

competitiveness of Vermont and the effects on residents and population groups and on current and potential insurers and providers of health care.

(2) Financing options. The financing study shall examine the financing options that most effectively achieve the goal of universal access to health care and maintaining its affordability. The study shall include the examination of all financing options and their implications, including the income tax, a payroll tax, premiums or cost-sharing measures, consumption taxes, specific, more limited taxes to support parts of the health care system's financial needs, and other revenue sources, including insurance risk pools and insurance assistance and incentives.

(A) The study shall reference the fact and supporting empirical evidence that many countries have achieved universal access and more affordable health care utilizing public financing as a tool to achieve this goal. The study shall consider the strengths and weaknesses of such public financing systems with respect to fairness and adequacy of funding and access to and quality of services.

(B) The study shall examine how implementation of any public financing options will be offset in corresponding reductions in premiums, other taxes, and individual cost-sharing contributions.

(C) The study shall examine how any proposed changes in financing or delivery of health care could affect benefits Vermonters currently receive through Vermont employers.

(D) The study shall address issues involved with federal law and taxation, including ERISA and other areas of preemption; technical proposals to exempt nonresident employees of Vermont businesses; a provision to ensure a soft landing for affected businesses and a recommendation as to the appropriate amount needed in a soft-landing provision to mitigate negative effects on business; recommendations on the best method for unemployed individuals to contribute to the financing; a simplified structure based on employee numbers, employer payroll, or a combination for ease of administration and clarity; and the recommendations of the department of taxes.

(E) The study shall analyze methods for recapturing insurance premiums as a result of any reductions in uncompensated care, such as the Dirigo model enacted in the state of Maine, or any reductions in insurance premiums resulting from public financing and for ensuring that all Vermonters contribute to the financing of health care's fixed costs.

(3) The commission on health care reform shall include in its report to the general assembly its analysis and recommendations concerning:

(A) The costs and policy considerations of providing uninsured low and moderate income Vermonters access to health insurance through a premium assistance program such as the catamount health program recommended by the house committee on health care during the 2006 Session of the Vermont general assembly.

(B) The financial and policy advantages and disadvantages of providing premium assistance to low and moderate income uninsured Vermonters through a public health insurance program or through commercial health insurance plans.

(C) The number of individuals enrolled in any chronic care management program which complies with the requirements in chapter 13 of Title 18, including those covered by private insurance.

(D) Any recommendations to achieve a 98 percent rate of insured Vermonters. In making its recommendations, the commission shall consider whether mandating participation in public health care programs and health insurance coverage is necessary to increase enrollment and whether mandating that those who choose not to have health insurance coverage should be required to pay some of the health care costs.

(b) The department of banking, insurance, securities, and health care administration shall complete a survey of insurance status no later than June 30, 2009, provided that an appropriation for this purpose is made by the general assembly. The agency of administration shall make recommendations to the general assembly no later than January 15, 2010 on any changes to catamount health needed to increase enrollment to achieve a 98 percent rate of insured Vermonters. In making its recommendations, the agency shall consider whether mandating participation in public health care programs and health insurance coverage is necessary to increase enrollment. The agency shall include supporting information and data for the recommendation.

Pending the question, Shall the House amend the bill as recommended by Rep. Donahue of Northfield? **Rep. Morrissey of Bennington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Donahue of Northfield? was decided in the negative. Yeas, 54. Nays, 80.

