

Sec. B.1100 FISCAL YEAR 2011 NEXT GENERATION APPROPRIATION AND TRANSFERS

(a) In fiscal year 2011, \$4,793,000 is appropriated or transferred from the next generation initiative fund, created in 16 V.S.A. § 2887, as prescribed below:

(1) Workforce development: \$2,063,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,415,500 is transferred to the Vermont workforce education and training fund and subsequently appropriated to the department of labor, for workforce development. Up to seven percent of the funds may be used for administration of the program.

(B) Adult Technical Education Programs. The amount of \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults. Centers receiving funding shall provide to the department the social security number of each individual who has completed a training program within 30 days of the completion of the program. The department shall include the Adult Education Program in the table required by Section 6(b) of No. 46 of the Acts of 2007 as added by Section 8 of No. 54 of the Acts of 2009.

(C) UVM Technology Transfer Program. The amount of \$118,750 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(D) Vermont center for emerging technologies. The amount of \$118,750 is appropriated to the agency of commerce and community development for a grant to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont.

(2) Loan repayment: The sum of \$300,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants: \$2,429,500 as follows:

(A) Non-degree VSAC Grants. The amount of \$494,500 is appropriated to the Vermont student assistance corporation. These funds shall be for the purpose of providing non-degree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult-technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of these funds shall be used for administrative overhead.

(B) The sum of \$150,000 is appropriated to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

(C) Scholarships. The sum of \$1,500,000 is appropriated to the University of Vermont, the Vermont State Colleges and the Vermont Student Assistance Corporation for need-based scholarships to Vermont residents. These funds shall be divided equally among the University of Vermont, the Vermont State Colleges and the Vermont Student Assistance Corporation. The Vermont Student Assistance Corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont State Colleges. None of these funds shall be used for administrative overhead.

(D) Dual Enrollment Programs. The sum of \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

**EXPLANATION:** Consolidates the Next Generation activity under one section of the bill and adds back \$1.5M of need-based scholarships that was eliminated in FY 2010 from the Next Generation language but subsequently provided in 2009 Special Session Act 2 Sec. 25. The Department of Labor added language under the Adult Technical Education section to improve tech center accountability and the department's reporting of program performance measurements.

Sec. B.1101 FISCAL YEAR 2011 BASE REDUCTIONS

(a) In fiscal year 2011, the following amounts are reduced from appropriations:

(1) Labor contract savings due to negotiated contract. The secretary of administration is authorized to reduce FY 2011 appropriations consistent with these contract savings:

<u>General fund</u>	<u>\$5,548,030</u>
<u>(2) Adjustment to teachers' retirement. General fund</u>	<u>\$20,545,613</u>
<u>(3) Adjustment to state employees' retirement.</u>	
<u>General fund</u>	<u>\$ 4,442,759</u>
<u>(4) Challenges for Change (Public Strategies Group)</u>	
<u>General fund</u>	<u>\$37,880,000</u>
<u>Education fund</u>	<u>\$11,270,000</u>

**EXPLANATION:** (1) Labor contract savings due to negotiated contract. (2) and (3) The General Assembly established the Commission on the Design and Funding of Retirement and Retiree Health Benefits Plans for State Employees and Teachers to analyze Vermont State employees' and teachers' pension plans, as well as retiree health benefits. The budget advances the Commission's recommendation which will save the General Fund approximately \$25 million in fiscal year 2011. (4) This reflects the agreement between legislative leaders and the Administration to identify General Fund and Education fund sustainable savings through "Challenges for Change" as described in the Steering Team report to the Joint Legislative Government Accountability Committee.

Sec. B.1102 FISCAL YEAR 2011 CONTRACT IMPLEMENTATION

(a) There is appropriated to the secretary of administration for contract non-salary items, to be transferred to departments as the secretary may determine to be necessary:

<u>General fund</u>	<u>\$ 556,500</u>
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**EXPLANATION:** For the non-salary portion of the FY 2011 VSEA contract: dependent care, tuition, contract implementation. The amount is the same as in FY 2010.

Sec. B.1103 FISCAL YEAR 2011 ONE TIME APPROPRIATIONS

(a) In fiscal year 2011, the following amounts are appropriated:

(1) To the secretary of administration for the 27<sup>th</sup> payday in FY 2011, to be transferred to departments as the secretary may determine to be necessary:

<u>General fund</u>	<u>\$9,485,885</u>
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Transportation fund \$2,288,340

(2) To the department of finance and management, for the Governor's transition. These funds are for costs incurred by the transitions of the executive office. No funds shall be used for inaugural celebrations. Any unexpended portion of these funds shall revert to the general fund.

General fund \$ 75,000

(3) To the secretary of state for the 2010 elections. General fund \$ 610,000

(4) To ACCD for communities to utilize the sales tax reallocation in fiscal year 2011, pursuant to Sec. E.803.1 of this act – general fund

\$ 600,000

(5) To the department of corrections for the corrections audit required by 2009 Act 1 Sec. 49.

General fund \$ 400,000

(6) To the military department, division of veterans' affairs for Supplemental Assistance to Survivors (Deptid 2150890501) to be used in accordance with the guidelines as set forth in Sec. 72b of No. 66 of the Acts of 2003, as amended by Sec. 16 of No. 80 and Sec. 72 of No. 122 of 2004.

General fund \$ 30,000

(7) To the department of finance and management for ARRA audits

General fund \$ 351,000

(b) In fiscal year 2011, the following amount is appropriated to the secretary of administration (DeptID 1100020000) from the American Recovery and Reinvestment Act: State Fiscal Stabilization Fund to be transferred and expended in Sec. B.505 – adjusted education payment:

\$38,575,036.

**EXPLANATION:** Subsection (a): (1) Because the bi-weekly payroll payment schedule does not coincide with the length of a fiscal year, approximately every decade a 27<sup>th</sup> payroll must be paid. Funding for this 27<sup>th</sup> payday is appropriated separately so that it does not become part of Departments' base budgets. (2) The Governor-elect's costs between the November election and the January swearing-in will be paid out of this appropriation. Ensures that none of the general funds provided for the executive transition are used for inaugural purposes and that any unused funds revert to the general fund. This is the same language used in 2002 Act 142 Section 46(a). (3) Estimated cost of administering the 2010 elections. (4) Allows an additional \$600,000 for communities to utilize the sales tax reallocation for FY 2011, pursuant to Sec. 803.1 of this act. (5) This is to pay for audit of the state's sexual abuse response system mandated in 2009 Act 1 Sec. 49. (6) Financial assistance to families of members of the Vermont National Guard and Reserve on active duty. This appropriation is a continuation of the funding recommended in Sec. 64 of the Administration's proposed FY 2010 Budget Adjustment. (7) To the department of finance and management for additional costs of audits related to ARRA funding. Subsection (b): Distributes the ARRA State Fiscal Stabilization Funds to Education – adjusted education payment.

#### Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$233,000 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$233,000 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$6,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above \$6,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The \$3,449,427 shall be allocated as follows:

(A) \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) \$408,700 to the Vermont center for geographic information.

**EXPLANATION:** The appropriation to the Tax Department for administration of the use tax reimbursement program is capped at the 1% permitted in statute. The other recipients of property transfer tax are level-funded at FY 2010 as-passed levels.

#### Sec. D.101 FUND TRANSFERS

(a) The following amounts are transferred from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. Sec. 902a: \$750,000.

**EXPLANATION:** To provide funding for the Vt Telecommunications Authority, appropriated in the Department of Information and Innovation – communications and information technology.

(B) next generation initiative fund established by 16 V.S.A. Sec. 2887: \$4,793,000.

**EXPLANATION:** Adds \$1.5M of Next Generation funding to the FY 2010 level. The funds will be used by UVM, VSC and VSAC to provide \$500K of scholarships each. This funding was provided in FY 2010 through 2009 special Session Act 2 Sec. 25.

(C) petroleum cleanup fund established by 10 V.S.A. Sec.1941: \$500,000.

**EXPLANATION:** Adds \$500K to compensate for recession-related lower revenues as well as needs that have increased over historical levels.

(2) from the transportation fund to the downtown transportation and related capital improvement fund established by 24 V.S.A. § 2796 to be used by the Vermont downtown development board for the purposes of the fund: \$400,000.

**EXPLANATION:** Transportation Fund transfer to the Downtown Transportation and Related Capital Improvement Fund; same amount as in FY 2010.

#### Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. Sec. 9502(b), the actual balances at the end of fiscal year 2010 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2011.

**EXPLANATION:** Transfer of Tobacco Litigation Settlement Fund balances to be used for

providing health care assistance under the Global Commitment Fund, instead of statutory transfer to the Tobacco Trust Fund. Same language as last year.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. Sec. 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2011 shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2011.

**EXPLANATION:** Transfer of Tobacco Trust Fund interest amounts, to be used for providing health care assistance under the Global Commitment Fund. Same language as last year.

Sec. D.104 EDUCATION MEDICAID RECEIPTS IN FISCAL YEAR 2011

(a) Notwithstanding 16 V.S.A. Sec. 2959a(g), during fiscal year 2011, after the application of subsections (a) through (f), any remaining Medicaid reimbursement funds shall be deposited in the general fund.

**EXPLANATION:** Consistent with legislative action last year.

Sec. D.105 GROSS RECEIPTS TAX IN FISCAL YEAR 2011

(a) In fiscal year 2011, notwithstanding 33 V.S.A. Sec. 2503(c), the first \$2,000,000 of gross receipts tax revenue shall be deposited in the general fund.

**EXPLANATION:** Consistent with legislative action last year.

Sec. D.106 HUMAN SERVICES CASELOAD RESERVE

(a) Notwithstanding 32 V.S.A. Secs. 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, any additional unreserved and undesignated general fund balance shall be deposited in the human services caseload reserve created by 32 V.S.A. Sec. 308b.

**EXPLANATION:** To begin replenishment of the Human Services Caseload Reserve.

Sec. D.107 AMERICAN RECOVERY AND REINVESTMENT ACT:  
STATE FISCAL STABILIZATION FUND PROGRAM FOR THE SUPPORT OF  
PUBLIC ELEMENTARY, SECONDARY, AND HIGHER EDUCATION

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the act and this section. \$38,575,036, which is one-half of Vermont's SFSF, funds is available to school districts as part of the funding of the state's adjusted education payment under Sec. B.505 of this act.

(b) The commissioner of education shall ensure that federal reporting is carried out as to:

(1) the use of funds provided under the SFSF program;

(2) the estimated number of jobs created or saved with program funds;

(3) estimated tax increases that were averted as a result of program funds;

(4) the state's progress in the areas covered by the application assurances; and  
(5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the state fiscal stabilization fund.

**EXPLANATION:** Authorizes the Governor to submit the application required to receive Vermont's ARRA State Fiscal Stabilization Funds for education in FY11.

\* \* \* GENERAL GOVERNMENT \* \* \*

Sec. E.100 Secretary of administration – secretary's office (Sec. B.100, #1100010000)  
(a) The secretary of administration shall use the Global Commitment funds appropriated in this section for the Vermont Blueprint for Health chronic care initiative director.

**EXPLANATION:** Makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.101 Information and innovation - communications and information technology (Sec. B.101, #1105500000)  
(a) Of this appropriation, \$750,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. Sec. 8061.

**EXPLANATION:** The Vermont Telecommunications Authority was established to bring about universal cellular and broadband coverage in Vermont through bonding and leveraging private investment.

Sec. E.103 Finance and management – financial operations (Sec. B.103, #1115001000)  
(a) Pursuant to 32 V.S.A. Sec. 307(e), financial management fund charges not to exceed \$6,266,531 less the costs of fiscal year 2011 salary adjustments bargained as part of the state/VSEA agreement are hereby approved. Of this amount, \$3,239,764 less the costs of fiscal year 2011 salary adjustments bargained as part of the state/VSEA agreement shall be used to support the HCM system that is operated by the department of information and innovation.

**EXPLANATION:** Establishes the maximum amount financial operations may bill other departments for VISION proprietary fund charges and the portion payable to the Department of Information & Innovation for managing the HCM system. Standard language.

Sec. E.109 Buildings and general services - engineering (Sec. B.109, #1150300000)  
(a) The \$2,465,785 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in the Capital Appropriations Act of the 2010 session.

**EXPLANATION:** Explains that the engineering division of BGS will be funded through an interdepartmental transfer of capital bond funds as appropriated in the capital bill.

Sec. E.118 Buildings and general services – workers' compensation insurance (Sec. B.118,

#1160450000)

(a) Pursuant to 32 V.S.A. Sec. 307(e), workers' compensation fund charges not to exceed \$9,800,000 are hereby approved.

**EXPLANATION:** Establishes the maximum amount of Workers' Compensation charges that may be billed out to state entities. Standard language.

Sec. E.121 Buildings and general services – fee-for-space (Sec. B.121, #1160550000)

(a) Pursuant to 29 V.S.A. Sec. 160a(b)(3), facilities operations fund charges not to exceed \$27,244,521 less the costs of fiscal year 2011 salary adjustments bargained as part of the state/VSEA agreement are hereby approved.

**EXPLANATION:** Establishes the maximum amount of Fee-For-Space charges that may be billed out to state entities. Standard language.

Sec. E.131 State treasurer (Sec. B.131, #1260010000)

(a) Of this general fund appropriation, \$16,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. Sec. 2541.

**EXPLANATION:** Deposit to the Armed Services Scholarship Fund will leave \$40,000 available for FY 2011 demand.

Sec. E.133 Vermont state retirement system (Sec. B.133, #1265020000):

(a) Notwithstanding 3 V.S.A. Sec. 473(d), in fiscal year 2011, investment fees shall be paid from the corpus of the fund.

**EXPLANATION:** Same as in FY 2010, this language allows investment fees to be paid from the corpus of the fund, instead of from the FY 2011 state contribution charged to the Departments of state government.

Sec. E.139 16 V.S.A. Sec. 4025(c) is amended to read:

(c) An equalization and reappraisal account is established within the education fund. Moneys from this account are to be used by the division of property valuation and review to assist towns with maintenance or reappraisal on a case-by-case basis; and for reappraisal and grand list maintenance assistance payments pursuant to ~~section~~ sections 4041a and 5405(f) of Title 32.

**EXPLANATION:** Amends the language to reference both sections of codified law pertaining to the equalization and reappraisal account. This eliminates the need to repeat the annual session law language, and updates the law for current practice.

Sec. E.141 Lottery commission (Sec. B.141, #2310010000)

(a) Of this appropriation, the lottery commission shall transfer \$150,000 to the department of health, office of alcohol and drug abuse programs to support the gambling addiction program.

(b) The Vermont state lottery shall provide assistance and work with the Vermont council on problem

gambling on systems and program development.

**EXPLANATION:** Same provisions as in fiscal year 2010.

Sec. E.142 Payments in lieu of taxes (Sec. B.142, #1140020000)

(a) This appropriation is for state payments in lieu of property taxes under subchapter 4 of chapter 123 of Title 32, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

**EXPLANATION:** Clarifies that these payments are in addition to and separate from those appropriated elsewhere in the bill for the city of Montpelier and correctional facilities. Standard language.

Sec. E.143 Payments in lieu of taxes - Montpelier (Sec. B.143, #1150800000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. Sec. 3709.

