House Calendar

Tuesday, May 14, 2013

126th DAY OF THE ADJOURNED SESSION

House Convenes at 10:30 A.M.

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NOTICE CALENDAR

Senate Proposal of Amendment

H. 107

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange

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

* * * Health Insurance * * *

Sec. 1. 8 V.S.A. § 4079 is amended to read:

§ 4079. GROUP INSURANCE POLICIES; DEFINITIONS

Group health insurance is hereby declared to be that form of health insurance covering one or more persons, with or without their dependents, and issued upon the following basis:

(1)(A) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer, for the benefit of persons other than the employer. The term "employees," as used herein, shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer," as used herein, may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof and the proper officers as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships, and corporations.

(B) In accordance with section 3368 of this title, an employer domiciled in another jurisdiction that has more than 25 certificate-holder employees whose principal worksite and domicile is in Vermont and that is defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont-domiciled certificate-holder employees.

* * *

Sec. 2. 8 V.S.A. § 4089a is amended to read:

§ 4089a. MENTAL HEALTH CARE SERVICES REVIEW

* * *

(b) Definitions. As used in this section:

* * *

(4) "Review agent" means a person or entity performing service review activities within one year of the date of a fully compliant application for licensure who is either affiliated with, under contract with, or acting on behalf of a business entity in this ~~state; or a third party~~ State and who provides or administers mental health care benefits to ~~citizens of Vermont~~ members of health benefit plans subject to the Department's jurisdiction, including a health insurer, nonprofit health service plan, health insurance service organization, health maintenance organization or preferred provider organization, including organizations that rely upon primary care physicians to coordinate delivery of services~~, authorized to offer health insurance policies or contracts in Vermont~~.

* * *

(g) ~~Members of the independent panel of mental health care providers shall be compensated as provided in 32 V.S.A. § 1010(b) and (c).~~ [Deleted.]

* * *

Sec. 3. 8 V.S.A. § 4089i is amended to read:

* * *

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

(e)(1) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs and uses step-therapy protocols shall not require failure on the same medication on more than one occasion for continuously enrolled members or subscribers.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(f)(1) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall not require, as a condition of coverage, use of drugs not indicated by the federal Food and Drug Administration for the condition diagnosed and being treated under supervision of a health care professional.

(2) Nothing in this subsection shall be construed to prevent a health care professional from prescribing a medication for off-label use.

(g) As used in this section:

(1) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(2) "Health insurer" shall have the same meaning as in 18 V.S.A. § 9402.

~~(2)~~(3) "Out-of-pocket expenditure" means a co-payment, coinsurance, deductible, or other cost-sharing mechanism.

~~(3)~~(4) "Pharmacy benefit manager" shall have the same meaning as in section 4089j of this title.

(5) "Step therapy" means protocols that establish the specific sequence in which prescription drugs for a specific medical condition are to be prescribed.

~~(f)~~(h) The ~~department of financial regulation~~ Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Sec. 4. 8 V.S.A. § 4092(b) is amended to read:

(b) Coverage for a newly born child shall be provided without notice or additional premium for no less than ~~31~~ 60 days after the date of birth. If payment of a specific premium or subscription fee is required in order to have the coverage continue beyond such ~~31-day~~ 60-day period, the policy may require that notification of birth of newly born child and payment of the required premium or fees be furnished to the insurer or nonprofit service or indemnity corporation within a period of not less than ~~31~~ 60 days after the date of birth.

Sec. 5. 18 V.S.A. § 9418 is amended to read:

§ 9418. PAYMENT FOR HEALTH CARE SERVICES

(a) Except as otherwise specified, as used in this subchapter:

* * *

(17) "Product" means, to the extent permitted by state and federal law, one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(A) ~~Health~~ health maintenance organization;

(B) ~~Preferred~~ preferred provider organization;

(C) ~~Fee-for-service~~ fee-for-service or indemnity plan;

(D) Medicare Advantage HMO plan;

(E) Medicare Advantage private fee-for-service plan;

(F) Medicare Advantage special needs plan;

(G) Medicare Advantage PPO;

(H) Medicare supplement plan;

(I) ~~Workers~~ workers compensation plan; or

(J) ~~Catamount Health; or~~

~~(K)~~ ~~Any~~ any other commercial health coverage plan or product.

(b) No later than 30 days following receipt of a claim, a health plan, contracting entity, or payer shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the claimant in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the health plan, contracting entity, or payer to determine liability for the claim.

(3) Pend a claim for services rendered to an enrollee during the second and third months of the consecutive three-month grace period required for recipients of advance payments of premium tax credits pursuant to 26 U.S.C. § 36B. In the event the enrollee pays all outstanding premiums prior to the exhaustion of the grace period, the health plan, contracting entity, or payer shall have 30 days following receipt of the outstanding premiums to proceed as provided in subdivision (1) or (2) of this subsection, as applicable.

* * *

Sec. 5a. 18 V.S.A. § 9418b(g)(4) is amended to read:

(4) A health plan shall respond to a completed prior authorization request from a prescribing health care provider within 48 hours for urgent requests and within ~~120 hours~~ two business days of receipt for non-urgent requests. The health plan shall notify a health care provider of or make available to a health care provider a receipt of the request for prior authorization and any needed missing information within 24 hours of receipt. If a health plan does not, within the time limits set forth in this section, respond to a completed prior authorization request, acknowledge receipt of the request for prior authorization, or request missing information, the prior authorization request shall be deemed to have been granted.

* * * Standardized Claims and Edits * * *

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, and other payers shall use beginning on January 1, 2015 and that Medicaid shall use beginning on January 1, 2017.

(2) The Green Mountain Care Board and the Department of Vermont Health Access shall report to the General Assembly on or before February 15, 2014 on the progress toward a complete set of standardized edits and payment rules.

(b) The Department of Vermont Health Access's request for proposals for the Medicaid Management Information System (MMIS) claims payment system shall ensure that the MMIS will:

(1) have the capability to include uniform edit standards and payment rules developed pursuant to this section; and

(2) include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(c)(1) The Department of Vermont Health Access shall ensure that contracts for benefit management and claims management systems in effect on January 1, 2017 include full transparency of edit standards, payment rules, prior

authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(2) The Department of Financial Regulation shall ensure that beginning on January 1, 2015, health insurers and their subcontractors for benefit management and claim management systems include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines. In addition to any other remedy available to the Commissioner under Title 8 or Title 18, a health insurer, subcontractor, or other person who violates the requirements of this section may be assessed an administrative penalty of not more than $2,000.00 for each day of noncompliance.

(d) As used in this section:

(1) "Health care provider" means a person, partnership, corporation, facility, or institution licensed or certified or authorized by law to administer health care in this State.

(2) "Health insurer" means a health insurance company, a nonprofit hospital or medical service corporation, a managed care organization, and, to the extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by a public or private entity.

* * * Health Insurance Rate Review * * *

Sec. 5c. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this ~~state~~ State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until~~:~~

~~(A)~~ a copy of the form~~,~~ and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates~~, and rules for the classification of risks pertaining thereto have~~ has been filed with the ~~commissioner of financial regulation~~ Green Mountain Care Board; and

~~(B) a decision by~~ the Green Mountain Care ~~board~~ Board has ~~been applied by the commissioner as provided in subdivision (2) of this subsection~~ issued a decision approving, modifying, or disapproving the proposed rate.

(2)(A) ~~Prior to approving a rate pursuant to this subsection, the commissioner shall seek approval for such rate from the Green Mountain Care board established in 18 V.S.A. chapter 220. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve, modify, or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subdivision (2).~~

~~(B)~~ The Green Mountain Care ~~board~~ Board shall review rate requests ~~forwarded by the commissioner pursuant to subdivision (A) of this subdivision (2)~~ and shall approve, modify, or disapprove a rate request within ~~30~~ 90 calendar days ~~of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the 30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request~~ after receipt of an initial rate filing from an insurer. If an insurer fails to provide necessary materials or other information to the Board in a timely manner, the Board may extend its review for a reasonable additional period of time, not to exceed 30 calendar days.

~~(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.~~

(B) Prior to the Board's decision on a rate request, the Department of Financial Regulation shall provide the Board with an analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves.

(3) The ~~commissioner~~ Board shall ~~review policies and rates to~~ determine whether a ~~policy or~~ rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this ~~state~~ State. ~~The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer.~~ In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection.

(b) ~~The commissioner may, after a hearing of which at least 20 days'~~

~~written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. For premium rates, such withdrawal may occur at any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section. Disapproval pursuant to this subsection shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.~~

~~(c)~~ In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of ~~any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase~~ the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the ~~commissioner~~ Board. The plain language summary shall be in the format required by the Secretary of HHS 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, and shall include notification of the public comment period established in subsection ~~(d)~~(c) of this section. In addition, the insurer shall post the summaries on its website.

~~(d)~~(c)(1) The ~~commissioner~~ Board shall provide information to the public on the ~~department's~~ Board's website about the public availability of the filings and summaries required under this section.

(2)(A) Beginning no later than January 1, ~~2012~~ 2014, the ~~commissioner~~ Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection ~~(c)~~(b) of this section on the ~~department's~~ Board's website within five calendar days of filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

(B) The ~~department~~ Board shall provide an electronic mechanism for the public to comment on ~~proposed rate increases over five percent~~ all rate filings. The ~~public shall have 21 days from the posting of the summaries and filings to provide~~ Board shall accept public comment on each rate filing from the date on which the Board posts the rate filing on its website pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any, as required by

subsection (d) of this section. The ~~department~~ Board shall review and consider the public comments prior to ~~submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for its consideration in approving any rates~~ issuing its decision.

(3)(A) In addition to the public comment provisions set forth in this subsection, the Office of the Health Care Advocate established in 18 V.S.A. chapter 229, acting on behalf of health insurance consumers in this State, may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit to the Board, in writing, suggested questions regarding the filing for the Board to provide to its contracting actuary, if any.

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

~~(e)~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.

(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:

(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions; and

(B) all questions the Board, the Board's contracting actuary, if any, or the Department poses to the insurer and the insurer's responses to those questions.

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) of this section, the Board shall:

(1) conduct a public hearing, at which the Board shall:

(A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and

(B) provide an opportunity for testimony from the insurer; the Office of the Health Care Advocate; and members of the public;

(2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and

(3) issue its decision in writing.

(f)(1) The insurer shall notify its policyholders of the Board's decision in a timely manner, as defined by the Board by rule.

(2) Rates shall take effect on the date specified in the insurer's rate filing.

(3) If the Board has not issued its decision by the effective date specified in the insurer's rate filing, the insurer shall notify its policyholders of its pending rate request and of the effective date proposed by the insurer in its rate filing.

(g) An insurer, the Office of the Health Care Advocate, and any member of the public with party status, as defined by the Board by rule, may appeal a decision of the Board approving, modifying, or disapproving the insurer's proposed rate to the Vermont Supreme Court.

(h)~~(1) The following provisions of this~~ This section shall apply only to policies for major medical insurance coverage and shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage~~:~~; to Medicare supplemental insurance; or

~~(A) the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests;~~

~~(B) the review standards in subdivision (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and~~

~~(C) subsections (c) and (d) of this section.~~

~~(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply~~ to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests and shall be subject to the remaining provisions of this section.~~

(i) Notwithstanding the procedures and timelines set forth in subsections (a) through (e) of this section, the Board may establish, by rule, a streamlined

rate review process for certain rate decisions, including proposed rates affecting fewer than a minimum number of covered lives and proposed rates for which a de minimis increase, as defined by the Board by rule, is sought.

Sec. 5d. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

Each filing of a policy, contract, or document form or premium rates or rules, submitted pursuant to section 4062 of this title, shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00.

Sec. 5e. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 5f. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital service corporation may establish, maintain, and operate a medical service plan as defined in section 4583 of this title. The ~~commissioner~~ Commissioner or the Board may refuse approval if the ~~commissioner~~ Commissioner or the Board finds that the rates submitted are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital service corporation's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 5g. 8 V.S.A. § 4513(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation

and may attach reasonable conditions and limitations to such orders as ~~he~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 5h. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5i. 8 V.S.A. § 4584(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he or she~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 5j. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such ~~commissioner~~ Commissioner and approved by him or her at the time of the issuance to such medical service corporation of

its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by ~~such commissioner~~ the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5k. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS; SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The ~~commissioner~~ Commissioner or the Board shall refuse to approve~~, or to seek the Green Mountain Care board's approval of,~~ the form of evidence of coverage, filing, or rate if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of the ~~state~~ State or plan of operation, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the organization's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

(b) In connection with a rate decision, the ~~commissioner~~ Board may also~~, with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 5l. 18 V.S.A. § 9375(b) is amended to read:

(b) The ~~board~~ Board shall have the following duties:

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation~~, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 5m. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

(a)~~(1)~~ The Green Mountain Care ~~board~~ Board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

~~(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of financial regulation pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.~~

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care ~~board~~ Board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the ~~supreme court~~ Supreme Court pursuant to the Vermont Rules of Appellate Procedure.

(c) If an appeal or other petition for judicial review of a final order is not

filed in connection with an order of the Green Mountain Care ~~board~~ Board pursuant to subsection (b) of this section, the ~~chair~~ Chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 5n. 33 V.S.A. § 1811(j) is amended to read:

(j) The ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the ~~Patient Protection and~~ Affordable Care Act ~~(Public Law 111-148)~~.

* * * Catamount Health and VHAP * * *

Sec. 6. 8 V.S.A. § 4080d is amended to read:

§ 4080d. COORDINATION OF INSURANCE COVERAGE WITH MEDICAID

Any insurer as defined in section 4100b of this title is prohibited from considering the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. § 1396a (Section 1902 of the Social Security Act), herein referred to as Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders, or certificate holders. ~~This section shall not apply to Catamount Health, as established by section 4080f of this title.~~

Sec. 7. 8 V.S.A. § 4080g(b) is amended to read:

(b) Small group plans.

* * *

(11)(A) A registered small group carrier may require that 75 percent or less of the employees or members of a small group with more than 10 employees participate in the carrier's plan. A registered small group carrier may require that 50 percent or less of the employees or members of a small group with 10 or fewer employees or members participate in the carrier's plan. A small group carrier's rules established pursuant to this subdivision shall be applied to all small groups participating in the carrier's plans in a consistent

and nondiscriminatory manner.

(B) For purposes of the requirements set forth in subdivision (A) of this subdivision (11), a registered small group carrier shall not include in its calculation an employee or member who is already covered by another group health benefit plan as a spouse or dependent or who is enrolled in ~~Catamount Health,~~ Medicaid~~, the Vermont health access plan,~~ or Medicare. Employees or members of a small group who are enrolled in the employer's plan and receiving premium assistance under ~~33 V.S.A. chapter 19~~ the Health Insurance Premium Payment program established pursuant to Section 1906 of the Social Security Act, 42 U.S.C. § 1396e, shall be considered to be participating in the plan for purposes of this subsection. If the small group is an association, trust, or other substantially similar group, the participation requirements shall be calculated on an employer-by-employer basis.

* * *

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

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at birth and continuing until the child reaches age 21.

(2) Coverage provided pursuant to this section by Medicaid~~, the Vermont health access plan,~~ or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

* * *

(f) As used in this section:

* * *

(7) "Health insurance plan" means Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program, 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~~ State by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

* * *

Sec. 9. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

* * *

(c) This section shall apply to Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ and any other public health care assistance program.

Sec. 10. 8 V.S.A. § 4089w is amended to read:

§ 4089w. OFFICE OF HEALTH CARE OMBUDSMAN

* * *

(h) As used in this section, "health insurance plan" means a policy, service contract or other health benefit plan offered or issued by a health insurer, as defined by 18 V.S.A. § 9402, and includes ~~the Vermont health access plan and~~ beneficiaries covered by the Medicaid program unless such beneficiaries are otherwise provided ombudsman services.

Sec. 11. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

* * *

(d) As used in this section, "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, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

Sec. 12. 8 V.S.A. § 4100b is amended to read:

§ 4100b. COVERAGE OF CHILDREN

(a) As used in this subchapter:

(1) "Health plan" shall include~~, but not be limited to,~~ a group health plan as defined under Section 607(1) of the Employee Retirement Income Security Act of 1974~~,~~ and a nongroup plan as defined in section 4080b of this title~~, and a Catamount Health plan as defined in section 4080f of this title~~.

* * *

Sec. 13. 8 V.S.A. § 4100e is amended to read:

§ 4100e. REQUIRED COVERAGE FOR OFF-LABEL USE

* * *

(b) As used in this section, the following terms have the following meanings:

(1) "Health insurance plan" means a health benefit plan offered, administered, or issued by a health insurer doing business in Vermont.

(2) "Health insurer" is defined by ~~section~~ 18 V.S.A. § 9402 ~~of Title 18~~. As used in this subchapter, the term includes the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government, including Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ or any other public health care assistance program.

* * *

Sec. 14. 8 V.S.A. § 4100j is amended to read:

§ 4100j. COVERAGE FOR TOBACCO CESSATION PROGRAMS

* * *

(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 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

* * *

Sec. 15. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

* * *

(g) 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 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include policies or plans providing coverage for specified disease or other limited

benefit coverage.

* * *

Sec. 16. 13 V.S.A. § 5574(b) is amended to read:

(b) A claimant awarded judgment in an action under this subchapter shall be entitled to damages in an amount to be determined by the trier of fact for each year the claimant was incarcerated, provided that the amount of damages shall not be less than $30,000.00 nor greater than $60,000.00 for each year the claimant was incarcerated, adjusted proportionally for partial years served. The damage award may also include:

(1) Economic damages, including lost wages and costs incurred by the claimant for his or her criminal defense and for efforts to prove his or her innocence.

