)(1) Except as provided for in subdivision (2) of this subsection, the carrier shall pay a health care professional the lowest of the health care professional’s contracted rate, the health care professional’s billed charges, or the rate derived from the Medicare fee schedule, at an amount 10 percent greater than fee schedule amounts paid under the Medicare program in 2006. Payments based on Medicare methodologies under this subsection shall be indexed to the Medicare economic index developed annually by the Centers for

Medicare and Medicaid Services. The commissioner may approve adjustments to the amounts paid under this section in accordance with a carrier's pay for performance, quality improvement program, or other payment methodologies in accordance with the ~~blueprint for health~~ Blueprint for Health established under chapter 13 of Title 18.

(2) Payments for hospital services shall be calculated using a hospital-specific cost-to-charge ratio approved by the commissioner, adjusted for each hospital to ensure payments at 110 percent of the hospital's actual cost for services. The commissioner may use individual hospital budgets established under section 9456 of Title 18 to determine approved ratios under this subdivision. Payments under this subdivision shall be indexed to changes in the Medicare payment rules, but shall not be lower than 102 percent of the hospital's actual cost for services. The commissioner may approve adjustments to the amounts paid under this section in accordance with a carrier's pay for performance, quality improvement program, or other payment methodologies in accordance with the ~~blueprint for health~~ Blueprint for Health established under chapter 13 of Title 18.

(3) Payments for chronic care and chronic care management shall meet the requirements in section 702 of Title 18 ~~and section 1903a of Title 33.~~

* * *

* * * OBESITY PREVENTION * * *

Sec. 38. REPORT ON OBESITY PREVENTION INITIATIVE

No later than November 15, 2010, the attorney general shall report to the house committees on health care and on human services, the senate committee on health and welfare, and the commission on health care reform regarding the results of the attorney general's initiative on the prevention of obesity. Specifically, the report shall include:

- (1) a list of the stakeholders involved in the initiative;
- (2) the actions the stakeholder group identified and developed related to obesity prevention;
- (3) the stakeholder group's recommendations; and
- (4) opportunities identified by the group to generate revenue and the group's recommendations on how such revenue should be applied.

* * * MISCELLANEOUS PROVISIONS * * *

Sec. 39. POSITIONS

In fiscal year 2011, the department of Vermont health access may establish one new exempt position to create a director of community health systems in

the division of health care reform to fulfill the requirements in Sec. 14 of this act. This position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 40. APPROPRIATIONS

(a)(1) It is the intent of the general assembly to fund the community health system pilot projects described in Sec. 14 of this act, including the position provided for in Sec. 39 of this act, and the health care reform design options and implementation plans in Sec. 6 of this act in a budget neutral manner. The total cost in state funds is \$389,175.00, all of which is reallocated from existing sources.

(2) The community health system pilots have a total cost of \$250,000 (\$89,175 state; \$160,825 federal funds).

(3) The health care reform design options and implementation plans have a total cost of \$300,000; \$250,000 is reallocated from other sources and \$50,000 is allocated from the commission on health care reform's existing budget.

(b) In fiscal year 2011, \$527,242.00 of the amount appropriated in Catamount funds in Sec. B.312 of H.789 of the Acts of 2009 (Adj. Sess.) and allocated to the department of health for the Blueprint for Health is transferred to the agency of human services Global Commitment fund.

(c) In fiscal year 2011, \$250,000.00 of the amount appropriated in general funds in Sec. B.301 of H.789 of the Acts of 2009 (Adj. Sess.) and allocated to the agency of human services is transferred to the joint fiscal office for hiring the consultant required under Sec. 6 of this act.

(d) In fiscal year 2011, \$500,000.00 is appropriated from federal funds to the agency of human services Global Commitment fund.

(e) In fiscal year 2011, \$250,000.00 is appropriated from the Global Commitment fund to the department of Vermont health access to fill the position described in Sec. 39 and to implement the community health systems pilot projects described in Sec. 14 of this act.

(f) In fiscal year 2011, \$527,242.00 is appropriated from the Global Commitment fund to the department of health for the Blueprint for Health.

(g) In fiscal year 2011, \$50,000.00 of the amount appropriated in general funds in Sec. B.125 of H.789 of the Acts of the 2009 Adj. Sess. (2010) and allocated to the commission on health care reform for studies is transferred to the joint fiscal office for hiring the consultant required in Sec. 6 of this act.

Sec. 41. EFFECTIVE DATES

(a) This section, Secs. 1 (findings), 2 (principles), 3 (goals), 4 (health care

reform commission membership), 5 (appointments), 6 (design options), 7 (grants), 8 (public good), 9 (federal health care reform; BISHCA), 10 (federal health care reform; AHS), 11 (intent), 17 (demonstration waivers), 18 (expedited rules), 20 through 24 (hospital budgets), 25 (CON prospective need), 29 (rules; insurers), 31 (primary care study), 32 and 33 (pharmaceutical expenditures), and 38 (obesity report) of this act shall take effect upon passage.

(b) Secs. 12 and 13 (Blueprint for Health), 14 (community health systems), 15 (8 V.S.A. § 4088h), 16 (hospital certification), 19 (Blueprint Expansion), 26 through 28 (insurer rate review), 36 and 37 (citation corrections), 39 (position), and 40 (appropriations) of this act shall take effect on July 1, 2010.

(c) Sec. 30 (8 V.S.A. § 4089b; loss ratio) shall take effect on January 1, 2011 and shall apply to all health insurance plans on and after January 1, 2011, on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2012.

(d) Secs. 34 and 35 of this act shall take effect on October 1, 2010, and shall apply to all health insurance plans on and after October 1, 2010, on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than October 1, 2011.

NEW BUSINESS

Third Reading

H. 555.

An act relating to youth hunting.

Second Reading

H. 462.

An act relating to encroachments on public waters.

Reported favorably by Senator McCormack for the Committee on Natural Resources and Energy.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 17, 2010, page 429)

H. 509.

An act relating to pollution control measures for Lake Champlain and the other water of the state.

Reported favorably by Senator Kittell for the Committee on Agriculture.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 17, 2010, page 431.)

Favorable with Proposal of Amendment

H. 763.

An act relating to establishment of an agency of natural resources' river corridor management program.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Natural Resources and Energy.

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 9 in its entirety and inserting in lieu thereof the following:

Sec. 9. 6 V.S.A. § 4821(a) is amended to read:

(a) Program created. A program is created to provide state financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the state of Vermont, consistent with goals of the federal Water Pollution Control Act and with state water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the state shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the agency of agriculture, food and markets.

Sec. 10. 6 V.S.A. § 4900 is amended to read:

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont agricultural buffer program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative buffers and installing conservation practices in ditch networks on annual cropland agricultural land adjacent to the surface waters of the state.

(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed ~~40 percent~~ of the combined federal and state payment that the relevant ~~cropland~~ agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another

approved conservation program. The incentive payment shall be made annually at the end of the cropping season for a nonrenewable five-year period.

(c) The secretary of agriculture, food and markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont agricultural buffer program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the state or any portion of it.

Sec. 11. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The farm agronomic practices assistance program is created in the agency of agriculture, food and markets to provide the farms of Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

(1) conservation crop rotation;

(2) cover cropping;

(3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$1,000.00 per year; ~~and~~

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and state requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 12. 10 V.S.A. § 321(d) is amended to read:

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program in order to allow for increased or additional implementation of conservation practices on farmland protected or preserved under this chapter.