**EXPLANATION:** Clarifies that the Montpelier PILOT payment is to come from the PILOT special fund.

Sec. E.144 Payments in lieu of taxes – correctional facilities (Sec. B.144, #1140030000)

(a) Payments in lieu of taxes under this section shall be paid from the pilot special fund under 32 V.S.A. Sec. 3709.

**EXPLANATION:** Clarifies that the correctional facilities payment is to come from the PILOT special fund.

\* \* \* PROTECTION TO PERSONS AND PROPERTY \* \* \*

Sec. E.200 Attorney general (Sec. B.200, #2100001000)

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud control unit is authorized to retain one-half of any civil monetary penalty proceeds from global Medicaid fraud settlements. All penalty funds retained shall be used to finance Medicaid fraud and residential abuse unit activities.

(b) Notwithstanding any other provisions of law, the office of the attorney general is authorized to deposit the first \$510,000 in receipts from attorney general court ordered fees and reimbursements into special fund #21638 (fee and reimbursement-court ordered special fund). Any additional receipts from these sources in FY 2011 shall be deposited into the general fund.

**EXPLANATION:** (a) Allows for ½ of civil penalty in Medicaid Fraud cases to go to the Attorney General, whose office prosecutes these cases. This helps cover the cost of this section of the Attorney General's Office. Standard language. (b) Allows for some court ordered fees and reimbursement receipts to be used in the base budget for the AG. Any additional fee and reimbursement funds will go to the General Fund.

Sec. E.209 Public safety - state police (Sec. B.209, #2140010000)

(a) Of this appropriation, \$32,000 shall be used to make a grant to the Essex County sheriff's department for law enforcement purposes.

(b) Of this appropriation, \$35,000 in special funds shall be available for snowmobile law enforcement activities and \$35,000 in general funds shall be available to the southern Vermont wilderness search and rescue team, which comprises state police, the department of fish and wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(c) Of the \$255,000 allocated for local heroin interdiction grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund three town task force officers. These town task force officers will be dedicated to heroin and heroin-related drug (e.g., methadone, oxycontin, crack cocaine, and methamphetamine) enforcement efforts. Any additional available funds shall remain as a "pool" available to local and county law enforcement to fund overtime costs associated with heroin investigations. Any unexpended funds from prior fiscal years' allocations for local heroin interdiction shall be carried forward.

**EXPLANATION:** Same as FY 2010

Sec. E.212 Public safety - fire safety (Sec. B.212, #2140040000)

(a) Of this general fund appropriation, \$55,000 shall be granted to the Vermont rural fire protection task force for the purpose of designing dry hydrants.

**EXPLANATION:** Same as FY 2010.

Sec. E.214 Public safety - emergency management - radiological emergency response plan (Sec. B.214, #2140080000)

(a) Of this special fund appropriation, up to \$30,000 shall be available to contract with any radio station serving the emergency planning zone for the emergency alert system.

**EXPLANATION:** Same as FY 2010.

Sec. E.215 Military – administration (Sec. B.215, #2150010000)

(a) Of this appropriation, \$100,000 shall be disbursed to the Vermont student assistance corporation for the national guard educational assistance program established in 16 V.S.A. Sec. 2856.

**EXPLANATION:** Same as FY 2010.

Sec. E.219 Military - veterans' affairs (Sec. B.219, #2150050000):

(a) Of this appropriation, \$5,000 shall be used for continuation of the Vermont medal program, \$4,800 shall be used for the expenses of the governor's veterans' advisory council, \$7,500 shall be granted to the green mountain council of the boy scouts of America to be used for the Veterans' Day parade, \$5,000 shall be granted to the Vermont state council of the Vietnam Veterans of America to fund the service officer program, and \$5,000 shall be used for the military, family and

community network.

**EXPLANATION:** Continued support for Veterans' Affairs programs.

Sec. E.220 Center for crime victim services (Sec. B.220, #2160010000)

(a) Of this appropriation, the amount of \$883,000.00 from the victims' compensation fund created by 13 V.S.A. Sec. 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised in fiscal year 2011 from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of 2008 applied to the assessment in 13 V.S.A. Sec. 7282(a)(8)(B), and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of 2008 applied to the fee in 32 V.S.A. Sec. 1712(1).

**EXPLANATION:** This provision is included because the dedicated revenue stream may be less than forecast and in that case the amount spent on these activities will be reduced to match actual revenues.

Sec. E.233 Banking, insurance, securities and health care administration – health care administration (Sec. B.233, #2210040000)

(a) The department of banking, insurance, securities and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of funding certain health care-related BISHCA programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

**EXPLANATION:** Makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.234 Secretary of state (Sec. B.234, #2230010000)

(a) Of this special fund appropriation, \$492,991 represents the corporation division of the secretary of state's office, and these funds shall be from the securities regulation and supervision fund in accordance with 9 V.S.A. Sec. 5613.

**EXPLANATION:** Establishes the amount to be transferred in FY 2011 to fund the corporation division from the securities regulation and supervision fund, as authorized by 9 VSA Sec 5613.

\* \* \* HUMAN SERVICES \* \* \*

Sec. E.301 Secretary's office – Global Commitment (Sec. B.301, #3400004000)

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the office of Vermont health access as provided for in the Global Commitment for Health Waiver ("Global Commitment") approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$33,358,229 is anticipated to be certified as state matching funds under the Global Commitment as

follows:

(1) \$14,444,983 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$26,055,017 of federal funds appropriated in Sec. B.301 equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. Sec. 2959a.

(2) \$8,956,247 certified state match available from local education agencies for direct school-based health services, including school nurse services, that increases the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$2,069,402 certified state match available from local education agencies for eligible services as allowed by Federal regulation for early periodic screening, diagnosis and treatment programs for school-aged children.

(4) \$2,229,835 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

(5) \$637,564 certified state match available via the University of Vermont's child health improvement program for expanded quality improvement initiatives for the Medicaid program.

(6) \$5,020,198 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

**EXPLANATION:** Language to establish certified state fund match as defined in the Global Commitment waiver.

Sec. E.301.1      **RETAINING ENHANCED FEDERAL MEDICAL ASSISTANCE  
PERCENTAGE (FMAP)**

(a) Notwithstanding 16 V.S.A. Sec. 2959a, to the extent possible, any additional federal funds received as a result of an enhanced FMAP (Federal Medical Assistance Percentage) that are associated with the certified expenditures specified in subdivisions (b)(1) through (6) of Sec. E.301 of this act shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

**EXPLANATION:** Language to allow ARRA funds generated due to enhanced match for certified state match funds be transferred to the Global Commitment Fund to help stabilize resources in the fund.

Sec. E.308      **FISCAL YEAR 2011 NURSING HOME INFLATION**

Notwithstanding any other provisions of law, for state fiscal year 2011, the division of rate setting shall modify its methodology for calculating Medicaid rates for nursing homes as follows.

(a) Inflation. For state fiscal year 2011 rate setting, the division shall calculate the incremental inflation amount between state fiscal years 2010 and 2011 for the nursing care, director of nursing, resident care and indirect cost categories and shall add that incremental amount to the inflation percentages used in state fiscal year 2010 rate setting, which limited inflation from the relevant base year for each cost category halfway through state fiscal year 2009.

(b) Case-mix weights. For state fiscal year 2011, the division shall decrease by one-half the case-mix weights for the following resource utilization groups: Impaired Cognition A (IA1),

Challenging Behavior A (BA1), Reduced Physical Functioning A 2 (PA2) and Reduced Physical Functioning A 1 (PA1).

**EXPLANATION:** Language to implement the changes needed to meet the FY 2011 budget request. Adjusting factors are identified.

Sec. E.309 8 V.S.A. Sec. 4080f(c)(1) is amended to read:

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

(A) a ~~\$250.00~~ \$1,200.00 deductible for an individual and a ~~\$500.00~~ \$2,400.00 deductible for a family for health services received in network, and a ~~\$500.00~~ \$2,400.00 deductible for an individual and a ~~\$1,000.00~~ \$4,800.00 deductible for a family for health services received out of network;

(B) 20 percent co-insurance, in and out of network;

(C) a ~~\$10.00~~ \$25.00 office co-payment;

(D) prescription drug coverage without a deductible, \$10.00 co-payments for generic drugs, ~~\$30.00~~ \$35.00 co-payments for drugs on the preferred drug list, and ~~\$50.00~~ \$55.00 co-payments for nonpreferred drugs;

(E) out-of-pocket maximums of ~~\$800.00~~ \$1,750.00 for an individual and ~~\$1,600.00~~ \$3,600.00 for a family for in-network services and ~~\$1,500.00~~ \$3,400.00 for an individual and ~~\$3,000.00~~ \$6,800.00 for a family for out-of-network services; and

(F) a waiver of the deductible and other cost-sharing payments for chronic care for individuals participating in chronic care management and for preventive care.

**EXPLANATION:** Proposed changes necessary to ensure future sustainability of the Catamount program.

Sec. E.309.1 33 V.S.A. Sec. 1974(c)(4) is amended to read:

(c)(4) In consultation with the department of banking, insurance, securities, and health care administration, the agency shall develop criteria for approving employer-sponsored health insurance plans to ensure the plans provide comprehensive and affordable health insurance when combined with the assistance under this section. At minimum, an approved employer-sponsored insurance plan shall include:

(A) deductible and covered benefits to be substantially similar, as determined by the agency, to the deductible and benefits covered under Catamount Health; and

(B)(i) until January 1, 2009 or when statewide participation in the Vermont blueprint for health is achieved, appropriate coverage of chronic conditions in a manner consistent with statewide participation by health insurers in the Vermont blueprint for health, and in accordance with the standards established in section 702 of Title 18;

(ii) after statewide participation is achieved, coverage of chronic conditions substantially similar to Catamount Health.

**EXPLANATION:** Proposed changes necessary to ensure future sustainability of the Catamount program.

Sec. E.309.2 21 V.S.A. Sec. 2003(b) is amended to read:

(b) For any quarter in fiscal years 2007 and 2008, the amount of the 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 contribution shall be adjusted by a percentage equal to any percentage change in premiums for Catamount Health for that fiscal year. However, to the extent Catamount Health premiums decrease due to changes in benefit design or deductible amounts, the health care fund contribution will not be decreased by the percentage change attributable to the benefit or deductible changes.

**EXPLANATION:** Proposed changes necessary to ensure future sustainability of the Catamount program.

Sec. E.309.3 33 V.S.A. Sec. 1984(b) is amended to read:

(b) The agency of administration or designee shall establish individual and family contribution amounts for Catamount Health under this subchapter based on the individual contributions established in subsection (c) of this section and shall index the contributions annually to the overall growth in spending per enrollee in Catamount Health as established in section 4080f of Title 8. However, if spending per Catamount Health enrollee decreases as a result of changes in benefit design or deductible amounts, contributions will not be decreased by the percentage attributable to the benefit design or deductible amount changes. The agency shall establish family contributions by income bracket based on the individual contribution amount and the average family size.

**EXPLANATION:** Proposed changes necessary to ensure future sustainability of the Catamount program.

Sec E.309.4 33 V.S.A. Sec. 1973(g) is added to read:

(g) The agency shall establish per individual premiums for the VHAP Uninsured program for the following brackets of income for the VHAP group as a percentage of federal poverty level (FPL):

(1) Income greater than 50 percent and less than or equal to 75 percent of FPL: \$12.00 per month.

(2) Income greater than 75 percent and less than or equal to 100 percent of FPL: \$39.00 per month.

(3) Income greater than 100 percent and less than or equal to 150 percent of FPL: \$50.00 per month.

(4) Income greater than 150 percent and less than or equal to 185 percent of FPL: \$75.00 per month.

**EXPLANATION:** Language to add VHAP premiums to V.S.A. and increase cost sharing for VHAP participants.

Sec. E.309.5 33 V.S.A. Sec. 2082 is added to read:

Sec.2082 Premiums for the Dr. Dynasaur and SCHIP programs

(1) The agency shall establish premiums for individuals eligible for Dr. Dynasaur under the federal Medicaid and SCHIP programs to require beneficiary households to pay a monthly premium based on the following:

(A) for individuals living in households whose incomes are greater than 225 percent of FPL and less than or equal to 300 percent of FPL, and who have no other insurance coverage: \$80.00 per household per month.

(B) for individuals living in households whose incomes are greater than 225 percent of FPL and less than or equal to 300 percent of FPL, and who have other insurance coverage: \$40.00 per household per month.

(C) for individuals living in households whose incomes are greater than 185 percent of FPL and less than or equal to 225 percent of FPL: \$30.00 per household per month.

**EXPLANATION:** Language to add Dr. Dynasaur and SCHIP premiums to V.S.A. and increase cost sharing for Dr. Dynasaur and SCHIP participants.

Sec E.309.6 33 V.S.A. Sec. 2073(d)(2) is amended to read:

(2) An individual shall contribute the following base cost-sharing amounts which shall be indexed to the increases established under 42 C.F.R. Sec. 423.104(d)(5)(iv) and then rounded to the nearest dollar amount:

(A) In the case of recipients whose household income is no greater than 150 percent of the federal poverty level, such premium shall be ~~\$17.00~~ \$20.00 per month.

(B) In the case of recipients whose household income is greater than 150 percent of the federal poverty level and no greater than 175 percent of the federal poverty level, the premium shall be ~~\$23.00~~ \$25.00 per month.

(C) In the case of recipients whose household income is greater than 175 percent of the federal poverty level and no greater than 225 percent of the federal poverty level, the premium shall be ~~\$50.00~~ \$60.00 per month.

**EXPLANATION:** Language to increase cost sharing for VPHARM participants by amending V.S.A. to continue the program.

Sec. E.309.7 33 V.S.A. Sec. 2074(c) is amended to read:

(c) Benefits under VermontRx shall be subject to payment of a premium and co-payment amounts by the recipient in accordance with the provisions of this section.

(1) In the case of recipients whose household income is no greater than 150 percent of the federal poverty level, the premium shall be ~~\$17.00~~ \$20.00 per month.

(2) In the case of recipients whose household income is greater than 150 percent of the federal poverty level and no greater than 175 percent of the federal poverty level, the premium shall be ~~\$23.00~~ \$25.00 per month.

(3) In the case of recipients whose household income is greater than 175 percent of the federal poverty level and no greater than 225 percent of the federal poverty level, the premium shall be ~~\$50.00~~ \$60.00 per month.

\* \* \*

**EXPLANATION:** Language to increase cost sharing for VT Rx participants by amending V.S.A. to continue the program.

Sec. E.309.8 33 V.S.A Sec. 1984(c)(1) is amended to read:

(c)(1) For the lowest cost plan, an individual's base contribution shall be:

(A) ~~Income less than or equal to 175~~ 150 percent of FPL: ~~\$60.00 per month beginning July 1, 2010; \$71.00 per month beginning January 1, 2011; and \$73.00 per month beginning April 1, 2011.~~

(B) ~~Income greater than 175~~ 150 percent and less than or equal to 200 percent of FPL: ~~\$65.00~~ \$60.00 per month beginning July 1, 2010; \$71.00 per month beginning January 1, 2011; and \$73.00 per month beginning April 1, 2011.

(C) ~~Income greater than 200 percent and less than or equal to 225 percent of FPL: \$110.00~~ \$127.00 per month beginning July 1, 2010; \$129.00 per month beginning October 1, 2010; \$132.00 per month beginning January 1, 2011; and \$134.00 per month beginning April 1, 2011.