(2) ~~Notwithstanding the income eligibility requirements of the Vermont Health Access Plan in section 1973 of Title 33, and notwithstanding the requirement that the individual be uninsured, up~~ Up to 10 years of eligibility for ~~the Vermont Health Access Plan using state-only funds~~ state-funded health coverage equivalent to Medicaid services.

* * *

Sec. 17. 18 V.S.A. § 1130 is amended to read:

§ 1130. IMMUNIZATION PILOT PROGRAM

(a) As used in this section:

* * *

(5) "State health care programs" shall include Medicaid, ~~the Vermont health access plan,~~ Dr. Dynasaur, and any other health care program providing immunizations with funds through the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

* * *

Sec. 18. 18 V.S.A. § 3801 is amended to read:

§ 3801. DEFINITIONS

As used in this subchapter:

(1)(A) "Health insurer" shall have the same meaning as in section 9402 of this title and shall include:

(i) a health insurance company, a nonprofit hospital and medical

service corporation, and health maintenance organizations;

(ii) an employer, a labor union, or another group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(iii) except as otherwise provided in section 3805 of this title, the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government.

(B) The term "health insurer" shall not include Medicaid~~, the Vermont health access plan, Vermont Rx,~~ or any other Vermont public health care assistance program.

* * *

Sec. 19. 18 V.S.A. § 4474c(b) is amended to read:

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by section 9402 of this title, or any insurance company regulated under Title 8;

(2) Medicaid~~, Vermont health access plan, and~~ or any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

Sec. 20. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(8) "Health insurer" means any health insurance company, nonprofit hospital and medical service corporation, managed care organization, and, to the extent permitted under federal law, any administrator of a health benefit plan offered by a public or a private entity. The term does not include Medicaid~~, the Vermont health access plan,~~ or any other state health care assistance program financed in whole or in part through a federal program.

* * *

Sec. 21. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(2) "Health insurer" is defined by section 9402 of this title and shall include:

(A) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(B) an employer, labor union, or other group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont;

(C) the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government; and

(D) Medicaid, ~~the Vermont health access plan, Vermont Rx,~~ and any other public health care assistance program.

* * *

Sec. 22. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(3) ~~Facilitate~~ facilitate enrollment in qualified health benefit plans, Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ and other public health benefit programs;

* * *

(5) ~~Provide~~ provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Vermont health benefit exchange; ~~and~~

(6) ~~Distribute~~ distribute information to health care professionals, community organizations, and others to facilitate the enrollment of individuals who are eligible for Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ other public health benefit programs, or the Vermont health benefit exchange in order to ensure that all eligible individuals are enrolled~~.~~; and

(7) ~~Provide~~ provide information about and facilitate employers' establishment of cafeteria or premium-only plans under Section 125 of the Internal Revenue Code that allow employees to pay for health insurance premiums with pretax dollars.

Sec. 23. 33 V.S.A. § 1901(b) is amended to read:

(b) ~~The secretary may charge a monthly premium, in amounts set by the general assembly, to each individual 18 years or older who is eligible for enrollment in the health access program, as authorized by section 1973 of this title and as implemented by rules. All premiums collected by the agency of human services or designee for enrollment in the health access program shall be deposited in the state health care resources fund established in section 1901d of this title. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the general assembly.~~ [Deleted.]

Sec. 24. 33 V.S.A. § 1903a is amended to read:

§ 1903a. CARE MANAGEMENT PROGRAM

(a) The ~~commissioner~~ Commissioner of Vermont ~~health access~~ Health Access shall coordinate with the ~~director~~ Director of the Blueprint for Health to provide chronic care management through the Blueprint and, as appropriate, create an additional level of care coordination for individuals with one or more chronic conditions who are enrolled in Medicaid~~, the Vermont health access plan (VHAP),~~ or Dr. Dynasaur. The program shall not include individuals who are in an institute for mental disease as defined in 42 C.F.R. § 435.1009.

* * *

Sec. 25. 33 V.S.A. § 1997 is amended to read:

§ 1997. DEFINITIONS

As used in this subchapter:

* * *

(7) "State public assistance program"~~,~~ includes~~, but is not limited to,~~ the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx,~~ the ~~state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and the out-of-state counterparts to such programs.

Sec. 26. 33 V.S.A. § 1998(c)(1) is amended to read:

(c)(1) The ~~commissioner~~ Commissioner may implement the ~~pharmacy best practices and cost control program~~ Pharmacy Best Practices and Cost Control Program for any other health benefit plan within or outside this ~~state~~ State that agrees to participate in the program. For entities in Vermont, the ~~commissioner~~ Commissioner shall directly or by contract implement the program through a joint pharmaceuticals purchasing consortium. The joint pharmaceuticals purchasing consortium shall be offered on a voluntary basis

no later than January 1, 2008, with mandatory participation by state or publicly funded, administered, or subsidized purchasers to the extent practicable and consistent with the purposes of this chapter, by January 1, 2010. If necessary, the ~~department of Vermont health access~~ Department of Vermont Health Access shall seek authorization from the Centers for Medicare and Medicaid to include purchases funded by Medicaid. "State or publicly funded purchasers" shall include the ~~department of corrections~~ Department of Corrections, the ~~department of mental health~~ Department of Mental Health, Medicaid, ~~the Vermont Health Access Program (VHAP),~~ Dr. Dynasaur, ~~VermontRx,~~ VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

Sec. 27. 33 V.S.A. § 2004(a) is amended to read:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the ~~department of Vermont health access~~ Department of Vermont Health Access for individuals participating in Medicaid, ~~the Vermont Health Access Program,~~ Dr. Dynasaur, or VPharm~~, or VermontRx~~ shall pay a fee to the ~~agency of human services~~ Agency of Human Services. The fee shall be 0.5 percent of the previous calendar year's prescription drug spending by the ~~department~~ Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

* * * Vermont Health Benefit Exchange * * *

Sec. 28. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

(a)(1) Until January 1, 2016, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employed at least one and no more than 50 employees,~~ and the term "qualified employer" includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

* * *

(b)(1) From January 1, 2016 until January 1, 2017, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year~~, employed at least one and no more than 100 employees,~~ and the term "qualified employer" includes self-employed persons to the extent

permitted under the Affordable Care Act. ~~Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

* * *

Sec. 29. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(2) Determining eligibility for and enrolling individuals in Medicaid, Dr. Dynasaur, and VPharm~~, and VermontRx~~ pursuant to chapter 19 of this title, as well as any other public health benefit program.

* * *

(12) ~~Consistent with federal law, crediting the amount of any free choice voucher provided pursuant to Section 10108 of the Affordable Care Act to the monthly premium of the plan in which a qualified employee is enrolled and collecting the amount credited from the offering employer.~~ [Deleted.]

* * *

Sec. 30. 33 V.S.A. § 1811(a) is amended to read:

(a) As used in this section:

* * *

(3)(A) Until January 1, 2016, "small employer" means an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employs at least one and no more than 50 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

(B) Beginning on January 1, 2016, "small employer" means an

~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year, ~~employs at least one and no more than 100 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. ~~Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

* * * Medicaid and CHIP * * *

Sec. 31. 33 V.S.A. § 2003(c) is amended to read:

(c) As used in this section:

(1) "Beneficiary" means any individual enrolled in the Healthy Vermonters program.

(2) "Healthy Vermonters beneficiary" means any individual Vermont resident without adequate coverage:

(A) who is at least 65 years of age, or is disabled and is eligible for Medicare or Social Security disability benefits, with household income equal to or less than 400 percent of the federal poverty level, as calculated ~~under the rules of the Vermont health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B); or

(B) whose household income is equal to or less than 350 percent of the federal poverty level, as calculated ~~under the rules of the Vermont Health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B).

* * *

Sec. 32. 33 V.S.A. § 2072(a) is amended to read:

(a) An individual shall be eligible for assistance under this subchapter if the individual:

(1) is a resident of Vermont at the time of application for benefits;

(2) is at least 65 years of age or is an individual with disabilities as defined in subdivision 2071(1) of this title; and

(3) has a household income, when calculated ~~in accordance with the rules adopted for the Vermont health access plan under No. 14 of the Acts of~~

~~1995, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B), no greater than 225 percent of the federal poverty level.

Sec. 32a. MODIFIED ADJUSTED GROSS INCOME; LEGISLATIVE INTENT

It is the intent of the General Assembly that individuals receiving benefits under the Healthy Vermonters and VPharm programs on the date that the method of income calculation changes from VHAP rules to modified adjusted gross income as described in Secs. 31 and 32 of this act should not lose eligibility for the applicable program solely as a result of the change in the income calculation method.

* * * Health Information Exchange * * *

Sec. 33. 18 V.S.A. § 707(a) is amended to read:

(a) No later than July 1, 2011, hospitals shall participate in the Blueprint for Health by creating or maintaining connectivity to the ~~state's~~ 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.~~

Sec. 34. 18 V.S.A. § 9456 is amended to read:

§ 9456. BUDGET REVIEW

(a) The ~~board~~ Board 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 ~~board~~ Board. ~~The board 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.~~

(b) In conjunction with budget reviews, the ~~board~~ Board shall:

* * *

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

(11) require each hospital to create or maintain connectivity to the State's health information exchange network in accordance with the criteria established by the Vermont Information Technology Leaders, Inc., pursuant to subsection 9352(i) of this title, provided that the Board shall not require a

hospital to create a level of connectivity that the State's exchange is unable to support.

* * *

Sec. 34a. 18 V.S.A. § 9352(i) is amended to read:

(i) Certification of meaningful use and connectivity.

(1) To the extent necessary to support Vermont's health care reform goals or as required by federal law, VITL shall be authorized to certify the meaningful use of health information technology and electronic health records by health care providers licensed in Vermont.

(2) VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually by March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title.

* * * Special Funds * * *

* * * Hospital Energy Efficiency * * *

Sec. 35. HOSPITALS; ENERGY EFFICIENCY

(a) In this section, "hospital" shall have the same meaning as in 18 V.S.A. § 1902.

(b) On or before July 1, 2014, each hospital shall present an energy efficiency action plan to the Green Mountain Care Board. The action plan shall include specific measures to be undertaken which may include energy audits, periodic benchmarking to track performance over time, and energy savings goals. The action plan shall be consistent with the hospital's strategic goals, capital plans, and previous energy efficiency initiatives, if any.

(c) When conducting an energy assessment or audit, the hospital shall use assessment and audit methodologies approved by the energy efficiency entity or entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located. These methodologies shall meet standards that are consistent with those contained in 30 V.S.A. § 218c.

(d) The energy efficiency entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located shall provide assistance to hospitals in the development of their action plans and presentation to the Green Mountain Care Board. This assistance shall be provided pursuant to the entities' obligations under 30 V.S.A. § 209(d) and (e) and implementing Public Service Board orders.

* * * Office of the Health Care Advocate * * *

Sec. 35a. 18 V.S.A. chapter 229 is added to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

§ 9601. DEFINITIONS

As used in this chapter:

(1) "Green Mountain Care Board" or "Board" means the Board established in chapter 220 of this title.

(2) "Health insurance plan" means a policy, service contract, or other health benefit plan offered or issued by a health insurer and includes beneficiaries covered by the Medicaid program unless they are otherwise provided with similar services.

(3) "Health insurer" shall have the same meaning as in section 9402 of this title.

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Agency of Administration shall establish the Office of the Health Care Advocate by contract with any nonprofit organization.

(b) The Office shall be administered by the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The Advocate may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist health insurance consumers with health insurance plan selection by providing information, referrals, and assistance to individuals about means of obtaining health insurance coverage and services. The Office shall accept referrals from the Vermont Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers experiencing problems related to the Exchange.

(2) Assist health insurance consumers to understand their rights and responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others regarding problems and concerns of health insurance consumers as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints on behalf of individual health insurance consumers, and assist those consumers with filing and pursuit of complaints and appeals.

(5) Provide information to individuals regarding their obligations and responsibilities under the Patient Protection and Affordable Care Act (Public Law 111-148).

(6) Analyze and monitor the development and implementation of federal, state, and local laws, rules, and policies relating to patients and health insurance consumers.

(7) Facilitate public comment on laws, rules, and policies, including policies and actions of health insurers.

(8) Suggest policies, procedures, or rules to the Green Mountain Care Board in order to protect patients' and consumers' interests.

(9) Promote the development of citizen and consumer organizations.

(10) Ensure that patients and health insurance consumers have timely access to the services provided by the Office.

(11) Submit to the General Assembly and the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer.

(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers.

(3) Represent the interests of the people of the State in cases requiring a hearing before the Green Mountain Care Board established in chapter 220 of this title.

(4) Adopt policies and procedures necessary to carry out the provisions of this chapter.

(5) Take any other action necessary to fulfill the purposes of this chapter.

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any retaliatory

action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

§ 9604. DUTIES OF STATE AGENCIES

All state agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of Administration may adopt rules necessary to ensure the cooperation of state agencies under this section.

§ 9605. CONFIDENTIALITY

In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual.

§ 9606. CONFLICTS OF INTEREST

The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) have a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) have a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) are employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

§ 9607. FUNDING; INTENT

(a) The Office of the Health Care Advocate shall specify in its annual report filed pursuant to this chapter the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(b) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available

to support the activities of the Office.

Sec. 35b. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek ~~the~~ advice ~~of the state health care ombudsman established in 8 V.S.A. § 4089w~~ from the Office of the Health Care Advocate. The ~~state health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Office shall represent the interests of Vermont patients and Vermont consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Sec. 35c. 18 V.S.A. § 9377(e) is amended to read:

(e) The ~~board~~ Board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the ~~state health care ombudsman~~ Office of the Health Care Advocate, and state and local governments, to advise the ~~board~~ Board in developing and implementing the pilot projects and to advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

Sec. 35d. 18 V.S.A. § 9410(a)(2) is amended to read:

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Commissioner determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

(B) The ~~commissioner~~ Commissioner shall convene a working group composed of the ~~commissioner of mental health, the commissioner of Vermont health access~~ Commissioner of Mental Health, the Commissioner of Vermont Health Access, health care consumers, the ~~office of the health care ombudsman~~ Office of the Health Care Advocate, employers and other payers, health care providers and facilities, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care, health insurers, and any other individual or group appointed by the ~~commissioner~~ Commissioner to advise the ~~commissioner~~ Commissioner on the development and implementation of the consumer health care price and quality information system.

* * *

Sec. 35e. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9) The ~~health care ombudsman's office~~ Office of the Health Care Advocate established under ~~8 V.S.A. chapter 107, subchapter 1A~~ chapter 229 of this title or, in the case of nursing homes, the ~~long-term care ombudsman's office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A. § 7502~~,~~ is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the ~~board~~ Board.

Sec. 35f. 18 V.S.A. § 9445(b) is amended to read:

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption ~~therefore~~ for the project, or violates any other provision of this subchapter or any lawful rule ~~or regulation promulgated thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the Health Care Advocate, the ~~state long-term care ombudsman~~ State Long-Term Care Ombudsman, and health care providers and consumers located in the ~~state~~ State shall have standing to maintain a civil action in the ~~superior court~~ Superior Court of the county ~~wherein~~ in which such alleged violation has occurred, or ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general of the state~~ Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

Sec. 35g. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(16) Referring consumers to the ~~office of health care ombudsman~~ Office of the Health Care Advocate for assistance with grievances, appeals, and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit Exchange.

* * *

Sec. 35h. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(4) Provide referrals to the ~~office of health care ombudsman~~ Office of the Health Care Advocate and any other appropriate agency for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

* * *

Sec. 36. 18 V.S.A. § 9404 is amended to read:

§ 9404. ADMINISTRATION ~~OF THE DIVISION~~

(a) The ~~commissioner~~ Commissioner shall supervise and direct the execution of all laws vested in the ~~division~~ Department by ~~virtue of~~ this chapter, and shall formulate and carry out all policies relating to this chapter.

~~(b) The commissioner may delegate the powers and assign the duties required by this chapter as the commissioner may deem appropriate and necessary for the proper execution of the provisions of this chapter, including the review and analysis of certificate of need applications and hospital budgets; however, the commissioner shall not delegate the commissioner's quasi-judicial and rulemaking powers or authority, unless the commissioner has a personal or financial interest in the subject matter of the proceeding.~~

~~(c) The commissioner may employ professional and support staff necessary to carry out the functions of the commissioner, and may employ consultants and contract with individuals and entities for the provision of services.~~

~~(d)~~ The ~~commissioner~~ Commissioner may:

(1) ~~Apply~~ apply for and accept gifts, grants, or contributions from any person for purposes consistent with this chapter~~.~~;

(2) ~~Adopt~~ adopt rules necessary to implement the provisions of this chapter~~.~~; and

(3) ~~Enter~~ enter into contracts and perform such acts as are necessary to accomplish the purposes of this chapter.

~~(e)~~(c) There is hereby created a fund to be known as the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund for the purpose of providing the financial means for the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation to administer this chapter and 33 V.S.A. § 6706. All fees and assessments received by the ~~department~~ Department pursuant to such administration shall be credited to this ~~fund~~ Fund. All fines and administrative

penalties, however, shall be deposited directly into the ~~general fund~~ General Fund.

(1) All payments from the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the ~~state treasury~~ State Treasury only upon warrants issued by the ~~commissioner of finance and management~~ Commissioner of Finance and Management, after receipt of proper documentation regarding services rendered and expenses incurred.

(2) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund and issue warrants based thereon.