Those who voted in the affirmative are:

Acinapura of Brandon

Adams of Hartland

Allaire of Rutland City

Allard of St. Albans Town	Hudson of Lyndon	Morley of Barton
Baker of West Rutland	Johnson of Canaan	Morrissey of Bennington
Bartlett of Dover	Kennedy of Chelsea	Myers of Essex
Branagan of Georgia	Kilmartin of Newport City	Niquette of Colchester
Brennan of Colchester	Koch of Barre Town	O'Donnell of Vernon
Canfield of Fair Haven	Krawczyk of Bennington	Otterman of Topsham
Clark of Vergennes	Larocque of Barnet	Peaslee of Guildhall
Dates of Shelburne	Larrabee of Danville	Shaw of Derby
DePoy of Rutland City	Lawrence of Lyndon	Smith of New Haven
Donaghy of Poultney	Livingston of Manchester	Sunderland of Rutland Town
Donahue of Northfield	Louras of Rutland City	Turner of Milton
Dunsmore of Georgia	Marcotte of Coventry	Valliere of Barre City
Endres of Milton	Marron of Stowe	Westman of Cambridge
Errecart of Shelburne	McAllister of Highgate	Winters of Swanton
Helm of Castleton	Miller of Shaftsbury	Winters of Williamstown
Houston of Ferrisburgh	Miller of Elmore	Wright of Burlington
Hube of Londonderry	Molloy of Arlington	Young of Orwell

Those who voted in the negative are:

Ancel of Calais	Grad of Moretown	McFaun of Barre Town
Aswad of Burlington	Green of Berlin	McLaughlin of Royalton
Atkins of Winooski	Haas of Rochester	Milkey of Brattleboro
Audette of S. Burlington	Head of S. Burlington	Minter of Waterbury
Bohi of Hartford	Heath of Westford	Mook of Bennington
Botzow of Pownal	Hosford of Waitsfield	Nease of Johnson
Brooks of Montpelier	Howard of Rutland City	Nitka of Ludlow
Chen of Mendon	Howrigan of Fairfield	Nuovo of Middlebury
Clarkson of Woodstock	Hutchinson of Randolph	Obuchowski of Rockingham
Condon of Colchester	Jerman of Essex	Orr of Charlotte
Copeland-Hanzas of Bradford	Jewett of Ripton	Partridge of Windham
Corcoran of Bennington	Johnson of South Hero	Pellett of Chester
Cross of Winooski	Keenan of St. Albans City	Perry of Richford
Darrow of Dummerston	Keogh of Burlington	Peterson of Williston
Deen of Westminster	Kiss of Burlington	Potter of Clarendon
Donovan of Burlington	Kitzmiller of Montpelier	Pugh of S. Burlington
Dostis of Waterbury	Klein of East Montpelier	Randall of Troy
Dowland of Holland	Kupersmith of S. Burlington	Reese of Pomfret
Edwards of Brattleboro	Larson of Burlington	Rusten of Halifax
Emmons of Springfield	Leriche of Hardwick	Seibert of Norwich
Evans of Essex	Lippert of Hinesburg	Shand of Weathersfield
Fallar of Tinmouth	Lorber of Burlington	Sharpe of Bristol
Fisher of Lincoln	Maier of Middlebury	Smith of Morristown
Frank of Underhill	Marek of Newfane	Sweaney of Windsor
French of Randolph	Martin of Wolcott	Tracy of Burlington
Gervais of Enosburg	Masland of Thetford	Trombley of Grand Isle
	McCullough of Williston	Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Barnard of Richmond	Bostic of St. Johnsbury	Clark of St. Johnsbury
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Flory of Pittsford
Hunt of Essex
Kainen of Hartford
Komline of Dorset

LaVoie of Swanton
Malcolm of Pawlet
Martin of Springfield
Monti of Barre City

Parent of St. Albans City
Pillsbury of Brattleboro
Rodgers of Glover
Severance of Colchester

Recess

At one o'clock in the afternoon, the Speaker declared a recess until one o'clock and thirty-five minutes in the afternoon.

At two o'clock and in the afternoon, the Speaker called the House to order.

Rep. Kitzmiller of Montpelier in Chair.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 861

Consideration resumed on House bill, entitled

An act relating to health care affordability for Vermonters;

Pending third reading of the bill, **Rep. Errecart of Shelburne** moved to amend the bill as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings and Purpose * * *

Sec. 1. FINDINGS AND PRINCIPLES FOR HEALTH CARE REFORM

(a) Findings.