(D) ~~Income greater than 225 percent and less than or equal to 250 percent of FPL: \$135.00~~ \$155.00 per month beginning July 1, 2010; \$158.00 per month beginning October 1, 2010; \$161.00 per month beginning July 1, 2011; and \$165.00 per month beginning April 1, 2011.

(E) ~~Income greater than 250 percent and less than or equal to 275 percent of FPL: \$160.00~~ \$184.00 per month beginning July 1, 2010; \$188.00 per month beginning October 1, 2010; \$191.00 per month beginning January 1, 2011; and \$195.00 per month beginning April 1, 2010.

(F) ~~Income greater than 275 percent and less than or equal to 300 percent of FPL: \$185.00~~ \$213.00 per month beginning July 1, 2010; \$217.00 per month beginning October 1, 2010; \$221.00 per month beginning January 1, 2011; and \$225.00 per month beginning April 1, 2011.

(G) ~~Income greater than 300 percent of FPL: the actual cost of Catamount Health.~~

(H) The premiums identified in subdivisions (A) – (F) of this subdivision are estimates and the actual premiums may change per subsection (b) of this section.

**EXPLANATION:** Language to increase cost sharing for the Catamount and Employer Sponsored Insurance Assistance (ESIA) participants by amending V.S.A.

Sec. E.309.9 EXPEDITED RULEMAKING FOR PREMIUM INCREASES AND CHANGES IN COVERAGE

(a) In order to administer the provisions of this act relating to premium increases for VHAP, Dr. Dynasaur and SCHIP, VPharm, Vermont-Rx, Catamount Health with premium assistance programs; capping the annual number of covered visits for physical therapy, occupational therapy, speech therapy, emergency room services; capping the monthly number of drug tests; implementing prior-authorization for radiological services; changing the Catamount Health benefit package and reducing the cap on adult dental services in a timely fashion, notwithstanding the provisions of 3 V.S.A. chapter 25, the agency of human services shall adopt rules pursuant to the following:

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

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

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

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

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

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

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

**EXPLANATION:** Language to allow OVHA to file rules for program reductions effective July 1, 2010.

Sec. E.313 Health - alcohol and drug abuse programs (Sec. B.313, #3420060000)

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

**EXPLANATION:** Language carried forward from last year. The language affirms the department's policy for utilization of ADAP's preferred provider network. The more efficient use of the system allows the department to serve more applicants.

Sec. E.317 FISCAL YEAR 2011 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2011, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing

residential child care services as follows.

(b) General rule. The division of rate setting shall calculate PNMI per diem rates for state fiscal year 2011 as 97 percent of each program's final per diem rate in effect on June 30, 2010. These rates shall be issued as final.

(c) Reporting requirements.

(1) Providers are required to submit annual audited financial statements to the division within thirty days of receipt from the certified public accountant, but no later than four months following the end of each provider's fiscal year.

(2) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2011.

(d) Exception to the general rule. For programs categorized by the placement authorizing departments (PADs) as crisis/stabilization programs with typical lengths of stay from 0 – 10 days, final rates for state fiscal year 2011 are set retroactively as follows:

(1) The allowable budget is 97 percent of the final approved budget for the rate year which includes June 30, 2010. The monthly allowable budget is the allowable budget divided by 12.

(2) Within five days of the end of each month in state fiscal year 2011, the program will submit the prior month's census to the division of rate setting. The per diem rate will be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(e) Recovery of revenues. In applying section 4.17(e) of the PNMI rate setting rules, recovery of revenues in excess of program budget, the division will first offset any applied revenue from the final approved budget for the rate year which includes June 30, 2010. The division will then multiply the remainder amount by 97 percent to determine the allowable budget for state fiscal year 2011. The division shall divide the 2011 allowable budget amount by the occupancy level applicable to the state fiscal year 2010 rate to determine the final state fiscal year 2011 rate.

(f) Adjustments to rates. Rate adjustment applications may not be used as a tool to circumvent the rate setting process for state fiscal year 2011 in order to submit a new budget for the entire program or for the sole reason that actual costs incurred by the facility exceed the rate of payment.

(1) The following provisions amend section 8 of the PNMI rules regarding adjustments to rates for state fiscal year 2011.

(A) Approved section 8 rate adjustment amounts, excluding financial relief, shall be reduced by 3 percent.

(B) The three-month waiting period of section 8.1(b) for the submission of a rate adjustment application is waived.

(C) In rate adjustment applications, the division will only consider budget information specific to the program change and limited to direct program costs. Providers may not apply for increases to costs that are part of the current program and rate structure before the program change.

(D) In its findings and order, the division may elect to use financial information from prior approved budget submissions to determine allowable costs related to the program change.

(E) The materiality test in section 8.1(c) is waived for changes to rates based on a change in licensed capacity.

(F) The effective date for approved rate adjustments based on a change in licensed capacity is the effective date of the change in licensed capacity.

(2) Adjustments to rates based on changes in licensed capacity. Programs that increase or decrease licensed capacity in state fiscal year 2011 shall provide prior written notification to the division of the change in licensed capacity.

(A) Decreased licensed capacity. In the case of programs that decrease licensed

capacity in state fiscal year 2011, programs must have prior written approval from the PADs before applying to the division for an adjustment to the state fiscal year 2011 per diem rate.

(i) The allowable budget amount for state fiscal year 2011 may be no more than 97 percent of the final approved budget for the rate year which includes June 30, 2010.

(ii) In its application for a rate adjustment, a program must provide to the division financial and staffing information directly related to the decrease in licensed capacity.

(iii) In its findings and order, the division shall reduce the allowable budget amount by any decreased costs directly related to the change in licensed capacity.

(iv) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

(B) Increased licensed capacity. In the case of programs that increase licensed capacity in state fiscal year 2011, the division shall automatically adjust the program's rate as follows.

(i) The initial allowable budget is 97 percent of the final approved budget amount for the rate year that includes June 30, 2010.

(ii) With prior written approval from the PADs, programs may apply to the division for an adjustment to the allowable budget for costs directly related to the program change.

(iii) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

**EXPLANATION:** Language to authorize exceptions to current PNMI rules for FY 2011. The lower rates are consistent with the overall budget proposal to reduce grants to providers by 3%.

Sec. E.317.1 4 V.S.A. Sec. 461(a) is amended to read:

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

\* \* \*

(3) ~~Child support in Proceedings to determine parentage and establish child support in parentage cases after parentage has been determined.~~

(4) Cases arising under section ~~5533~~ 5116 of Title 33, when delegated by the family court.

\* \* \*

(6) Proceedings to establish, modify or enforce temporary parental rights and responsibilities or parent-child contact orders or to modify or enforce final parent-child contact orders issued pursuant to this title.

**EXPLANATION:** Language to improve the efficiency of processing non-contested parentage establishment. Currently, a state representative must be present at every Family Court hearing concerning the establishment of parentage. The proposed change in VSA will allow the court to accept uncontested statements in the establishment of parentage, child support, and to issue an order.

Sec. E.321 Department for children and families – general assistance (Sec. B.321, #3440060000)

(a) Commencing July 1, 2010, the commissioner is authorized to establish a cap on death benefits paid for at public expense not to exceed \$1,200 per individual.

**EXPLANATION:** DCF is proposing to cap state costs for death benefits at \$1,200 per individual. Approximately, 2/3 of the individuals receiving these services have chosen cremation in the past year. The savings are estimated at 100% of the burials at the average rate for cremations.

Sec. E.321.1 EXPEDITED RULEMAKING FOR THE REACH UP AND GENERAL ASSISTANCE PROGRAMS

(a) In order to administer the provisions of this act relating to Reach Up and General Assistance programs in a timely fashion, notwithstanding the provisions of 3 V.S.A. chapter 25, the department for children and families shall adopt rules pursuant to the following:

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

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

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

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

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

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

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

**EXPLANATION:** Language to allow DCF to file rules for program reductions effective July 1, 2010.

Sec. E.323 33 V.S.A. Sec. 1103(c)(9) is added to read:

(9) Up to the first \$125 of cumulative Supplemental Security Income (SSI) received by the household members who are not in the Reach Up family financial assistance group solely because of their SSI recipient status shall be counted as income to the Reach Up financial assistance group in determining eligibility and grant amount.

**EXPLANATION:** Under current rule, Reach Up families who have a family member receiving SSI, do not count any of the federal income as available to the family. If a family member receives any other type of federal benefit, i.e. Social security RSDI, VA, etc.; it is counted "dollar for dollar" against the family's Reach Up grant. DCF is proposing to count \$125.00/mo of the SSI income towards the family Reach Up grant.

Sec. E.323.1 33 V.S.A. Sec. 1108 is amended to read:

Except as specifically authorized herein, the commissioner shall not adopt any rule that would result in the termination of financial assistance to a participating family, including a dependent child, on the basis of an adult family member's having received TANF-funded financial assistance, as an adult, for 60 or more months in his or her lifetime if the family qualifies according to the department's rule for a hardship exemption to the 60-month TANF limit. A Reach Up family that includes a participating adult who has received 60 months of Reach Up assistance and does not qualify for a hardship exemption to the 60-month limit is not eligible for Reach Up assistance or services. This provision shall not prevent the commissioner from adopting rules that impose limitations on how many months that families, including a parent who has received an associate or bachelor's degree while receiving support from the postsecondary education program authorized by section 1121 of this chapter, may receive financial assistance authorized by this chapter in the five-year period immediately following the receipt of such associate or bachelor's degree.

**EXPLANATION:** Language to disqualify Reach Up participants who have received Reach Up for 60 months, and have not been granted a hardship exemption, from participating in the program.

Sec. E.323.2 33 V.S.A. Sec. 1116 is amended to read:

Sec. 1116. Sanctions

\* \* \*

(c)(1) For a first, and second and third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$75.00 for each adult sanctioned. For a third and any subsequent month in which a participating adult is not in compliance with a family development plan or work requirement, the family's financial assistance grant shall be reduced by the amount of \$150.00 for each adult sanctioned unless subsection (e) of this section applies.

(2) ~~For the fourth and any subsequent month not subject to the reduction required by subsection (e) of this section in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$150.00 for each adult sanctioned~~ When a participant has had three sanctions in a twelve-month period, the family shall not be eligible for Reach Up financial assistance or services for two consecutive months after the family's case is closed.

(d) A participant may cure a sanction by coming into compliance in accordance with the department's rules. When a family resumes participation in Reach Up after a period of ineligibility due to an adult having been sanctioned for three months in a 12-month period, their sanction shall be cured. During the first 60 months of the family's receipt of financial assistance, a participating adult may have all previous sanctions forgiven by demonstrating 12 consecutive months of compliance with family development plan requirements or work requirements or any combination of the two. Subsequent acts of noncompliance after a sanctioned adult has completed a successful 12-month sanction forgiveness period will be treated in accordance with subdivisions (c)(1) ~~through (5)~~ and (2) of this section without consideration of the sanctions that have been forgiven.

(e) Any family that has received 60 or more cumulative months of financial assistance ~~that also has one or more adult participants who have been sanctioned for 12 or more cumulative months, and who are currently being sanctioned shall have their grant reduced by \$225.00 per month for each adult sanctioned under this subsection~~ and includes a participating adult who fails without good

cause to fully comply or continue to comply in full with the family development plan or work requirements in sections 1112 and 1113 of this title shall no longer be eligible for Reach Up.

(f)(1) Under no circumstances during the first ~~six~~ three months that a family's grant is reduced due to fiscal sanctions imposed pursuant to subsection (c) of this section shall the grant be reduced to less than an amount which in combination with the family's other countable income is less than the family's actual incurred housing costs up to the applicable maximum housing allowance.

\* \* \*

(g) The financial assistance grant of a family that has been subject to a fiscal sanction for more than ~~six~~ three cumulative months shall be reduced in accordance with the full sanction amounts and without any consideration of the housing costs protection established in subsection (f) of this section. This section shall not apply if the family, after the fiscal sanction period of more than ~~six~~ three months, has an intervening period of no less than 36 months before another fiscal sanction and spends those months in a state of program compliance, grant closure, or any combination of the two.

(h) To receive payments during the fiscal sanction period, an adult who is the subject of the sanction shall meet no less than once each month to report his or her circumstances to the case manager or to participate in assessments as directed by the case manager. In addition, this meeting shall be for initial assessment and development of the family development plan when such tasks have not been completed; reassessment or review and revision of the family development plan, if appropriate; and to encourage the participant to fulfill the work requirement. Meetings required under this section may take place in the district office, a community location, or in the participant's home. Facilitation of meeting the participant's family development plan goals shall be a primary consideration in determining the location of the meeting. The commissioner may waive any meeting when extraordinary circumstances prevent a participant from attending. The department shall inform all families in their second month of sanction in a 12-month period of the consequences of a failure to engage in the evaluation and the full-family sanction. The commissioner shall adopt rules to implement this subsection.

\* \* \*

(i) To receive payments during the third month of fiscal sanction in a 12-month period, the family must engage in an assessment that includes an evaluation of income available to the family, the effects of termination of Reach Up on the children, and the employability and life skills capabilities of the adult participants. If the evaluation reveals that a sanctioned adult should have had a modified or deferred work requirement during the current month of sanction, the department shall strike the sanction, reinstate the full grant amount to which the family is entitled and modify the participant's family development plan. If the evaluation reveals that termination of Reach Up is likely to result in a risk of harm to the children, the department shall refer the case to a that is provider appropriate to address the particular risk or, if appropriate, to the family services division.

(j) A family sanctioned under this section for failure to meet work or family development plan requirements shall remain eligible for Food Stamps and shall not, because of such failure, be sanctioned under the Food Stamp program for reasons of "failure to comply without good cause" and "voluntary quit without good cause," provided that such eligibility and waivers of such sanctions are consistent with federal law and regulations governing the Food Stamp program.

**EXPLANATION:** DCF is proposing language to encourage compliance to work participation in the Reach Up program by tightening rules for sanctioning participants who fail to meet work requirements.

Sec. E.323.3 33 V.S.A. Sec. 1121(c) and (d) are amended to read:

(c) Programs and payment structures created pursuant to this section shall accomplish one or more of the following purposes:

\* \* \*

(4) To preserve financial assistance options beyond the federal TANF 60-month lifetime limit for families who qualify for a TANF hardship exemption to the 60-month limit because they are addressing multiple issues relating to self-sufficiency.

\* \* \*

(d)(1) The following solely state-funded programs shall be established, in accordance with rules adopted by the commissioner:

\* \* \*

(C) A program for ~~the following vulnerable~~ families with:

~~(i) a minor parent who is not meeting the TANF requirements;~~

~~(ii) families who have received TANF funded assistance for over 60 months and do not qualify for the hardship exemption as provided for by rule;~~

(2) Solely state-funded programs may be established, in accordance with rules adopted by the commissioner, for the following individuals:

\* \* \*

~~(B) adults who have been in sanction for more than three months;~~

\* \* \*

**EXPLANATION:** Language to amend VSA for Reach Up to clarify that only families with a hardship exemption can receive Reach Up past 60 months.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP  
(Sec. B.324, #3440090000)

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$350,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

**EXPLANATION:** Language from the 2010 Big Bill is being carried forward.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2010, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance trust fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the home weatherization trust fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance trust fund be necessary for the 2010–2011 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2010, and if LIHEAP funds awarded as of December 31, 2010 for fiscal year 2011 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2011. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2010, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

**EXPLANATION:** Language presented annually to authorize a transfer from the Weatherization Trust Fund if Congress fails to appropriate LIHEAP funds timely. The language allows DCF to issue partial fuel assistance benefits until the legislature reconvenes.