* * * Health Resource Allocation Plan * * *

Sec. 37. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH PLAN; HEALTH RESOURCE ALLOCATION PLAN

(a) No later than January 1, 2005, the ~~secretary of human services~~ Secretary of Human Services or designee, in consultation with the ~~commissioner~~ Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a ~~state health plan~~ State Health Plan that sets forth the health goals and values for the ~~state~~ State. The ~~secretary~~ Secretary may amend the ~~plan~~ Plan as the ~~secretary~~ Secretary deems necessary and appropriate. The ~~plan~~ Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the ~~state~~ State, identify available human resources as well as human resources needed for achieving the ~~state's~~ State's health goals and the planning required to meet those needs, and identify geographic parts of the ~~state~~ State needing investments of additional resources in order to improve the health of the population. The ~~plan~~ Plan shall contain sufficient detail to guide development of the ~~state health resource allocation plan~~ State Health Resource Allocation Plan. Copies of the ~~plan~~ Plan shall be submitted to members of the ~~senate and house committees on health and welfare~~ Senate and House Committees on Health and Welfare no later than January 15, 2005.

(b) On or before July 1, 2005, the ~~commissioner~~ Green Mountain Care Board, in consultation with the ~~secretary of human services~~ Secretary of Human Services, shall submit to the ~~governor~~ Governor a four-year ~~health resource allocation plan~~ Health Resource Allocation Plan. The ~~plan~~ Plan shall

identify Vermont needs in health care services, programs, and facilities; the resources available to meet those needs; and the priorities for addressing those needs on a statewide basis.

(1) The ~~plan~~ Plan shall include:

(A) A statement of principles reflecting the policies enumerated in sections 9401 and 9431 of this chapter to be used in allocating resources and in establishing priorities for health services.

(B) Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.

(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the ~~commissioner~~ Green Mountain Care Board shall consider at least the following factors:

(i) the values and goals reflected in the ~~state health plan~~ State Health Plan;

(ii) the needs of the population on a statewide basis;

(iii) the needs of particular geographic areas of the ~~state~~ State, as identified in the ~~state health plan~~ State Health Plan;

(iv) the needs of uninsured and underinsured populations;

(v) the use of Vermont facilities by out-of-state residents;

(vi) the use of out-of-state facilities by Vermont residents;

(vii) the needs of populations with special health care needs;

(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;

(ix) the cost impact of these resource requirements on health care expenditures; ~~the services appropriate for the four categories of hospitals described in subdivision 9402(12) of this title;~~

(x) the overall quality and use of health care services as reported by the Vermont ~~program for quality in health care~~ Program for Quality in Health Care and the Vermont ~~ethics network~~ Ethics Network;

(xi) the overall quality and cost of services as reported in the annual hospital community reports;

(xii) individual hospital four-year capital budget projections; and

(xiii) the four-year projection of health care expenditures prepared by the ~~division~~ Board.

(2) In the preparation of the ~~plan~~ Plan, the ~~commissioner shall assemble an advisory committee of no fewer than nine nor more than 13 members who shall reflect a broad distribution of diverse perspectives on the health care system, including health care professionals, payers, third-party payers, and consumer representatives~~ Green Mountain Care Board shall convene the Green Mountain Care Board General Advisory Committee established pursuant to subdivision 9374(e)(1) of this title. The ~~advisory committee~~ Green Mountain Care Board General Advisory Committee shall review drafts and provide recommendations to the ~~commissioner~~ Board during the development of the ~~plan~~ Plan. ~~Upon adoption of the plan, the advisory committee shall be dissolved.~~

(3) The ~~commissioner~~ Board, with the ~~advisory committee~~ Green Mountain Care Board General Advisory Committee, shall conduct at least five public hearings, in different regions of the state, on the ~~plan~~ Plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. To the extent possible, the ~~commissioner~~ Board shall arrange for hearings to be broadcast on interactive television. Not less than 30 days prior to any such hearing, the ~~commissioner~~ Board shall publish in the manner prescribed in 1 V.S.A. § 174 the time and place of the hearing and the place and period during which to direct written comments to the ~~commissioner~~ Board. In addition, the ~~commissioner~~ Board may create and maintain a website to allow members of the public to submit comments electronically and review comments submitted by others.

(4) The ~~commissioner~~ Board shall develop a mechanism for receiving ongoing public comment regarding the ~~plan~~ Plan and for revising it every four years or as needed.

(5) The ~~commissioner~~ Board in consultation with appropriate health care organizations and state entities shall inventory and assess existing state health care data and expertise, and shall seek grants to assist with the preparation of any revisions to the ~~health resource allocation plan~~ Health Resource Allocation Plan.

(6) The ~~plan~~ Plan or any revised ~~plan~~ Plan proposed by the ~~commissioner~~ Board shall be the ~~health resource allocation plan~~ Health Resource Allocation Plan for the ~~state~~ State after it is approved by the ~~governor~~ Governor or upon passage of three months from the date the ~~governor~~ Governor receives the ~~plan~~ proposed Plan, whichever occurs first, unless the ~~governor~~ Governor disapproves the ~~plan~~ proposed Plan, in whole or in part. If the ~~governor~~ Governor disapproves, he or she shall specify the sections of the ~~plan~~ proposed Plan which are objectionable and the changes necessary to meet the objections. The sections of the ~~plan~~ proposed Plan not disapproved shall become part of the ~~health resource allocation plan~~ Health Resource Allocation Plan.

* * * Allocation of Expenses * * *

Sec. 37a. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) ~~Expenses~~ Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

(A) 40 percent by the ~~state~~ State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Sec. 37b. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

(a) ~~Expenses~~ Except as otherwise provided in subsection (b) of this section, expenses incurred to obtain information and to analyze expenditures, review hospital budgets, and for any other related contracts authorized by the ~~commissioner~~ Commissioner shall be borne as follows:

(1) 40 percent by the ~~state~~ State from state monies~~,~~;

(2) 15 percent by the hospitals~~,~~;

(3) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~,~~;

(4) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101~~,~~; and

(5) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

Sec. 37c. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

Sec. 37d. HEALTH CARE ADVOCATE; BILL BACK

(a) Through June 30, 2016, financial support for the Office of the Health Care Advocate established pursuant to 18 V.S.A. chapter 229 for services related to the Green Mountain Care Board's and Department of Financial

Regulation's regulatory and supervisory duties shall be considered expenses incurred by the Board or the Department under 18 V.S.A. §§ 9374(h) and 9415 and shall be an acceptable use of the funds realized pursuant to those sections.

(b) For fiscal year 2014, the Green Mountain Care Board and the Department of Financial Regulation may allocate up to $300,000.00 of expenses pursuant to the authority granted by subsection (a) of this section.

(c) On or before February 1, 2014, the Director of Health Care Reform in the Agency of Administration shall present to the House Committees on Health Care, on Ways and Means, and on Appropriations and the Senate Committees on Health and Welfare, on Finance, and on Appropriations sustainable funding options for the Office of the Health Care Advocate, including sustainable options based on sources other than the allocation of expenses described in subsection (a) of this section.

* * * Hospital Community Reports * * *

Sec. 38. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The ~~commissioner~~ Commissioner of Health, in consultation with representatives from hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

* * *

(b) On or before January 1, 2005, and annually thereafter beginning on June 1, 2006, the board of directors or other governing body of each hospital licensed under chapter 43 of this title shall publish on its website, making paper copies available upon request, its community report in a uniform format approved by the ~~commissioner,~~ Commissioner of Health and in accordance with the standards and procedures adopted by rule under this section~~, and shall hold one or more public hearings to permit community members to comment on the report. Notice of meetings shall be by publication, consistent with 1 V.S.A. § 174~~. Hospitals located outside this ~~state~~ State which serve a significant number of Vermont residents, as determined by the ~~commissioner~~ Commissioner of Health, shall be invited to participate in the community report process established by this subsection.

(c) The community reports shall be provided to the ~~commissioner~~ Commissioner of Health. The ~~commissioner~~ Commissioner of Health shall publish the reports on a public website and shall develop and include a format for comparisons of hospitals within the same categories of quality and financial

indicators.

Sec. 39. EXTENSION FOR PUBLICATION OF 2013 HOSPITAL COMMUNITY REPORTS

Notwithstanding the June 1 publication date specified in 18 V.S.A. § 9405b(b), hospitals shall publish their 2013 hospital community reports on or before October 1, 2013. Following publication of the hospital reports, the Department of Financial Regulation shall publish hospital comparison information as required under 18 V.S.A. § 9405b(c).

* * * VHCURES * * *

Sec. 40. 18 V.S.A. § 9410 is amended to read:

§ 9410. HEALTH CARE DATABASE

(a)(1) The ~~commissioner~~ Board shall establish and maintain a unified health care database to enable the ~~commissioner and the Green Mountain Care board~~ Commissioner and the Board to carry out their duties under this chapter, chapter 220 of this title, and Title 8, including:

(A) ~~Determining~~ determining the capacity and distribution of existing resources~~.~~;

(B) ~~Identifying~~ identifying health care needs and informing health care policy~~.~~;

(C) ~~Evaluating~~ evaluating the effectiveness of intervention programs on improving patient outcomes~~.~~;

(D) ~~Comparing~~ comparing costs between various treatment settings and approaches~~.~~;

(E) ~~Providing~~ providing information to consumers and purchasers of health care~~.~~; and

(F) ~~Improving~~ improving the quality and affordability of patient health care and health care coverage.

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Board determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

(B) ~~The commissioner shall convene a working group composed of the commissioner of mental health, the commissioner of Vermont health access, health care consumers, the office of the health care ombudsman,~~

~~employers and other payers, health care providers and facilities, the Vermont program for quality in health care, health insurers, and any other individual or group appointed by the commissioner to advise the commissioner on the development and implementation of the consumer health care price and quality information system.~~

~~(C)~~ The ~~commissioner~~ Commissioner may require a health insurer covering at least five percent of the lives covered in the insured market in this state to file with the ~~commissioner~~ Commissioner a consumer health care price and quality information plan in accordance with rules adopted by the ~~commissioner~~ Commissioner.

~~(D)~~(C) The ~~commissioner~~ Board shall adopt such rules as are necessary to carry out the purposes of this subdivision. The ~~commissioner's~~ Board's rules may permit the gradual implementation of the consumer health care price and quality information system over time, beginning with health care price and quality information that the ~~commissioner~~ Board determines is most needed by consumers or that can be most practically provided to the consumer in an understandable manner. The rules shall permit health insurers to use security measures designed to allow subscribers access to price and other information without disclosing trade secrets to individuals and entities who are not subscribers. The ~~regulations~~ rules shall avoid unnecessary duplication of efforts relating to price and quality reporting by health insurers, health care providers, health care facilities, and others, including activities undertaken by hospitals pursuant to their community report obligations under section 9405b of this title.

(b) The database shall contain unique patient and provider identifiers and a uniform coding system, and shall reflect all health care utilization, costs, and resources in this ~~state~~ State, and health care utilization and costs for services provided to Vermont residents in another ~~state~~ State.

(c) Health insurers, health care providers, health care facilities, and governmental agencies shall file reports, data, schedules, statistics, or other information determined by the ~~commissioner~~ Board to be necessary to carry out the purposes of this section. Such information may include:

(1) health insurance claims and enrollment information used by health insurers;

(2) information relating to hospitals filed under subchapter 7 of this chapter (hospital budget reviews); and

(3) any other information relating to health care costs, prices, quality, utilization, or resources required by the Board to be filed ~~by the commissioner~~.

(d) The ~~commissioner~~ Board may by rule establish the types of information to be filed under this section, and the time and place and the manner in which such information shall be filed.

(e) Records or information protected by the provisions of the physician-patient privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the protected person.

(f) The ~~commissioner~~ Board shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner.

(g) Any person who knowingly fails to comply with the requirements of this section or rules adopted pursuant to this section shall be subject to an administrative penalty of not more than $1,000.00 per violation. The ~~commissioner~~ Board may impose an administrative penalty of not more than $10,000.00 each for those violations the ~~commissioner~~ Board finds were willful. In addition, any person who knowingly fails to comply with the confidentiality requirements of this section or confidentiality rules adopted pursuant to this section and uses, sells, or transfers the data or information for commercial advantage, pecuniary gain, personal gain, or malicious harm shall be subject to an administrative penalty of not more than $50,000.00 per violation. The powers vested in the ~~commissioner~~ Board by this subsection shall be in addition to any other powers to enforce any penalties, fines, or forfeitures authorized by law.

(h)(1) All health insurers shall electronically provide to the ~~commissioner~~ Board in accordance with standards and procedures adopted by the ~~commissioner~~ Board by rule:

(A) their health insurance claims data, provided that the ~~commissioner~~ Board may exempt from all or a portion of the filing requirements of this subsection data reflecting utilization and costs for services provided in this ~~state~~ State to residents of other states;

(B) cross-matched claims data on requested members, subscribers, or policyholders; and

(C) member, subscriber, or policyholder information necessary to determine third party liability for benefits provided.

(2) The collection, storage, and release of health care data and statistical information that is subject to the federal requirements of the Health Insurance Portability and Accountability Act ("HIPAA") shall be governed exclusively by the ~~rules~~ regulations adopted thereunder in 45 ~~CFR~~ C.F.R. Parts 160 and 164.

(A) All health insurers that collect the Health Employer Data and Information Set (HEDIS) shall annually submit the HEDIS information to the ~~commissioner~~ Board in a form and in a manner prescribed by the ~~commissioner~~ Board.

(B) All health insurers shall accept electronic claims submitted in Centers for Medicare and Medicaid Services format for UB-92 or HCFA-1500 records, or as amended by the Centers for Medicare and Medicaid Services.

(3)(A) The ~~commissioner~~ Board shall collaborate with the ~~agency of human services~~ Agency of Human Services and participants in ~~agency of human services~~ the Agency's initiatives in the development of a comprehensive health care information system. The collaboration is intended to address the formulation of a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of ~~limited use~~ limited-use data sets, the criteria and procedures to ensure that HIPAA compliant ~~limited use~~ limited-use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system.

(B) To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in Vermont. In presenting data for public access, comparative considerations shall be made regarding geography, demographics, general economic factors, and institutional size.

(C) Consistent with the dictates of HIPAA, and subject to such terms and conditions as the ~~commissioner~~ Board may prescribe by ~~regulation~~ rule, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall have access to the unified health care database for use in improving the quality of health care services in Vermont. In using the database, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall agree to abide by the rules and procedures established by the ~~commissioner~~ Board for access to the data. The ~~commissioner's~~ Board's rules may limit access to the database to limited-use sets of data as necessary to carry out the purposes of this section.

(D) Notwithstanding HIPAA or any other provision of law, the comprehensive health care information system shall not publicly disclose any data that contains direct personal identifiers. For the purposes of this section, "direct personal identifiers" include information relating to an individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number.

(i) On or before January 15, 2008 and every three years thereafter, the ~~commissioner~~ Commissioner shall submit a recommendation to the ~~general assembly~~ General Assembly for conducting a survey of the health insurance status of Vermont residents.

(j)(1) As used in this section, and without limiting the meaning of subdivision 9402(8) of this title, the term "health insurer" includes:

(A) any entity defined in subdivision 9402(8) of this title;

(B) any third party administrator, any pharmacy benefit manager, any entity conducting administrative services for business, and any other similar entity with claims data, eligibility data, provider files, and other information relating to health care provided to a Vermont resident, and health care provided by Vermont health care providers and facilities required to be filed by a health insurer under this section;

(C) any health benefit plan offered or administered by or on behalf of the ~~state~~ State of Vermont or an agency or instrumentality of the ~~state~~ State; and

(D) any health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government.

(2) The ~~commissioner~~ Board may adopt rules to carry out the provisions of this subsection, including ~~standards and procedures requiring the registration of persons or entities not otherwise licensed or registered by the commissioner and~~ criteria for the required filing of such claims data, eligibility data, provider files, and other information as the ~~commissioner~~ Board determines to be necessary to carry out the purposes of this section and this chapter.

* * * Prior Authorizations * * *

Sec. 40a. 18 V.S.A. § 9377a is added to read:

§ 9377a. PRIOR AUTHORIZATION PILOT PROGRAM

(a) The Green Mountain Care Board shall develop and implement a pilot program or programs for the purpose of measuring the change in system costs within primary care associated with eliminating prior authorization requirements for imaging, medical procedures, prescription drugs, and home care. The program shall be designed to measure the effects of eliminating prior authorizations on provider satisfaction and on the number of requests for and expenditures on imaging, medical procedures, prescription drugs, and home care. In developing the pilot program proposal, the Board shall collaborate with health care professionals and health insurers throughout the State or regionally.

(b) The Board shall submit an update regarding implementation of prior authorization pilot programs as part of its annual report under subsection 9375(d) of this title.

Sec. 40b. 18 V.S.A. § 9414a(a)(5) is amended to read:

(5) data regarding the number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service by the health insurer at the preauthorization level~~, including:~~;

~~(A)~~(B) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned; and

~~(B)~~(C) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

~~(C)~~(D) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

Sec. 40c. DENIED CLAIMS; DEPARTMENT OF VERMONT HEALTH ACCESS

On or before February 1, 2014, the Department of Vermont Health Access shall present data to the House Committee on Health Care and the Senate Committee on Health and Welfare on claims denied by the Department. To the extent practicable, the Department shall base its presentation on the data required by the standardized form created by the Department of Financial Regulation for use by health insurers under 18 V.S.A. § 9414a(c).

* * * Cost-Shift Reporting * * *

Sec. 41. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee on health care and the senate committee on health and welfare~~ House Committee on Health Care and the Senate Committee on Health and Welfare.