Sec. 13. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(10) “Watercourse” means any depression two feet or more below the elevation of surrounding land serving to give direction to a current or flow of water having a bed and well defined bank perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

Sec. 14. 10 V.S.A. § 1021(a) is amended to read:

(a) A person shall not change, alter, or modify the course, current, or cross-section of any watercourse ~~with a drainage area greater than ten square miles at the location of the proposed change, alteration or modification,~~ or of designated outstanding resource waters, within or along the boundaries of this state either by movement, fill, or by excavation of ten cubic yards or more in any year, unless authorized by the secretary.

Sec. 15. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

(a) 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; and chapter 41 (regulation of stream flow) for stream alteration permits.

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

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

(e) The secretary may issue a nonreporting general permit for certain specific stream alteration activities under chapter 41 of this title.

Sec. 16. ANR REPORT ON GENERAL PERMIT PROGRAM FOR STREAM ALTERATION

(a) On or before January 15, 2011, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding a proposed general permit program for stream alteration under chapter 41 of Title 10.

(b) The report required under subsection (a) of this section shall:

(1) Define the thresholds, classes of activities, or other categories of activities that will be regulated under the general permit program.

(2) Summarize the requirements or management practices that stream alteration activities will be subject to under a general permit, including whether any activity or class of activities will be subject to a nonreporting general permit.

(3) Summarize the scientific basis for the thresholds, classes of activities, or categories of activities regulated under the proposed general permit program.

Sec. 17. 19 V.S.A. § 996 is added to read:

§ 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR
BEST MANAGEMENT PRACTICES

(a) The agency of transportation shall work with municipal representatives to revise the agency of transportation's town road and bridge standards in order to incorporate a suite of practical and cost-effective best management practices, as approved by the agency of natural resources, for the construction, maintenance, and repair of all existing and future state and town highways. These best management practices shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including stormwater runoff and direct discharges to state waters. The best management practices shall not supersede any requirements for stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that apply to state and town highways. The agency of transportation shall report to the house and senate committees on transportation, the house committee on fish, wildlife and water resources, and the senate committee on natural resources and energy by January 15, 2011, on the best management practices to be incorporated into the agency of transportation's town road and bridge standards.

(b) Beginning January 15, 2013, and every four years thereafter, the secretary in consultation with municipal representatives and with approval from the agency of natural resources shall review and revise, as appropriate, town road and bridge standards in order to ensure the standards are protective of water quality.

Sec. 18. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards and, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover 10 percent of the project costs. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards and, has completed a network inventory,

and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover 20 percent of the project costs. The secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of \$175,000.00.

* * *

Sec. 19. REPEAL OF SUNSET OF VERMONT AGRICULTURAL BUFFER PROGRAM

Sec. 56 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (sunset on Vermont agricultural buffer program) is repealed.

Sec. 20. Sec. 14 of No. 31 of the Acts of 2009 is amended to read:

Sec. 14. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 12 (ANR wetlands report), and 13 (Bristol Pond) of this act shall take effect July 1, 2009.

(b) Secs. 2 (retitling 10 V.S.A. chapter 37), 3 (wetlands definitions), 4 (ANR wetlands authority), 5 (wetlands permitting), 6 (recodification of aquatic nuisance control authority), 7 (water resources panel rulemaking authority), 8 (ANR enforcement authority), 9 (appeals), and 10 (marketability of title), and 11 (transition) of this act shall take effect 45 days after such time as the water resources panel has issued both a rule updating the Vermont significant wetlands inventory maps and a rule updating the Vermont wetland rules.

(c) Sec. 11 (transition) of this act shall take effect January 1, 2010.

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 9 (livestock fencing; best management practices), 10 (Vermont agricultural buffer program), 11 (farm agronomic practices program), 12 (VHCB; agricultural land preservation), 16 (ANR report on general permit program), 17 (agency of transportation best management practices), 19 (repeal of sunset on Vermont agricultural buffer program), and 20 (effective date of wetlands transition) of this act shall take effect upon passage.

(b) Secs. 1 (river corridor findings), 2 (navigable waters and shorelands policy), 3 (navigable waters and shorelands definitions), 4 (shoreland protection bylaws), 5 (river corridor buffers), 6 (zoning bylaws), 7 (zoning permissible types of regulations), and 8 (ANR report on river corridor,

shoreland, and buffer zoning) shall take effect July 1, 2010, except that 10 V.S.A. § 1427 shall take effect February 1, 2011.

(c) Secs. 13 (definition of watercourse) and 14 (stream alteration permits) of this act shall take effect March 31, 2011.

(c) Sec. 15 (ANR general permit authority) of this act shall take effect February 15, 2011.

(d) Sec. 18 (local match town highway programs) of this act shall take effect July 1, 2011.

(Committee vote: 3-1-1)

(For House amendments, see House Journal for February 17, 2010, page 271.)

House Proposals of Amendment

S. 97

An act relating to a Vermont state employees cost-savings incentive program.

The House proposes to the Senate to amend the bill 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 shall have received at least a

satisfactory rating in his or her last state performance evaluation to be eligible for any award. 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, or other administrative unit of the state, or the judiciary department 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, or other administrative unit of the state, or the judiciary department 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 the agency, department, board, bureau, commission, or other administrative unit of the state, or judiciary department that receives a suggestion rejects the suggestion, the employee may submit a copy of the form and the assessment to the secretary of administration, if the employee is an executive branch employee. The secretary may affirm or overrule the decision of the agency, department, board, bureau, commission, or other administrative unit of the state, and his or her decision shall be final. If the employee is a judiciary department employee, the employee shall submit the form and assessment to the court administrator, who may affirm or overrule the decision of the judiciary department. The decision of the court administrator is final.

(h) If each of the criteria set forth in subsections (d) and (e) of this section is met, the agency, department, board, bureau, commission, or other

administrative unit of the state, or the judiciary department 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 \$20,000.00 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, or other administrative unit of the state, or the judiciary department, 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.

(i) 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 an award equal to the savings calculated at the date of termination of service.

(j) If an employee believes that the agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department has erroneously calculated or underestimated the savings realized by the suggestion, the employee may submit an objection to the amount awarded in writing, within 30 days of the award, to the secretary of administration or the court administrator, as appropriate. The secretary of administration or the court administrator, with the guidance of the commissioner of finance and management, shall review the amount awarded, and may increase the amount of an award or affirm the award. The decision of the secretary of administration or the 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, 2014.

S. 122

An act relating to recounts in elections for statewide offices.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Secs. 6, 7, and 8 of No. 73 of the Acts of 2009 Adj. Sess. (2010) are amended to read:

Sec. 6. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) Statements pursuant to this subchapter, except for vacancies created by the death or withdrawal of a candidate after the primary ~~and statements for minor party candidates and independent candidates~~, shall be filed ~~not earlier than the second Thursday after the first Monday in June before the day of the general election and not later than 5:00 p.m. on the Tuesday following the primary election~~ as set forth in section 2356 of this title.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the withdrawal to nominate a candidate. In no event, shall a statement be filed later than 60 days prior to the election.

Sec. 7. 17 V.S.A. § 2402(d) is amended to read:

(d) A statement of nomination and a completed and signed consent form shall be filed ~~not sooner than the second Thursday after the first Monday in June and not later than the third day after the primary election~~ as set forth in section 2356 of this title. No public official receiving nominations shall accept a petition unless a completed and signed consent form is filed at the same time.

Sec. 8. 17 V.S.A. § 2413 is amended to read:

§ 2413. NOMINATION OF JUSTICES OF THE PEACE

(a) The party members in each town, on or before the ~~fourth~~ first Tuesday of August in each even numbered year, upon the call of the town committee, may meet in caucus and nominate candidates for justice of the peace. The committee shall give notice of the caucus as provided in subsection (d) of this section and the chairman and secretary shall file the statements required in ~~sections section~~ section 2385 through 2387 of this title not later than 5:00 p.m. on the third day following the primary election.

