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Human rights from the grassroots up: Vermont's campaign for universal health care

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Abstract

In 2008, the Vermont Workers' Center launched the "Healthcare Is a Human Right Campaign," a grassroots campaign to secure the creation of a universal health care system in Vermont. Campaign organizers used a human rights framework to mobilize thousands of voters in support of universal health care. In response to this extraordinary grassroots effort, the state legislature passed health care legislation that incorporates human rights principles into Vermont law and provides a framework for universal health care.

The United States has often lagged behind other nations in recognizing economic, social, and cultural (ESC) rights, including the right to health. Nonetheless, activists have begun to incorporate ESC rights into domestic advocacy campaigns, and state and local governments are beginning to respond where the federal government has not. Vermont serves as a powerful example of how a human rights framework can inform health care policy and inspire grassroots campaigns in the United States.

This three-part article documents the Vermont Workers' Center campaign and discusses the impact that human rights activity at the grassroots level may have on attitudes towards ESC rights in the United States. The first part describes the Vermont health care crisis and explains why the center adopted international human rights principles for their campaign. The article then goes on to discuss the three-year campaign and analyze the health care reform bill that the Vermont legislature passed. Finally, the article discusses the campaign's local and national impact.

Introduction

The United States has a history of championing civil and political rights, but has lagged behind other nations in the recognition of economic, social, and cultural (ESC) rights. President Jimmy Carter signed the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1977, but the United States Senate has not ratified it and does not appear likely to do so in the near future.[1] Nonetheless, US activists have begun to incorporate ESC rights into domestic advocacy campaigns, and state and local governments are beginning to respond where the federal government has not.[2]

For example, in 2008, the Vermont Workers' Center launched the "Healthcare Is a Human Right" Campaign (HCHR), which resulted in the 2010 passage of health care legislation that incorporates human rights principles into Vermont law and provides a framework for universal health care.[3] By framing health care as a human right, the center mobilized thousands of state residents—many of whom had no prior involvement with political campaigning—making it possible for the center to change the political environment and pressure the state legislature

to enact laws that may lead to universal health care.

This article discusses the Vermont Workers' Center campaign and explores how the campaign used human rights principles to build and sustain a successful grassroots movement. The article is presented in three parts: The first part describes the Vermont health care crisis and explains why the center adopted international human rights principles for their campaign. The second section looks at the three-year HCHR campaign and analyzes the enacted health care reform legislation. Finally, the article discusses the campaign's local and national impact.

The Vermont health care crisis

Vermont is a small rural state along the northeast border of the United States. The 625,000 residents are primarily white and fairly well-educated.[4] The state has a strong tradition of direct democracy and local control; the state's voters tend to be center-left on the political spectrum and have twice elected a socialist, Senator Bernie Sanders, to serve in the United States Senate.[5] Vermont has frequently led the nation in issues such as the abolition of slavery and marriage equality for same-sex couples, and has repeatedly attempted to improve its health care system over the past few decades.[6,7]

Health care reform efforts have resulted in consistently high rankings for Vermont's existing health care system, and residents are in excellent health compared to those in many other states.[8] Like all other states, Vermont relies on a combination of private, for-profit health insurers and government-sponsored programs to finance health care delivery to its residents. Many Vermonters receive health insurance for themselves and their families through employer-sponsored plans, wherein the employer selects and subsidizes a private insurance plan for its employees, while others purchase their insurance on the open market. Vermont also offers a variety of insurance programs that are subsidized by federal and state funds, including Dr. Dynasaur, which provides near-universal prenatal care and health care for children under 18.

As a result of state-sponsored programs, approximately 93% of Vermont's residents have health insurance.[9] Thousands, though, remain uninsured, and thousands more report that the high cost of health care prevents them from using their insurance effectively.[10] While health care costs are rising throughout the US, Vermont's costs are higher than the national average and are rising at a faster rate.[11,12] Vermonters spent more than US$4.4 billion on health care in 2008 and more than $5 billion in 2010, while almost 10% of the population remained uninsured.[13]

In the 2000s, health care access and affordability was an issue of primary importance to Vermonters, and a number of grassroots advocacy groups began to push for health care reform.[14] The member-run Vermont Workers' Center, founded by a group of low-income Vermonters in 1996 to address socio-economic issues including livable wages, affordable housing, and health care, fosters leadership in as many people as possible.[15,16] The center emphasizes transparency and participation in order to build a sustainable grassroots movement. In the mid 2000s, staff noticed that they were receiving frequent requests for assistance on health care matters.[17] When it became clear that health care was a major issue for working Vermonters, the center focused its efforts on achieving universal health care.[18] In launching the new campaign, the center decided to use a human rights framework inspired by the right to health as it is defined in international law.