Sec. E.326 Department for children and families - OEO - weatherization assistance (Sec. B.326, #3440110000)

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. Sec. 305a.

**EXPLANATION:** Language carried forward from the 2010 Big Bill to affirm spending for home heating equipment and to avoid overspending of the revenues.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living (Sec. B.330, #3460020000)

Notwithstanding any provisions to the contrary in 3 V.S. A. chapter 25, the department of disabilities, aging and independent living shall adopt expedited rules to reduce costs in the Attendant Services Programs.

(a) The commissioner shall redesign the General Fund Attendant Services Program to establish financial criteria for eligibility by setting income and asset limitations for participation in the General Fund Program, limiting participation to those otherwise eligible individuals who also meet the financial criteria established by the department.

(b) In order to administer the provisions of this act relating to the changes in the Attendant Services Programs, the commissioner shall adopt expedited rules as follows:

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

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

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

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

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

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

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

section.

**EXPLANATION:** Language to implement changes to the General Fund Attendant Services Program to meet the final budget agreement. Rules will be established to create a means testing system for eligibility.

Sec E.337 Corrections – correctional education (Sec. B.337 #3480003000)

(a) The appropriation in this section shall be made, notwithstanding 28 V.S.A. Sec. 120(g).

**EXPLANATION:** Language to allow the department to spend the appropriated funds as compared to statutory language mandating appropriations at the statewide per pupil spending.

Sec. E.342. Vermont veterans’ home – care and support services (Sec. B.342, #3300010000)

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans’ home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans’ home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

**EXPLANATION:** (a) Ensures that if Global Commitment funds are not available the full appropriation will be met through General Funds. (b) Makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

\* \* \* LABOR \* \* \*

Sec. E.401 Labor - programs (Sec. B.401, 4100500000)

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

**EXPLANATION:** Language requested by the administration in FY10 that would allow the Labor Department greater flexibility in distributing grants to the Workforce Investment Boards. Provides grants on a competitive basis instead of an equal distribution, to target funds where they are most productive.

\* \* \* K-12 EDUCATION \* \* \*

Sec. E.500 Education – finance and administration (Sec. B.500, #5100010000)

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

**EXPLANATION:** Makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.501      Sec. E. 501(a) of No. 1 of the Acts of 2009 (Spec. Sess.) is amended to read:  
(a) In fiscal year 2010 and fiscal year 2011, \$1,131,751 shall be paid by the education fund for early education initiative grants for at-risk preschoolers. These payments shall be made, notwithstanding 16 V.S.A. Sec. 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

**EXPLANATION:** Adds necessary “notwithstanding” provision to the language required to pay the Early Education Initiative grants from the education fund.

Sec. E.502      Education – special education: formula grants (Sec. B.502, #5100040000)  
(a) The education fund appropriated in this section shall be made notwithstanding 16 V.S.A. Secs. 2963(c)(3) and 2967(b).  
(b) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed \$3,300,654 shall be used by the department of education in fiscal year 2011 as funding for 16 V.S.A. Sec. 2967(b)(2)-(6). In distributing such funds, the commissioner shall not be limited by the restrictions contained within 16 V.S.A. Sec. 2969(c) and (d). In addition to funding for 16 V.S.A. Sec. 2967(b)(2)-(6), up to \$169,061 may be used by the department of education for its participation in the higher education partnership plan.

**EXPLANATION:** (a) Language added in FY10 to permit level funding. (b) The language establishes how much of the special education funding formula shall be used for 16 VSA Sec 2967(b)(2)-(6). It also allows use of these funds to go to entities other than school districts such as UVM and the Vermont Association for the Blind and Visually Impaired. Standard language.

Sec. E.503      Education – state-placed students (Sec. B.503, #5100050000)  
(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

**EXPLANATION:** Allows payments for pregnant and parenting teens to be made to the Independence Place program of the Lund Family Center.

Sec. E.504      Education – adult education and literacy (Sec. B.504, #5100060000)  
(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. Sec. 1049a(c).  
(b) The education fund appropriated in this section shall be notwithstanding 16 V.S.A. Sec. 1049a(c).

**EXPLANATION:** Subsection (a) ensures that education funds are paid directly to school districts to fund the high school completion program. Subsection (b) permits level funding at the prior year amount.

Sec. E.505      Education – adjusted education payment (Sec. B.505, #5100090000)  
(a) Any calculations required to identify funding levels for the education fund budget

stabilization reserve under 16 V.S.A. Sec. 4026(b) shall be calculated as if in fiscal year 2011 those revenues and appropriations included \$38,575,036 in additional revenues and \$38,575,036 in additional expenditures.

**EXPLANATION:** This language eliminates the volatility in the education fund reserve calculation caused by the ARRA State Fiscal Stabilization Funds in FY10 and FY11.

Sec. E.505.1 COMMUNITY HIGH SCHOOL OF VERMONT GRANT

(a) From the education funds appropriated in Sec. B.505 in fiscal year 2011, a base education payment shall be paid to the community high school of Vermont for full-time equivalent students studying high school equivalency coursework. For fiscal year 2011, this total grant shall be set at the base education amount for 256 full-time equivalent pupils. This amount shall be transferred from the funds appropriated in Sec. B.505 to the department of corrections - correctional education program. These payments shall be made, notwithstanding 16 V.S.A. Sec. 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

**EXPLANATION:** The legislature added language in FY10 permitting corrections education to be funded from the education fund for FY10 and FY11. This language is updated for the new FY11 FTE student count. If this language is removed then the \$2,187,264 expenditure must be funded with general funds.

Sec. E.512 Education – No. 117 of the Acts of 2000 – cost containment (Sec. B.512, #5100310000)

(a) Notwithstanding any provisions of law, expenditures made from this section shall be counted under 16 V.S.A. Sec. 2967(b) as part of the state’s 60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

**EXPLANATION:** This language, in effect, makes funding for Act 117 activities come out of the amount appropriated for the special education funding formula. The special funds source in this Act 117 appropriation, i.e., Medicaid, would ordinarily be deposited into the Education Fund. Because the Education Fund does not receive that revenue, expenditures from the Education Fund are reduced by the same amount, thereby having a neutral impact on the Fund. Standard language.

Sec. E.512.1 16 V.S.A. Sec. 4025(b)(1) is amended to read:

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, chapters 55 and 123 of this title, other provisions of this chapter, and the provisions of chapter 135 of Title 32.

**EXPLANATION:** This language allows education funds to be used by the state to meet its school capital construction obligation under Chapter 123 of Title 16 and its obligations to the State Teachers’ Retirement fund under Chapter 55 of Title 16.

Sec. E.514 Appropriation and transfer to education fund (Sec. B.514, #1110020000)

(a) Notwithstanding 16 V.S.A. Sec. 4025(a)(2), for fiscal year 2011, the general fund transfer to

the education fund shall be \$240,803,945.

**EXPLANATION:** Transfers the general fund appropriation to the education fund at an amount less than required under current law. The administration does not anticipate any savings from reforms to the current use program and has opted to provide an additional \$1.6M of general fund via the transfer.

Sec. E.515 State teachers' retirement system (Sec. B.515, #1265010000):

(a) In accordance with 16 V.S.A. Sec. 1944(g)(2), the amount of annual contribution to the Vermont state teachers' retirement system shall be \$63,501,220 in fiscal year 2011.

(b) In accordance with 16 V.S.A. Sec. 1944(c)(2), of the annual contribution, \$22,828,834 is the "normal contribution", and \$40,672,386 is the "accrued liability contribution".

(c) The administration is proposing that a combination of \$51,772,599 in general fund, \$10,408,996 in education fund, and an estimated \$1,319,625 million of Medicare Part D reimbursement funds be utilized to achieve funding at the actuarially recommended level.

**EXPLANATION:** Standard language, with additional reference to the sources of funding to contribute at the actuarially recommended level.

\* \* \* HIGHER EDUCATION \* \* \*

Sec. E.600 University of Vermont (Sec. B.600, #1110006000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$407,113 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

**EXPLANATION:** (a) – (c): Establishes the grant disbursement schedule for the appropriation and ensures that if Global Commitment funds are not available the full appropriation will be met through general or other funding sources. Dedicates a fixed amount of the appropriation to EPSCoR. This amount is adjusted annually by the same percentage as the total appropriation. Standard language. (d) Language to make clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.602 Vermont state colleges (Sec. B.602, #1110009000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this

appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$459,801 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

**EXPLANATION:** (a) Establishes the grant disbursement schedule for the appropriation. (b) Dedicates a fixed amount of the appropriation to the Vt. Manufacturing Extension Center. This amount is adjusted annually by the same percentage as the total appropriation. Standard language.

Sec. E.603 Vermont state colleges – allied health (Sec. B.603, #1110010000)

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

**EXPLANATION:** (a) Ensures that if Global Commitment funds are not available the full appropriation will be met through general or other funding sources. (b) Language to make clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.604 Vermont interactive television (Sec. B.604, #1110011000)

(a) It is the intent of the general assembly that the general fund appropriation for Vermont interactive television be reduced by one-half for fiscal year 2012, and eliminated for fiscal year 2013.

**EXPLANATION:** The Vermont interactive television program is being consolidated within the Vermont State Colleges.

Sec. E.605 Vermont student assistance corporation (Sec. B.605, #1110012000)

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont student assistance corporation to be deposited into the trust fund established in 16 V.S.A. Sec. 2845.

(b) Except as provided in subsection (a) of this section, not less than 93 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont student assistance corporation pursuant to Sec. E.215(a) and B.1100(a)(3)(B) of this act, \$250,000 shall be used for the purposes of 16 V.S.A. Sec. 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

**EXPLANATION:** (a) Provides that \$25,000 of the appropriation be set aside for children in state custody seeking to attend institutions of higher education. (b) allows 7% of the appropriation to be used by VSAC for administrative purposes and the remainder is for direct student aid subject to the restriction in subsection (a). (c) Makes clear that the \$100,000 transfer from Military to VSAC under section E.215(a) and the \$150,000 appropriation from the Next Generation Fund per section B.1100(a)(3)(B) of this act are for the National Guard educational assistance program in 16 V.S.A. Sec. 2856. Any unexpended funds, at the end of the fiscal year, shall carry forward to the next for use by the National Guard educational assistance program.

\* \* \* NATURAL RESOURCES \* \* \*

Sec. E.708 Forests, parks and recreation - forestry (Sec. B.708, #6130020000)

(a) This special fund appropriation shall be authorized notwithstanding 3 V.S.A. Sec. 2807 (c).

**EXPLANATION:** This language is needed to allow the level of use of the Lands and Facilities Trust fund in Sec. B.708.

\* \* \* COMMERCE AND COMMUNITY DEVELOPMENT \* \* \*

Sec. E.800 Agency of commerce and community development - administration (Sec. B.800, #7100000000)

(a) Of the grant funding available to the Vermont sustainable jobs fund, \$100,000 will be allocated to the farm to plate program and \$75,000 will be allocated as a grant to the Vermont wood manufacturers association.

**EXPLANATION:** Out of the total Vermont sustainable jobs fund grant appropriation of \$233,890, \$100,000 will be directed to the Farm to Plate program and \$75,000 will be directed to a grant to the Vermont Wood Manufacturers Association, leaving \$58,890 for other uses by the Vermont Sustainable Jobs Fund.

Sec. E.801.1 REPEAL

Sec. 11(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) (cap on employment growth incentives) is repealed.

**EXPLANATION:** The \$10 million limit on the amount of employment growth incentives (VEGI) that the Vermont Economic Progress Council (VEPC) may offer for a calendar year is a barrier to encouraging companies to expand or relocate to Vermont, and thereby create good jobs for Vermonters.

Sec. E.803 Community development block grants (Sec.B.803, #7110030000)

(a) Community development block grants shall carry forward until expended.

**EXPLANATION:** This language allows grants received in FY 2011 to be carried forward until grants are fully expended. These types of projects often extend over several years. Standard language.

Sec. E.803.1 VERMONT DOWNTOWN DEVELOPMENT BOARD

(a) The authorization of the Vermont downtown development board to certify for reallocation to municipalities sales tax revenues under 32 V.S.A. Sec. 9819 and award tax credits under subchapter 11J of chapter 151 of Title 32 is amended for fiscal year 2011 so that the limitations provided in 32 V.S.A. Sec. 5930ee shall apply against a total amount of \$2,300,000.00 for the authorization of sales tax reallocation and against a total amount of \$1,700,000.00 for the

authorization of tax credits. Where a municipality in fiscal year 2011 is awarded both reallocation of sales tax revenues and tax credits, the limitations provided in Sec. 5930ee shall apply against a total annual authorization amount of \$2,300,000.00.

**EXPLANATION:** This language allows an additional \$600,000 for communities to utilize the sales tax reallocation for FY 2011. The appropriation is in Sec. B.1103.

Sec. E.810 Vermont housing and conservation board (Sec. B.810, #915000000)

(a) In fiscal year 2011, the Vermont housing and conservation board will give first priority to programs that provide affordable housing.

**EXPLANATION:** In FY 2011, state funds are appropriated at the same level as in FY 2010. Priority should be to programs that provide affordable housing.

Sec. E.810.1 10 V.S.A. Sec. 321(a) is amended to read:

(a) The board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided to a business corporation by Title 11A and including, without limiting the generality of the foregoing, the power to:

(1) upon application from an eligible applicant in a form prescribed by the board, provide funding in the form of grants or loans for eligible activities. All loan originations, extensions, deferrals, and forgiveness shall require a vote in approval by a majority of the full board and in no case shall the term of any loan exceed a period of thirty years, inclusive of extension and deferral periods;

\* \* \*

**EXPLANATION:** VHCB should begin to collect on outstanding accounts receivable.

\* \* \* TRANSPORTATION \* \* \*

Sec. E.900 19 V.S.A. Sec. 11a. is amended to read:

Sec. 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY

No transportation funds shall be appropriated for the support of government other than for the agency of transportation, the transportation board, transportation pay act funds, construction of transportation capital facilities used by the agency of transportation, transportation debt service, and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

- (1) in fiscal year 2010 not exceed \$30,850,000.00;
- (2) in fiscal year 2011 not exceed ~~\$28,350,000.00~~ \$24,852,807.00; and
- (3) in fiscal year 2012 not exceed ~~\$25,250,000.00~~ \$24,852,807.00.

**EXPLANATION:** This amount shows a reduction of \$3,500,000 from FY 2010.

Sec. E.909 Transportation – central garage (Sec. B.909, #8110000200)

(a) Of this appropriation, \$6,316,751 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in

19 V.S.A. Sec. 13(b).

**EXPLANATION:** This amount is the sum of the transfer to the central garage fund, depreciation and proceeds from surplus equipment sales. 19 VSA Sec 13(c) requires the amount to be distinctly appropriated.

Sec. E.915 Transportation – town highway aid program (Sec. B.915, #810003000)

(a) This appropriation is authorized notwithstanding 19 V.S.A. Sec. 306(a).

**EXPLANATION:** Standard language.

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. E.309.9 and E.321.1 of this act shall take effect upon passage.