(b) If it does not hold a caucus as provided in subsection (a) of this section, the town committee shall meet and nominate candidates for justices of the peace as provided in sections 2381 through ~~2387~~ 2385 of this title.

(c) In any town in which a political party has not formally organized, any three members of the party who are voters in the town may call a caucus to nominate candidates for justice of the peace by giving notice as required in subsection (d) of this section. Upon meeting, the caucus shall first elect a chairman and a secretary. Thereafter the caucus shall nominate its candidates for justice of the peace, and cause its chairman and secretary to file the statements required in ~~sections section~~ section 2385 through 2387 of this title not later than 5:00 p.m. on the third day following the primary election.

* * *

Sec. 2. 17 V.S.A. § 2601 is amended to read:

§ 2601. RECOUNTS

If In an election for statewide office, county office, or state senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than two percent of the total votes cast for all the candidates for an office, that losing candidate shall have the right to have the votes for that office recounted. In an election for all other offices, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than five percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

S. 295

An act relating to the creation of an agricultural development director.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Agricultural Development * * *

Sec. 1. FINDINGS

The general assembly finds:

(1) Vermont agriculture is the most visible industry in Vermont. Farmers provide food, and they steward the land, which provides natural habitat and scenery that is central to Vermont's character and working landscape.

(2) Forestry is also central to Vermont's character and working landscape, and 75 percent of Vermont is forested.

(3) Agriculture and forestry are major drivers of the tourism industry and offer many other recreational values and benefits.

(4) Ninety-five percent of Vermont's visitors purchase locally produced food items while in the state, and two-thirds of these visitors report purchasing Vermont-made products while at home.

(5) The Vermont brand, which signals quality and value and reminds consumers of the rural beauty of Vermont, presents considerable opportunities for expanding out-of-state markets for value-added Vermont products.

(6) Vermont agricultural producers should play an important role in supplying the regional food system while enhancing and expanding the development of regional agriculturally related markets.

(7) Vermont agriculture's impact on the state's economy is significant. The total value of direct, indirect, and value-added Vermont agricultural products sold in 2008 was \$2.3 billion. The farm-gate revenue generated by Vermont agricultural products sold in 2008 was \$673.7 million. Agri-tourism and recreational services related to agriculture had a 2008 market value of \$1.5 million.

(8) Vermont's tourism industry is highly dependent on the pervasiveness of agriculture and forestry in the state and contributes \$2 billion to the state's economy each year.

(9) Ninety-seven percent of Vermonters also support the state's agriculture and working landscape, and support for the viability of agriculture, including innovative agriculture, is long recognized.

(A) Relationship-based food systems such as farm-to-school programs, community supported agriculture (CSA) programs, farmers' markets, and pick-your-own operations are increasingly popular and offer areas of opportunity for farmers.

(B) The Vermont council on rural development, the Vermont housing and conservation board, the sustainable agriculture council, and others have each issued detailed reports on how to enhance the sustainability of agriculture and forestry in this state.

(C) The general assembly enacted No. 38 of the Acts of 2007, an act relating to the viability of Vermont agriculture, with specific recommendations as to how to “support and develop a more robust and self-sustaining agricultural sector that also promotes agricultural industries.”

(D) The Farm-to-Plate Investment Program, approved at the end of the 2009 Vermont legislative session, directs the Vermont sustainable jobs fund, in consultation with the sustainable agriculture council and other stakeholders, to develop a 10-year strategic plan to strengthen Vermont’s farm and food sector.

(10) Over the years there have been many reports and plans produced by a variety of stakeholders, including the agency of agriculture, food and markets. While some of the resulting recommendations have been adopted, such as the buy local program, the small business development center, and the installation of electronic benefits transfer machines at farmers’ markets, the successful implementation of other recommendations could be enhanced through the sustained attention and actions of an entity such as the proposed agricultural development board.

(11) The agency of agriculture, food and markets has a broad range of expertise and experience that can contribute to the success of the agricultural development board.

(12) In order to provide continuity for the development and implementation of a comprehensive agricultural economic development policy, and to protect and promote Vermont’s agricultural and working landscape, a new body of state leaders and creative thinkers is needed to implement agricultural development strategies, including the Farm-to-Plate Investment Program’s strategic plan.

(13) In order to provide continuity of agricultural development work within the agency of agriculture, food and markets, the leadership role within the agency’s agricultural development division should return to a classified position.

Sec. 2. ELIMINATION OF POSITION OF DEPUTY COMMISSIONER FOR AGRICULTURAL DEVELOPMENT AND CREATION OF POSITION OF AGRICULTURAL DEVELOPMENT DIRECTOR

(a) The general assembly authorizes and directs the elimination of the position of deputy commissioner for agricultural development within the agency of agriculture, food and markets.

(b) The general assembly authorizes and directs the creation of a position of agricultural development director within the agency of agriculture, food and markets. The position shall be a classified position. The director's responsibilities shall be those set forth in 6 V.S.A. § 2963(b) and those delegated by the secretary.

Sec. 3. 3 V.S.A. § 253(e) is amended to read:

* * *

(e) The secretary of agriculture, food and markets, with the approval of the governor, shall appoint a deputy commissioner for administration and enforcement, ~~and a deputy commissioner for agricultural development.~~ The secretary of agriculture, food and markets may remove the deputy ~~commissioners~~ commissioner at pleasure, and he or she shall be responsible for ~~their~~ the deputy commissioner's acts. The agency of agriculture, food and markets shall be so organized that, subject to the supervision of the secretary of agriculture, food and markets, the functions and duties that relate to administration and enforcement shall be in the charge of the deputy commissioner of administration and enforcement, ~~and those that relate to agricultural development shall be in the charge of the deputy commissioner of agricultural development.~~

Sec. 4. 6 V.S.A. § 2966 is added to read:

§ 2966. AGRICULTURAL DEVELOPMENT BOARD; ORGANIZATION; DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural development board that is authorized and empowered as the state's primary agricultural development entity.

(1) The board is charged with:

(A) optimizing the agricultural use of Vermont lands and other agricultural resources;

(B) expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(C) identifying opportunities and challenges related to infrastructure, product development, marketing, training, research, and education.

(2) The board shall:

(A) review existing strategies and plans and develop, implement, and continually update a comprehensive statewide plan to guide and encourage agricultural development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural development, land use, access to capital, the economic opportunities provided by Vermont agriculture, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; and

(D) balancing the needs of production methods with the opportunities to market products that enhance Vermont agriculture.

(b) Board created. The Vermont agricultural development board is hereby created. The exercise by the board of the powers conferred upon it in this section constitutes the performance of essential governmental functions.

(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, and obtain necessary data and information from state economists, state administrative agencies, and programs such as the farm-to-plate initiative; and

(4) 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.

(5) develop an annual operating budget, and

(A) solicit any grants, gifts, or appropriations necessary to implement the budget,

(B) expend any monies necessary to carry out the purposes of this section.

(d) Comprehensive agricultural economic development plan.

(1) Using information available from previous and ongoing agricultural development planning efforts, such as the farm-to-plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural economic development opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural economic development;

(E) a profile of government-sponsored programs, agricultural economic development resources, and financial incentives designed to promote and support agricultural economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural development;

(G) the enhancement and expansion of out-of-state marketing of Vermont products; and

(H) any additional issues as the board determines appropriate.

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural economic development, the purpose of which shall be to guide long-term agricultural economic development policymaking and planning.

(3) Within one year of its first meeting, the board shall present the plan to the governor and the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, and the senate committee on economic development, housing and general affairs as the Vermont comprehensive plan for agricultural economic development.

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan

remains current, relevant, and effective for guiding and evaluating agricultural economic development policy.

(5) The board shall within one year of adopting the plan develop benchmarking standards to measure progress in meeting the plan's goals and outcomes.