The human right to health

In developing their human rights framework, the center looked to international treaties and documents that recognized the right to health, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).[19] Article 12 of the Covenant recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.[20]

The Covenant requires governments to progressively realize the right to health, as well as other economic and social rights.[21] It recognizes that immediate implementation of all aspects may be impossible, but calls for governments to take steps that will over time lead to the full enjoyment of the right to health.[22,23]

The Committee on Economic, Social, and Cultural Rights is responsible for monitoring implementation of the ICESCR, and has defined the right to health through country reports and a General Comment. All state parties to the ICESCR must submit periodic

reports to the committee detailing their progress on implementing the Covenant, including the right to health.[24]

In General Comment 14, the committee interprets the right to health expansively to include not only the right to health care, but also the right to the underlying determinants of health, such as access to clean water, safe food, sanitation, and housing.[25]

The committee has identified four substantive elements necessary to achieving the right to health: availability, accessibility, acceptability, and quality.[26] Governments must ensure that high-quality, medically appropriate health care services and facilities are available throughout the territory in adequate supply and are physically and economically accessible.[27]

In sum, governments must make safe, effective, culturally appropriate health care available and accessible to all by eliminating physical and economic barriers in the provision of health care facilities, goods, and services.[28]

The committee has also identified four procedural elements necessary to achieving the right to health: non-discrimination, participation, information, and access to remedies.[29] Governments must ensure (1) there is no discrimination in the provision of health care services; (2) ensure that people have an opportunity to participate in decisions regarding health and health care policy; (3) provide adequate information on health services and public health; and (4) provide mechanisms for accountability.[30]

Bringing the right to health to Vermont

While the United States Senate has not ratified the ICESCR and therefore is not bound by the terms of the Convention, the Vermont Workers' Center chose to develop a human rights framework for its health care organizing. Rather than advocating for a particular form of universal health care, the center focused on ensuring that human rights principles would be incorporated into any universal health care system that the government adopted.[31] The human rights principles at the center of the Vermont Workers' Center's framework are universality, equity, transparency, accountability, and participation.

Specifically, the campaign asserts that health care should be available to all Vermonters regardless of their ability to pay; that the cost of the health care system should be shared fairly; that Vermonters should participate in the design and implementation of the health care system; that the system should be transparent, efficient, and accountable to the people it serves; and that government should be responsible for ensuring that the health care system complies with these principles.[32]

The center asserts that despite decades of health care reforms, Vermont's health care system does not comport with human rights standards because it does not ensure universal health care for all residents regardless of age, employment status, or ability to pay. While other groups in the state are advocating for health care reform, the Vermont Workers' Center is the only group organizing around a human right to health care. The center chose to use a human rights framework because it wants to ensure that people are at the center of the debate.[33] Previous health care reform debates in Vermont have focused on costs and financing mechanisms, such as single-payer health care, rather than on how the current health care system impacts people and what any proposed reforms would do to improve their health.[34] While ordinary Vermonters might not relate to terms like "single-payer" or the "public option," they understand that the current system is causing needless suffering in their communities. The center asserts that the human rights framework has enabled the campaign to effectively organize and mobilize working people by making health care policy more accessible.[35]

As a result, the campaign has been able to reach many Vermonters who have not previously been involved in political campaigns:

> If you're talking about public financing of the health care system, those are policy terms that don't necessarily resonate with people. When we say that health care is a human right and that the government's responsibility is to provide that for everybody, we find that people relate better to that then "single-payer" or the "public option."[36]
>
> —James Haslam
> Director, Vermont Workers' Center