(1) The report shall include:

(A) any changes to the payment rates for health care professionals pursuant to section 9376 of this title~~,~~;

(B) any new developments with respect to health information

technology~~,~~;

(C) the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications~~,~~;

(D) the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations~~,~~;

(E) the process and outcome measures used in the evaluation~~,~~;

(F) any recommendations on mechanisms to ensure that appropriations intended to address the Medicaid cost shift will have the intended result of reducing the premiums imposed on commercial insurance premium payers below the amount they otherwise would have been charged;

(G) any recommendations for modifications to Vermont statutes~~,~~; and

(H) any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs.

(2) The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 42. 2000 Acts and Resolves No. 152, Sec. 117b is amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

(a) It is the intent of this section to measure the elimination of the Medicaid cost shift. For hospitals, this measurement shall be based on a comparison of the difference between Medicaid and Medicare reimbursement rates. For other health care providers, an appropriate measurement shall be developed that includes an examination of the Medicare rates for providers. In order to achieve the intent of this section, it is necessary to establish a reporting and tracking mechanism to obtain the facts and information necessary to quantify the Medicaid cost shift, to evaluate solutions for reducing the effect of the Medicaid cost shift in the commercial insurance market, to ensure that any reduction in the cost shift is passed on to the commercial insurance market, to assess the impact of such reductions on the financial health of the health care delivery system, and to do so within a sustainable utilization growth rate in the Medicaid program.

(b) ~~By~~ Notwithstanding 2 V.S.A. § 20(d), annually on or before December 15, ~~2000, and annually thereafter, the commissioner of banking, insurance, securities, and health care administration, the secretary of human services~~ the chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the ~~joint fiscal committee~~ Joint Fiscal Committee**,** the House Committee on Health

Care, and the Senate Committee on Health and Welfare, in the manner required by the ~~committee~~ Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available.

(c) ~~By December 15, 2000, and annually thereafter, the~~ The report of hospitals to the ~~joint fiscal committee~~ Joint Fiscal Committee and the standing committees under subsection (b) of this section shall include information on how they will manage utilization in order to assist the ~~agency of human services~~ Department of Vermont Health Access in developing sustainable utilization growth in the Medicaid program.

~~(d) By December 15, 2000, the commissioner of banking, insurance, securities, and health care administration shall report to the joint fiscal committee with recommendations on mechanisms to assure that appropriations intended to address the Medicaid cost shift will result in benefits to commercial insurance premium payers in the form of lower premiums than they otherwise would be charged.~~

~~(e) The first $250,000.00 resulting from declines in caseload and utilization related to hospital costs, as determined by the commissioner of social welfare, from the funds allocated within the Medicaid program appropriation for hospital costs in fiscal year 2001 shall be reserved for cost shift reduction for hospitals.~~

Sec. 42a. EXCHANGE IMPACT REPORT

On or before March 15, 2015 and every three years thereafter, the Agency of Administration shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the impact of the Vermont Health Benefit Exchange and the federal individual responsibility requirement on:

(1) the number of uninsured and underinsured Vermonters;

(2) the amount of uncompensated care and bad debt in Vermont; and

(3) the cost shift.

* * * Workforce Planning Data * * *

Sec. 43. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The ~~board~~ Board shall have the following powers and duties to:

* * *

(10) As part of the license application or renewal process, collect data

necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222.

Sec. 44. WORKFORCE PLANNING; DATA COLLECTION

(a) The Board of Medical Practice shall collaborate with the Director of Health Care Reform in the Agency of Administration, the Vermont Medical Society, and other interested stakeholders to develop data elements for the Board to collect pursuant to 26 V.S.A. § 1353(10) to allow for the workforce strategic planning required under 18 V.S.A. chapter 222. The data elements shall be consistent with any nationally developed or required data in order to simplify collection and minimize the burden on applicants.

(b) The Office of Professional Regulation, the Board of Nursing, and other relevant professional boards shall collaborate with the Director of Health Care Reform in the Agency of Administration in the collection of data necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222. The boards shall develop the data elements in consultation with the Director and with interested stakeholders. The data elements shall be consistent with any nationally developed or required data elements in order to simplify collection and minimize the burden on applicants. Data shall be collected as part of the licensure process to minimize administrative burden on applicants and the State.

* * * Administration * * *

Sec. 45. 8 V.S.A. § 11(a) is amended to read:

(a) General. The ~~department of financial regulation~~ Department of Financial Regulation created by 3 V.S.A. ~~section 212,~~ § 212 shall have jurisdiction over and shall supervise:

(1) Financial institutions, credit unions, licensed lenders, mortgage brokers, insurance companies, insurance agents, broker-dealers, investment advisors, and other similar persons subject to the provisions of this title and 9 V.S.A. chapters 59, 61, and 150.

(2) The administration of health care~~, including oversight of the quality and cost containment of health care provided in this state, by conducting and supervising the process of health facility certificates of need, hospital budget reviews, health care data system development and maintenance, and funding and cost containment of health care~~ as provided in 18 V.S.A. chapter 221.

* * * Miscellaneous Provisions * * *

Sec. 46. 33 V.S.A. § 1901(h) is added to read:

(h) To the extent required to avoid federal antitrust violations, the

Department of Vermont Health Access shall facilitate and supervise the participation of health care professionals and health care facilities in the planning and implementation of payment reform in the Medicaid and SCHIP programs. The Department shall ensure that the process and implementation include sufficient state supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Department determines, after notice and an opportunity to be heard, violate state or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

Sec. 46a. STUDY OF FEES FOR COPIES OF ELECTRONIC MEDICAL RECORDS

The Green Mountain Care Board shall study the costs and fees associated with providing copies, pursuant to 18 V.S.A. § 9419, of medical records maintained and provided to patients in a paperless format. The Department shall consult with interested stakeholders, including the Vermont Association of Hospitals and Health Systems and the Vermont Association for Justice, and shall review related laws and policies in other states. On or before January 15, 2014 the Board shall report the results of its study to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

Sec. 47. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The ~~department of Vermont health access~~ Department of Vermont Health Access and the ~~department for children and families~~ Department for Children and Families shall monitor actual caseloads, revenue, and expenditures~~,~~; anticipated caseloads, revenue, and expenditures~~,~~; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each state pharmaceutical assistance program, including VPharm ~~and VermontRx~~. ~~The departments~~ When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program. ~~During the second week of each month, the department of Vermont health access shall report such actual and anticipated caseload, revenue, expenditure, and savings information to the joint fiscal committee and to the health care oversight committee.~~

(b)~~(1) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly~~

~~appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to cease new enrollments in VermontRx for individuals with incomes over 225 percent of the federal poverty level.~~

~~(2) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, even with the cessation of new enrollments as provided for in subdivision (1) of this subsection, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health health care oversight committee of a plan to cease new enrollments in the VermontRx for individuals with incomes more than 175 percent and less than 225 percent of the federal poverty level.~~

~~(3) The determinations of the department of Vermont health access under subdivisions (1) and (2) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment cessation plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(4) Upon the approval of or failure to disapprove an enrollment cessation plan by the joint fiscal committee, the department of Vermont health access shall cease new enrollment in VermontRx for the individuals with incomes at the appropriate level in accordance with the plan.~~

~~(c)(1) If at any time after enrollment ceases under subsection (b) of this section expenditures for VermontRx, including expenditures attributable to renewed enrollment, are anticipated, by reason of increased federal financial participation or any other reason, to be equal to or less than the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to renew enrollment in VermontRx, with priority given to individuals with incomes more than 175 percent and less than 225 percent, if adequate funds are anticipated to be available for each program for the remainder of the fiscal year.~~

~~(2) The determination of the department of Vermont health access under subdivision (1) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment renewal~~

~~plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(3) Upon the approval of, or failure to disapprove an enrollment renewal plan by the joint fiscal committee, the department of Vermont health access shall renew enrollment in VermontRx in accordance with the plan.~~

~~(d)~~ As used in this section~~:~~.

~~(1) "State~~ "state pharmaceutical assistance program" means any health assistance programs administered by the ~~agency of human services~~ Agency of Human Services providing prescription drug coverage, including the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx,~~ the ~~state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and any other health assistance programs administered by the ~~agency~~ Agency providing prescription drug coverage.

~~(2) "VHAP" or "Vermont health access plan" means the programs of health care assistance authorized by federal waivers under Section 1115 of the Social Security Act, by No. 14 of the Acts of 1995, and by further acts of the General Assembly.~~

~~(3) "VHAP-Pharmacy" or "VHAP-Rx" means the VHAP program of state pharmaceutical assistance for elderly and disabled Vermonters with income up to and including 150 percent of the federal poverty level (hereinafter "FPL").~~

~~(4) "VScript" means the Section 1115 waiver program of state pharmaceutical assistance for elderly and disabled Vermonters with income over 150 and less than or equal to 175 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

~~(5) "VScript Expanded" means the state-funded program of pharmaceutical assistance for elderly and disabled Vermonters with income over 175 and less than or equal to 225 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

Sec. 48. 2012 Acts and Resolves No. 171, Sec. 2c, is amended to read:

Sec. 2c. EXCHANGE OPTIONS

In approving benefit packages for the Vermont health benefit exchange pursuant to 18 V.S.A. ~~§ 9375(b)(7)~~ § 9375(b)(9), the Green Mountain Care ~~board~~ Board shall approve a full range of cost-sharing structures for each level

of actuarial value. To the extent permitted under federal law, the ~~board~~ Board shall also allow health insurers to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by an insured to programs of health promotion and disease prevention pursuant to 33 V.S.A. § 1811(f)(2)(B).

Sec. 49. 2012 Acts and Resolves No. 171, Sec. 41(e), is amended to read:

(e) ~~33~~ 18 V.S.A. chapter 13, subchapter 2 (payment reform pilots) is repealed on passage.

Sec. 49a. 16 V.S.A. § 3851 is amended to read:

§ 3851. DEFINITIONS

* * *

(c) "Eligible institution" means any:

* * *

(5) any:

* * *

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility or similar nonprofit facility for the continuing care of the elderly or the infirm, provided that such facility is owned by or under common ownership with an otherwise eligible institution, and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the ~~department of financial regulation~~ Green Mountain Care Board, if required, has issued a certificate of need.

* * *

Sec. 49b. 18 V.S.A. § 9351(d) is amended to read:

(d) The health information technology plan shall serve as the framework within which the ~~commissioner of financial regulation~~ Green Mountain Care Board reviews certificate of need applications for information technology under section 9440b of this title. In addition, the ~~commissioner of information and innovation~~ Commissioner of Information and Innovation shall use the health information technology plan as the basis for independent review of state information technology procurements.

Sec. 49c. 33 V.S.A. § 6304(c) is amended to read:

(c) Designations for new home health agencies shall be established

pursuant to certificates of need approved by the ~~commissioner of financial regulation~~ Green Mountain Care Board. Thereafter, designations shall be subject to the provisions of this subchapter.

* * * Transfer of Positions * * *

Sec. 50. TRANSFER OF POSITIONS

(a) On or before July 1, 2013, the Department of Financial Regulation shall transfer positions numbered 290071, 290106, and 290074 and associated funding to the Green Mountain Care Board for the administration of the health care database.

(b) On or before July 1, 2013, the Department of Financial Regulation shall transfer position number 297013 and associated funding to the Agency of Administration.

(c) On or after July 1, 2013, the Department of Financial Regulation shall transfer one position and associated funding to the Department of Health for the purpose of administering the hospital community reports in 18 V.S.A. § 9405b. The Department of Financial Regulation shall continue to collect funds for the publication of the reports pursuant to 18 V.S.A. § 9415 and shall transfer the necessary funds annually to the Department of Health.

* * * Emergency Rulemaking * * *

Sec. 51. EMERGENCY RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 prior to April 1, 2014 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency shall also adopt rules in order to implement the provisions of 2011 Acts and Resolves No. 48 and 2012 Acts and Resolves No. 171 regarding changes to eligibility, enrollment, renewals, grievances and appeals, public availability of program information, and coordination across health benefit programs, as well as to revise and coordinate existing agency health benefit program rules into a single integrated and updated code. The rules shall be adopted to achieve timely compliance with state and federal laws and guidance and to coordinate and consolidate the Agency's current health benefit program eligibility rules for the effective launch and operation of the Vermont Health Benefit Exchange and shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

* * * Repeals * * *

Sec. 52. REPEALS

(a) 8 V.S.A. § 4080f (Catamount Health) is repealed on January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers on Medicare and Medicaid Services.

(b) 18 V.S.A. § 708 (health information technology certification process) is repealed on passage.

(c) 33 V.S.A. § chapter 19, subchapter 3a (Catamount Health Assistance) is repealed January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers for Medicare and Medicaid Services.

(d) 33 V.S.A. § 2074 (VermontRx) is repealed on January 1, 2014.

(e) 18 V.S.A. § 9403 (Division of Health Care Administration) is repealed on July 1, 2013.

(f) 8 V.S.A. § 4089w (Health Care Ombudsman) is repealed on January 1, 2014.

* * * Effective Dates * * *

Sec. 53. EFFECTIVE DATES

(a) Secs. 2 (mental health care services review), 3(d) (8 V.S.A. § 4089i(d)(prescription drug deductibles), 5a (prior authorization), 5b (standardized claims and edits), 33–34a (health information exchange), 35 (hospital energy efficiency), 39 (publication extension for 2013 hospital reports), 40 (VHCURES), 43 and 44 (workforce planning), 46 (DVHA antitrust provision), 48 (Exchange options), 49 (correction to payment reform pilot repeal), 50 (transfer of positions), 51 (emergency rules), and 52 (repeals) of this act and this section shall take effect on passage.

(b) Sec. 1 (interstate employers) and Secs. 28–30 (employer definitions) shall take effect on October 1, 2013 for the purchase of insurance plans effective for coverage beginning January 1, 2014.

(c) Secs. 4 (newborn coverage), 5 (grace period for premium payment), 6–27 (Catamount and VHAP), 35a–35h (Office of the Health Care Advocate), and 47 (pharmacy program enrollment) shall take effect on January 1, 2014.

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Department of Vermont Health Access may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not

operational by that date, but no later than December 31, 2014.

(e) Secs. 5c–5n (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(f) Sec. 42a (Exchange impact report) shall take effect on July 1, 2014.

(g) Sec. 3(e)–(g) (8 V.S.A. § 4089i(e)–(g); step therapy) shall take effect on September 1, 2013 and shall apply to all health insurers on and after September 1, 2013 on such date as a health insurer offers, issues, or renews a health insurance policy, but in no event later than September 1, 2014.

(h) All remaining sections of this act shall take effect on July 1, 2013.

(For text see House Journal 3/19/2013 and 3/20/2013)

H. 226

An act relating to the regulation of underground storage tanks

The Senate proposes to the House to amend the bill as follows:

First: Prior to Sec. 1, by inserting the following reader assistance line:

* * * Underground Storage Tanks; Petroleum Cleanup Fund * * *

Second: By striking out Sec. 10 (effective dates) in its entirety and inserting in lieu thereof five new sections to read:

* * * Brownfields; Redevelopment * * *

Sec. 10. LEGISLATIVE INTENT

For the purposes of Secs. 10 through 13 of this act, it is the intent of the General Assembly that:

(1) It is appropriate to confer a limited defense to liability for hazardous material cleanup when a municipality, regional development corporation, or regional planning commission conforms to the requirements of 10 V.S.A. § 6615(d)(3), in the case of municipalities, and 10 V.S.A § 6615(d)(4).

(2) It is of vital importance for purchasers of commercial properties to conduct environmental site assessments that conform to statutorily recognized standards.

(3) In construing the defense to liability established pursuant to 10 V.S.A. § 6615(f), the courts of this State shall be guided by the construction

of similar terms contained in 42 U.S.C. § 9601(35)(A)(i) and (B), as amended, and the courts of the United States.

(4) It is appropriate to confer limited defense to liability for secured lenders and fiduciaries under state law that is equivalent to liability under federal law.

(5) In construing the defense to liability established pursuant to 10 V.S.A. § 6615(g), the courts of this State will be guided by the construction of similar terms contained in 42 U.S.C. §§ 9601(20)(F) and 9607(n), as amended, and the courts of the United States.

Sec. 11. 10 V.S.A § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

(1) "Secretary" means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources, or his or her duly authorized representative.

* * *

(4) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including ~~but not limited to~~ those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the ~~secretary~~ Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the ~~state~~ State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.

* * *

(6) "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the ~~state~~ State of Vermont or any agency, department or subdivision of the ~~state~~ State, federal agency, or any other legal or commercial entity.

* * *

(10) "Facility" means all contiguous land, structures, other

appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units.

* * *

(13) "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

* * *

(16)(A) "Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof; or

(iii) hazardous wastes, as determined under subdivision (4) of this section;

(B) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state, and local laws and regulations and according to manufacturer's instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by section 6608a of this title.

(17) "Release" means any intentional or unintentional action or omission resulting in the spilling, leaking, pumping, pouring, emitting, emptying, dumping, or disposing of hazardous materials into the surface or groundwaters, or onto the lands in the ~~state~~ State, or into waters outside the jurisdiction of the ~~state~~ State when damage may result to the public health, lands, waters, or natural resources within the jurisdiction of the ~~state~~ State.

* * *

(23) "Secured lender" means a person who holds indicia of ownership in a facility, furnished by the owner or person in lawful possession, primarily to assure the repayment of a financial obligation. Such indicia include interests in real or personal property which are held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond, or guarantee and include participation rights, held by a financial institution solely for legitimate commercial purposes, in making or servicing loans. The term "secured lender" includes a person who acquires

indicia of ownership by assignment from another secured lender.