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural economic development plan.

(f) Composition of board.

(1) The board shall be composed of 12 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural enterprise location, size, and sector of the for-profit agricultural business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) four members appointed by the governor:

(i) a person with expertise in rural economic development issues;

(ii) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture;

(iii) a person familiar with the agricultural tourism industry; and

(iv) an agricultural lender.

(B) four members appointed by the speaker of the house of representatives:

(i) a person who produces an agricultural commodity other than dairy products;

(ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;

(iii) a person with expertise in sales and marketing; and

(iv) a person representing the feed, seed, fertilizer, or equipment enterprises.

(C) four members appointed by the committee on committees of the senate:

(i) a representative of Vermont's dairy industry who is also a dairy farmer;

(ii) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(iii) a representative from a Vermont agricultural advocacy organization; and

(iv) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture.

(3) The secretary of agriculture, food and markets, or his or her designee, shall serve the board as a member ex officio. The secretary shall attend meetings and provide staff support from the agency of agriculture, food and markets, but shall not have the right to vote.

(4) The secretary of commerce and community development, or his or her designee, shall serve as a member ex officio. The secretary shall attend meetings, but shall not have the right to vote.

(g) Governance.

(1) The board shall adopt rules of procedure not inconsistent with this section before conducting any further business.

(2) Unless a higher threshold is established by the board's rules, seven members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting.

(3)(A) The board shall be led by a chair who shall be elected by the board from its membership at the first meeting.

(B) The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate.

(C) A chair may be reappointed, provided that no individual may serve more than two consecutive terms as chair.

(4) Each member of the board shall serve a three-year term, except:

(A) the governor initially shall appoint one member to a one-year term, one member to a two-year term, and two members to a three-year term;

(B) the speaker of the house initially shall appoint two members to a one-year term, one member to a two-year term, and one member to a three-year term; and

(C) the committee on committees initially shall appoint one member to a one-year term, two members to a two-year term, and one member to a three-year term.

(5) Any vacancy occurring among the members shall be filled by the respective appointing authority pursuant to this subsection, and shall be filled for the balance of the unexpired term. A member may be reappointed, provided that no individual may serve more than two consecutive three-year terms.

(h) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive per diem and reimbursement for travel to the extent funding is available.

* * * Livestock Care Standards Advisory Council * * *

Sec. 5. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS

ADVISORY COUNCIL

§ 791. 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 seven members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state.

(B) Two persons from statewide organizations that represent farmers.

(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 two 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.

(5) The following two 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.

(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. Seven 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.

(d) Members who are not state employees or whose membership is not supported by their employer or association may receive per diem and reimbursement for travel to the extent funding is available.

§ 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; and

(F) the protection of local and affordable food supplies for consumers.

(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. 6. EFFECTIVE DATES

(a) Secs. 1, 2, 3, and 4 of this act shall take effect on July 1, 2010.

(b) This Sec. and Sec. 5 shall take effect upon passage.

and that the title of the bill be amended to read: "An act relating to miscellaneous agriculture"

NOTICE CALENDAR

Second Reading

Favorable

H. 770.

An act relating to approval of amendments to the charter of the city of Barre.

Reported favorably by Senator Doyle for the Committee on Government Operations.

(Committee vote: 5-0-0)

Favorable with Recommendation of Amendment

H. 485.

An act relating to the use value appraisal program.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. USE VALUE APPRAISAL PROGRAM ASSESSMENT

For property tax bills prepared in 2010 only, there is imposed on each owner of land enrolled in the use value appraisal program pursuant to chapter 124 of Title 32 a one-time assessment of \$128.00. The assessment shall be collected as part of property tax bills prepared for the 2010 tax year and the assessment shall show as a separate amount on all towns' bills. For the purpose of assessment and collection, the one-time assessment shall be a lien upon the real estate in the same manner and to the same effect as taxes are a lien upon real estate under 32 V.S.A. § 5061, and collection of the assessment shall be subject to all other provisions of chapter 133 of Title 32. The director of property valuation and review shall provide all towns with electronic notice of the parcels within each town that shall be subject to the one-time assessment. Using a form provided by the director, towns shall remit to the state treasurer for deposit in the education and general funds on May 1, 2011, the full amount collected as of that date. Of the amount collected, 75 percent shall be deposited in the education fund and 25 percent in the general fund. At the time of the May 1 payment, towns also will indicate the full amount that should have been collected and any amount that remains delinquent. Payment

of any amount outstanding due to delinquencies shall be payable in full to the state treasurer on December 1, 2011.

* * * Method and Calculation of Land Use Change Tax * * *

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing officials. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall petition the director for a determination of the fair market value of the land at the time of the withdrawal. Thereafter land which has been withdrawn shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.

(c) The determination of the fair market value of the land ~~as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal,~~ shall be made by the ~~director~~ local assessing officials in accordance with the land schedule and the appraisal model used to list property of similar size to the withdrawn parcel in their municipality divided by the municipality's most recent common level of appraisal as determined by the director; provided, however, that if the land use change tax becomes payable as a result of a transfer of title pursuant to a bona

vide arms' length transaction, the purchase price shall be deemed the fair market value of the property for the purpose of calculating the land use change tax. The determination shall be made within 30 days after the date that the owner or assessing officials petition petitions for the determination and shall be effective on the date of dispatch the notice is sent to the owner. The director may initiate a determination on his or her own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond. The director shall also send a copy of the notice to the local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ municipality in which the land is located. The ~~commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land ~~developed for which the tax is due, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal used to calculate the tax.~~ The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, ~~shall retain one copy and shall~~ forward one copy to the ~~local assessing officials and~~ commissioner along with one-half of the tax collected, forward one copy to the register of deeds of the municipality in which the land is located, forward one copy to the secretary of the agency of agriculture, food and markets if the land is agricultural land, and forward one copy to the commissioner of forests, parks and recreation if the land is managed forestland. Thereafter, the land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland of:

* * *

Sec. 3. 32 V.S.A. § 3758(a) is amended to read:

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that

previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision ~~of the director~~ to the director within 30 days of the decision. The aggrieved owner may appeal the director's final decision to the commissioner within 30 days, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation.

* * * Remove Preferential Property Transfer Tax Rate for Enrolled Land * * *

Sec. 4. REPEAL

32 V.S.A. § 9602(2) (providing preferential property transfer tax for land enrolled in the use value appraisal program) is repealed effective April 1, 2010.

* * * Electronic Administration of Use Value Appraisal Program * * *

Sec. 5. APPROPRIATION

(a) For fiscal year 2011, there is appropriated \$300,000.00 from the general fund to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) for the purpose of converting the administration of the program to an electronic format.

(b) It is the intent of the general assembly to appropriate \$300,000.00 from the general fund to the use value appraisal program special fund to continue conversion of the administration of the program to an electronic format in each of fiscal years 2012 and 2013.

Sec. 6. NOTICE

(a) The director of property valuation and review shall timely provide written notice to each owner of land enrolled in the use value appraisal program of the changes provided for in this act and the options the owner has with respect to any enrolled land.

(b) The director shall timely provide written notice to all applicants to the use value appraisal program who applied to enroll land for the September 1, 2009, deadline of the changes provided for in this act and the options the applicant has with respect to the enrollment of land. Each applicant shall have the opportunity to do one of the following:

(1) Enroll all of the land as provided for in the original application; or

(2) Withdraw the application in its entirety by filing a notice of withdrawal with the director on or before June 1, 2010.

(c) Any applicant who does not provide notice to the director by June 1, 2010, pursuant to subsection (b) of this section shall be deemed to have elected to enroll all of the land as provided for in the original application pursuant to subdivision (b)(1) of this section. The director shall refund the application fee of any applicant who elects to withdraw the application in its entirety pursuant to subdivision (b)(2) of this section.