The "Healthcare Is a Human Right" campaign

The Vermont Workers' Center launched the "Healthcare Is a Human Right" Campaign in 2008. At the time, federal health care reform efforts were under way, and the 2008 election of President Barack Obama increased optimism that substantive health care reform was finally possible. As federal negotiations proceeded, however, it became clear that these reforms would not provide universal health care, but would continue to rely on private, profit-driven insurance companies.[37] Because center organizers believed that federal health care reform legislation would not address the fundamental problems causing the Vermont health care crisis, they continued to advocate for change at the state level.[38]

During the first year of the campaign, organizers focused on mobilizing state residents, believing that reform would be impossible without strong, sustained grassroots pressure. The center's emphasis on engaging the grassroots stemmed from previous failed efforts to introduce universal health care.[39] In 2005, advocacy groups including the Vermont Workers' Center successfully pressured the Vermont state legislature to pass a single-payer health care bill, only to have the legislation vetoed by Governor James Douglas, a Republican.[40] The center believed that the veto and the legislature's failure to override it were due to the influence of hospital, health insurance, and pharmaceutical lobbyists, whose industries benefited financially from the current system.[41] While universal health care advocates had succeeded in getting single-payer health care legislation passed, it was defeated because there was not a strong grassroots base of support demanding health care reform.[42]

> We figured the reason why we don't have a health care system that works and treats it as a basic right is not because it doesn't make the most sense or politicians don't understand how to make it work or don't know how to do it. It's because there's not the right political pressure making them do it. So our strategy was just to show them that this is what we wanted over and over again.[43]
>
> —Kate Kanelstein
> Campaign organizer

To mobilize Vermonters, the campaign used a variety of strategies, including recruiting volunteers to staff tables at grocery stores and farmers' markets, march in local parades, and write letters to the editor. The center built relationships with other health care reform groups, unions, religious communities, and Vermont businesses. The campaign received endorsements from more than 100 organizations, businesses, faith communities, and labor unions, including Vermont Health Care for All and the Vermont Nurses' Union.[44]

The center also developed a "People's Toolkit," which provided information on human rights and the campaign goals. One of the most effective organizing tools was "human rights hearings," which were held across the state. At these hearings, residents testified to community leaders about their experiences with the health care system; the hearings gave the center an opportunity to educate everyone in attendance on the human right to health care. The hearings demonstrated how the current health care system was harming thousands of Vermonters, and built solidarity among residents from all socioeconomic backgrounds.[45]

Throughout 2008, campaign volunteers also asked Vermonters to complete a short survey and share personal stories about how the current health care system jeopardized their health and their finances. The campaign compiled over 1,500 surveys by the end of 2008.[46] The survey results highlighted the links between the health care crisis and other social problems including homelessness, employment discrimination, bankruptcy, and domestic violence. For example, some residents without dental care reported social stigma and employment discrimination because they had missing or unsightly teeth.[47] Some also reported becoming homeless after severe illnesses because they could not afford to pay for both housing and medical treatment.[48] Finally, many reported staying in abusive relationships because they or their children needed medical care that they could not afford without the abusive partner's employer-sponsored health care plan.[49]

> My father was an abusive alcoholic. My father would constantly threaten my mother that without him and his health insurance, she would never be able to make it on her own…The fear of not having health care prevents us from [from having] the freedom to make choices.
>
> —Survey respondent[50]

These personal stories humanized the health care crisis and helped the center explain the connection between human rights principles and the suffering of individual residents. The survey results were compiled in a report entitled "Voices of the Vermont Health Care Crisis," which was released to wide distribution in December 2008 in celebration of the 60th anniversary of the Universal Declaration of Human Rights.[51]

In the fall of 2009, the campaign reached out to legislators to demand legislative reform in the 2010 session. When center organizers first approached legislators about enacting universal health care, they were discouraged by the response. Legislators argued, first, that universal health care was too controversial to tackle in an election year, and, second, that the legislature should focus on addressing the state budget crisis caused by the global economic crisis.[52]

Although legislators were initially resistant, the strength of the grassroots social movement for "Healthcare as a Human Right" made it impossible for legislators to ignore the demand for universal health care. In the fall of 2009, the campaign also organized a series of "people's forums" throughout the state and invited local legislators to hear testimony from their constituents regarding their experiences with the health care system.