(b) Secs. E.309.4; E.309.5; E.309.6 as it affects 33 V.S.A. Sec. 2073(d)(2)(A) and (B); E.309.7 as it affects 33 V.S.A. Sec. 2074(c)(1) and (2); and E.309.8 as it affects 33 V.S.A. Sec. 1984(c)(1)(A) and (B) shall take effect January 1, 2011.

\* \* \* EDUCATION FUNDING REFORM \* \* \*

Sec. H.1 FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATES

(a) For fiscal year 2011 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.34 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.85 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2011 only, “applicable percentage” in subdivision 6066(a)(2)(C) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

**EXPLANATION:** Subsection (a) sets the annual statewide property tax rates and is standard language. Subsection (b) clarifies that, in FY11, the applicable percentage for households earning \$60,000 or less shall be 1.8% instead of the 2% required by 32 V.S.A Section 6066(a)(2)(C) as amended by this bill.

Sec. H.2 32 V.S.A. Sec. 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of \$90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than \$90,000.00 but more than \$47,000.00; ;

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year; ;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$400,000.00 .

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the sum of the applicable percentage of household income for the taxable year plus the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$400,000.00; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

(D) A claimant whose household income does not exceed \$90,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.

(2) "Applicable percentage" in this section means

(A) with respect to a claimant with household income of \$75,000.00 or more three and one-half percent;

(B) with respect to a claimant with household income of less than \$75,000.00 but more than \$60,000.00 two and one-quarter percent;

(C) with respect to claimants with household income of \$60,000.00 or less two percent; ; multiplied by the district spending adjustment under subdivision 5401(13) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than two percent.

(3) a claimant whose household income does not exceed \$47,000.00 shall also be entitled to an additional adjustment amount equal to the amount by which the property taxes for the municipal fiscal year which began in the taxable year upon the claimant's housesite reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection, exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in
excess of this percent of that income:	
\$0 - 9,999.00	2.0
\$10,000.00 - 24,999.00	4.5
\$25,000.00 - 47,000.00	5.0

In no event shall the credit exceed the amount of the reduced property tax.

(b) An eligible claimant who rented the homestead on the last day of the taxable year, whose household income does not exceed ~~\$47,000.00~~ \$54,000.00, and who submits a certificate of rent constituting property taxes shall be entitled to a credit against the claimant's tax liability under chapter 151 of this title equal to the amount by which the rent constituting property taxes upon the

claimant's housesite exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for rent constituting property tax paid in excess of this percent of that income:
\$0 - 9,999.00	2.0
\$10,000.00 - <del>24,999.00</del> <u>19,000.00</u>	<del>4.5</del> <u>3.0</u>
<del>\$20,000.00 - 29,000.00</del>	<del>4.0</del>
<del>\$25,000.00</del> <u>\$30,000.00</u> - <del>47,000.00</del> <u>54,000.00</u>	<del>5.0</del> <u>4.5</u>

In no event shall the credit exceed the amount of the rent constituting property tax.

\* \* \*

**EXPLANATION:** The language amends the current property tax assistance calculation to limit property tax assistance to the taxes paid on the first \$400,000 of house site value for those households earning less than \$90,000. It establishes that the applicable percentage, to be multiplied by the district spending adjustment for each income category, shall be 2% for those households earning \$60,000 or less, 2.25% for those earning less than \$75,000 but more than \$60,000 and 3.5% for those earning \$75,000 or more. The renter rebate program has been enhanced to incorporate those earning \$54,000 or less and to provide a more progressive income structure.

Sec. H.3 16 V.S.A. Sec. 4010(f) is amended to read:

(f) For purposes of the calculation under this section, a district's equalized pupils shall in no case be less than ~~96 and one-half~~ 88 percent of the district's equalized pupils in the previous year.

**EXPLANATION:** Expands the maximum annual limit on equalized pupil reductions from 3.5% to 12% in FY11.

Sec. H.4 16 V.S.A. Sec. 4010(f) is amended to read:

(f) For purposes of the calculation under this section, a district's equalized pupils shall in no case be less than ~~88~~ 75 percent of the district's equalized pupils in the previous year.

**EXPLANATION:** Expands the maximum annual limit on equalized pupil reductions from 3.5% to 12% in FY12.

Sec. H.5 REPEAL

(a) 16 V.S.A. Sec. 4010(f) (equalized pupil safe harbor) is repealed.

**EXPLANATION:** Eliminates the maximum annual limit on equalized pupil reductions in FY13.

Sec. H.6 16 V.S.A. Sec. 4015(b) is amended to read:

(b) Small schools support grant: Annually, the commissioner shall pay a small schools support grant to any eligible school district. The amount of the grant shall be the greater of:

(1) the amount determined by multiplying the two-year average enrollment in the district by ~~\$500.00~~ \$250.00 and subtracting the product from ~~\$50,000.00~~ \$25,000.00, with a maximum grant of \$2,500.00 per enrolled student; or

(2) the amount of ~~87~~ 43.5 percent of the base education amount for the current year, multiplied by the two-year average enrollment, multiplied by the AGS factor.

**EXPLANATION:** Adjusts the Small Schools grant calculation to yield 50% of its current value in FY11.

Sec. H.7 REPEAL

(a) 16 V.S.A. Sec. 4015(b)(small schools support grant) is repealed.

**EXPLANATION:** Repeals the Small Schools grant in FY12.

Sec. H.8 16 V.S.A. Sec. 4015(c) is amended to read:

(c) Small schools financial stability grant: In addition to a small schools support grant, an eligible school district whose two-year average enrollment decreases by more than ten percent in any one year shall receive a small schools financial stability grant. However, a decrease due to a reduction in the number of grades offered in a school or to a change in policy regarding paying tuition for students shall not be considered an enrollment decrease. The amount of the grant shall be determined by multiplying ~~87~~ 43.5 percent of the base education amount for the current fiscal year, by the number of enrollment, to the nearest one-hundredth of a percent, necessary to make the two-year average enrollment decrease only ten percent.

**EXPLANATION:** Adjusts the Small Schools grant calculation to yield 50% of its current value in FY11.

Sec. H.9 REPEAL

(a) 16 V.S.A. Sec. 4015(c) (small schools financial stability grant) is repealed.

**EXPLANATION:** Repeals the Small Schools grant in FY12.

Sec. H.10 16 V.S.A. Sec. 2950(a) is amended to read:

(a) School district reimbursement. ~~The school district responsible for educating a state-placed student under section 1075 of this title may claim and the commissioner shall reimburse 100 percent of all special education costs for the student, including costs for mainstream services. As a condition of receiving this reimbursement, the district shall provide documentation in support of its claim, sufficient to enable the commissioner to determine whether to recommend appropriate cost saving alternatives. The commissioner may approve any costs incurred in educating a state-placed student who is not eligible for special education that are incurred due to the special needs of~~

~~the student, and, if approved, the commissioner shall pay those costs. When a state agency places and registers a student in a new district, the district may request and the department of education, the agency that placed the student, or both, shall provide prompt consultative and technical assistance to the receiving district. For the costs of educating a state-placed student, the school district serving the child shall claim and the commissioner shall reimburse the allowable special education costs other than costs for mainstream services as that term is defined by the commissioner. In addition, reimbursable cost shall include any additional costs approved by the commissioner which are incurred in educating a state-placed student not eligible for special education and are due to the special needs of the student.~~

**EXPLANATION:** The original language, regarding state-placed students, is re-established prior to its amendment by 2007 Act 82 Sec. 23. It limits special education reimbursement to all expenses except mainstream costs as defined by the Commissioner of Education.

Sec. H.11            16 V.S.A. Sec. 2005 is amended to read:

Sec. 2005            Written agreement

The negotiations councils for the school board and the teachers' or administrators' organization shall enter into a written agreement or agreements incorporating therein matters agreed to in negotiation. Such agreements may require the district to pay no more than 80 percent of the cost of teachers' or administrators' health premiums.

**EXPLANATION:** The language limits the maximum amount school boards can contribute to teacher health plans at 80%.

Sec. H.12            LIMITATION ON ENROLLMENT IN VERMONT STATE TEACHERS' RETIREMENT SYSTEM FOR FISCAL YEARS 2011 THROUGH 2015

(a) Notwithstanding any other provision of law, for fiscal years 2011 through 2015 or until a statewide student teacher ratio of 13 to 1 is achieved, whichever occurs first, new enrollments in the Vermont state teachers' retirement system shall not exceed 50 percent of the number of teachers projected to file for retirement in the next fiscal year. The projections shall be made annually by the actuary retained by the Vermont state teachers' retirement system. Allocation of the new enrollments among the supervisory unions shall be in accordance with a formula recommended by the commissioner of education pursuant to 16 V.S.A. Sec. 212(18) and as approved by the secretary of administration.

**EXPLANATION:** For fiscal years 2011 – 2015 or until a statewide student teacher ratio of 13:1 is achieved, whichever occurs first, new enrollments into the Teachers' Retirement system are limited to a maximum of 50% of the actuarially determined projected teacher retirements for the next fiscal year. The Commissioner of Education shall distribute enrollments among the supervisory unions in accordance with a formula approved by the Secretary of Administration.

Sec. H.13            16 V.S.A. Sec. 212(18) is added to read:

The commissioner shall execute those policies adopted by the state board in the legal exercise of its powers and shall:

\* \* \*

(18) Recommend to the secretary of administration a formula to allocate 90 percent of the

number of new enrollments in the Vermont state teachers' retirement system to the supervisory unions based on applicable ratios of students to teachers. Upon approval of such formula by the secretary of administration, the commissioner shall advise each supervisory union of its allocable share. The remaining 10 percent of the new enrollees may be allocated as the commissioner deems advisable.

**EXPLANATION:** The language requires the Commissioner of Education to recommend, for approval by the Secretary of Administration, a formula for distributing 90% of the available enrollments into the State Teachers' Retirement system among supervisory unions. The remaining 10% are to be distributed at the Commissioner's discretion and the commissioner must notify each supervisory union of their allocated share.

Sec. H.14 16 V.S.A. Sec. 242(6) is added to read:

(6) allocate among the schools in the supervisory union the new enrollments allocated to the supervisory union pursuant to Sec. 212(18) of this title.

**EXPLANATION:** The language adds the allocation of available State Teachers' Retirement enrollments among the schools within the supervisory union as a new duty of school superintendents.

Sec. H.15 EFFECTIVE DATES.

(a) Sec. H.2 shall be effective for claims filed in 2010 and after with respect to homeowner claims; and for renter rebate claims it shall be effective for claims filed in 2011 and after.

(b) Sec. H.3 (equalized pupil safe harbor) shall be effective July 1, 2010.

(c) Sec. H.4 (equalized pupil safe harbor) shall be effective July 1, 2011.

(d) Sec. H.5 (equalized pupil safe harbor) is repealed July 1, 2012.

(e) Sec. H.6 (small schools support grant) shall be effective July 1, 2010.

(f) Sec. H.7 (small schools support grant) is repealed effective July 1, 2011.

(g) Sec. H.8 (small schools financial stability grant) shall be effective July 1, 2010.

(h) Sec. H.9 (small schools financial stability grant) is repealed July 1, 2011.

(i) Sec. H.10 (school district reimbursement) shall be effective July 1, 2010.

(j) Sec. H.11 health care premiums) is effective for agreements entered into on and after July 1, 2010.

(l) Secs. H.12-14 (limitation on new enrollments in state teachers' retirement system) shall be effective for fiscal years 2011 through 2015 or until a statewide average student teacher ratio of 13 to 1 is achieved.

**EXPLANATION:** Establishes the effective dates of the proposals of the sections listed.

\* \* \* DESIGNATING OVHA AS A DEPARTMENT \* \* \*

**EXPLANATION:** OVHA's current state designation as an office rather than a department minimizes its role, responsibility and authority within state government, and does not reflect its prominence in the state's health care priorities or budget.

When AHS re-organized in 2004, the decision was made to make OVHA an Office rather than a Department. Since that time, OVHA's responsibilities and prominence within the state's priorities

and budget have increased substantially. The Vermont Medicaid program is the largest health insurer in Vermont, providing coverage for over 140,000 citizens. With the approval of the Global Commitment to Health Waiver in 2005, OVHA also became a statewide Public Managed Care Organization, with oversight responsibility for all statewide Medicaid programs and expenditures. And as of December, 2008, OVHA is the state organization responsible for coordinating Vermont's comprehensive health care reform efforts, statewide health information technology planning and oversight, and responding to and ultimately implementing many of the federal health care reforms. With a budget of close to \$1 billion, OVHA ranks first in the State of Vermont's programmatic expenditures. As such, we believe that OVHA's importance to the State should be recognized by having a departmental designation.

Sec. I.1            2 V.S.A. Sec. 852(b)(3) is amended to read:  
(b)(3) The ~~office~~ department of Vermont health access.

Sec. I.2            2 V.S.A. Sec. 902(c)(1) is amended to read:  
(c)(1) The commission may request analysis from the ~~office~~ department of Vermont health access, the department of banking, insurance, securities, and health care administration, and other appropriate agencies. The agencies shall report to the commission at such times and with such information as the commission determines is necessary to fulfill its oversight responsibilities.

Sec. I.3            2 V.S.A. Sec. 903(b)(1)(B)(ii) is amended to read:  
(ii) recommend a method and format for reporting employer costs in the monthly financial reports submitted to the general assembly by the ~~office~~ department of Vermont health access;

Sec. I.4            2 V.S.A. Sec. 903(b)(1)(C) is amended to read:  
(C) The ~~office~~ department of Vermont health access shall provide the commission with access to any information requested in order to conduct the activities specified in subdivision (B) of this subdivision (1), except the following:

\* \* \*

Sec. I.5            3 V.S.A. Sec. 3002(a)(6) is amended to read:  
(a)(6) The ~~office~~ department of Vermont health access.

Sec. I.6            3 V.S.A. Sec. 3004 is amended to read:  
Sec. 3004.        Personnel designation  
The secretary, deputy secretary, commissioners, deputy commissioners, attorneys, directors of the offices of state economic opportunity, alcohol and drug abuse programs, ~~Vermont health access~~, and child support, and all members of boards, committees, commissions, or councils attached to the agency for support are exempt from the classified state service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Sec. I.7            3 V.S.A. Sec. 3084(a) is amended to read:

(a) The department for children and families is created within the agency of human services as the successor to and the continuation of the department of social and rehabilitation services, the department of prevention, assistance, transition, and health access, excluding the ~~office~~ department of Vermont health access, the office of economic opportunity, and the office of child support. The department shall also include a division of child development programs.

Sec. I.8            3 V.S.A. Sec. 3088 is amended to read:

Sec. 3088.        ~~Office~~ Department of Vermont health access

The ~~office~~ department of Vermont health access is created within the agency of human services.

Sec. I.9            3 V.S.A. Sec. 3091(a) is amended to read:

(a) An applicant for or a recipient of assistance, benefits, or social services from the department for children and families, the ~~office~~ department of Vermont health access, and the department of disabilities, aging, and independent living, the department of mental health, or an applicant for a license from one of those departments or offices, or a licensee, may file a request for a fair hearing with the human services board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by agency policy as it affects his or her situation.