Sec. 7. WAIVER OF ERRORS AND OMISSIONS

For April 1, 2010, grand list only, the provisions of 32 V.S.A. § 4261, requiring selectboard approval before listers may correct errors on the grand list, are waived with respect to making changes to the grand list that are the result of withdrawal of applications for enrollment pursuant to subdivisions (b)(1) and (2) of Sec. 6 of this act.

Sec. 8. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly should consider multiple strategies to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and seek ways to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use committee to study issues relating to the use value appraisal program and to report to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance on or before January 15, 2011. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before July 1, 2010;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of forests, parks and recreation or designee;

(4) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;

(5) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;

(6) A member of the public appointed by the speaker of the house;

(7) A member of the public appointed by the committee on committees;

(8) A member of the public appointed by the governor;

(c) The committee report shall address the following issues in detail:

(1) The state's formula for municipal reimbursement payments ("hold harmless payments").

(2) The extent and degree of over-assessment of enrolled land;

(3) Whether there is a need to create incentives for landowners who keep enrolled land open for public recreation, and if so, what incentives.

(4) The feasibility of allowing enrollees to omit on an initial application or withdraw from the program an undesignated two-acre housesite that would be assessed at the highest value.

(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.

Sec. 9. EFFECTIVE DATES AND TRANSITION RULES

(a) Any withdrawal of an application for use value appraisal pursuant to subdivision (b)(2) of Sec. 6 of this act after the date of passage of this act and before June 1, 2010 shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) Property withdrawn from the use value appraisal program before the effective date of Secs. 2 and 3 of this act, but not developed before that date, shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 that were in effect at the time of withdrawal; and revenues from land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(c) This section and Secs. 1, 5, 6, 7, and 8 of this act shall take effect upon passage.

(d) Secs. 2 and 3 of this act shall take effect on November 1, 2010.

(e) Sec. 4 of this act shall apply to all property transfers on or after July 1, 2010.

(Committee vote: 6-1-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. USE VALUE APPRAISAL PROGRAM ASSESSMENT

For property tax bills prepared in 2010 only, there is imposed on each owner of land enrolled in the use value appraisal program pursuant to chapter 124 of Title 32 a one-time assessment of \$128.00. The assessment shall be collected as part of property tax bills prepared for the 2010 tax year, and the assessment shall show as a separate amount on all towns' bills. For the purpose of assessment and collection, the one-time assessment shall be a lien upon the real estate in the same manner and to the same effect as taxes are a lien upon real estate under 32 V.S.A. § 5061, and collection of the assessment shall be subject to all other provisions of chapter 133 of Title 32. The director of property valuation and review shall provide all towns with electronic notice of the parcels within each town that shall be subject to the one-time assessment. Using a form provided by the director, towns shall remit to the state treasurer for deposit in the general fund on May 1, 2011, the full amount collected as of that date. At the time of the May 1 payment, towns also will indicate the full amount that should have been collected and any amount that remains delinquent. Payment of any amount outstanding due to delinquencies shall be payable in full to the state treasurer on December 1, 2011.

Second: In Sec. 4, by striking out the date "April 1, 2010" and inserting in lieu thereof the date July 1, 2010

Third: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. APPROPRIATION

(a) For fiscal year 2011, there is appropriated \$300,000.00 from the general fund to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) for the purpose of administering the program electronically.

(b) It is the intent of the general assembly to appropriate \$300,000.00 from the general fund to the use value appraisal program special fund to continue administrating the program electronically in each of fiscal years 2012 and 2013.

Fourth: In Sec. 6, by striking out each instance of the date "June 1, 2010" and inserting in lieu thereof the date July 1, 2010

(Committee vote: 4-0-3)

(For House amendments, see House Journal of January 26, 2010, page 84.)

H. 614.

An act relating to the regulation of composting.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by adding Sec. 3a to read as follows:

Sec. 3a. SUNSET OF COMPOSTING EXEMPTIONS

10 V.S.A. §§ 6001(3)(D)(vii) (composting exemptions), 6001(31) (definition of farm for compost exemptions) and 6001e (circumvention authority) shall be repealed July 1, 2012.

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 11, page 376.)

H. 781.

An act relating to renewable energy.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Natural Resources and Energy.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 30 V.S.A. § 8005(b)(2)(F), in subdivision (i)(III), after the words “provider to supply energy” by inserting “or attributes, including tradeable renewable energy credits” and, in subdivision (iv), by striking out the second and third sentences

Second: In Sec. 11, 30 V.S.A. § 5930z, in subdivision (c)(1)(D), by striking out “July 15, 2010” and inserting in lieu thereof “December 31, 2010” and, in subdivision (c)(2)(B), by striking out “July 15, 2010” and inserting in lieu thereof “December 31, 2010”

Third: In Sec. 12 (renewable energy property tax study committee), in subsection (c), by striking out subdivision (4) (adverse impacts to neighboring municipalities) and renumbering subdivisions (5) and (6) respectively to be (4) and (5)

Fourth: After Sec. 13 by inserting two new sections to be Secs. 13a and 13b to read as follows:

* * * Report on Potential Renewable Portfolio Standard, Potential Revision to SPEED Program * * *

Sec. 13a. RENEWABLE PORTFOLIO STANDARD; SPEED PROGRAM; BOARD REPORT

(a) Findings. The general assembly finds that:

(1) In 2005, Vermont enacted a renewable portfolio standard (RPS).

(2) The 2005 RPS required that each retail electric utility shall supply an amount of energy equal to its total incremental energy growth between January 1, 2005, and January 1, 2012, through the use of electricity generated by new renewable resources.

(3) In 2005, the general assembly deferred the effective date of the RPS to allow implementation of the Sustainably Priced Energy Enterprise Development (SPEED) program. The SPEED program was and is designed to promote the development of in-state renewable energy resources.

(4) 30 V.S.A. § 8005(d)(1) provides that the RPS will go into effect only if one of the following SPEED goals is not met:

(A) the amount of qualifying SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005, and before July 1, 2012, equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good; or

(B) the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005.

(5) In 2005, the general assembly also adopted a state goal to assure that 20 percent of total statewide electric retail sales before July 1, 2017, shall be generated by SPEED resources. This particular goal is voluntary. It is separate from an RPS. It does not affect whether or not an RPS comes into effect.

(6) Although a purpose of the SPEED program is to encourage in-state renewable energy resources, the SPEED statute allows its 2012 and 2017 goals to be fulfilled by electricity at all facilities owned by or under long-term contract to Vermont utilities, as long as the generating resource came into service after December 31, 2004.

(7) In a February 2010 report to the general assembly, the public service board stated that, based on load growth since 2005 and the activities of the SPEED program, it is likely that the SPEED goal will be met and an RPS will not come into effect. The board stated that:

(A) From January 1, 2005, to December 31, 2008, statewide energy usage decreased by approximately 0.1 percent.

(B) The SPEED goal of providing at least five percent of the January 1, 2005, total statewide electric retail sales from qualified SPEED resources translates into a goal of 287,421 MWh annually.

(C) The total estimated annual output of qualifying SPEED resources that are operating, approved, or pending before the board was 574,141 MWh.

(8) The total estimate annual output of SPEED resources stated in subdivision (5)(C) of this subsection is approximately 10 percent of Vermont's 2008 electric energy demand, which was 5,743,863,352 MWh.

(9) During the five years since Vermont adopted an RPS, other jurisdictions have adopted or amended their own renewable portfolio standards, including:

(A) Connecticut, which in 2007 amended its existing RPS to establish a goal that at least 23 percent of its retail load will be supplied using renewable energy by 2020.