* * *

(34) "Participation in management" means, for the purpose of subsection 6615(g) of this title, a secured lender's or fiduciary's actual participation in the management or operational affairs of a facility. It does not mean a secured lender's or fiduciary's mere capacity to influence, or unexercised right to control, facility operations. A secured lender or fiduciary shall be considered to have participated in management if the secured lender or fiduciary:

(A) exercises decision-making control over environmental compliance related to the facility, such that the secured lender or fiduciary has undertaken responsibility for hazardous materials handling or disposal practices related to the facility; or

(B) exercises control at a level comparable to that of a manager of the facility, such that the secured lender or fiduciary has assumed or manifested responsibility:

(i) for the overall management of the facility encompassing day-to-day decision making with respect to environmental compliance; or

(ii) over all or substantially all of the operational functions, as distinguished from financial or administrative functions, of the facility other than the function of environmental compliance.

(35) "Regional development corporation" means a nonprofit corporation organized in this State whose principal purpose is to promote, organize, or accomplish economic development, including providing planning and resource development services to local communities, supporting existing industry, assisting the growth and development of new and existing small businesses, and attracting industry or commerce to a particular economic region of the State.

(36) "Regional planning commission" means a planning commission created for a region established under 24 V.S.A. chapter 117, subchapter 3.

Sec. 12. 10 V.S.A. § 6615 is amended to read:

§ 6615. LIABILITY

(a) Subject only to the defenses set forth in subsections (d) and (e) of this section:

(1) the owner or operator of a facility, or both;

(2) any person who at the time of release or threatened release of any

hazardous material owned or operated any facility at which such hazardous materials were disposed of;

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; and

(4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials shall be liable for:

(A) abating such release or threatened release; and

(B) costs of investigation, removal, and remedial actions incurred by the ~~state~~ State which are necessary to protect the public health or the environment.

* * *

(d)(1) There shall be no liability under this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous material and the damages resulting therefrom were caused solely by any of the following:

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant. If the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, for purposes of this section, there shall be considered to be no contractual relationship at all. This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

(i) that the defendant exercised due care with respect to the hazardous material concerned, taking into consideration the characteristics of that hazardous material, in light of all relevant facts and circumstances; and

(ii) that the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from those acts or omissions; or

(D) any combination of the above.

* * *

(3) A municipality shall not be liable under subdivision (a)(1) of this section as an owner provided that the municipality can show all the following:

(A) The property was acquired by virtue of its function as sovereign through bankruptcy, tax delinquency, abandonment, or other similar circumstances.

(B) The municipality did not cause ~~or~~, contribute to ~~the contamination of~~, or worsen a release or threatened release of a hazardous material at the property.

(C)(i) The municipality has entered into an agreement with the ~~secretary regarding sale of the property acquired or has undertaken abatement, investigation, remediation, or removal activities as required by subchapter 3 of this chapter~~ Secretary, prior to the acquisition of the property, requiring the municipality to conduct a site investigation with respect to any release or threatened release of a hazardous material and an agreement for the municipality's marketing of the property acquired.

(ii) The Secretary shall consult with the Secretary of Commerce and Community Development on the plan related to the marketing of the property.

(iii) The municipality may assert a defense to liability only after implementing a site investigation at the property acquired and taking reasonable steps defined by the agreement with the Secretary to market the property.

(iv) In developing an agreement regarding site investigation, the Secretary shall consider: the degree and extent of the known releases of hazardous materials at the property; the financial ability of the municipality; and the availability of state and federal funding when determining what is required by the agreement for the investigation of the site.

(4) A regional development corporation or regional planning commission shall not be liable under subdivision (a)(1) of this section as an owner provided that the regional development corporation or regional planning commission can show all the following:

(A) The regional development corporation or regional planning commission did not cause, contribute to, or worsen a release or threat of release at the property.

(B) The regional development corporation received, in the 12 months preceding the acquisition of the property, a performance contract for economic development pursuant to 24 V.S.A. chapter 76. The requirement of this

subdivision (d)(4)(B) shall not apply to regional planning commissions.

(C)(i) The regional development corporation or regional planning commission has entered into an agreement with the Secretary, prior to the acquisition of the property, requiring the regional development corporation or regional planning commission to conduct a site investigation with respect to any release or threatened release of a hazardous material and an agreement for the regional development corporation's or regional planning commission's marketing of the property acquired.

(ii) The Secretary shall consult with the Secretary of Commerce and Community Development on the plan related to the marketing of the property.

(iii) The regional development corporation or regional planning commission may assert a defense to liability only after implementing a site investigation at the property acquired and taking reasonable steps defined by the agreement to market the property.

(iv) In developing an agreement regarding site investigation, the Secretary shall consider: the degree and extent of the known releases of hazardous materials at the property; the financial ability of the regional development corporation or the regional planning commission; and the availability of state and federal funding when determining what is required by the agreement for the investigation of the site.

(e) Any person who is the owner or operator of a facility where a release or threatened release existed at the time that person became owner or operator shall be liable unless he or she can establish by a preponderance of the evidence ~~that after making~~, based upon a diligent and appropriate investigation of the facility~~,~~ in conformance with the requirements of section 6615a of this title, that he or she had no knowledge or reason to know that ~~said~~ the release or threatened release was located on the facility.

* * *

(g)(1) A secured lender or a fiduciary, as ~~that~~ the term fiduciary is defined in 14 V.S.A. ~~§ 204(b)~~ § 204(2), shall not, absent other circumstances resulting in liability under this section, be liable as either an owner or operator under this section merely because of any one or any combination of more than one of the following:

* * *

(J) in an emergency, requiring or undertaking activities to prevent exposure of persons to hazardous materials or to contain a release; ~~or~~

(K) requiring or conducting abatement, investigation, remediation, or removal activities in response to a release or threatened release, provided that:

(i) prior notice of intent to do any such activity is given to the ~~secretary~~ Secretary in writing, and, unless previously waived in writing by the ~~secretary~~ Secretary, no such activity is undertaken for 30 days after receipt of such notice by the ~~secretary~~ Secretary;

(ii) a workplan is prepared by a qualified consultant prior to the commencement of any such activity;

(iii) if the ~~secretary~~ Secretary, within 30 days of receiving notice as provided in subdivision (i) of this subdivision (K), elects to undertake a workplan review and gives written notice to the secured lender or fiduciary of such election, no such activity is undertaken without prior workplan approval by the ~~secretary~~ Secretary;

(iv) appropriate investigation is undertaken prior to any abatement, remediation, or removal activity;

(v) regular progress reports and a final report are produced during the course of any such activity;

(vi) all plans, reports, observations, data, and other information related to the activity are preserved for a period of 10 years and, except for privileged materials, produced to the ~~secretary~~ Secretary upon request;

(vii) persons likely to be at or near the facility are not exposed to unacceptable health risk; and

(viii) such activity complies with all rules, procedures, and orders of the secretary; or

(L) foreclosing on the facility and after foreclosure: selling; winding up operations; undertaking an investigation or corrective action under the direction of the state or federal government with respect to the facility; or taking any other measure to preserve, protect, or prepare the facility prior to sale or disposition, provided that:

(i) a secured lender shall be liable as an operator if the secured lender participated in the management of the facility; and

(ii) a secured lender shall be liable as an owner if during the course of any transaction of the property, the secured lender fails to disclose any known release or threat of release.

(2) There shall be no protection from liability for a secured lender or a fiduciary under ~~subsections (g) and (h) of this section~~ this subsection if the secured lender or fiduciary causes, worsens, or contributes to a release or threat of release of hazardous material. A secured lender or fiduciary who relies on subdivision (g)(1)(K) of this section~~, or an agreement with the secretary~~

~~entered into under subsection (h) of this section~~ shall bear the burden of proving compliance with this subdivision.

~~(h)(1) Subject to the provisions of this subsection, the secretary may enter into an agreement with a secured lender or a fiduciary regarding a facility from which there is a release or threat of release of hazardous materials. Upon entering into an agreement with the secretary, a secured lender or fiduciary, to the extent allowed by the agreement and in compliance with the terms and conditions of the agreement, may:~~

~~(A) in the case of a secured lender, take possession, foreclose or otherwise take full title to the facility; and~~

~~(B) undertake other activities at the facility in addition to those of subdivisions (g)(1)(A)-(K) of this section, including use of the facility and new development.~~

~~(2) Such an agreement may be entered into only when the secretary has determined, in the secretary's sole discretion, that there exists a release or threat of release, that there will be a substantial benefit to the public health or the environment that would not otherwise be realized and that the proposed activity will not cause, worsen or contribute to a release or threat of release of hazardous materials at the facility or expose persons likely to be at or near the facility to unacceptable health risk. Prior to entering into an agreement which provides for any abatement, investigation, remediation, or removal activities to be taken by a secured lender or fiduciary in response to a release or threatened release, the secretary shall cause notice to be published in a local newspaper generally circulated in the area where the facility is located. The notice shall set forth the abatement, investigation, remediation, and removal activities proposed, shall state that the secretary is considering entering into an agreement providing for such activities, and shall request public comment on the proposed activities within 15 days after publication. The decision of the secretary as to whether an agreement should be entered into and the terms and conditions of any agreement shall be final.~~

~~(3) Such an agreement, if previously approved by the attorney general, may provide for the payment, in whole or in part, of past or future costs described in subdivision (a)(4)(B) of this section and may limit, in whole or in part, the secured lender's or the fiduciary's liability under this section.~~

~~(4) A proposal by a secured lender or fiduciary to enter into such an agreement shall be accompanied by a fee of $1,000.00. If the secretary's costs related to the proposal exceed the fee paid, then any agreement shall provide for the secured lender or fiduciary to reimburse the secretary for the additional costs incurred. The fee and any excess costs paid to the secretary under this~~

~~subsection shall be deposited into the contingency fund established under subsection 1283(a) of this title.~~

~~(5) If the secured lender or fiduciary enters into an agreement with the secretary, complies with the agreement and does not cause, worsen or contribute to a release or threat of release of a hazardous material, the maximum liability of such person under this section to the state for costs or injunctive relief shall be as provided in the agreement or, in the absence of such a provision, the fair market value of the property at the time of the agreement, estimated as if there were no release or threatened release of any hazardous materials, less any costs reasonably incurred by the person for any abatement, investigation, remediation or removal activity undertaken in compliance with subdivision (g)(1)(K) of this section or incurred in compliance with the agreement.~~

* * *

Sec. 13. 10 V.S.A. § 6615a is added to read:

§ 6615a. DILIGENT AND APPROPRIATE INVESTIGATION FOR HAZARDOUS MATERIALS

(a) Except as provided for in subsection (b) of this section, a diligent and appropriate investigation, as that term is used in subsection 6615(e) of this title, means, for all properties, an investigation where an owner or operator of a property conforms to the standard developed by the Secretary by rule for a diligent and appropriate investigation. If no standard exists, the owner or operator of a property shall conform to one of the following:

(1) the all appropriate inquiry standard set forth in 40 C.F.R. Part 312, as amended; or

(2) the current standard for phase I environmental site assessments established by the American Society for Testing and Materials.

(b) In the case of residential property used for residential purposes, diligent and appropriate investigation shall mean a facility inspection and title search that:

(1) reveal no basis for further investigation; and

(2) do not reveal that the property was used for or was part of a larger parcel that was used for commercial or industrial purposes.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1 through 9 (underground storage tanks;

Petroleum Cleanup Fund) of this act shall take effect on passage, except Sec. 5 (petroleum tank assessment) of this act shall take effect on July 1, 2014.

(b) Secs. 10 through 13 (brownfields) of this act shall take effect on July 1, 2013.

(For text see House Journal 4/23/2013)

H. 262

An act relating to establishing a program for the collection and recycling of paint

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

Sec. 1. 10 V.S.A. chapter 159, subchapter 4 is added to read:

Subchapter 4. Paint Stewardship Program

§ 6671. PURPOSE

The purpose of this subchapter is to establish an environmentally sound, cost-effective paint stewardship program in the State that will undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint; promote the reuse of postconsumer paint; and collect, transport, and process postconsumer paint, including reuse, recycling, energy recovery, and disposal. The paint stewardship program will follow the waste management hierarchy for managing and reducing postconsumer paint in the order as follows: reduce consumer generation of postconsumer paint, reuse, recycle, provide for energy recovery, and dispose. The paint stewardship program will provide more opportunities for consumers to manage properly their postconsumer paint; provide fiscal relief for local government in managing postconsumer paint; keep paint out of the waste stream; and conserve natural resources.

§ 6672. DEFINITIONS

As used in this subchapter:

(1) "Architectural paint" means interior and exterior architectural coatings, including interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings, that are sold in containers of five gallons or less. "Architectural paint" does not mean industrial coatings, original equipment coatings, or specialty coatings.

(2) "Distributor" means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in Vermont.

(3) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed in order to use the heat content or other forms of energy of or from the material.

(4) "Environmentally sound management practices" means policies to be implemented by a producer or a stewardship organization to ensure compliance with all applicable laws and also addressing such issues as adequate record keeping, tracking and documenting the fate of materials within the State and beyond, and adequate environmental liability coverage for professional services and for the operations of the contractors working on behalf of the producer organization.

(5) "Municipality" means a city, town, or a village.

(6) "Paint stewardship assessment" means a one-time charge that is:

(A) added to the purchase price of architectural paint sold in Vermont;

(B) passed from the producer to the wholesale purchaser to the retailer and then to a retail consumer; and

(C) necessary to cover the cost of collecting, transporting, and processing the postconsumer paint managed through the statewide program.

(7) "Postconsumer paint" means architectural paint and its containers not used and no longer wanted by a purchaser.

(8) "Producer" means a manufacturer of architectural paint who sells, offers for sale, or distributes that paint in Vermont under the producer's own name or brand.

(9) "Recycling" means any process by which discarded products, components, and by-products are transformed into new usable or marketable materials in a manner in which the original products may lose their identity but does not include energy recovery or energy generation by means of combusting discarded products, components, and by-products with or without other waste products.

(10) "Retailer" means any person that offers architectural paint for sale at retail in Vermont.

(11) "Reuse" means the return of a product into the economic stream for use in the same kind of application as originally intended, without a change in the product's identity.

(12) "Secretary" means the Secretary of Natural Resources.

(13) "Sell" or "sale" means any transfer of title for consideration,

including remote sales conducted through sales outlets, catalogues, or the Internet or any other similar electronic means.

(14) "Stewardship organization" means a nonprofit corporation or nonprofit organization created by a producer or group of producers to implement the paint stewardship program required under this subchapter.

§ 6673. PAINT STEWARDSHIP PROGRAM

(a) A producer or a stewardship organization representing producers shall submit a plan for the establishment of a paint stewardship program to the Secretary for approval by December 1, 2013. The plan shall address the following:

(1) Provide a list of participating producers and brands covered by the program.

(2) Provide specific information on the architectural paint products covered under the program, such as interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings.

(3) Describe how the program proposed under the plan will collect, transport, recycle, and process postconsumer paint for end-of-life management, including recycling, energy recovery, and disposal, using environmentally sound management practices.

(4) Describe the program and how it will provide for convenient and available statewide collection of postconsumer architectural paint in urban and rural areas of the State. The producer or stewardship organization shall use the existing household hazardous waste collection infrastructure when selecting collection points for postconsumer architectural paint. A paint retailer shall be authorized as a paint collection point of postconsumer architectural paint for a paint stewardship program if the paint retailer volunteers to act as a paint collection point and complies with all applicable laws and regulations.

(5) Provide geographic information modeling to determine the number and distribution of sites for collection of postconsumer architectural paint based on the following criteria:

(A) at least 90 percent of Vermont residents shall have a permanent collection site within a 15-mile radius; and

(B) one additional permanent site will be established for every 10,000 residents of a municipality and additional sites shall be distributed to provide convenient and reasonably equitable access for residents within each municipality, unless otherwise approved by the Secretary.

(6) Establish goals to reduce the generation of postconsumer paint, to

promote the reuse of postconsumer paint, and for the proper management of postconsumer paint as practical based on current household hazardous waste program information. The goals may be revised by the producer or stewardship organization based on the information collected for the annual report.

(7) Describe how postconsumer paint will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of paint under the program shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal.

(8) Describe education and outreach efforts to inform consumers of collection opportunities for postconsumer paint and to promote the source reduction and recycling of architectural paint for each of the following: consumers, contractors, and retailers.

(b) The producer or stewardship organization shall submit a budget for the program proposed under subsection (a) of this section, and for any amendment to the plan that would affect the program's costs. The budget shall include a funding mechanism under which each architectural paint producer remits to a stewardship organization payment of a paint stewardship assessment for each container of architectural paint it sells in this State. Prior to submitting the proposed budget and assessment to the Secretary, the producer or stewardship organization shall provide the budget and assessment to a third-party auditor agreed upon by the Secretary. The third-party auditor shall provide a recommendation as to whether the proposed budget and assessment is cost-effective, reasonable, and limited to covering the cost of the program. The paint stewardship assessment shall be added to the cost of all architectural paint sold in Vermont. To ensure that the funding mechanism is equitable and sustainable, a uniform paint stewardship assessment shall be established for all architectural paint sold. The paint stewardship assessment shall be approved by the Secretary and shall be sufficient to recover, but not exceed, the costs of the paint stewardship program.

(c) Beginning no later than July 1, 2014, or three months after approval of the plan for a paint stewardship program required under subsection (a) of this section, whichever occurs later, a producer of architectural paint sold at retail or a stewardship organization of which a producer is a member shall implement the approved plan for a paint stewardship program.

(d) A producer or a stewardship organization of which a producer is a member shall promote a paint stewardship program and provide consumers with educational and informational materials describing collection opportunities for postconsumer paint statewide and promotion of waste

prevention, reuse, and recycling. The educational and informational program shall make consumers aware that the funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the State.