While many legislators had previously argued that health care reform was unnecessary, their argument became more difficult when confronted with voter testimony on the system's shortcomings.[53] Many legislators began to express support for the notion of health care as a human right and publicly pledged to work on health care reform in the 2010 legislative session.[54]

When the session began that January, the legislature did take up a variety of health care bills.[55] The campaign used a variety of organizing tactics to place pressure on legislators to pass a bill that provided for universal health care, organizing a "People's Team" of volunteers who maintained a constant presence at the State House and attended every committee meeting related to health care during the 2010 session. The team tried to ensure that different campaign volunteers attended each meeting, illustrating that the campaign was not a fringe group, but that it represented the views of thousands of state residents.[56]

The People's Team also made it easier for residents to engage in the political process. They revised the Toolkit to analyze the proposed health care bills from a human rights perspective, using language that was easy to read for those unfamiliar with health care policy. The table below shows the "scorecard" the campaign used to analyze each proposed bill. The bills beginning with "H" originated in the Vermont House while the bills beginning with "S" originated in the Senate.

H.100/S.88, which received the highest scores, was passed by both the House and the Senate. It became law on May 27, 2010, without the signature of Governor Douglas.

The new law, Act 128, does not explicitly state that health care is a human right, but it states that health care is a public good for all Vermonters, and incorporates the human rights principles advanced by the campaign.[58] It clearly notes that it is state policy to ensure universal access to health care, and that systemic barriers must not prevent people from accessing health care.[59] It also states that any health care plan must be transparent in design, efficient in operation, and accountable to the people it serves.[60] Additionally, the government is held responsible for ensuring residents' ability to participate in the design, implementation, and accountability mechanisms of the health care system; the government must ensure that the health care system satisfies all these principles.[61]

Act 128 established a health care commission charged with hiring an independent consultant to design three universal health care models, each of which was to incorporate the human rights principles laid out in the legislation.[62] Dr. William Hsiao, the independent consultant hired to design the models, presented three models to the legislature and the general public in January 2011.[63] He recommended that Vermont adopt a "public/private" single-payer health care system with a standard benefits package and a uniform payment system.[64]

In November 2010, Peter Shumlin was elected governor after campaigning in support of a single-payer health care system.[65] On February 11, 2011, the new governor unveiled H.202, a bill that established a single-payer health care system modeled after Hsiao's recommendations.[66] Although the proposed legislation had the potential to move Vermont towards a universal health care system, the campaign offered a number of critiques.[67] For example, the campaign expressed concern that the legislation did not attempt to provide universal health care coverage for all Vermonters until 2017.[68] In addition, Green Mountain Care, the proposed universal health care system, required cost-sharing, which the Vermont Workers' Center asserted would make it more difficult for low-income residents to access care.[69]

Table 1. Human rights analysis of proposed Vermont legislation

Proposed Legislation	H.100/S.88	H.491	H.510	S.181
Does the system provide health care for all?	Yes	Yes	Yes	No
Does the system provide equal access to comprehensive health care services?	Yes	Yes	No	No
Does the system treat health care as a public good?	Yes	Yes	No	No
Does the system eliminate barriers to use needed health care services?	Yes	Yes	No	No
Is the system financed equitably?	Yes	Yes	No	No
Do people pay for health care based on their ability to pay without regard to unrelated factors such as age, health status, gender, or employment status?	Yes	Yes	No	Partially
Does the system use money effectively and efficiently?	Yes	Yes	No	Partially
Does the system allocate resources equitably, according to health needs?	Yes	Yes	No	Partially
Does the system improve the quality of health care by rewarding providers who utilize best practices and provide excellent outcomes?	Yes	Yes	Yes	Partially
Does the system enable meaningful community participation?	Yes	Yes	No	Partially
Is the system accountable to the people it serves?	Yes	Yes	No	Partially[57]

Despite these concerns, the campaign supported the bill and continued to mobilize residents to improve it and to ensure its passage. Throughout the 2011 legislative session, the campaign employed the strategies that had proven so successful the year before. Organizers drafted editorials, recruited volunteers to attend public hearings, and held a number of rallies.[70] State and national groups working on health care reform also contributed to the effort to pass H.202. Dr. Deb Richter, founder of Vermont Health Care for All and long-time advocate for single-payer health care, delivered more than 500 talks to medical providers around the state, convincing many to support the legislation.[71] Physicians for a National Health Program and the American Medical Student Association sponsored a rally drawing medical providers and students from across New England to the State House in support of a single-payer system.[72]