(B) Massachusetts, which in 2008 amended its existing RPS to establish a goal that renewable energy will account for 15 percent of electricity consumption by 2020, increasing by one percent per year thereafter.

(C) New Hampshire, which in 2007 adopted an RPS that requires electricity providers to acquire renewable energy certificates (RECs) equivalent to 23.8 percent of retail electricity sold to customers by 2025.

(10) This act revises the statutory definition of "renewable" to remove a 200-MW limit on the size of hydroelectric facilities that can be considered renewable. The act delays the effective date of this revision so that it does not affect the 2012 SPEED goals described in subdivision (4) of this subsection. However, the revision could affect achievement of the 2017 SPEED goal described in subdivision (5) of this subsection, as well as the achievement of an RPS should one come into effect in Vermont.

(11) The general assembly has already recognized the environmental and economic benefits of encouraging renewable energy in adopting 30 V.S.A. §§ 202a (state energy policy) and 8001 (renewable energy goals). In light of these benefits, the history and structure of the SPEED program, and the adoption and expansion of renewable portfolio standards in other jurisdictions, there should be a reexamination of the potential implementation of an RPS in Vermont and, in lieu of such implementation, the potential revision of the goals and requirements of the SPEED program.

(b) No later than February 1, 2011, the public service board shall file a report concerning the potential development of a renewable portfolio standard (RPS) in Vermont to amend or replace the RPS enacted in 2005 and the potential revision of the goals and requirements of the SPEED program in lieu of such an RPS.

(1) The report shall be filed with the house and senate committees on natural resources and energy, the house committee on commerce and economic development and the senate committee on finance.

(2) The report shall include at least the following:

(A) An evaluation of whether or not Vermont should adopt an RPS to amend or replace the RPS adopted in 2005 or, in lieu of adopting such an RPS, should adopt revised goals and requirements for the SPEED program.

(B) An evaluation of whether the voluntary goals and aspects of the SPEED program should be made mandatory.

(C) An evaluation of the economic and environmental benefits and costs of adopting an RPS at each of the following percentages of Vermont's electricity supply portfolio: 25, 50, 75, and 100 percent. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals at the same portfolio percentages.

(D) An evaluation of the effect on the development of in-state renewable energy resources that may occur if an RPS is adopted and, under such an RPS, out-of-state resources with capacities in excess of 200 MW are considered renewable. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals. Such evaluations shall take into account each of the percentages discussed under subdivision (2)(A) of this subsection.

(E) Analysis of RPS statutes and rules that have been adopted in other jurisdictions and their strengths and weaknesses, and a discussion of how a Vermont RPS and, in lieu of an RPS, revised SPEED goals and requirements might integrate with such statutes and rules.

(F) Consideration of whether or not Vermont should adopt a potential definition of renewable resources that includes tiers or classes and a recommended proposal for such a definition.

(G) Consideration of the manner in which Vermont would require third party certification that an energy resource is renewable.

(H) Consideration of the manner in which Vermont would require third party certification that a renewable resource has low environmental impact.

(I) Consideration of the extent to which a Vermont RPS and, in lieu of such an RPS, revised SPEED goals and requirements would include the purchase of electric energy efficiency resources and the appropriate means of verification that the associated energy savings are achieved.

(J) Consideration of whether 30 V.S.A. § 8005(d)(3) (resources that count toward SPEED goals) should be revised with respect to the description of those SPEED resources that will count toward the 2017 SPEED goal described in subdivision (a)(5) of this section.

(K)(i) Proposals for each of the following:

(I) An RPS to be considered for adoption in Vermont.

(II) In lieu of such an RPS, revised goals and requirements for the SPEED program to be considered for adoption in Vermont.

(ii) Each of these proposals shall include a summary of the proposal, a discussion of each major component, the reasons for the proposal, and draft statutory language for the proposal.

(3) The report may address any other issues that the board determines to be relevant to the adoption in Vermont of an RPS and revised goals and requirements for the SPEED program.

(4) Prior to drafting and submitting the report, the board shall consult with interested and affected persons and entities such as the department of public service, other state agencies, utilities, environmental advocates, consumer advocates, and business organizations.

(c) In performing its duties under this section, the board shall have authority to retain expert witnesses, counsel, advisors, and stenographic and other research assistance it may require. The board may compensate the same and allocate related costs, as well as the costs of performing or procuring studies, to retail electricity providers in the same manner authorized for personnel in particular proceedings under 30 V.S.A. §§ 20 and 21.

* * * Environmental Attributes; Utility Revenues * * *

Sec. 13b. 30 V.S.A. § 8008 is added to read:

§ 8008. AGREEMENTS; ATTRIBUTE REVENUES; DISPOSITION BY BOARD

(a) For the purpose of this section, “the revenues” means revenues that are from the sale, through tradeable renewable energy certificates or other means, of environmental attributes associated with the generation of renewable energy from a system of generation resources with a total plant capacity greater than 200 MW and that are received by a Vermont retail electricity provider on and after May 1, 2012, pursuant to an agreement, contract, memorandum of understanding, or other transaction in which a person or entity agrees to transfer such revenues or rights associated with such attributes to the provider.

(b) After notice and opportunity for hearing, the board shall determine the disposition, allocation, and use of the revenues in a manner that promotes state

energy policy as stated in section 202a of this title and the goals of this chapter and supports achievement of the greenhouse gas reduction and building efficiency goals contained in 10 V.S.A. §§ 578(a) and 581.

(1) The board shall provide notice of the proceeding to each Vermont retail electricity provider, the department of public service, the clean energy development board under 10 V.S.A. § 6523, each fuel efficiency service provider appointed under subsection 203a(b) of this title, each energy efficiency entity appointed under subdivision 209(d)(2) of this title, the institute for energy and the environment at the Vermont Law School, the transportation research center at the University of Vermont, and any other persons or entities that have requested notice. The board may provide notice to additional persons or entities.

(2) In determining the disposition, allocation, and use of the revenues, the board shall consider each of the following potential uses of the revenues:

(A) Development of in-state renewable energy resources.

(B) Deposit into the clean energy development fund for use pursuant to 10 V.S.A. § 6523.

(C) Deposit into the fuel efficiency fund for use pursuant to 10 V.S.A. § 203a.

(D) Deposit into the electric efficiency fund for use pursuant to 10 V.S.A. § 209(d).

(E) Application, for the benefit of ratepayers, to the revenue requirement of one or more Vermont retail electricity providers.

(F) Development of transportation alternatives to vehicles that use gasoline such as electric or natural gas vehicles and supporting infrastructure and the coordination of such development with so-called “smart grid” electric transmission and distribution networks.

(G) Any other uses that support the statutory policy and goals referenced in this subsection (b).

(c) A Vermont retail electricity provider shall notify the board within 30 days of the first receipt of the revenues pursuant to an agreement, contract, memorandum of understanding, or other transaction under which it will receive the revenues. The board will open a proceeding under this section promptly on receipt of such notice and shall issue a final order in the proceeding within 12 months of such receipt.

(d) Any of the revenues that are received prior to completion of the 12-month period described in subdivision (c) of this section shall be credited.

for the benefit of ratepayers, against the revenue requirement of the Vermont retail electricity provider that receives the revenues.

Fifth: After Sec. 18, by inserting two new sections to be Secs. 18a and 18b to read as follows:

* * * Natural Gas Vehicles * * *

Sec. 18a. 10 V.S.A. § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas vehicles in accordance with subdivision (d)(1)(K) of this section. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include, and in the case of subdivision (1)(E)(ii) of this subsection shall include continuous funding for as long as funds are available, the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program; and

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow.

* * *

* * * Residential Building Energy Standards * * *

Sec. 18b. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS

(a) Definitions. For purposes of this subchapter, the following definitions apply:

(1) "Builder" means the general contractor or other person in charge of construction, who has the power to direct others with respect to the details to be observed in construction.