(e) A plan approved under this section shall provide for collection of postconsumer architectural paint at no cost to the person from whom the architectural paint is collected.

(f) When a plan or amendment to an approved plan is submitted under this section, the Secretary shall make the proposed plan or amendment available for public review and comment for at least 30 days.

(g) A producer or paint stewardship organization shall submit to the Secretary for review, in the same manner as required under subsection 6675(a) of this title, an amendment to an approved plan when there is:

(1) a change to a paint stewardship assessment under the plan;

(2) an addition to or removal of a category of products covered under the program; or

(3) a revision of the product stewardship organization's goals.

(h) A plan approved by the Secretary under section 6675 of this title shall have a term not to exceed five years, provided that the producer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(i) In addition to the requirements specified in subsection (a) of this section, a stewardship organization shall notify the Secretary in writing within 30 days of any change to:

(1) the number of collection sites for post-consumer architectural paint identified under this section as part of the plan;

(2) the producers identified under this section as part of the plan;

(3) the brands of architectural paint identified under this section as part of the plan; and

(4) the processors that manage post-consumer architectural paint identified under this section as part of the plan.

(j) Upon submission of a plan to the Secretary under this section, a producer or a stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j)(31). Thereafter, the producer or stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j)(31) annually by July 1 of each year.

§ 6674. RETAILER RESPONSIBILITY

(a) A producer or retailer may not sell or offer for sale architectural paint to any person in Vermont unless the producer of that architectural paint brand or a stewardship program of which the producer of that architectural paint brand is a member is implementing an approved plan for a paint stewardship program as required by section 6673 of this title. A retailer complies with the requirements of this section if, on the date the architectural paint was ordered from the producer or its agent, the producer or paint brand is listed on the Agency of Natural Resources' website as a producer or brand participating in an approved plan for a paint stewardship program.

(b) At the time of sale to a consumer, a producer, a stewardship organization, or a retailer selling or offering architectural paint for sale shall provide the consumer with information regarding available management options for postconsumer paint collected through the paint stewardship program or a brand of paint being sold under the program.

§ 6675. AGENCY RESPONSIBILITY

(a)(1) Within 90 days of receipt of a plan submitted under section 6673 of this title, the Secretary shall review the plan and make a determination whether or not to approve the plan. The Secretary shall issue a letter of approval for a submitted plan if:

(A) the submitted plan provides for the establishment of a paint stewardship program that meets the requirements of subsections 6673(a); and

(B) the Secretary determines that the plan:

(i) achieves convenient collection for consumers;

(ii) educates the public on proper paint management;

(iii) manages waste paint in a manner that is environmentally safe and promotes reuse and recycling; and

(iv) is cost-effective.

(2) If the Secretary does not approve a submitted plan, the Secretary shall issue to the paint stewardship organization a letter listing the reasons for the disapproval of the plan. If the Secretary disapproves a plan, a paint stewardship organization intending to sell or continue to sell architectural paint in the State shall submit a new plan within 60 days of receipt of the letter of disapproval.

(b)(1) The Secretary shall review and approve the stewardship assessment proposed by a producer pursuant to subsection 6673(b) of this title. The Secretary shall only approve the program budget and any assessment if the applicant has demonstrated that the costs of the program and any proposed

assessment are reasonable and the assessment does not exceed the costs of implementing an approved plan.

(2) If an amended plan is submitted under subsection 6673(g) of this title that proposes to change the cost of the program or proposes to change the paint stewardship assessment under the plan, the disapproval of any proposed new assessment or the failure of an approved new assessment to cover the total costs of the program shall not relieve a producer or stewardship organization of its obligation to continue to implement the approved plan under the originally approved assessment.

(c) Facilities solely collecting paint for the paint stewardship program that would not otherwise be subject to solid waste certification requirements shall not be required to obtain a solid waste certification. Persons solely transporting paint for the paint stewardship program that would not otherwise be subject to solid waste hauler permitting requirements shall not be required to obtain a solid waste hauler's permit.

§ 6676. ANTICOMPETITIVE CONDUCT

(a) A producer or an organization of producers that manages postconsumer paint, including collection, transport, recycling, and processing of postconsumer paint, as required by this subchapter may engage in anticompetitive conduct to the extent necessary to implement the plan approved by the Secretary and is immune from liability for the conduct relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) The activity authorized and the immunity afforded under subsection (a) of this section shall not apply to any agreement among producers or paint stewardship organizations:

(1) establishing or affecting the price of paint, except for the paint stewardship assessment approved under subsection 6675(b) of this title;

(2) setting or limiting the output or production of paint;

(3) setting or limiting the volume of paint sold in a geographic area;

(4) restricting the geographic area where paint will be sold; or

(5) restricting the customers to whom paint will be sold or the volume of paint that will be sold.

§ 6677. PRODUCER REPORTING REQUIREMENTS

No later than October 15, 2015, and annually thereafter, a producer or a stewardship program of which the producer is a member shall submit to the Secretary a report describing the paint stewardship program that the producer

or stewardship program is implementing as required by section 6673 of this title. At a minimum, the report shall include:

(1) a description of the methods the producer or stewardship program used to reduce, reuse, collect, transport, recycle, and process postconsumer paint statewide in Vermont;

(2) the volume and type of postconsumer paint collected by the producer or stewardship program at each collection center in all regions of Vermont;

(3) the volume of postconsumer paint collected by the producer or stewardship program in Vermont by method of disposition, including reuse, recycling, energy recovery, and disposal;

(4) an independent financial audit of the paint stewardship program implemented by the producer or the stewardship program;

(5) the prior year's actual direct and indirect costs for each program element and the administrative and overhead costs of administering the approved program; and

(6) samples of the educational materials that the producer or stewardship program provided to consumers of architectural paint.

§ 6678. CONFIDENTIAL BUSINESS INFORMATION

Data reported to the Secretary by a producer or stewardship organization under this subchapter shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual producers, distributors, or retailers. The Secretary may require, as a part of the report submitted under section 6677 of this title, that the manufacturer or stewardship organization provide a report that does not contain trade secret information and is available for public inspection and review.

§ 6679. RULEMAKING; PROCEDURE

The Secretary may adopt rules or procedures to implement the requirements of this subchapter.

§ 6680. UNIVERSAL WASTE DESIGNATION FOR POSTCONSUMER PAINT

(a) The requirements of Subchapter 9 of the Vermont Hazardous Waste Management Rules, which allow certain categories of hazardous waste to be managed as universal waste, shall apply to postconsumer paint until the postconsumer paint is discarded, provided that:

(1) the postconsumer paint is collected as a part of a stewardship plan approved under this subchapter; and

(2) the collected postconsumer paint is or includes paint that is a hazardous waste as defined and regulated by the Vermont Hazardous Waste Management Rules.

(b) When postconsumer paint is regulated as a universal waste under subsection (a) of this section, small and large quantity handlers of the postconsumer paint shall manage the postconsumer paint in a manner that prevents releases of any universal waste or component of the universal waste to the environment. Postconsumer paint regulated as universal waste shall, at a minimum, be contained in one or more of the following:

(1) A container that remains closed, structurally sound, and compatible with the postconsumer paint and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of subdivision (1) of this subsection, provided that the unacceptable container is overpacked in a container that meets the requirements of subdivision (1).

(c) Containers holding postconsumer paint that is regulated as universal waste shall be clearly labeled "Universal Waste Paint," "Used Paint," or "Waste Paint."

(d) Unless otherwise provided by statute, the definitions of the Vermont Hazardous Waste Management Rules shall apply to this section.

Sec. 2. 3 V.S.A. § 2822(j) is added to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

* * *

(31) For continuing review of plans required by 10 V.S.A. § 6673: $15,000.00.

Sec. 3. AGENCY OF NATURAL RESOURCES REPORT ON PAINT STEWARDSHIP ASSESSMENT

On or before January 15, 2014, the Secretary of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the paint stewardship assessment proposed by architectural paint producers or stewardship organizations under 10 V.S.A. § 6673. The report shall include:

(1) a summary of the number of paint producers or stewardship organizations submitting plans;

(2) the paint stewardship assessment proposed in any submitted plan;

(3) a recommendation from the Secretary as to whether a proposed paint stewardship assessment is adequate or should be modified; and

(4) a recommendation from the Secretary whether and at what amount to establish a statutory maximum cap on the amount of a paint stewardship assessment.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 4/9/2013)

H. 521

An act relating to making miscellaneous amendments to education law

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 2 in its entirety.

Second: After Sec. 7, by inserting three new sections to be Secs. 7a through 7c to read:

Sec. 7a. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the ~~commissioner~~ Commissioner or person designated to receive such records; persons assigned by the ~~commissioner~~ Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the ~~office of professional regulation~~ Office of Professional Regulation when deemed appropriate by the ~~commissioner~~ Commissioner; the Secretary of Education when deemed appropriate by the Committioner; a law enforcement agency, the ~~state's attorney, or the office of the attorney general~~ State's Attorney, or the Office of the Attorney General, when the ~~department~~ Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

Sec. 7b. 33 V.S.A. § 6911(c) is amended to read:

(c) The ~~commissioner~~ Commissioner or the ~~commissioner's~~ Commissioner's designee may disclose registry information only to:

* * *

(7) upon request or when relevant to other states' adult protective services offices; ~~and~~

(8) the ~~board of medical practice~~ Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353; and

(9) the Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.

Sec. 7c. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under state or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, "qualified entity" means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

Third: By striking out Sec. 11 in its entirety

Fourth: [Deleted]

Fifth: In Sec. 16, in subsection (a), by striking out subdivisions (1) through (12) in their entirety and inserting in lieu thereof seven new subdivisions to be subdivisions (1) through (7) to read:

(1) the Executive Director of the Vermont Independent Schools Association or designee;

(2) one trustee of an approved independent school in Vermont that receives publicly funded tuition, selected by the Vermont Independent Schools Association;

(3) the Executive Director of the Vermont School Boards Association or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(6) the Secretary of Education or designee; and

(7) the chair of the State Board of Education or designee, who shall serve as the committee's chair and convene the first meeting of the committee on or before July 1, 2013.

Sixth: In Sec. 16 subsection (b) by adding a new subdivision (2) to read as follows:

consider whether the decision to close a public school and reopen it as an approved independent school raises issues addressed by the Vermont Constitution or by the U.S. Constitution or other federal law; and

And by renumbering the remaining subdivision to be numerically correct.

Seventh: By striking out Sec. 20 in its entirety and inserting in lieu thereof 10 new sections to be Secs. 20 through 29 and internal captions to read:

* * * Compact for Military Children * * *

Sec. 20. 16 V.S.A. § 806m.E is amended to read:

E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than ~~$100~~ $2,000.00 per year. Other funding sources may be accepted and used to offset expenses related to the ~~state's~~ State's participation in the compact.

Sec. 21. AGENCY OF EDUCATION BUDGET

There shall be no separate or additional General Fund appropriation to the Agency of Education in fiscal year 2014 for purposes of funding the increased assessment to be paid pursuant to Sec. 21 of this act.

* * * Adult Basic Education * * *

Sec. 22. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The ~~state board~~ State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the ~~governor~~ Governor

and ~~secretary~~ Secretary; engage local school board members and the broader education community; and establish and advance education policy for the ~~state~~ State of Vermont. In addition to other specified duties, the ~~board~~ Board shall:

* * *

(13) ~~Constitute~~ Be the ~~state board~~ State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the state approval agency for educational institutions conducting programs of adult education and literacy.

* * *

* * * Special Education Employees; Transition to Employment by Supervisory Unions * * *

Sec. 23. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts ~~that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective~~

~~bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall~~ , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 24. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 25. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory

district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 26. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 27. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

* * * Out-of-State Career Technical Education * * *

Sec. 28. 16 V.S.A. § 1531(c) is amended to read:

(c) For a school district ~~which~~ that is geographically isolated from a Vermont technical center, the ~~state board~~ State Board may approve a technical center in another state as the technical center ~~which~~ that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest ~~supervisory union~~ Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School ~~at public expense~~ or the Franklin County Technical School shall be considered to be attending an approved technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.

Sec. 29. EFFECTIVE DATES

(a) Sec. 28 of this act (out-of-state career technical education) shall take effect on July 1, 2013 and shall apply to enrollments in academic year 2013–2014 and after.

(b) This section and all other sections of this act shall take effect on passage; provided, however, that Sec. 14 of this act (salary) shall apply

retroactively beginning on January 2, 2013.

(For text see House Journal 4/11/2013)

Amendment to be offered by Rep. Donovan of Burlington to H. 521

By striking out the Fifth Proposal of Amendment (Sec. 16(a); change in study committee membership) in its entirety and inserting in lieu thereof:

"Fifth: [Deleted]"

H. 523

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping

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

Sec. 1. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The clerk shall send a jury questionnaire prepared by the ~~court administrator~~ Court Administrator to each person selected. When returned, it shall be retained in the ~~superior court clerk's office~~ Office of the Superior Court Clerk. ~~The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.~~ Pursuant to section 952 of this title, the Court Administrator shall promulgate rules governing the inspection and availability of the juror questionnaires and the information contained in them.

Sec. 2. 15 V.S.A. § 1085 is amended to read:

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

* * *

(b) On receipt of the documents required by subsection (a) of this section, the ~~court administrator~~ Family Division shall:

(1) ~~cause the determination to be filed~~ send the certified copy of the determination to the Court Administrator who shall file it as a foreign judgment~~, together with one copy of any accompanying documents and information, regardless of their form~~; and

* * *

Sec. 3. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(2) Prior to the entry of any divorce or annulment proceeding in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section. If the divorce or annulment complaint is filed with a stipulation for a final order ~~acceptable to the court~~, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident, except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under 15 V.S.A. chapter 5 ~~of Title 15~~ in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the ~~court~~ Court, the fee shall be $25.00 except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(4) Prior to the entry of any motion or petition to enforce ~~an~~ a final order for parental rights and responsibilities, parent-child contact, property division, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify ~~an~~ a final order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, the fee shall be $25.00~~. All motions or petitions filed by one party at one time shall be assessed one fee~~ except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. All motions or petitions filed by one party under this subsection at one time shall be assessed one fee equal to the highest of the filing fees associated with the motions or petitions involved. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment issued.

(5) Prior to the entry of any motion or petition to vacate or modify an

order for child support in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $35.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the fee under subdivision (4) shall be the only fee assessed. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment has issued.

(6) Prior to the registration in Vermont of a child custody determination issued by a court of another state, there shall be paid to the Clerk of the Court for the benefit of the State a fee of $75.00 unless the request for registration is filed with a simultaneous motion for enforcement, in which event the fee for registration shall be $30.00 in addition to the fee for the motion as provided in subdivision (4) of this subsection.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the superior court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the superior court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's decision.

(e) Prior to the filing of any postjudgment motion in the ~~superior court~~ Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and motions for sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 except for small claims actions.

* * *

(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of Appellate Procedure 24(a), part or all of the filing fee may be waived if the ~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~ Clerk of the Court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the ~~supreme court~~ Supreme Court. If, during the course of the proceeding and prior to a final judgment, the Court determines that the applicant has the ability to pay all or a part of the waived fee, the Court shall require that payment be made prior to issuing a final judgment. If the applicant fails to pay the fee within a reasonable time, the Court may dismiss the proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

* * *

(b) ~~For economic cause, the probate judge may waive this fee.~~ Pursuant to Rule 3.1 of the Vermont Rules of Civil Procedure, part of the filing fee may be waived if the Court finds the applicant is unable to pay it. The Court shall use procedures established in subsection 1431(h) of this title to determine the fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

* * *

Sec. 5. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the ~~court clerk's office~~ Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, ~~by an order in writing recorded in the court clerk's office, the court administrator shall~~ the Court Administrator may direct the ~~court clerk~~ Court Clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, the ~~clerk~~ Clerk shall certify under official signature and the seal of the ~~court~~ Court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~state~~ State.

Sec. 6. 4 V.S.A. § 659 is amended to read:

§ 659. PRESERVATION OF COURT RECORDS

(a) The ~~supreme court~~ Supreme Court by administrative order may provide for permanent preservation of all court records by any photographic or electronic or comparable process ~~which will provide compact records in reduced size,~~ in accordance with standards ~~established by the secretary of state which~~ that shall be no less protective of the records than the standards established by the state archives and records administration programs that take into account the quality and security of the records, and ready access to the record of any cause so recorded.

(b) After preservation in accordance with subsection (a) of this section, the ~~supreme court~~ Supreme Court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to the archives of the ~~secretary of state, the Vermont historical society, or the University of Vermont~~ Secretary of State.

Sec. 7. 4 V.S.A. § 732 is amended to read:

§ 732. LOST ~~WRIT OR COMPLAINT-FILING OF NEW PAPERS~~ DOCUMENT OR RECORD

When ~~the writ or complaint~~ a court document, record, or file in an action pending in court is lost, mislaid, or destroyed, the court~~, on written motion for that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~ duplicate document, record, or file to be filed under such ~~regulations~~ conditions as the court prescribes~~, and the same proceedings shall be had thereon as though it were the original writ or complaint. If the plaintiff refuses to file such writ or complaint, the court shall direct a nonsuit in the action, and tax costs for the defendant~~. A duplicate document or record shall have the same validity and may be used in evidence in the same manner as the original document, record, or file.

Sec. 8. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The ~~supreme court~~ Supreme Court by administrative order or directive shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.