In March, the legislature teamed up with Vermont Interactive Television to host a statewide public hearing that used televisions to link legislators and residents at 15 locations around the state. The Rutland Herald reported that more than half the Vermonters who spoke were affiliated with the campaign and that the hearing was "as much a testimony to the organizing power of the 'Healthcare is a Human Right Campaign' as it was an indictment of the current health care system."[73]

H.202 passed in the Vermont House on March 24, 2011, and the Vermont Senate on April 26, 2011.[74] A last-minute amendment was added to the Senate version that excluded undocumented immigrants from coverage under the universal health care system.[75] In the early days of the campaign, center organizers had identified health care for immigrants as a potential wedge issue, and to prepare, had educated organizers and members on the universality of human rights.[76] The campaign responded to the amendment by reminding residents that all people are entitled to health care regardless of immigration status.[77] The message resonated, and thousands signed petitions against the amendment and more than 40 volunteers lobbied at the State House to ensure that the amendment was stripped.[78,79] The campaign mobilization against this amendment was so successful that Senator Richard Sears, one of the amendment's two co-sponsors, withdrew his support and instead introduced a resolution calling for federal immigration reform.[80]

On May 1, the campaign held a rally that attracted more than 2,000 attendees.[81] After the House and Senate versions were reconciled in conference committee and again passed, Governor Shumlin signed H.202 into law on May 26.[82] In a period of less than three years, the Vermont Workers' Center had successfully mobilized thousands of Vermonters to change what was politically possible and ensure that human rights principles were incorporated into state law.

H.202, now Act 48, creates a framework for implementing a comprehensive, publicly financed universal health care system known as Green Mountain Care.[83] The legislation establishes a Green Mountain Care board that will oversee the development and implementation of the new plan.[84] The first step will be the establishment of a health benefits exchange as required under the federal Patient Protection and Affordable Care Act (PPACA).[85] Beginning in 2014, Vermonters will use this exchange to purchase private insurance policies.[86]

Under the PPACA, states may obtain waivers to begin operating alternative programs in lieu of the federal program in the year 2017.[87] Vermont will then seek a federal waiver to transform the health benefit exchange into the universal health care system known as Green Mountain Care.[88] All state residents will be eligible for the system, which will provide comprehensive, affordable, publicly-financed health care coverage.[89] This framework for universal health care is very promising, yet significant features remain undecided. The contents of the common benefits package and the financing mechanism, for example, will be determined at a later date.

The establishment of a universal health care system in Vermont is not yet certain. There are a number of obstacles, including, in particular, the PPACA. Nonetheless, if Vermont can overcome these obstacles, it will be the first state in the United States to provide universal health care to all its residents, regardless of age, employment status, or ability to pay.

Campaign impact

The passage of Act 128 and Act 48 were major victories that can serve as powerful examples of how human rights principles can advance a domestic agenda. The human rights framework the Workers' Center adopted made it possible to mobilize the state's voters because it reframed access to health care as a moral issue. As the *Montpelier Times Argus* observed in an editorial, once one accepts the idea of health care as a human right, "It is no longer acceptable that a capricious system denies care to people because of arcane provisions in their insurance policies" or because they cannot afford health insurance

coverage.[90] The center's campaign is not the first campaign for universal health care in Vermont, but it has been the most effective because it has not wavered from the simple message that health care is a universal human right.[91] The simplicity of this message has transformed the way Vermont residents and policy makers view health care, and has shifted the debate from cost-control and financing mechanisms to providing access to health care as a basic human right.

If Vermont is able to achieve a universal health care system, it could have a profound impact on the rest of the country; Senator Sanders has suggested that a successful universal health care program in Vermont can serve as a template for other states.[92] While some may argue that Vermont's experience cannot be replicated, it is important to note that Canada's universal health care system began in the rural province of Saskatchewan and was eventually implemented in the rest of the country.[93] Vermont now has an opportunity to demonstrate to other states the benefits of a universal health care system based on human rights principles, and if they succeed, it is more likely that other states will follow their example.

Center organizers also believe that their work on health care has made many Vermonters more receptive to other economic, social, and cultural rights.[94] The Vermont Workers' Center now uses a human rights framework in other policy areas.[95] By incorporating human rights principles into domestic policy debates, the center is changing the terms of the debate and transforming the way people view these issues.