(2) "Residential buildings" means one family dwellings, two family dwellings, and multi-family housing three stories or less in height. "Residential buildings" shall not include hunting camps.

(3) "Residential construction" means new construction of residential buildings, and the construction of residential additions ~~that create 500 square feet of new floor space, or more. Before July 1, 1998, this definition shall only apply to residential construction that is subject to the jurisdiction of 10 V.S.A. chapter 151. Effective July 1, 1998, this definition shall apply to residential construction, regardless of whether or not it is subject to the jurisdiction of 10 V.S.A. chapter 151, alterations, renovations, or repairs to an existing residential building.~~

(4) "IECC" means the International Energy Conservation Code of the International Code Council.

(b) Adoption of Residential Building Energy Standards (RBES). Residential construction ~~commencing on or after July 1, 1997~~ shall be in compliance with the standards ~~contained in the 1995 edition of the "Model Energy Code" (MEC) prepared by the Council of American Building Officials, as those standards have been amended by the general assembly in the act that initially adopts the Model Energy Code~~ adopted by the commissioner of public service in accordance with subsection (c) of this section.

(c) Revision and interpretation of energy standards. The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with ~~3 V.S.A. chapter 25 of Title 3.~~ No later than January 1, 2011, the commissioner shall complete rulemaking to amend the energy standards to ensure that, to comply with the standards, residential construction must be designed and constructed in a manner that complies with the 2009 edition of the IECC. These amendments shall be effective on final adoption. After January 1, 2011, the commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for residential construction under the IECC. The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. Prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * *

(5) A home energy rating, ~~from~~ conducted at the time of construction by a Vermont-accredited home energy rating organization, that is determined to indicate energy performance equivalent to the RBES, shall be an acceptable means of demonstrating compliance if the rating indicates energy performance equivalent to the RBES.

* * *

Sec. 18c. FEDERAL RESIDENTIAL RETROFIT ENERGY LEGISLATION; ROLE OF EFFICIENCY UTILITY

The 111th Congress of the United States currently is considering H.R. 5019, the Home Energy Retrofit Act of 2010. With respect to any federal legislation pertaining to residential energy retrofits that is enacted during the 111th Congress, the governor, the public service board, the department of public service, any state agency that is authorized or eligible for authorization by the

federal government to receive benefits or funding under such legislation, and any entity that is appointed pursuant to 30 V.S.A. § 209 promptly shall take those actions necessary to obtain the greatest possible benefit for the state from such legislation. To deliver services in the state pursuant to any such legislation, including implementation of quality assurance programs and coordination of financial service delivery, Vermont shall use the entities that are appointed under 30 V.S.A. § 209 and that deliver energy efficiency services to electric, heating, or process-fuel customers, to the extent such use is not prohibited by such federal legislation.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 15, 2010, page 897.)

House Proposal of Amendment

J.R.S. 54

Joint resolution relating to the payment of dairy hauling costs

The House proposes to the Senate to amend the resolution as follows:

Whereas, in the past three years, the Vermont General Assembly has carefully considered the issue of dairy hauling costs and the impact upon Vermont dairy farmers, and

Whereas, New England dairy farmers typically are responsible for the majority of the costs of hauling milk from the farm to a buyer's processing plant or similar facility, and

Whereas, dairy hauling costs are incurred by dairy farmers, regardless of the price of milk, and

Whereas, dairy hauling costs for a Vermont farm milking 200 cows can exceed \$20,000.00 per year, and

Whereas, according to a recent New York study of dairy hauling costs, hauling charges paid by dairy producers range from an annual average of \$0.50 to \$0.57 per hundredweight of milk for all size farms, and the average hauling charge, including transportation credits, ranges from 3.1 to 4.4 percent of the gross value of the farm milk, and

Whereas, pursuant to Vermont's Act 50 (2007), the Vermont Milk Commission carefully considered the potential economic impacts of shifting responsibility for dairy hauling costs from the producer to the purchaser of milk, and

Whereas, the Vermont Milk Commission has concluded, and legislative testimony received from the Vermont agency of agriculture, food and markets, industry representatives, and dairy farmers has confirmed that shifting the

payment of dairy hauling costs from producer to purchaser will increase the price of Vermont milk, making Vermont milk more expensive and less competitive than milk produced in neighboring states, and

Whereas, Vermont, or any other state which unilaterally mandates a shift in the cost of dairy hauling from producer to purchaser, will suffer a competitive disadvantage relative to neighboring producer states due to the increased cost of its milk, and

Whereas, given this reality and the economic crisis facing dairy farmers throughout New England, it is extremely unlikely that any state will elect to be the first to mandate this shift in dairy hauling costs, therefore requiring a solution that is national in scope, and

Whereas, in November 2009, United States Representatives Michael Arcuri and Chris Lee of New York introduced federal legislation (H.R. 4117) to eliminate all hauling costs for milk producers, and

Whereas, United States Secretary of Agriculture Thomas Vilsack has convened a 17-member United States Department of Agriculture Dairy Industry Advisory Committee to review the issues of farm milk price volatility and dairy farmer profitability, and to offer suggestions and ideas on how the United States Department of Agriculture can best address these issues to meet the dairy industry's needs, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Vermont General Assembly urges United States Secretary of Agriculture Thomas Vilsack and the United States Department of Agriculture Dairy Industry Advisory Committee to pursue a national policy requiring that dairy hauling costs be borne by the marketplace rather than dairy producers as a means to address dairy farmer profitability, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Agriculture Thomas Vilsack, the Vermont Congressional Delegation, and the members of the United States Department of Agriculture Dairy Industry Advisory Committee.

Report of Committee of Conference

H. 540.

An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation.

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. 540. An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation.

Respectfully report that they have met and considered the same and recommend that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and by inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 4(81) is added to read:

(81) “Vulnerable user” means a pedestrian; an operator of highway building, repair, or maintenance equipment or of agricultural equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as, but not limited to, roller skates, rollerblades, or roller skis); or a person riding, driving, or herding an animal.

Sec. 2. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING ON THE LEFT MOTOR VEHICLES AND VULNERABLE USERS

(a) ~~Vehicles~~ Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, ~~may~~ shall not pass to the left of the center of the highway unless the way ahead is clear of approaching traffic, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes increasing clearance, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in subdivision (a)(1) of this section.

Sec. 3. 23 V.S.A. § 1039 is amended to read:

§ 1039. FOLLOWING TOO CLOSELY, CROWDING, AND HARASSMENT

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles

and the traffic upon, and the conditions of, the highway. The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user as defined in subdivision 4(81) of this title, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

* * *

Sec. 4. 23 V.S.A. § 1065 is amended to read:

§ 1065. HAND SIGNALS

(a) ~~All~~ A right or left turn shall not be made without first giving a signal of intention either by hand or by signal in accordance with section 1064 of this title. Except as provided in subsection (b) of this section, all signals to indicate change of speed or direction, when given by hand, shall be given from the left side of the vehicle and in the following manner:

- (1) Left turn. – Hand and arm extended horizontally.
- (2) Right turn. – Hand and arm extended upward.
- (3) Stop or decrease speed. – Hand and arm extended downward.

(b) ~~No turn to right or left may be made without first giving a signal of an intention to do so either by hand or by signal in accordance with section 1064 of this title~~ A person operating a bicycle may give a right-turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

Sec. 5. 23 V.S.A. § 1127 is amended to read:

§ 1127. CONTROL IN PRESENCE OF ~~HORSES AND CATTLE~~ ANIMALS

(a) Whenever upon a public highway and approaching a vehicle drawn by a ~~horse or other~~ draft animal, ~~or approaching a horse or other~~ an animal upon which a person is riding, or animals being herded, the operator of a motor vehicle shall operate the vehicle in such a manner as to exercise every reasonable precaution to prevent the frightening of ~~such horse or any~~ animal and to ~~insure~~ ensure the safety and protection of the animal and the person riding or, driving, or herding.