Sec. 9. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the superior court, or opinions of the criminal division of the superior court; ~~or~~

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 10. 4 V.S.A. § 908 is amended to read:

§ 908. ATTORNEYS' ADMISSION, LICENSING, AND PROFESSIONAL RESPONSIBILITY SPECIAL FUND

There is established the attorneys' admission, licensing, and professional responsibility special fund which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected for licensing of attorneys, administration of the bar examination, admitting attorneys to practice in Vermont, and administration of mandatory continuing legal education shall be deposited and credited to this fund. This fund shall be available to the ~~judicial branch~~ Judicial Branch to offset the cost of operating the ~~professional responsibility board~~ Professional Responsibility Board, the ~~board of bar examiners~~ Board of Bar Examiners, the ~~judicial conduct board~~ Judicial Conduct Board, the ~~committee on character and fitness~~ Committee on Character and Fitness, the mandatory continuing legal education program for attorneys and, at the discretion of the ~~supreme court~~ Supreme Court, to make grants for access to justice programs or to the Vermont ~~bar foundation~~ Bar Foundation to be used to support legal services for the disadvantaged.

Sec. 11. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a)(1) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

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

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

~~(3)~~(C) ~~Probation~~ probation pursuant to 28 V.S.A. § 205~~.~~;

~~(4)~~(D) ~~Supervised~~ supervised community sentence pursuant to 28 V.S.A. § 352~~.~~; or

~~(5)~~(E) ~~Sentence~~ sentence of imprisonment.

(2)(A) In determining a sentence upon conviction for a nonviolent misdemeanor or a nonviolent felony, in addition to the factors identified in subdivision (1) of this subsection, the court shall consider the approximate financial cost of available sentences.

(B) The Department of Corrections shall develop and maintain a database on the approximate costs of sentences, including incarceration, probation, deferred sentence, supervised community sentence, participation in the Restorative Justice Program, and any other possible sentence. The database information shall be made available to the courts for the purposes of this subdivision (2).

(b) When ordering a sentence of probation, the court may require participation in the ~~restorative justice program~~ Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. NONVIOLENT MISDEMEANOR AND NONVIOLENT FELONY DEFINED

As used in this title:

(1) "Nonviolent felony" means a felony offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children).

(2) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children) or section 1030 of this

title (violation of a protection order).

Sec. 13. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than $2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than $5,000.00, or both.

(B) ~~A~~ In lieu of a criminal citation or arrest, a law enforcement officer ~~shall~~ may issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than $500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the ~~judicial bureau~~ Judicial Bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the ~~criminal division of the superior court~~ Criminal Division of the Superior Court.

(C) Nothing in this subdivision shall be construed to require that a civil citation be issued prior to a criminal charge of violating subdivision 352(3), (4), or (9) of this title.

* * *

Sec. 14. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

* * *

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the ~~state~~ State of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the ~~state~~ State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the ~~state may~~ State shall institute a civil proceeding for forfeiture of the animal in the territorial unit of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the ~~court~~ Court

and served upon the animal's owner.

(e) ~~The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section~~ A preliminary hearing shall be held within 21 days of institution of the civil forfeiture proceeding. If the defendant requests a hearing on the merits, the Court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. In no event shall a final hearing occur more than 42 days after the date of the commencement of the civil forfeiture proceeding. Time limits under this subsection shall not be construed as jurisdictional.

(f)(1) At the hearing on the motion for forfeiture, the ~~state~~ State shall have the burden of establishing by ~~clear and convincing evidence~~ a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. ~~If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title~~ If the Court finds for the petitioner by a preponderance of the evidence, the Court shall order immediate forfeiture of the animal to the petitioner.

(2) No testimony or other information presented by the defendant in connection with a forfeiture proceeding under this section or any information directly or indirectly derived from such testimony or other information may be used for any purpose, including impeachment and cross-examination, against the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the ~~state~~ State institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the ~~court~~ Court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the ~~state~~ State files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court under this section may be appealed as a matter of right to the ~~supreme court~~ Supreme Court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

Sec. 15. INCIDENT REPORTS OF ANIMAL CRUELTY

(a) The Commissioner of Public Safety, in consultation with the Vermont Center for Justice Research, shall collect data on:

(1) the number and nature of complaints or incident reports to law enforcement based on a suspected violation of 13 V.S.A. chapter 8 (humane and proper treatment of animals); and

(2) how such complaints or incidents are generally addressed, such as referral to others, investigation, civil penalties, or criminal charges.

(b) Based upon examination of the data requested in subsection (a) of this section, the Commissioner shall make recommendations to the Senate and House Committees on Judiciary on or before November 15, 2013 for improving the statewide response to complaints of animal cruelty.

Sec. 16. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

(a) Unless otherwise specified by law, when in session, a ~~superior court~~ Superior Court shall consist of:

(1) For cases in the ~~civil~~ Civil or ~~family division~~ Family Division, one presiding superior judge and two assistant judges, if available.

(2)(A) For cases in the ~~family division~~ Family Division, except as provided in subdivision (B) of this subdivision (2), one presiding ~~superior judge~~ judicial officer and two assistant judges, if available.

(B) The ~~family court~~ Family Division shall consist of one presiding ~~superior judge~~ judicial officer sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281, whether the matter originated in the criminal or family division of the superior court.

(ii) All guardianship services proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

(iii) All mental health proceedings filed pursuant to 18 V.S.A. chapters 179, 181, and 185 ~~of Title 18~~.

(iv) All involuntary sterilization proceedings filed pursuant to 18 V.S.A. chapter 204 ~~of Title 18~~.

(v) All care for persons with developmental disabilities proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate except child support contempt proceedings pursuant to subdivision 461(a)(1) of this title.

(C) Use of the term "judicial officer" in subdivisions (A) and (B) of this subsection shall not be construed to expand a judicial officer's subject matter jurisdiction or conflict with the authority of the Chief Justice or Administrative Judge to make special assignments pursuant to section 22 of this title.

* * *

Sec. 17. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice

Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided

account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title, or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through the use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database;

(B) the total number of ALPR reads each agency submitted to the

statewide ALPR database;

(C) the 18-month accumulative number of ALPR reads being housed on the statewide ALPR database;

(D) the total number of requests made to VTIAC for ALPR data;

(E) the total number of requests that resulted in the release of information from the statewide ALPR database;

(F) the total number of out-of-state requests; and

(G) the total number of out-of-state requests that resulted in the release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 18. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 19. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized as a nonprofit corporation, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

Sec. 20. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the ~~state~~ State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of ~~not less than $250.00 and~~ not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

* * * Motor Vehicle Moving Violation * * *

Sec. 20a. 23 V.S.A. § 1002 is added to read:

§ 1002. MOTOR VEHICLE MOVING VIOLATION; NO POINTS

A person who commits a moving violation under another provision of this title for which no term of imprisonment is provided by law, and for which a penalty of not more than $1,000.00 is provided, commits a traffic violation and may be issued a complaint for a violation of this section in lieu of a complaint for a violation of the predicate moving violation provision. A person convicted of a violation of this section shall not be assessed points against his or her driving record under chapter 25 of this title, but shall be subject to the penalties prescribed in the provision of this title that specifies the predicate moving violation.

Sec. 20b. 23 V.S.A. § 2501 is amended to read:

§ 2501. MOTOR VEHICLE POINT SYSTEM

For the purpose of identifying habitually reckless or negligent drivers and frequent violators of traffic regulations governing the movement of vehicles, a uniform system is established assigning demerit points for convictions of violations of this title or of ordinances adopted by local authorities regulating the operation of motor vehicles. Notice of each assessment of points may be given. No points shall be assessed for violating section 1002 of this title or a provision of a statute or municipal ordinance regulating standing, parking, equipment, size, or weight, or if a superior judge or Judicial Bureau hearing officer has waived the assessment of points in the interest of justice. The conviction report from the court shall be prima facie evidence of the points assessed unless points are specifically waived in the conviction report. The ~~department is~~ Department also is authorized to suspend the license of a driver when the driver's driving record identifies the driver as an habitual offender under section 673a of this title.

Sec. 20c. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) ~~Any~~ Unless the assessment of points is waived by a superior judge or a Judicial Bureau hearing officer in the interests of justice, or unless a person is convicted of violating section 1002 of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

Sec. 21. [Deleted]

Sec. 22. REPEAL

4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets; certified copies), 655 (court accounts), 656 (index of records), 658 (Supreme Court records), 695 (accounts of court officer and reporter), 734 (copy of lost petition), 735 (record of proceedings), 736 (lost records or judgment files; recording of copy), 737 (appeal or exception), and 738 (costs for recording); 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of Bennington and Manchester probate courts); and 2009 Acts and Resolves No. 4, Sec. 125 (transitional provisions of the consolidated probate court system) are repealed.

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (registration of child custody determination) and 16 (limitations of prosecutions for certain crimes) of this act shall take effect on passage.

(b) Secs. 11 (sentencing alternatives) and 12 (definition of nonviolent misdemeanor and nonviolent felony) of this act shall take effect on March 1, 2014.

(c) The rest of this act shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read: "An act relating to court administration and procedure"

(No House Amendments)

Senate Proposal of Amendment to House Proposal of Amendment

S. 37

An act relating to tax increment financing districts

The Senate concurs in the House proposal of amendment thereto by striking all after the enacting clause and inserting in lieu thereof the following::

First: By striking out Sec. 19, amending 23 V.S.A. § 3106(a)(2), in its entirety and inserting in lieu thereof the following:

Sec. 19. REPEAL

Pursuant to Sec. 3 of this act, the 2006 Acts and Resolves No. 184, Sec. 2i, as amended by 2008 Acts and Resolves No. 190, Sec. 67 (tax increment financing districts, cap), is repealed to clarify that the Vermont Economic Progress Council shall not approve any additional tax increment financing districts.

Second: By striking out Sec. 20, amending 2013 Acts and Resolves No. 12, Sec. 24, in its entirety and inserting in lieu thereof the following:

Sec. 20. EFFECTIVE DATES

(a) Secs. 1, 6(b), 10, 12a–19, and this section shall take effect on passage. Sec. 6(b) (repeal of adjustment upon reappraisal) shall be effective retroactive to July 2006.

(b) Secs. 2 through 9 (except Sec. 6(b)), 11, and 12 (clarification of ambiguous statutes) of this act shall apply to any tax increment retained for all taxes assessed on the April 1, 2013 grand list.

(c) Sec. 6(c) (creation of taxes for special purposes) shall take effect on July 1, 2013.

Third: By striking Sec. 21, Repeal, in its entirety

Fourth: By striking Sec. 22, amending 21 V.S.A. § 1325, in its entirety

Fifth: By striking Sec. 23, Unemployment Compensation; Employers Affected by Natural Disasters Occurring in 2011, in its entirety

Sixth: By striking Sec. 24, Appropriation, in its entirety

Seventh: By striking Sec. 25, Effective Dates, in its entirety

(For House Proposal of Amendment see House Journal 5/10/2013)

S. 152

An act relating to the Green Mountain Care Board's rate review authority

The Senate concurs in the House proposal of amendment thereto by striking all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(5) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and either:

(i) has no other health care coverage under either a private or public plan; or

(ii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

* * *

Sec. 2. 21 V.S.A. § 2003 is amended to read:

§ 2003. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

* * *

(b) For any quarter in fiscal years 2007 and 2008, the amount of the ~~health care fund~~ Health Care Fund contribution shall be $ 91.25 for each full-time equivalent employee in excess of eight. For each fiscal year after fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and the amount of the ~~health care fund~~ Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for ~~Catamount Health for that fiscal year; provided, however, that to the extent that Catamount Health premiums decrease due to changes in benefit design or deductible amounts, the health care fund contribution shall not be decreased by the percentage change attributable to such benefit design or deductible changes~~ the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * *

(d) Revenues from the ~~health care fund~~ Health Care Fund contributions collected shall be deposited into the state ~~health care resources fund~~ Health Care Resources Fund established under 33 V.S.A. § 1901d.

Sec. 3. 33 V.S.A. § 1811(l) is added to read:

(l)(1) A registered carrier shall include in its rates filed pursuant to 8 V.S.A. § 4062 an administrative charge of one percent of projected premium costs on plans sold in the Exchange to fund the operation of the Exchange. The Green Mountain Care Board shall finalize the amount of the administrative charge and include the amount in the approved rate.

(2)(A) The Department of Vermont Health Access shall retain the amount of the administrative charge from premiums collected through the Exchange and shall deposit the funds collected pursuant to this section in the State Health Care Resources Fund established by section 1901d of this title. Funds collected pursuant to this section shall be used only for purposes related to the operation of the Exchange.

(B) The Department shall, in collaboration with registered carriers, develop a mechanism for collecting any premiums paid by individuals directly to a registered carrier.

(3) The Exchange website shall clearly indicate the amount of the administrative charge included in the premium for each health benefit plan offered through the Exchange.

Sec. 4. EXCHANGE ADMINISTRATIVE CHARGE REPORTING

(a) The Governor's budget submitted to the General Assembly in accordance with 32 V.S.A. § 306 for fiscal year 2016 shall include the estimated budget for the Exchange for that fiscal year and the estimated amount of the administrative charge to be imposed pursuant to 33 V.S.A. § 1811(l) beginning on January 1, 2016, based on premium rates approved by the Green Mountain Care Board.

(b) On or before February 1, 2017, the Department of Vermont Health Access shall report to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations regarding the revenues collected pursuant to 33 V.S.A. § 1811(l), including recommendations for any needed modifications to the amount of the administrative charge.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (employer assessment definition), 2 (employer assessment fund), and 4 (exchange surcharge reporting) of this act and this section shall take effect on January 1, 2014.

(b) Sec. 3 (exchange surcharge) of this act shall take effect on January 1, 2015 to incorporate into rate review for insurance plans with coverage beginning January 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to health care financing.

(For House Proposal of Amendment see House Journal 5/8/2013)

Committee of Conference Report

H. 169

An act relating to relieving employers' experience-rating records

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. 169 An act relating to relieving employers' experience-rating records

Respectfully report that they have met and considered the same and

recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

(a)(1) The ~~commissioner~~ Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

~~(1)~~(A) The individual's employment with that employer was terminated under disqualifying circumstances.

~~(2)~~(B) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.

~~(3)~~(C) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.

~~(4)~~(D) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.

~~(5)~~(E) [Repealed.]

(2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the

natural disaster up to a maximum amount of four weeks.

* * *

Sec. 2. UNEMPLOYMENT COMPENSATION; EMPLOYERS AFFECTED BY NATURAL DISASTERS OCCURRING IN 2011

(a) The Department of Labor shall establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions due to layoffs directly caused by federally declared natural disasters occurring in 2011.

(b) Unemployment compensation tax relief shall be available to an employer provided that the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond eight weeks shall remain chargeable to the employer.

(c) The relief described in subsection (b) of this section shall not be available to employers electing to make payments in lieu of contributions pursuant to 21 V.S.A. § 1321.

(d) Benefit charge relief provided under subsections (a) and (b) of this section shall not result in the recalculation of previously assigned rate classes for nondisaster-impacted employers.

(e) The Department shall notify employers in the counties covered by the federal disaster relief declaration of the provisions of this section. An employer seeking relief shall apply to the Department within 20 days of notification by the Department. The application shall be made in a manner prescribed and approved by the Commissioner and shall be accompanied by a certified statement of the employer that the employees were separated from employment as a direct result of the disaster and would have not been otherwise. False statements made in connection with the certification shall subject the employer to the provisions of 21 V.S.A. § 1369. The employer shall provide the Department with the name, address, last known phone number, and social security number of each employee alleged to have been separated from employment as a result of the disaster.

(f) If an employer's application for relief is denied, the employer may appeal the decision pursuant to 21 V.S.A. §§ 1348 and 1349.

Sec. 3. APPROPRIATION

Of the appropriations made to the Department of Labor in Sec. B.400 of House Bill 530 (An act relating to making appropriations for the support of government), the amount of $60,000.00 is appropriated for the costs of postage and for hiring temporary positions necessary to implement the unemployment compensation tax relief program described in Sec. 2 of this act.

Sec. 4. DEPARTMENT OF LABOR; ENFORCEMENT OF UNEMPLOYMENT INSURANCE COVERAGE RULE

The Department of Labor shall not implement proposed rule 12P044, unemployment insurance coverage for direct sellers and newspaper carriers, and shall not propose or adopt any rule, issue any bulletin, or take any other action regarding unemployment compensation and newspaper carriers prior to July 1, 2014.

Sec. 5. STUDY COMMITTEE; UNEMPLOYMENT COMPENSATION

(a) The Office of Legislative Council shall study the issue of unemployment compensation, its application to newspaper carriers, and the relationship between state and federal exemptions to the unemployment compensation statutes.

(b) The Office of Legislative Council shall examine:

(1) the history of how newspaper carriers have been treated for purposes of unemployment compensation in Vermont and the newspaper industry practice of utilizing independent contractors to distribute newspapers or shopping news and the history and rationale behind the 2006 Department of Labor bulletin treating newspaper carriers as direct sellers;

(2) the potential economic impacts the proposed rule would have on newspaper publishers, newspaper carriers, and the unemployment compensation trust fund;

(3) the approaches taken by other states regarding unemployment compensation for newspaper carriers;

(4) an analysis of both state and federal exemptions to the unemployment compensation statutes; and

(5) how the unemployment compensation statutes should apply to individuals who do not earn enough wages to qualify for unemployment benefits.

(c) The Office of Legislative Council shall report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2014.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

KEVIN J. MULLIN
CHRISTOPHER A. BRAY
PETER W. GALBRAITH

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
WARREN F. KITZMILLER

Committee on the part of the House

S. 4

An act relating to concussions and school athletic activities

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 4 An act relating to concussions and school athletic activities

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Centers for Disease Control and Prevention:

(A) Each year, emergency departments (EDs) in the United States treat an estimated 173,285 persons 19 years of age and younger for sports and recreation-related traumatic brain injuries (TBI), including concussions, 70 percent of which were suffered by young people 10–19 years of age.