Sec. I.10          8 V.S.A. Sec. 4080a(h)(2)(B) is amended to read:

(h)(2)(B) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, 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 a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health, the director of the Blueprint for Health, and the ~~director~~ commissioner of the ~~office~~ department of Vermont health access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall:

\* \* \*

Sec. I.11          8 V.S.A. Sec. 4080b(h)(2)(B) is amended to read:

(h)(2)(B) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health and the ~~director~~ commissioner of the ~~office~~ department of Vermont health access in the development of health promotion and disease prevention rules. Such rules shall:

\* \* \*

Sec. I.12          8 V.S.A. Sec. 4080f(a)(9)(A)(i)(II)(aa) is amended to read:

(II)(aa) A self-employed individual who was insured through the nongroup market whose insurance coverage ended as the direct result of either the termination of a business entity owned by the individual or the individual's inability to continue in his or her line of work, if the individual produces satisfactory evidence to the ~~office~~ department of Vermont health access of the business termination or certifies by affidavit to the ~~office~~ department of Vermont health access that he or she is not employed and is no longer seeking employment in the same line of work;

Sec. I.13           8 V.S.A. Sec. 4089b(h)(2) is amended to read:  
(h)(2) the ~~director~~ commissioner of the ~~office~~ department of Vermont health access or a designee;

Sec. I.14           8 V.S.A. Sec. 4185(c)(2)(B) is amended to read:  
(c)(2)(B) the amounts provided by contract between a hospital provider and the ~~office~~ department of Vermont health access for similar services to recipients of Medicaid; or

Sec. I.15           9 V.S.A. Sec. 2480h(1)(5) is amended to read:  
(1)(5) The economic services division of the department for children and families or the ~~office~~ department of Vermont health access or its agents or assignee acting to investigate welfare or Medicaid fraud.

Sec. I.16           12 V.S.A. Sec. 3169(a)(3) is amended to read:  
(a)(3) whether the judgment debtor has been a recipient of assistance from the Vermont department for children and families or the ~~office~~ department of Vermont health access within the two months preceding the date of the hearing; and

Sec. I.17           12 V.S.A. Sec. 3170(a) is amended to read:  
(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont department for children and families or the ~~office~~ department of Vermont health access. The judgment debtor must establish this exemption at the time of hearing.

Sec. I.18           15 V.S.A. Sec. 658(b) is amended to read:  
(b) A request for support may be made by either parent, a guardian, or the department for children and families or the ~~office~~ department of Vermont health access, if a party in interest. A court may also raise the issue of support on its own motion.

Sec. I.19           18 V.S.A. Sec. 702(c)(1) is amended to read:  
(c)(1) The secretary shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall consist of no fewer than 10 individuals, including the commissioner of health; a representative from the department of banking, insurance, securities, and health care administration; a representative from

the ~~office~~ department of Vermont health access; a representative from the Vermont medical society; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine profession; a primary care professional serving low income or uninsured Vermonters; and a representative of the state employees' health plan, who shall be designated by the director of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan. In addition, the director of the commission on health care reform shall be a nonvoting member of the executive committee.

Sec. I.20            18 V.S.A. Sec. 1130(g)(2) is amended to read:

(2) The advisory committee shall include representatives from the three largest health insurers licensed to do business in Vermont and the ~~office~~ department of Vermont health access and shall be chaired by the chief of the immunization program for the department of health.

Sec. I.21            18 V.S.A. Sec. 4622(a)(1) and (2) are amended to read:

(a)(1) The department, in collaboration with the attorney general, the University of Vermont area health education centers program, and the ~~office~~ department of Vermont health access, shall establish an evidence-based prescription drug education program for health care professionals designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to physicians, pharmacists, and other health care professionals authorized to prescribe and dispense prescription drugs. To the extent practicable, the program shall use the evidence-based standards developed by the blueprint for health. The department may collaborate with other states in establishing this program.

(2) The program shall notify prescribers about commonly used brand-name drugs for which the patent has expired within the last 12 months or will expire within the next 12 months. The department and the ~~office~~ department of Vermont health access shall collaborate in issuing the notices.

Sec. I.22            18 V.S.A. Sec. 4632(a)(6) is amended to read:

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

Sec. I.23            18 V.S.A. Sec. 7401(19) is amended to read:

(19) ensure the development of chronic care services, addressing mental health and substance abuse, for children and adults and ensure the coordination of these services with other chronic care initiatives, including the Blueprint for Health, and the care coordination and case management programs of the ~~office~~ department of Vermont health access;

Sec. I.24            18 V.S.A. Sec. 9351(b)(7) and (c) are amended to read:

(7) integrate the information technology components of the Blueprint for Health established in chapter 13 of this title, the agency of human services' enterprise master patient index, and all other Medicaid management information systems being developed by the ~~office~~ department of Vermont health access, information technology components of the quality assurance system, the program to capitalize with loans and grants electronic medical record systems in primary care practices, and any other information technology initiatives coordinated by the secretary of administration pursuant to section 2222a of Title 3; and

(c) The secretary of administration or designee shall update the plan annually to reflect emerging technologies, the state's changing needs, and such other areas as the secretary or designee deems appropriate. The secretary or designee shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities in order to update the health information technology plan pursuant to this section, including applicable standards, protocols, and pilot programs, and may enter into a contract or grant agreement with VITL or other entities to update some or all of the plan. Upon approval by the secretary, the updated plan shall be distributed to the commission on health care reform; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the ~~director~~ commissioner of the ~~office~~ department of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; the house committee on health care; affected parties; and interested stakeholders.

Sec. I.25            18 V.S.A. Sec. 9352(e) is amended to read:

(e) Report. No later than January 15 of each year, VITL shall file a report with the commission on health care reform; the secretary of administration; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the ~~director~~ commissioner of the ~~office~~ department of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; and the house committee on health care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website.

Sec. I.26            18 V.S.A. Sec. 9410(a)(2)(B) is amended to read:

(B) The commissioner shall convene a working group composed of the commissioner of mental health, the ~~director~~ commissioner of the ~~office~~ department 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.

Sec. I.27            18 V.S.A. Sec. 9418(a)(3), (a)(4), and (a)(14)(A) are amended to read:

(3) "Contracting entity" means any entity that contracts directly or indirectly with a health care provider for either the delivery of health care services or the selling, leasing, renting, assigning, or granting of access to a contract or terms of a contract. For purposes of this subchapter, the ~~office~~

department of Vermont health access, health care providers, physician hospital organizations, health care facilities, and stand-alone dental plans are not contracting entities.

(4) "Covered entity" means an organization that enters into a contract with a contracting entity to gain access to a provider network contract. For purposes of this subchapter, the ~~office~~ department of Vermont health access is not a covered entity.

(A) the ~~office~~ department of Vermont health access; or

Sec. I.28 18 V.S.A. Sec. 9421(d) is amended to read:

(d) The department's reasonable expenses in administering the provisions of this section may be charged to pharmacy benefit managers in the manner provided for in section 18 of Title 8. These expenses shall be allocated in proportion to the lives of Vermonters covered by each pharmacy benefit manager as reported annually to the commissioner in a manner and form prescribed by the commissioner. The department shall not charge its expenses to the pharmacy benefit manager contracting with the ~~office~~ department of Vermont health access if the ~~office~~ department notifies the department of the conditions contained in its contract with a pharmacy benefit manager.

Sec. I.29 24 V.S.A. Sec. 1173 is amended to read:

Sec. 1173 Town or village reports

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, highway board, state board of health, commissioner for children and families, ~~director~~ commissioner of the ~~office~~ department of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

Sec. I.30 32 V.S.A. Sec. 308b(a) is amended to read:

(a) There is created within the general fund a human services caseload management reserve. Expenditures from the reserve shall be subject to an appropriation by the general assembly or approval by the emergency board. Expenditures from the reserve shall be limited to agency of human services caseload related needs primarily in the departments for children and families, of health, of mental health, and of disabilities, aging, and independent living, and in the ~~office~~ department of Vermont health access.

Sec. I.31 32 V.S.A. Sec. 9530(1) is amended to read:

(1) "~~Director~~" means the director of the ~~office~~ of Vermont health access.

Sec. I.32 32 V.S.A. Sec. 9533(b) and (e) are amended to read:

(b) The tax shall be paid by the transferor to the department of Vermont health access within 10 days after the date of the transfer, accompanied by the nursing home transferor tax form prescribed by the commissioner.

(e) Upon the receipt of the full amount of the tax, the ~~director~~ commissioner of the department of Vermont health access shall deposit receipts from the transferor tax in the health care trust fund established pursuant to 33 V.S.A. § 1956 and shall send a certificate of payment to the transferor, the transferee, and the division showing the date when the tax was received.

Sec. I.33            32 V.S.A. Sec. 9535 is amended to read:

Sec. 9535           Review and appeals

(a) At any time before, or within 10 days after the date of a transfer of a nursing home, a transferor may request from the ~~director~~ commissioner of the department of Vermont health access a determination of the transferor's liability to pay or the amount of the nursing home transfer tax due. The ~~director~~ commissioner of the department of Vermont health access shall render a decision within 30 days of the receipt of all information that the ~~director~~ commissioner of the department of Vermont health access deems necessary to make a determination.

(b) Within 30 days of the date of issuance of the ~~director's~~ commissioner of the department of Vermont health access's determination, a transferor aggrieved by that determination may request review by the secretary or the secretary's designee. This review shall not be subject to the provisions of 3 V.S.A. chapter 25.

Sec. I.34            32 V.S.A. Sec. 10301(c)(2) is amended to read:

(2) contributions from the ~~office~~ department of Vermont health access, as appropriated by the general assembly; and

Sec. I.35            33 V.S.A. Sec. 102(a)(12) and (13) are amended to read:

(12) ~~Director~~ Commissioner: the ~~director~~ commissioner of the ~~office~~ department of Vermont health access.

(13) ~~Office~~ Department: the ~~office~~ department of Vermont health access.

Sec. I.36            33 V.S.A. Sec. 143b is amended to read:

Within six months of the effective date of section 143a of this title, the ~~office~~ department of Vermont health access shall issue rules establishing a procedure for health care providers enrolled in state and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the ~~office~~ department shall be binding on the ~~office~~ department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.

Sec. I.37            33 V.S.A. Sec. 1901(d) is amended to read:

(d)(1) To enable the state to manage public resources effectively while preserving and enhancing access to health care services in the state, the ~~office~~ department of Vermont health access is authorized to serve as a publicly operated managed care organization (MCO).

(2) To the extent permitted under federal law, the ~~office~~ department of Vermont health access shall be exempt from any health maintenance organization (HMO) or MCO statutes in Vermont law and shall not be considered to be an HMO or MCO for purposes of state regulatory and reporting requirements. The MCO shall comply with the federal rules governing managed care organizations

in Part 438 of Chapter IV of Title 42 of the United States Code. The Vermont rules on the primary care case management in the Medicaid program shall be amended to apply to the MCO except to the extent that the rules conflict with the federal rules.

(3) The agency of human services and ~~office~~ department of Vermont health access shall report to the health access oversight committee about implementation of Global Commitment in a manner and at a frequency to be determined by the committee. Reporting shall, at a minimum, enable the tracking of expenditures by eligibility category, the type of care received, and to the extent possible allow historical comparison with expenditures under the previous Medicaid appropriation model (by department and program) and, if appropriate, with the amounts transferred by the department to the ~~office~~ department of Vermont health access. Reporting shall include spending in comparison to any applicable budget neutrality standards.

Sec. I.38            33 V.S.A. Sec. 1901(e)(1) is amended to read:

(e)(1) The department for children and families and the ~~office~~ department of Vermont health access shall monitor and evaluate and report quarterly beginning July 1, 2006 on the disenrollment in each of the Medicaid or Medicaid waiver programs subject to premiums, including:

\* \* \*

Sec. I.39            33 V.S.A. Sec. 1901b is amended to read:

Sec. 1901b        Pharmacy program enrollment

(a) The ~~office~~ department of Vermont health access and the 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 department for children and families and the ~~office~~ department of Vermont health access shall allocate supplemental rebate savings to each program proportionate to expenditures in each program. During the second week of each month, the ~~office~~ 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 access 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 ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access 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 ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access 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 ~~office's~~ department of Vermont health access's determinations 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 section 305a of Title 32.

An enrollment cessation plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the office's recommendation and financial analysis.

(4) Upon the approval of or failure to disapprove an enrollment cessation plan by the joint fiscal committee, the ~~office~~ 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 ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access 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 ~~office's~~ department of Vermont health access's determination 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 section 305a of Title 32. An enrollment renewal plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the office's recommendation and financial analysis.

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

\* \* \*

Sec. I.40            33 V.S.A. Sec. 1901c is amended to read:

Sec. 1901c        Medical care advisory committee

(a) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall appoint a medical care advisory committee to advise the ~~office~~ department about health care and medical services, consistent with the requirements of federal law.

(b) The medical care advisory committee shall be given an opportunity to participate in policy development and program administration for Medicaid, the Vermont health access plan, VPharm, and VermontRx. It shall have an opportunity to review and comment upon agency policy initiatives pertaining to health care benefits and beneficiary eligibility. It also shall have the opportunity to comment on proposed rules prior to commencement of the rulemaking process and on waiver or waiver amendment applications prior to submission to the Centers for Medicare and Medicaid Services. Prior to the annual budget development process, the ~~office~~ department of Vermont health access shall engage the medical care advisory committee in priority setting, including consideration of scope of benefits, beneficiary eligibility, funding outlook, financing options, and possible budget recommendations.

(c) The medical care advisory committee shall make policy recommendations on ~~office~~ department of Vermont health access proposals to the ~~office~~ department of Vermont health access, the health access oversight committee, and the standing committees on health and welfare. When the general assembly is not in session, the ~~director~~ commissioner of the department of Vermont health access shall respond in writing to these recommendations, a copy of which shall be provided to each of the legislative committees.

(d) During the legislative session, the ~~director~~ commissioner of the department of Vermont health access shall provide the committee at regularly scheduled meetings updates on the status of policy and budget proposals.

- (e) The ~~director~~ commissioner of the department of Vermont health access shall convene the medical care advisory committee at least six times each year.
- (f) At least one-third of the members of the medical care advisory committee shall be recipients of Medicaid, VHAP, or VermontRx. Such members shall receive per diem compensation and reimbursement of expenses pursuant to section 1010 of Title 32, including costs of travel, child care, personal assistance services, and any other service necessary for participation on the committee approved by the ~~director~~ commissioner of the department of Vermont health access.
- (g) The ~~director~~ commissioner of the department of Vermont health access shall appoint members of the medical care advisory committee for staggered three-year terms. The ~~director~~ commissioner of the department of Vermont health access may remove members of the committee who fail to attend three consecutive meetings and appoint replacements.