(b) The operator of a motor vehicle shall yield to any ~~cattle, sheep, or goats~~ which are animals being herded on or across a highway.

Sec. 6. 23 V.S.A. § 1139(a) is amended to read:

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction and generally shall ride as near to the right side of the roadway as practicable

~~exercising due care when passing a standing vehicle or one proceeding in the same direction, but shall ride to the left or in a left lane when:~~

(1) preparing for a left turn at an intersection or into a private roadway or driveway;

(2) approaching an intersection with a right-turn lane if not turning right at the intersection;

(3) overtaking another highway user; or

(4) taking reasonably necessary precautions to avoid hazards or road conditions.

Sec. 7. 23 V.S.A. § 1141(a) is amended to read:

(a) No A person may shall not operate a bicycle at nighttime from one-half hour after sunset until one-half hour before sunrise unless the bicycle or the bicyclist is equipped with a lamp on the front, which emits a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear, which shall be visible at least 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. Lamps emitting red lights visible to the rear may be used in addition to the red reflector. In addition, bicyclists shall operate during these hours with either a lamp on the rear of the bicycle or bicyclist which emits a flashing or steady red light visible at least 300 feet to the rear, or with reflective, rear-facing material or reflectors, or both, with a surface area totaling at least 20 square inches on the bicycle or bicyclist and visible at least 300 feet to the rear.

Sec. 8. REPEAL

23 V.S.A. § 1053 (passing pedestrians on a highway) is repealed.

ROBERT M. HARTWELL
M. JANE KITCHEL
PHILIP B. SCOTT

Committee on the part of the Senate

MOLLIE SULLIVAN BURKE
ADAM B. HOWARD
DIANE M. LANPHER

Committee on the part of the House

ORDERED TO LIE

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

S. 110.

An act relating to sheltering livestock.

S. 226.

An act relating to medical marijuana dispensaries.

H. 331.

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Justin Johnson of Barre - Commissioner of the Department of Environmental Conservation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Wayne Allen Laroche of Franklin - Commissioner of the Department of Fish & Wildlife - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury - Commissioner of the Department of Forests, Parks & Recreation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury - Commissioner of the Department of Forests, Parks & Recreation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Richard A. Westman of Cambridge - Commissioner of the Department of Taxes - By Senator MacDonald for the Committee on Finance. (3/16/10)

Bruce Hyde of Granville – Commissioner of the Department of Tourism & Marketing – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Kevin Dorn of Essex Junction – Secretary of the Agency of Commerce & Community Development – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Tayt Brooks of St. Albans – Commissioner of the Department of Economic, Housing and Community Affairs – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

FOR INFORMATION ONLY

PROPOSAL OF AMENDMENT TO H. 788 TO BE OFFERED BY SENATOR WHITE, ON BEHALF OF THE COMMITTEE ON GOVERNMENT OPERATIONS, AFTER THIRD READING

H. 788

An act relating to approval of amendments to the charter of the town of Berlin

Senator White, on behalf of the Committee on Government Operations, moves that the Senate propose to the House to amend the bill in Sec. 3, 24 App. V.S.A. chapter 105 § 50(a), at the end of the subsection, by adding the following: Appointees shall have the same powers, duties, responsibilities, and liabilities as established by law for listers, except as otherwise provided in this charter.

J.R.S. 64.

By the Committee on Agriculture,

J.R.S. 64. Joint resolution relating to the future of the international port of entry at Morses Line and the proposed federal acquisition of land belonging to the Rainville family farm.

Whereas, Clement and Elizabeth Rainville own a dairy farm in the town of Franklin astride the United States–Canadian border at Morses Line, and

Whereas, the Rainville farm consists of 130 acres of cropland and a dairy operation with 75 milkers and approximately the same number of heifers, and

Whereas, every one of those 130 acres is integral to this Vermont farm's economic viability, and

Whereas, the Rainville farm is exactly the type of dairy farm that is all too rapidly vanishing and that the state of Vermont is making every effort to preserve as an ongoing agricultural enterprise, and

Whereas, the state of Vermont, through the Vermont Housing and Conservation Trust Fund, has spent millions of dollars to preserve farmland for future generations, and the current use program was established to encourage the conduct of agricultural activities on Vermont land, and

Whereas, Vermont's farmland attracts tourists who travel to the state to view the state's picturesque open spaces, and

Whereas, according to the Vermont Agency of Agriculture, Food and Markets (VAAFAM), the total number of dairy farms in January stood at 11,206 in 1947, 9,512 in 1957, 4,729 in 1967, 3,531 in 1977, 2,771 in 1987, 1,908 in 1997, 1,168 in 2007, and 1,055 in 2010, and

Whereas, the VAAFAM has projected that Vermont may lose up to 200 farms in 2010, lowering the number to below 1,000 for the first time since the state of Vermont has conducted a farm count survey, and

Whereas, from an economic perspective, the Sustainable Agriculture Council has estimated that Vermont's agricultural worth has now grown to nearly \$3.7 billion, and

Whereas, the United States Department of Homeland Security (the Department) and United States Customs and Border Protection (CBP), which is under the Department's jurisdiction, have announced their intention to acquire land—by means of eminent domain proceedings if necessary—from the Rainville farm for use in the construction of a new international border port-of-entry facility at Morses Line, and

Whereas, the Department and CBP are justifying this project on grounds of both national security and economic stimulation, and

Whereas, the Rainville family has stated that were it to lose any of its land used for cultivating hay, this small farm's self-sufficiency would be lost, and

Whereas, a loss in the available hay would force the Rainvilles to purchase commercial feed for their herd, adding an expense they do not currently incur, and

Whereas, in the federal Farmland Protection Policy Act of 1981 (Pub. L. 97-89) (the act), Congress found that "the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States" and further stated that the law's purpose was "to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses," and

Whereas, this proposed land acquisition is clearly contrary to Congress's express intent as stated in the act, and

Whereas, the Rainville farm is listed on the National Register of Historic Places, which is further evidence of the importance that has been attached to the farm's continuity and integrity, and

Whereas, although the department's proposed new border-crossing facility has been reduced in size, there remains concern that it may be larger than needed for the amount of traffic that crosses at Morses Line, and

Whereas, there have been suggestions that federal funds would be better directed at further improvements to the heavily used port of entry at nearby Highgate, and

Whereas, the Vermont congressional delegation has been closely involved with the issues related to the proposed new facility at the Morses Line port of entry and the impact it will have on the Rainville Farm, and

Whereas, on Tuesday, April 27, 2010, while testifying before the United States Senate Judiciary Committee, Homeland Security Secretary Janet Napolitano, in response to a request of Senator Leahy, committed herself to the convening of a public meeting near Morses Line before proceeding, and

Whereas, this meeting will be extremely timely, as in the past few days, the Rainville family received notice from the federal government that the condemnation process will be commenced in 60 days if the family does not agree to sell the requested land, and

Whereas, reducing the economic viability of a small Vermont dairy farm should not be equated with economic stimulation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges the United States Department of Homeland Security to assess carefully the comments offered at the forthcoming public meeting on the future of the port of entry facility at Morses Line and to re-evaluate the need to condemn any land belonging to the Rainville farm in the town of Franklin, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Secretary of Homeland Security Janet Napolitano, United States Customs and Border Protection Commissioner Alan Bersin, the Vermont congressional delegation, Vermont Secretary of Agriculture, Food and Markets Roger Allbee, and the Rainville family in Franklin.