(B) From 2001 to 2009, the number of annual sports- and recreation-related ED visits for TBI among persons 19 years of age and younger increased 62 percent, from 153,375 per year to 248,418 per year.

(C) For males 10–19 years of age, TBIs most commonly occur while playing football. For females 10–19 years of age, TBIs most commonly occur while playing soccer or bicycling.

(2) According to a study in the American Journal of Sports Medicine, many high school athletes do not report when they suffer concussions despite the increased awareness of and focus on the seriousness of such injuries and the potential for catastrophic outcomes, particularly from multiple concussions.

(3) Without a clear action plan describing the steps a youth athlete must take in order to return to play after suffering a concussion, the youth is more likely to hide the concussion and continue to play without receiving the necessary treatment.

Sec. 2. 16 V.S.A. § 1431 is amended to read:

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. ~~For purposes of~~ As used in this subchapter:

(1) ~~"School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.~~

~~(2)~~ "Coach" means a person who instructs or trains students on a school athletic team.

(2) "Collision sport" means football, hockey, lacrosse, or wrestling.

(3) "Contact sport" means a sport, other than football, hockey, lacrosse, or wrestling, defined as a contact sport by the American Academy of Pediatrics.

(4) "Health care provider" means an athletic trainer, or other health care provider, licensed pursuant to Title 26, who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries. Training pursuant to this subdivision shall include training materials and guidelines for practicing physicians provided by the Centers for Disease Control and Prevention, if available.

(5) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(6) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The ~~commissioner of education~~ Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that association, members of the Vermont School Boards Insurance Trust, and others as the Secretary deems appropriate, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; ~~and~~

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions occurring during

athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the ~~state~~ State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) ~~A~~ Neither a coach nor a health care provider shall ~~not~~ permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach ~~has reason to believe~~ or health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) ~~A~~ Neither a coach nor health care provider shall ~~not~~ permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider ~~licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries~~.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State or a designee shall ensure that each school has a concussion management action plan that describes the procedures the school shall take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity;

(C) who makes the final decision that a student athlete may return to athletic activity; and

(D) who has the responsibility to inform a parent or guardian when a student on that school's athletic team suffers a concussion.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

(f) Health care providers; presence at athletic events.

(1) The home team shall ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a collision sport. If an athlete on the visiting team suffers a concussion during the athletic event, the health care provider shall notify the visiting team's athletic director within 48 hours after the injury occurs.

(2) Home teams are strongly encouraged to ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a contact sport.

(3) A school shall notify a parent or guardian within 24 hours of when a student participating on that school's athletic team suffers a concussion.

Sec. 3. REPORT

To the extent permitted by applicable state and federal law, the Vermont Traumatic Brain Injury Advisory Board (the Board) shall obtain information

necessary to create an annual report on the incidences of concussions sustained by student athletes in Vermont in the previous school year. To the extent such information is available, the report shall include the number of concussions sustained by student athletes in Vermont, the sport the student athlete was playing when he or she sustained the concussion, the number of Vermont student athletes treated in emergency rooms for concussions received while participating in school athletics, and who made the decision that a student athlete was able to return to play. For purposes of the report, the Board shall consult with the Vermont Principals' Association and the Vermont Association of Athletic Trainers. If the Board obtains information sufficient to create the report, it shall report on or before December 15 of each year starting in 2014 to the Senate and House Committees on Judiciary and on Education.

Sec. 4. 16 V.S.A. § 1388 is added to read:

§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

(a) As used in this section:

(1) "Designated personnel" means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and administer epinephrine auto-injectors under this section and who has completed the training required by State Board policy.

(2) "Epinephrine auto-injector" means a single-use device that delivers a premeasured dose of epinephrine.

(3) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 28, or a physician assistant licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 31.

(4) "School" means a public or approved independent school and extends to school grounds, school-sponsored activities, school-provided transportation, and school-related programs.

(5) "School administrator" means a school's principal or headmaster.

(b)(1) A health care professional may prescribe an epinephrine auto-injector in a school's name, which may be maintained by the school for use as described in subsection (d) of this section. The health care professional shall issue to the school a standing order for the use of an epinephrine auto-injector prescribed under this section, including protocols for:

(A) assessing whether an individual is experiencing a potentially

life-threatening allergic reaction;

(B) administering an epinephrine auto-injector to an individual experiencing a potentially life-threatening allergic reaction;

(C) caring for an individual after administering an epinephrine auto-injector to him or her, including contacting emergency services personnel and documenting the incident; and

(D) disposing of used or expired epinephrine auto-injectors.

(2) A pharmacist licensed pursuant to 26 V.S.A. chapter 36 or a health care professional may dispense epinephrine auto-injectors prescribed to a school.

(c) A school may maintain a stock supply of epinephrine auto-injectors. A school may enter into arrangements with epinephrine auto-injector manufacturers or suppliers to acquire epinephrine auto-injectors for free or at reduced or fair market prices.

(d) The school administrator may authorize a school nurse or designated personnel, or both, to:

(1) provide an epinephrine auto-injector to a student for self-administration according to a plan of action for managing the student's life-threatening allergy maintained in the student's school health records pursuant to section 1387 of this title;

(2) administer a prescribed epinephrine auto-injector to a student according to a plan of action maintained in the student's school health records; and

(3) administer an epinephrine auto-injector, in accordance with the protocol issued under subsection (b) of this section, to a student or other individual at a school if the nurse or designated personnel believe in good faith that the student or individual is experiencing anaphylaxis, regardless of whether the student or individual has a prescription for an epinephrine auto-injector.

(e) Designated personnel, a school, and a health care professional prescribing an epinephrine auto-injector to a school shall be immune from any civil or criminal liability arising from the administration or self-administration of an epinephrine auto-injector under this section unless the person's conduct constituted intentional misconduct. Providing or administering an epinephrine auto-injector under this section does not constitute the practice of medicine.

(f) On or before January 1, 2014, the State Board, in consultation with the Department of Health, shall adopt policies for managing students with

life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The policies shall:

(1) establish protocols to prevent exposure to allergens in schools;

(2) establish procedures for responding to life-threatening allergic reactions in schools, including postemergency procedures;

(3) implement a process for schools and the parents or guardians of students with a life-threatening allergy to jointly develop a written individualized allergy management plan of action that:

(A) incorporates instructions from a student's physician regarding the student's life-threatening allergy and prescribed treatment;

(B) includes the requirements of section 1387 of this title, if a student is authorized to possess and self-administer emergency medication at school;

(C) becomes part of the student's health records maintained by the school; and

(D) is updated each school year;

(4) require education and training for school nurses and designated personnel, including training related to storing and administering an epinephrine auto-injector and recognizing and responding to a life-threatening allergic reaction; and

(5) require each school to make publicly available protocols and procedures developed in accordance with the policies adopted by the State Board under this section.

Sec. 5. SCHOOL-BASED MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

(a) It is estimated that 10 percent of children need mental health or substance abuse services nationally, but that only 20 percent of this 10 percent receive treatment.

(b) Children who need mental health or substance abuse services are at a higher risk of dropping out of school than those who do not have mental health or substance abuse needs.

(c) Untreated mental health and substance abuse conditions have been linked to higher rates of juvenile incarceration, drug abuse, and unemployment.

(d) Early intervention decreases subsequent expenditures for special education and increases the likelihood of academic success.

(e) School-based mental health and substance abuse services increase

access to and use of mental health and substance abuse services and improve coordination of services.

(f) School-based mental health services increase student and parental awareness of available services.

Sec. 6. SCHOOL-BASED MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES; STUDY

(a) The Secretaries of Education and of Human Services, in consultation with the Green Mountain Care Board, the Department of State's Attorneys, the Juvenile Division of the Office of the Defender General, and other interested parties, shall:

(1) catalogue the type and scope of mental health and substance abuse services provided in or through collaboration with Vermont public schools;

(2) determine the number of students who are currently receiving mental health or substance abuse services through Vermont public schools and identify the sources of payment for these services;

(3) estimate the number of students enrolled in Vermont public schools who are not receiving the mental health or substance abuse services they need and, in particular, the number of students who were referred for services but are not receiving them, identifying whenever possible the barriers to the receipt of services;

(4) identify successful programs and practices related to providing mental health and substance abuse services through Vermont public schools and nationally, and determine which, if any, could be replicated in other areas of the State;

(5) determine how the provision of health insurance in Vermont may affect the availability of mental health or substance abuse services to Vermont students;

(6) detail the costs and sources of funding for mental health and substance abuse services provided by or through Vermont public schools during the two most recent fiscal years for which data is available; and

(7) develop a proposal based on the information collected pursuant to this subsection to ensure that clinically appropriate and sufficient school based mental health and substance abuse services are available to students through Vermont public schools.

(b) On or before January 15, 2014, the Secretaries shall present their research, findings, and proposals to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health

and Welfare.

Sec. 7. CONCUSSION TASK FORCE

(a) Creation. There is created a Concussion Task Force to study concussions resulting from school athletic activities and to provide recommendations for further action.

(b) Membership. The Concussion Task Force shall be composed of the following members:

(1) the Secretary of Education or designee;

(2) the Commissioner of Health or designee;

(3) a representative of the Vermont Principals' Association;

(4) a representative of the Vermont Athletic Trainers' Association;

(5) a representative of the Vermont Traumatic Brain Injury Advisory Board;

(6) a representative of the School Nurses Division of the Department of Health;

(7) a student athlete appointed by the Vermont Athletic Trainers' Association;

(8) a representative of the Vermont School Boards Insurance Trust; and

(9) a coach of a high school athletic team appointed by the Vermont Principals' Association.

(c) Powers and duties. The Concussion Task Force shall study issues related to concussions resulting from school athletic activities and make recommendations, including:

(1) what sports necessitate on-site trained medical personnel at athletic events based on data from public high schools and independent schools participating in interscholastic sports;

(2) the availability of trained medical personnel and whether school athletic events could be adequately covered; and

(3) the financial impact on schools of requiring medical personnel to be present at some athletic activities.

(d) Assistance. The Concussion Task Force shall have the administrative and technical assistance of the Agency of Education.

(e) Report. On or before December 15, the Concussion Task Force shall report to the House and Senate Committees on Education, the House

Committee on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Concussion Task Force to occur on or before July 15, 2013.

(2) The Secretary of Education or designee shall be the chair.

(3) A majority of the members of the Concussion Task Force shall be physically present at the same location to constitute a quorum.

(4) Action shall be taken only if there is both a quorum and a majority vote of all members of the Concussion Task Force.

(5) The Concussion task Force shall cease to exist on December 31, 2013.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2013, except that in Sec. 2, subsection 16 V.S.A. § 1431(f) (presence of health care provider at school sports activities) shall take effect on July 1, 2015.V.S.A.

and that after passage the title of the bill be amended to read: "An act relating to health and schools"

Rep. Johannah L. Donovan

Rep. Kevin B. Christie

Rep. Barbara Rachelson

Committee on the part of the House

Sen. Richard W. Sears

Sen. Joseph C. Benning

Sen. Richard J. McCormack

Committee on the part of the Senate

S. 148

An act relating to criminal investigation records and the Vermont Public Records Act

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 148 An act relating to criminal investigation records and the Vermont Public Records Act

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) records dealing with the detection and investigation of crime, ~~including those maintained on any individual or compiled in the course of a criminal or disciplinary investigation by any police or professional licensing agency; provided, however, that~~ but only to the extent that the production of such records:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

(vi) could reasonably be expected to endanger the life or physical safety of any individual;

(B) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

(C) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;

(D) It is the intent of the General Assembly that, consistent with the manner in which courts have interpreted subdivision (A) of this subdivision (5), a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime, unless withholding the identity or information would conceal government wrongdoing. A record shall not be withheld in its entirety because it contains identities or information that have been redacted pursuant to this subdivision;

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Rep. William J. Lippert

Rep. Maxine Jo Grad

Rep. Thomas F. Koch

Committee on the part of the House

Sen. Jeannette K. White

Sen. Joseph C. Benning

Sen. Richard W. Sears

Committee on the part of the Senate

S. 155

An act relating to creating a strategic workforce development needs assessment and strategic plan

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 155 An act relating to creating a strategic workforce development needs assessment and strategic plan

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. WORKFORCE DEVELOPMENT WORK GROUP

(a) There is created a Workforce Development Work Group composed of the following members:

(1) two members of the Senate appointed by the President Pro Tempore of the Senate;

(2) two members of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Commerce and Community Development or designee; and

(4) the Commissioner of Labor or designee.

(b) The Work Group shall:

(1) coordinate with, and complement the work of, the Workforce Development Council, the Department of Labor, and other entities that are gathering the data and information specified in this section;

(2) research, compile, and inventory all workforce education and training programs and activities taking place in Vermont;

(3) identify the number of individuals served by each of the programs and activities, and estimate the number of individuals in the State who could benefit from these programs and activities;

(4) identify the amount and source of financial support for these programs and activities, including financial support that goes directly to the individuals, and, to the extent practicable, the allocation of resources to the direct benefits, management, and overhead costs of each program and activity;

(5) identify the mechanics by which these programs and activities are evaluated for effectiveness and outcomes;

(6) provide a summary for each program or activity of its delivery model, including how the program or activity aligns with employment opportunities located in Vermont;

(7) identify current statutory provisions concerning coordination, integration, and improvement of workforce education and training programs,

including identification of the entities responsible for performing those duties;

(8) identify overlaps in existing workforce development programs and activities;

(9)(A) research and inventory all programs and activities taking place in the State, both public and private, that identify and evaluate employers' needs for employees, including the skills, education, and experience required for available and projected jobs;

(B) indicate who is responsible for these activities and how they are funded;

(C) specify the data collection activities that are taking place;

(D) identify overlaps in programs, activities, and data collection that identify and evaluate employers' needs for employees; and

(10) undertake any other research and gather other data and information as the Work Group deems necessary and appropriate to complete its work consistent with this act.

(c) The Work Group shall convene its first meeting no later than June 15, 2013 and shall meet not more than eight times. The Work Group shall have the administrative, legal, and fiscal support of the Office of Legislative Council and the Joint Fiscal Office.

(d) In order to perform its duties pursuant to this act, the Work Group shall have the authority to request and gather data and information as it determines is necessary from entities that conduct workforce education and training programs and activities, including agencies, departments, and programs within the Executive Branch and from nongovernmental entities that receive state-controlled funding. Unless otherwise exempt from public disclosure pursuant to state or federal law, a workforce education and training provider shall provide the data and information requested by the Work Group within a reasonable time period.

(e) On or before January 15, 2014, the Work Group shall submit its findings and work product to the House Committees on Commerce and Economic Development and on Education, and to the Senate Committees on Economic Development, Housing and General Affairs and on Education.

(f) Members of the Work Group shall be eligible for per diem compensation, mileage reimbursement, and other necessary expenses as provided in 2 V.S.A. § 406.

Sec. 2. 2007 Acts and Revolves No 46, Sec. 6, as amended by 2009 Acts and Resolves No. 54, Sec. 8, is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER

(a) The ~~commissioner of labor~~ Commissioner of Labor shall be the leader of workforce development strategy and accountability. The ~~commissioner of labor~~ Commissioner of Labor shall consult with the ~~workforce development council executive committee~~ Workforce Development Council Executive Committee in developing the strategy, goals, and accountability measures. The ~~workforce development council~~ Workforce Development Council shall provide administrative support. The ~~executive committee~~ Executive Committee shall assist the leader. The duties of the leader include all the following:

(1) developing ~~a limited number of~~ overarching goals and ~~challenging~~ measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding from the Next Generation ~~fund~~ Fund. The reports shall be submitted on a schedule determined by the ~~executive committee~~ Executive Committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the ~~committee~~ Committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the ~~governor~~ Governor and the ~~general assembly~~ General Assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of ~~next generation~~ Next Generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; ~~and~~

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private; and

(7) preparing a strategic plan for workforce development in Vermont:

(A) in preparing the strategic plan pursuant to this subdivision, the Commissioner shall consider the Farm to Plate Initiative, as set forth in 10 V.S.A. § 330, as a model for the design and implementation of a planning process that is:

(i) strategic, comprehensive, and systems-based;

(ii) forward-looking, with a ten-year planning horizon;

(iii) informed and driven by performance metrics;

(iv) built on a foundation of broad stakeholder engagement that is:

(I) primarily constituent-driven, whereby those who use the services administered by the various workforce development education and training programs shall be consulted in order to define and understand their

workforce and training needs;

(II) secondarily administrator-driven, whereby those who administer the various workforce development education and training programs are responsible for identifying, developing, and implementing the forward-looking, long-term initiatives required to meet Vermont's workforce development needs;

(B) the strategic plan adopted by the Commissioner shall:

(i) identify the components of Vermont's labor market and workforce trends based upon existing data, studies, and analysis;

(ii) identify current and future workforce skill requirements; and

(iii) identify and determine the effectiveness of existing state workforce development and training resources;

(iv) identify gaps between the public, nonprofit, and private workforce development programs and Vermont's workforce development needs and propose measures to bridge these gaps;

(C) the Commissioner shall:

(i) use the information gathered from the strategic plan on an ongoing basis to identify methods and funding necessary to strengthen the link among the Vermont workforce and public, nonprofit, and private workforce development programs; and

(ii) coordinate with the State Auditor of Accounts to develop measurable benchmarks to assess the performance of the State's workforce development programs.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Michele Ferland Kupersmith
Rep. Michael J. Marcotte
Rep. Samuel R. Young

Committee on the part of the House

Sen. Christopher A. Bray
Sen. William T. Doyle
Sen. Donald Collins

Committee on the part of the Senate