\* \* \*

Sec. I.41            33 V.S.A. Sec. 1901e is amended to read:

Sec. 1901e        Global commitment fund

- (a) The Global Commitment fund is created in the treasury as a special fund. The fund shall consist of the revenues received by the treasurer as payment of the actuarially certified premium from the agency of human services to the managed care organization within the ~~office~~ department of Vermont health access for the purpose of providing services under the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.
- (b) The monies in the fund shall be disbursed as allowed by appropriation of the general assembly, and shall be disbursed by the treasurer on warrants issued by the commissioner of finance and management, when authorized by the ~~director~~ commissioner of the ~~office~~ department of Vermont health access and approved by the commissioner of finance and management consistent with the interdepartmental agreements between the managed care organization within the ~~office~~ department of Vermont health access and departments delivering eligible services under the waiver. The ~~office~~ department of Vermont health access may not modify an appropriation through an interdepartmental agreement or any other mechanism. A department or agency authorized to spend monies from this fund under an interdepartmental agreement may spend monies appropriated as a base Medicaid expense for an allowable managed care organization investment under Term and Condition 40 of the Global Commitment for Health Medicaid Section 1115 waiver only after receiving approval from the agency of human services.
- (c) At the close of the fiscal year, the agency shall provide a detailed report to the joint fiscal committee which describes the managed care organization's investments under Term and Condition 40 of the Global Commitment for Health Medicaid Section 1115 waiver, including the amount of the investment and the agency, ~~department, or office~~ or departments authorized to make the investment.

Sec. I.42            33 V.S.A. Sec. 1903 is amended to read:

Sec. 1903        Contract authorized

- (a) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access may contract with a private organization to operate, under his or her control and supervision, parts of the medical assistance program.

\* \* \*

- (c) In furtherance of the purposes of the contract, the ~~director~~ commissioner of the department of Vermont health access may requisition funds for the purposes of this subchapter, with the approval

of the governor, and the commissioner of finance and management shall issue a warrant in favor of the contracting party to permit the contracting party to make payments to vendors under the contract. The ~~director~~ commissioner of the department of Vermont health access shall quarterly, and at other times as the commissioner of finance and management requires, render an account in a form as the commissioner of finance and management prescribes of the expenditures of moneys so advanced.

Sec. I.43 33 V.S.A. Sec. 1903a(a) is amended to read:

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

Sec. I.44 33 V.S.A. Sec. 1904(4) is amended to read:

(4) "~~Director~~" ~~means the director of the office of Vermont health access.~~

Sec. I.45 33 V.S.A. Sec.1908a(c)(1)(F) is amended to read:

(F) information to the purchaser about available consumer information and public education provided by the department of banking, insurance, securities, and health care administration and the ~~office~~ department of Vermont health access; and

Sec. I.46 33 V.S.A. Sec. 1950(b) is amended to read:

(b) The secretary and the ~~director~~ commissioner shall interpret and administer the provisions of this subchapter so as to maximize federal financial participation and avoid disallowances of federal financial participation.

Sec. I.47 33 V.S.A. Sec. 1951(3) and (12) are amended to read:

(3) "~~Director~~" "Commissioner" means the ~~director~~ commissioner of the ~~office~~ department of Vermont health access.

(12) "~~Office~~" "Department" means the ~~office~~ department of Vermont health access.

Sec. I.48 33 V.S.A. Sec. 1952(b) and (f) are amended to read:

(b) The ~~office~~ department may use not more than one percent of the assessments received under the provisions of this subchapter for necessary administrative expenses associated with this subchapter.

(f) If a health care provider fails to pay its assessments under this subchapter according to the schedule or a variation thereof adopted by the ~~director~~ commissioner, the ~~director~~ commissioner

may, after notice and opportunity for hearing, deduct these assessment arrears and any late-payment penalties from Medicaid payments otherwise due to the provider. The deduction of these assessment arrears may be made in one or more installments on a schedule to be determined by the ~~director~~ commissioner.

Sec. I.49            33 V.S.A. Sec. 1953 is amended to read:

Sec. 1953           Hospital assessment

(a) Hospitals shall be subject to an annual assessment as follows:

(1) Beginning January 1, 2008, each hospital's annual assessment, except for hospitals assessed under subdivision (2) of this subsection, shall be 5.5 percent of its net patient revenues (less chronic, skilled, and swing bed revenues) for the hospital's fiscal year as determined annually by the ~~director~~ commissioner from the hospital's financial reports and other data filed with the department of banking, insurance, securities, and health care administration. The annual assessment shall be based on data from a hospital's third most recent full fiscal year.

\* \* \*

(c) Each hospital shall submit its assessment to the ~~office~~ department according to a payment schedule adopted by the ~~director~~ commissioner. Variations in payment schedules shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any hospital that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule for delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the hospital.

Sec. I.50            33 V.S.A. Sec. 1954 is amended to read:

Sec. 1954           Nursing home assessment

(a) Beginning July 1, 2007, each nursing home's annual assessment shall be \$4,322.90, and beginning January 1, 2008, \$3,962.66 per bed licensed pursuant to section 7105 of this title on June 30 of the immediately preceding fiscal year. The annual assessment for each bed licensed as of the beginning of the fiscal year shall be prorated for the number of days during which the bed was actually licensed and any over payment shall be refunded to the facility. To receive the refund, a facility shall notify the ~~director~~ commissioner in writing of the size of the decrease in the number of its licensed beds and dates on which the beds ceased to be licensed.

(b) The ~~office~~ department shall provide written notification of the assessment amount to each nursing home. The assessment amount determined shall be considered final unless the home requests a reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each nursing home shall submit its assessment to the ~~office~~ department according to a schedule adopted by the ~~director~~ commissioner. The ~~director~~ commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any nursing home that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule of delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late-payment assessment provided for in this subsection for good cause shown by the nursing home.

Sec. I.51            33 V.S.A. Sec. 1955 is amended to read:

Sec. 1955 ICF/MR assessment

\* \* \*

(b) The ~~office~~ department shall provide written notification of the assessment amount to each ICF/MR. The assessment amount determined shall be considered final unless the facility requests a reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ICF/MR shall remit its assessment to the ~~office~~ department according to a schedule adopted by the ~~director~~ commissioner. The ~~director~~ commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ICF/MR that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule of delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late-payment assessment provided for in this subsection for good cause shown by the ICF/MR.

Sec. I.52 33 V.S.A. Sec. 1955a is amended to read:

Sec. 1955a Home health agency assessment

(a) Beginning July 1, 2009, each home health agency's assessment shall be 17.69 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act. The amount of the tax shall be determined by the ~~director~~ commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before December 1 of each year to the ~~office~~ department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

(1) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the ~~director~~ commissioner, in consultation with the home health agency, shall annually estimate the amount of tax payable and shall prescribe a schedule for interim payments.

(2) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the ~~office~~ department shall refund any overpayment. The assessment for the state fiscal year in which a provider commences operations as a home health agency shall be prorated for the proportion of the state fiscal year in which the new home health agency was in operation.

(b) Each home health agency shall be notified in writing by the ~~office~~ department of the assessment made pursuant to this section. If no home health agency submits a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(c) Each home health agency shall submit its assessment to the ~~office~~ department according to a payment schedule adopted by the ~~director~~ commissioner. Variations in payment schedules shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any home health agency that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule for delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the home health agency.

Sec. I.53 33 V.S.A. Sec. 1955b is amended to read:

Sec. 1955b Pharmacy assessment

\* \* \*

(b) Each pharmacy shall declare and provide supporting documentation to the ~~director~~ commissioner of the total number of prescriptions filled and refilled in the previous month and remit the assessment due for that month. The declaration and payment shall be due by the end of the following month.

(c) Each pharmacy shall submit its assessment payment to the ~~office~~ department monthly. Variations in payment timing shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any pharmacy that fails to pay an assessment to the ~~office~~ department on or before the due date shall be assessed a late payment penalty of two percent of the assessment amount for each month it remains unpaid; but late payment penalties for any one quarter shall not exceed \$500.00. The ~~director~~ commissioner may waive a penalty under this subsection for good cause shown by the pharmacy, as determined by the ~~director~~ commissioner in his or her discretion.

Sec. I.54            33 V.S.A. Sec. 1957 is amended to read:

Sec. 1957           Audits

The ~~director~~ commissioner may require the submission of audited information as needed from health care providers to determine that amounts received from health care providers were correct. If an audit identifies amounts received due to errors by the ~~office~~ department, the ~~director~~ commissioner shall make payments to any health care provider which the audit reveals paid amounts it should not have been required to pay. Payments made under this section shall be made from the fund.

Sec. I.55            33 V.S.A. Sec. 1958 is amended to read:

Sec. 1958           Appeals

(a) Any health care provider may submit a written request to the ~~office~~ department for reconsideration of the determination of the assessment within 20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the ~~office~~ department shall hold a hearing within 20 days from the date on which the reconsideration request was received. The ~~office~~ department shall mail written notice of the date, time, and place of the hearing to the health care provider at least 10 days before the date of the hearing. On the basis of the evidence submitted to the ~~office~~ department or presented at the hearing, the ~~office~~ department shall reconsider and may adjust the assessment. Within 20 days of the hearing, the ~~office~~ department shall provide notice in writing to the health care provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of 3 V.S.A. chapter 25.

(b) Upon request, the ~~director~~ commissioner shall enter into nonbinding arbitration with any health care provider dissatisfied with the ~~office's~~ department's decision regarding the amount it is required to pay. The arbitrator shall be selected by mutual consent, and compensation shall be provided jointly.

(c) Any health care provider may appeal the decision of the ~~office~~ department as to the amount it is required to pay either before or after arbitration, to the superior court having jurisdiction over the health care provider.

Sec. I.56            33 V.S.A. Sec. 1971(2) is amended to read:

(2) "~~Office~~ Department of Vermont health access" means the ~~office~~ department administering the Medicaid program for the agency of human services and includes the managed care organization established in section 1901 of this title.

Sec. I.57 33 V.S.A. Sec. 1997(2) and (4) are amended to read:

(2) "~~Director~~" "Commissioner" means the ~~director~~ commissioner of the ~~office~~ department of Vermont health access.

(4) "~~Office~~" "Department" means the ~~office~~ department of Vermont health access.

Sec. I.58 33 V.S.A. Sec. 1998 is amended to read:

Sec. 1998 Pharmacy best practices and cost control program established

(a) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall establish and maintain a pharmacy best practices and cost control program designed to reduce the cost of providing prescription drugs, while maintaining high quality in prescription drug therapies. The program shall include:

\* \* \*

(8) Any other cost containment activity adopted, by rule, by the ~~director~~ commissioner that is designed to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(b) The ~~director~~ commissioner shall implement the pharmacy best practices and cost control program for Medicaid and all other state public assistance program health benefit plans to the extent permitted by federal law.

(c)(1) The ~~director~~ commissioner may implement the pharmacy best practices and cost control program for any other health benefit plan within or outside this state that agrees to participate in the program. For entities in Vermont, the ~~director~~ 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 ~~office~~ 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, the ~~division~~ department of mental health, Medicaid, the Vermont Health Access Program (VHAP), Dr. Dynasaur, Vermont Rx, VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

(2) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access, and the secretary of administration shall take all steps necessary to enable Vermont's participation in joint prescription drug purchasing agreements with any other health benefit plan or organization within or outside this state that agrees to participate with Vermont in such joint purchasing agreements.

\* \* \*

(4) The actions of the commissioners, ~~the director~~, and the secretary shall include:

\* \* \*

(5) The ~~director and the commissioner~~ commissioners of human resources and of the department of Vermont health access may renegotiate and amend existing contracts to which the ~~office~~ department of Vermont health access and the department of human resources are parties if such renegotiation and amendment will be of economic benefit to the health benefit plans subject to

such contracts, and to the beneficiaries of such plans. Any renegotiated or substituted contract shall be designed to improve the overall quality of integrated health care services provided to beneficiaries of such plans.

(6) The ~~director, the~~ commissioners, and the secretary shall report quarterly to the health access oversight committee and the joint fiscal committee on their progress in securing Vermont's participation in such joint purchasing agreements.

(7) The ~~director~~ commissioner of the department of Vermont health access, the commissioner of human resources, the commissioner of banking, insurance, securities, and health care administration, and the secretary of human services shall establish a collaborative process with the Vermont medical society, pharmacists, health insurers, consumers, employer organizations and other health benefit plan sponsors, the National Legislative Association on Prescription Drug Prices, pharmaceutical manufacturer organizations, and other interested parties designed to consider and make recommendations to reduce the cost of prescription drugs for all Vermonters.

(d) A participating health benefit plan other than a state public assistance program may agree with the ~~director~~ commissioner to limit the plan's participation to one or more program components.

The ~~director~~ commissioner shall supervise the implementation and operation of the pharmacy best practices and cost control program, including developing and maintaining the preferred drug list, to carry out the provisions of the subchapter. The ~~director~~ commissioner may include such insured or self-insured health benefit plans as agree to use the preferred drug list or otherwise participate in the provisions of this subchapter. The purpose of this subchapter is to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(e) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall develop procedures for the coordination of state public assistance program health benefit plan benefits with pharmaceutical manufacturer patient assistance programs offering free or low cost prescription drugs, including the development of a proposed single application form for such programs. The ~~director~~ commissioner may contract with a nongovernmental organization to develop the single application form.

(f)(1) The drug utilization review board shall make recommendations to the ~~director~~ commissioner for the adoption of the preferred drug list. The board's recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. "Evidence-based" shall have the same meaning as in section 4622 of Title 18. The ~~director~~ commissioner shall provide the board with evidence-based information about clinical efficacy, adverse side effects, safety, appropriate clinical trials, and shall provide information about cost-effectiveness of available drugs in the same therapeutic class.

\* \* \*

(6) The ~~director~~ commissioner shall encourage participation in the joint purchasing consortium by inviting representatives of the programs and entities specified in subdivision (c)(1) of this section to participate as observers or nonvoting members in the drug utilization review board, and by inviting the representatives to use the preferred drug list in connection with the plans' prescription drug coverage.

(g) The ~~office~~ department shall seek assistance from entities conducting independent research into the effectiveness of prescription drugs to provide technical and clinical support in the development and the administration of the preferred drug list and the evidence-based education program established in subchapter 2 of Title 18.

The ~~director~~ commissioner may implement all or a portion of the pharmacy best practices and cost control program through a contract with a third party with expertise in the management of pharmacy benefits.

Sec. I.60            33 V.S.A. Sec. 2001(a), (c) and (e) are amended to read:

(a) In connection with the pharmacy best practices and cost control program, the ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall report for review by the health access oversight committee, prior to initial implementation, and prior to any subsequent modifications:

\* \* \*

(c) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall report quarterly to the health access oversight committee concerning the following aspects of the pharmacy best practices and cost control program:

\* \* \*

(e)(2) The ~~director~~ commissioner shall not enter into a contract with a pharmacy benefit manager unless the pharmacy benefit manager has agreed to disclose to the ~~director~~ commissioner the terms and the financial impact on Vermont and on Vermont beneficiaries of:

\* \* \*

(3) The ~~director~~ commissioner shall not enter into a contract with a pharmacy benefit manager who has entered into an agreement or engaged in a practice described in subdivision (2) of this subsection, unless the ~~director~~ commissioner determines, and certifies in the fiscal report required by subdivision (d)(4) of this section, that such agreement or practice furthers the financial interests of Vermont, and does not adversely affect the medical interests of Vermont beneficiaries.

Sec. I.61            33 V.S.A. Sec. 2002 is amended to read:

Sec. 2002           Supplemental rebates

(a) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access, separately or in concert with the authorized representatives of any participating health benefit plan, shall use the preferred drug list authorized by the pharmacy best practices and cost control program to negotiate with pharmaceutical companies for the payment to the ~~director~~ commissioner of supplemental rebates or price discounts for Medicaid and for any other state public assistance health benefit plans designated by the ~~director~~ commissioner, in addition to those required by Title XIX of the Social Security Act. The ~~director~~ commissioner may also use the preferred drug list to negotiate for the payment of rebates or price discounts in connection with drugs covered under any other participating health benefit plan within or outside this state, provided that such negotiations and any subsequent agreement shall comply with the provisions of 42 U.S.C. § 1396r-8. The program, or such portions of the program as the ~~director~~ commissioner shall designate, shall constitute a state pharmaceutical assistance program under 42 U.S.C. § 1396r-8(c)(1)(C).