The center's human rights framework can also serve as an example of how human rights are useful in the United States. Many human rights activists have observed that people living in the US tend to view human rights as applicable only to the developing world.[96] State and local action can educate the public about human rights and demonstrate how rights, especially ESC rights, are relevant.[97] Movements like the Healthcare Is a Human Right campaign demonstrate that international human rights principles can have a profound impact on domestic policy discussions, regardless of whether they have been legally recognized at the federal level.

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10. In 2010, 7% of Vermonters were uninsured and reported the high cost of insurance premiums as the reason for being uninsured. An additional 15% of Vermonters were underinsured, meaning they spent over 5% of their annual income on health care expenses, excluding health insurance premiums. Although the underinsured have insurance, they often report going without health care due to the cost. See Ibid., pp 3-4.

11. Ibid., pp. 4-5. The cause of spiraling health care costs in Vermont is the result of a number of factors such as fee for service reimbursement whereby physicians are rewarded for the volume of services they provide rather than the quality of health outcomes and an over-reliance on specialists rather than primary care physicians. The health care delivery system's reliance on private insurers also increases costs. Finally, the fragmentation of the health care system increases costs by creating large administrative burdens on medical providers. The United States health care system also faces similar issues. See the Kaiser Foundation. Available at http://www.kff.org/.

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16. Cassandra Edson (policy committee member, Vermont Workers' Center) in discussion with the author, August 2010.

17. James Haslam (director and lead organizer, Vermont Workers' Center) and Kate Kanelstein (organizer, Vermont Workers' Center) in discussion with the author, August 2010.

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54. Vermont Workers' Center, *150+ Chittenden County residents fill the Imani Center for healthcare is a human right people's forum* (October 2010). Available at http://www.workerscenter.org/node/132.

55. D. Barlow, "A call for health reform," *Barre-Montpelier Times Argus* (January 13, 2010). Available at http://www.timesargus.com/article/20100113/NEWS/100119988.

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57. Toolkit (see note 32) p. 32.

58. Act 128 (see note 3) §, 90431(a).

60. Ibid., § 2.

61. Ibid.

62. Ibid.

62. Ibid., § 6.

63. Hsiao (see note 7) p. 127.

64. Ibid.

65. Although in 2008 and 2009, Vermont legislators had told the Vermont Workers' Center that universal health care was too politically controversial to tackle in an election year, gubernatorial candidate Peter Shumlin made support for single-payer health care the centerpiece of his campaign in 2010. This is a testament to the way the center energized Vermonters on the issue of health care reform. See D. Goodman, "Vermont passes single-payer health care, world doesn't end," *Mother Jones* (May 30, 2011). Available at http://motherjones.com/politics/2011/05/vermont-single-payer-health-care.

66. A. Galloway, "Bill puts Vermont on single payer path," *VTDigger* (February 9, 2011). Available at http://vtdigger.org/2011/02/09/bill-puts-vermont-on-a-health-care-budget/.

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69. Ibid.

70. J. Haslam, "Beyond the market: Why we must treat health care as a public good," *Rutland Herald/Times Argus* (April 19, 2011). Available at http://www.workerscenter.org/node/835; N. Goswami, "Forum leans toward single-payer health care," *Bennington Banner* (March 15, 2011). Available at http://www.workerscenter.org/node/779.

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82. A. Galloway, "Shumlin signs nation's first single-payer health care bill into law," *VTDigger* (May 27, 2011). Available at http://vtdigger.org/2011/05/27/shumlin-signs-nations-first-single-payer-bill-into-

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87. E. Schafer, "State single-payer waivers in HR 3590," Washington, DC: Center for Policy Analysis (May 2010). Available at http://www.centerforpolicyanalysis.org/index.php/2010/08/state-single-payer-amendments-erisa-2/; it is possible that Vermont may be able to seek a waiver at an earlier date if federal legislation currently pending is enacted. See S. Stolberg, K. Sack, "Obama backs easing state health law mandates," *New York Times* (February 28, 2011). Available at http://www.nytimes.com/2011/03/01/us/politics/01health.html?pagewanted=1&_r=3&hp.

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