S.262 COMMENTS/RECOMMENDATIONS

1. Concerns about the number of requests coming from state government including: Tax Department; Office of Child Support; Disabilities, Aging and Independent Living; Department for Children and Families; and now Department of Vermont Health Access.

   Request: The legislature include language in S.262 directing the Agency of Human Services to standardize all financial information requests sent to financial institutions from that Agency.

2. The current language in section 403 only authorizes sharing information with the Commissioner of Vermont Health Access. It is the VBA's understanding the Department has contracted out for the asset verification services.

   Request: In order for the financial industry to share information with an Agent of the Department, the following change needs to be made: 403. BANKS AND AGENCIES TO FURNISH INFORMATION (a) An officer of a financial institution, as described in 8 V.S.A. 11101(32); a credit union; or an independent trust company in this State, when requested by the Commissioner of Vermont Health Access, shall furnish to the Commissioner or the Department's Agent information in the possession of the bank or company with reference to any person or his or her spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access.

   We would also ask the Committee to explore whether authorization also needs to be given under Title 8 Chapter 200, privacy exceptions.

3. Currently there are no guidelines in statute for the establishment of this information sharing process. The VBA requests the following language be included in the bill:

   (a) Upon written request from the Commissioner of Vermont Health Access or the Department's Agent and provided the institution has the resources/technological capacity to perform a match, a financial institution shall perform a match of individuals applying for Medicaid assistance. The Department shall make its computerized information necessary for a match available in a form that is compatible with the technology used by the financial institution that will perform the search. A financial institution shall not be required to perform a match under this section more often than once every month.

   (b) After completing a match requested under subsection (a) of this section, a financial institution shall notify the Department of Health Access or the Department's Agent. The notification shall contain the following information, if available to the financial institution through its matching procedure, for each account identified:

      (1) the full name, date of birth, and address of the individual;

      (2) the Social Security number of the individual;

      (3) the individual's account number; and

(4) the amount of deposits contained in the individuals account.

(c) A financial institution shall send a match list compiled under this section to the Department or Agent at the address designated by the Department.

(d) The financial institution shall not provide notice in any form to a depositor contained in a match list submitted to the Department or Agent under subsection (c) of this section. Failure to provide notice to a depositor shall not constitute a violation of the financial institution's duty of good faith to its customers.

(e) A financial institution may charge the Department a fee for services provided under this section provided that the fee shall not exceed the actual costs incurred by the financial institution.

(f) The information provided by the Department or Agent to a financial institution under this section shall be confidential and shall be used only for the purpose of carrying out the requirements of this section.

4. It is our understanding, when an individual applies to the Department for Medicaid assistance, they sign a form authorizing the Department to access their financial records.

   Request: The financial services industry would also like the applicant, on the same form, to authorize the financial institution to share information with the Department or Agent.

5. The one item I have not included, but plan to explore is evidence provided by the state and agent they meet certain standards for the protection of our customer's information. This is common practice when the industry is performing due diligence on vendors. Many of the standards are contained in GLBA

   GLBA related requirements in service provider relationships with Financial Institutions

   Under certain exceptions, the bank is allowed to share NPPI with unaffiliated third parties, **IF** the bank has obtained contractual assurances from the third party as outlined below:

   1) Under Privacy Rule, must enter into a contractual relationship that prohibits their use of the information other than to carry out the purposes for which the NPPI was disclosed (Reg P). Additionally,
   2) Under Information Security Guidance, by contract, we must require service provider to Implement appropriate measures designed to protect against unauthorized access to or use of customer information maintained by the service provider that could result in substantial harm or inconvenience to any customer; and
   3) Under Information Security Guidance, by contract, we must require that service provider properly dispose of customer information.
   4) Under Incident Response Guidance (SR 05-23), an institution's contract with its service provider should require the service provider to take appropriate actions to

address incidents of unauthorized access to the financial institution's customer information, including notification to the institution as soon as possible following any such incident.