(b) The ~~director~~ commissioner shall negotiate supplemental rebates, price discounts, and other mechanisms to reduce net prescription drug costs by means of any negotiation strategy which the ~~director~~ commissioner determines will result in the maximum economic benefit to the program and to consumers in this state, while maintaining access to high quality prescription drug therapies. The ~~director~~ commissioner may negotiate through a purchasing pool or directly with manufacturers. The provisions of this subsection do not authorize agreements with pharmaceutical manufacturers whereby financial support for medical services covered by the Medicaid program is accepted as consideration for placement of one or more prescription drugs on the preferred drug list.

(c) The ~~office~~ department of Vermont health access shall prohibit the public disclosure of information revealing company-identifiable trade secrets (including rebate and supplemental rebate amounts, and manufacturer's pricing) obtained by the ~~office~~ department, and by any officer, employee or contractor of the department in the course of negotiations conducted pursuant to this section. Such confidential information shall be exempt from public disclosure under subchapter 3 of chapter 5 of Title 1 (open records law).

Sec. I.62            33 V.S.A. Sec. 2003(a), (c)(7) and (e) – (n) are amended to read:

(a) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall implement pharmacy discount plans, to be known as the "Healthy Vermonters" program, for Vermonters without adequate coverage for prescription drugs. The provisions of subchapter 8 of this chapter shall apply to the ~~director's~~ commissioner's authority to administer the pharmacy discount plans established by this section.

(7) "Rebate amount" means the rebate negotiated by the ~~director~~ commissioner and required from a drug manufacturer or labeler under this section. In determining the appropriate rebate, the ~~director~~ commissioner shall:

\* \* \*

(e) The Vermont board of pharmacy shall adopt standards of practice requiring disclosure by participating retail pharmacies to beneficiaries of the amount of savings provided as a result of the pharmacy discount plans. The standards must consider and protect information that is proprietary in nature. The ~~office~~ department of Vermont health access may not impose transaction charges under this program on pharmacies that submit claims or receive payments under the plans. Pharmacies shall submit claims to the department to verify the amount charged to beneficiaries under the plans. On a weekly or biweekly basis, the ~~office~~ department must reimburse pharmacies for the difference between the initial discounted price or the average wholesale price and the secondary discounted price provided to beneficiaries.

(f) The names of drug manufacturers and labelers who do and do not enter into rebate agreements under pharmacy discount plans are public information. The ~~office~~ department of Vermont health access shall release this information to health care providers and the public on a regular basis and shall publicize participation by manufacturers and labelers. The ~~office~~ department shall impose prior authorization requirements in the Medicaid program, as permitted by law, to the extent the office determines it is appropriate to do so in order to encourage manufacturer and labeler participation in the pharmacy discount plans and so long as the additional prior authorization requirements remain consistent with the goals of the Medicaid program and the requirements of Title XIX of the federal Social Security Act.

(g) The ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall establish, by rule, a process to resolve discrepancies in rebate amounts claimed by manufacturers, labelers, pharmacies, and the ~~office~~ department.

(h) The Healthy Vermonters dedicated fund is established to receive revenue from manufacturers and labelers who pay rebates as provided in this section and any appropriations or allocations designated for the fund. The purposes of the fund are to reimburse retail pharmacies for discounted prices provided to individuals enrolled in the pharmacy discount plans; and to reimburse the ~~office~~ department of Vermont health access for contracted services, including pharmacy claims processing fees, administrative and associated computer costs, and other reasonable program costs. The fund is a nonlapsing dedicated fund. Interest on fund balances accrues to the fund. Surplus funds in the fund must be used for the benefit of the program.

- (i) Annually, the ~~office~~ department of Vermont health access shall report the enrollment and financial status of the pharmacy discount plans to the health access oversight committee by September 1, and to the general assembly by January 1.
- (j) The ~~office~~ department of Vermont health access shall undertake outreach efforts to build public awareness of the pharmacy discount plans and maximize enrollment. Outreach efforts shall include steps to educate retail pharmacists on the purposes of the Healthy Vermonters dedicated fund, in particular as it relates to pharmacy reimbursements for discounted prices provided to program enrollees. The ~~office~~ department may adjust the requirements and terms of the pharmacy discount plans to accommodate any new federally funded prescription drug programs.
- (k) The ~~office~~ department of Vermont health access may contract with a third party or third parties to administer any or all components of the pharmacy discount plans, including outreach, eligibility, claims, administration, and rebate recovery and redistribution.
- (l) The ~~office~~ department of Vermont health access shall administer the pharmacy discount plans and other medical and pharmaceutical assistance programs under this title in a manner advantageous to the programs and enrollees. In implementing this section, the ~~office~~ department may coordinate the other programs and the pharmacy discount plans and may take actions to enhance efficiency, reduce the cost of prescription drugs, and maximize benefits to the programs and enrollees, including providing the benefits of pharmacy discount plans to enrollees in other programs.
- (m) The ~~office~~ department of Vermont health access may adopt rules to implement the provisions of this section.
- (n) The ~~office~~ department of Vermont health access shall seek a waiver from the Centers for Medicare and Medicaid Services (CMS) requesting authorization necessary to implement the provisions of this section, including application of manufacturer and labeler rebates to the pharmacy discount plans. The secondary discounted cost shall not be available to beneficiaries of the pharmacy discount plans until the ~~office~~ department receives written notification from CMS that the waiver requested under this section has been approved and until the general assembly subsequently approves all aspects of the pharmacy discount plans, including funding for positions and related operating costs associated with eligibility determinations.

Sec. I.63            33 V.S.A. Sec. 2004(a) is amended to read:

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

Sec. I.64            33 V.S.A. Sec. 2007 is amended to read:

Sec. 2007            Canadian prescription drug information program

The ~~office~~ department of Vermont health access shall establish a website and prepare written information to offer guidance to Vermont residents seeking information about ordering prescription drugs through the mail or otherwise from a participating Canadian pharmacy.

Sec. I.65            33 V.S.A. Sec. 2010 is amended to read:

Sec. 2010            Actual price disclosure and certification

(a) A manufacturer of prescription drugs dispensed in this state under a health program directed or administered by the state shall, on a quarterly basis, report by National Drug Code the following pharmaceutical pricing criteria to the ~~director~~ commissioner of the ~~office~~ department of Vermont health access for each of its drugs:

\* \* \*

(b) When reporting the prices as provided for in subsection (a) of this section, the manufacturer shall include a summary of its methodology in determining the price. The ~~office~~ department may accept the standards of the National Drug Rebate agreement entered into by the U.S. Department of Health and Human Services and Section 1927 of the Social Security Act for reporting pricing methodology.

(c) The pricing information required under this section is for drugs defined under the Medicaid drug rebate program and must be submitted to the ~~director~~ commissioner following its submission to the federal government in accordance with 42 U.S.C. § 1396r-8(b)(3).

(d) When a manufacturer of prescription drugs dispensed in this state reports the information required under subsection (a) of this section, the president, chief executive officer, or a designated employee of the manufacturer shall certify to the ~~office~~ department, on a form provided by the ~~director~~ commissioner of the ~~office~~ department of Vermont health access, that the reported prices are the same as those reported to the federal government as required by 42 U.S.C. § 1396r-8(b)(3) for the applicable rebate period. A designated employee shall be an employee who reports directly to the chief executive officer or president and who has been delegated to make the certification under this section.

(e) Notwithstanding any provision of law to the contrary, information submitted to the office under this section is confidential and is not a public record as defined in subsection 317(b) of Title 1. Disclosure may be made by the ~~office~~ department to an entity providing services to the office under this section; however, that disclosure does not change the confidential status of the information. The information may be used by the entity only for the purpose specified by the ~~office~~ department in its contract with the entity. Data compiled in aggregate form by the ~~office~~ department for the purposes of reporting required by this section are public records as defined in subsection 317(b) of Title 1, provided they do not reveal trade information protected by state or federal law.

\* \* \*

Sec. I.66            33 V.S.A. Sec. 2071(4) is amended to read:

(4) "~~OVHA~~" "DVHA" means the ~~office~~ department of Vermont health access.

Sec. I.67            33 V.S.A. Sec. 2073(c)(4), (e) and (f) are amended to read:

(4) pharmaceuticals that are not covered after the individual has exhausted the Medicare part D prescription drug plan's appeal process or the prescription drug plan's transition plan approved by the Centers for Medicare and Medicaid Services, and that are deemed medically necessary by the individual's prescriber in a manner established by the ~~director~~ commissioner of the ~~office~~ department of Vermont health access. The coverage decision under this subdivision shall not be subject to the exceptions process established under Medicaid. An individual may appeal to the human services board or pursue any other remedies provided by law.

(e) In order to ensure the appropriate payment of claims, ~~OVHA~~ DVHA may expand the Medicare advocacy program established under chapter 67 of this title to individuals receiving benefits from the VPharm program.

(f) A manufacturer of pharmaceuticals purchased by individuals receiving assistance from VPharm established under this section shall pay to ~~OVHA~~ DVHA, as a condition of participation in the program, a rebate in an amount at least as favorable as the rebate paid to ~~OVHA~~ DVHA in connection with the Medicaid program.

Sec. I.68            33 V.S.A. Sec. 2074 is amended to read:

Sec. 2074           VermontRx program

(a) Effective January 1, 2006, VermontRx is established within the ~~office~~ department of Vermont health access and shall be the continuation of the state pharmaceutical programs in existence upon passage of this subchapter for those individuals not eligible for Medicare part D. VermontRx is a pharmaceutical assistance program for individuals age 65 or older who are not eligible for Medicare and for individuals with disabilities who are receiving Social Security disability benefits and who are not eligible for Medicare. VermontRx may retain the current program names of VHAP-Pharmacy, VScript, and VScript Expanded if it is cost-effective to retain the current names in lieu of combining the current programs into one program.

(1) The program shall be administered by ~~OVHA~~ DVHA which, to the extent funding permits, shall establish application, eligibility, coverage, and payment standards. In addition to the general eligibility requirements established in section 2072 of this title, an individual must not be eligible for Medicare in order to be eligible for benefits under VermontRx.

(2) To the extent necessary under federal law, ~~OVHA~~ DVHA shall administer VermontRx in such a manner as to ensure that any permissible federal funding may be received to support the program. ~~OVHA~~ DVHA may establish a division of the VermontRx program to administer federal Medicaid funds separately in accordance with a federal waiver pursuant to Section 1115 of the Social Security Act.

(3) If permissible under federal law, ~~OVHA~~ DVHA shall use the same forms and application process for individuals to enroll in VermontRx, regardless of the funding source for the program.

\* \* \*

(d) Any manufacturer of pharmaceuticals purchased by individuals receiving assistance from VermontRx established under this section shall pay to ~~OVHA~~ DVHA, as a condition of participation in the program, a rebate in an amount at least as favorable as the rebate paid to ~~OVHA~~ DVHA in connection with the Medicaid program.

(e) Under VermontRx, a pharmaceutical may be dispensed to an eligible recipient provided such dispensing is pursuant to and in accordance with any contractual arrangement that ~~OVHA~~ DVHA may enter into or approve for the group discount purchase of pharmaceuticals. When a person or business located in Vermont and employing citizens of this state has submitted a bid for the group discount purchase of pharmaceuticals and has not been selected, the ~~director~~ commissioner of ~~OVHA~~ DVHA shall record the reason for nonselection. The ~~director's~~ commissioner's report shall be a public record available to any interested person. All bids or quotations shall be kept on file in the ~~director's~~ commissioner's office and open to public inspection.

Sec. I.69            33 V.S.A. Sec. 2076(c) is amended to read:

(c) ~~OVHA~~ DVHA shall seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.

Sec. I.70            33 V.S.A. Sec. 2077 is amended to read:

Sec. 2077 Administration

(a) The programs established under this subchapter shall be designed to provide maximum access to program participants, to incorporate mechanisms that are easily understood and require minimum effort for applicants and health care providers, and to promote quality, efficiency, and effectiveness through cost controls and utilization review. Applications may be filed at any time and shall be reviewed annually. ~~OVHA~~ DVHA may contract with a fiscal agent for the purpose of processing claims and performing related functions required in the administration of the pharmaceutical programs established under this subchapter.

(b) Upon determining that an applicant is eligible under this subchapter, ~~OVHA~~ DVHA shall issue an identification card to the applicant.

(c) A pharmacy which dispenses a pharmaceutical to an individual eligible for a pharmaceutical program established under this subchapter shall collect payment for the pharmaceutical from ~~OVHA~~ DVHA.

Sec. I.71 33 V.S.A. Sec. 2081(b) is amended to read:

(b) ~~OVHA~~ DVHA shall report on the status of the pharmaceutical assistance programs established by this subchapter to the health access oversight committee.

Sec. I.72 33 V.S.A. Sec. 6501(1) is amended to read:

(1) "Balance bill" means to charge to or collect from a Medicare or general assistance beneficiary any amount in excess of the reasonable charge for that service as determined by the United States Secretary of Health and Human Services, or the ~~director~~ commissioner of the ~~office~~ department of Vermont health access, as the case may be.

Sec. I.73 33 V.S.A. Sec. 6703 is amended to read:

Sec. 6703 Contract for services

(a) Subject to the provisions of subsection (b) of this section, the ~~director~~ commissioner of the ~~office~~ department of Vermont health access shall contract on an annual basis with individuals or private organizations to provide services authorized by this chapter to dual eligible individuals including pursuit of subrogation claims under section 6705 of this chapter.

(b) The ~~director~~ commissioner shall not be required to enter into contracts under this section if:

\* \* \*

(2) the ~~director~~ commissioner determines that the program is not accomplishing its goal of protecting dual eligible individuals from improper denials of Medicare coverage. The ~~director~~ commissioner shall base his or her determination under this subdivision on information obtained from the contractors, providers of health care, area agencies on aging and other individuals and organizations affected by the program.

Sec. I.74 33 V.S.A. Sec. 6705 is amended to read:

Sec. 6705 Subrogation

(a) Upon furnishing medical assistance under chapter 19 of this title to any individual, the ~~office~~ department of Vermont health access shall be subrogated, to the extent of the expenditure for medical care furnished, to any rights such individual may have to third party reimbursement for such care.

(b) The ~~office~~ department of Vermont health access or its designee shall be entitled to obtain from any medical service provider any records of the treatment of any individual covered by subsection (a) of this section which are in any way relevant to the treatment paid for through medical assistance without regard to any other privilege or right of confidentiality or privacy which may exist. The ~~office~~ department shall ensure that any records obtained are not released to any other individual, agency or other entity except insofar as is necessary to pursue the ~~office's~~ department's rights of subrogation.

(c) The ~~office~~ department of Vermont health access may contract with a private attorney or attorneys, or other private persons, for the purpose of obtaining third party reimbursement for Medicaid expenditures under this section. In awarding contracts under this section, the ~~office~~ department shall give preference to bidders who maintain a place of business in this state.