(1) Vermont faces twin challenges to our health care system: unsustainable health care inflation and a growing number of uninsured Vermonters. These challenges are interrelated: health care inflation creates difficult choices for public and private health insurance plans; as employers drop or reduce coverage, more Vermonters become uninsured; and an increase in the number of uninsured Vermonters will tend to increase the cost of uncompensated care paid for by those who are insured.

(2) Health care spending in Vermont and the nation is increasing at an unsustainable rate. While Vermont health care costs are still lower than national per capita costs, the gap between Vermont and the nation has been narrowing.

(3) Chronic conditions account for more than three-quarters of the \$3.3 billion Vermont spends on health care each year. The health care needs

of Vermonters with chronic conditions will be the primary driver of the demand for health care and the resulting costs for the foreseeable future.

(4) Vermont's health care system offers high quality care and accessible coverage to Vermonters, but health care system improvements can be made in many areas, including developing a comprehensive chronic care treatment system, building a modern health information technology system, reducing administrative costs and complexities, using a comprehensive health care claims database to improve the quality and cost-effectiveness of care, providing consumers paying increased out-of-pocket expenses with good price and quality information, and establishing an adverse event reporting system.

(5) Public health initiatives are an essential component of a comprehensive health care reform plan, with promotion of healthy behavior and disease prevention across the lifespan of the individual.

(6) Reforms to the tort system for adjudicating medical malpractice claims will create a better environment for Vermont practitioners to focus on providing quality and affordable health care to Vermonters.

(7) Vermont has been a leader in offering health insurance for low and moderate income Vermonters through the Medicaid program, but the Medicaid program can no longer be used as the primary mechanism to lower costs and expand access to health insurance because, even with the Global Commitment waiver, significant cost containment activities must be engaged in to avoid a substantial deficit in the Medicaid program in future years and because the low level of Medicaid reimbursements results in a Medicaid cost shift that is paid for by Vermonters covered by employer-sponsored insurance.

(8) The health care reform plan established by this act offers universal access to health insurance for all Vermonters by distinguishing between the different groups of uninsured Vermonters and by creating targeted strategies for insuring each group according to its needs and circumstances.

(A) The largest group of uninsured Vermonters (about 45 percent) is potentially eligible for Medicaid, based on household income, but has not enrolled in the Medicaid program. For this group of uninsured Vermonters, health insurance coverage could be offered under the existing Medicaid program.

(B) About 34 percent of uninsured Vermonters have household income between 150 percent and 300 percent of the federal poverty level. These Vermonters are ineligible for a Medicaid program and, because of their income, might have difficulty affording commercial health insurance coverage.

(C) A third group of uninsured Vermonters (about 21 percent) has household income over 300 percent of the federal poverty level. These individuals and households most likely could afford to purchase health insurance, especially if a basic, affordable health insurance policy were offered.

(b) The goals and principles of health care reform for Vermont should be:

(1) Universal access to affordable health insurance for all Vermonters.

(2) Improved quality and affordability through health care system reform.

(3) The promotion of healthy behavior and disease prevention across the lifespan of individual Vermonters.

(4) Reduced demand for health care expenditures through improved health outcomes.

(5) Personal responsibility and consumer choice, with the patient at the center of decision-making.

(6) A competitive private health insurance market and cost-effective public programs.

(7) Compatibility with and support for economic growth and prosperity.

*** * * Universal Access to Health Insurance * * ***

Sec. 2. 18 V.S.A. § 9413 is added to read:

§ 9413. HEALTH INSURANCE ASSISTANCE AND REFERRAL SERVICE

The commissioner shall contract for the establishment of a health insurance assistance and referral service. The service shall offer a toll-free telephone number and an internet website for individuals and businesses in Vermont to call or visit to obtain information on affordable health insurance options. The service shall offer advice, assistance, and referral concerning both public and private health insurance options, including Medicaid, Medicare, the premium assistance program, the basic health insurance policy, nongroup private health insurance, small group and association health insurance, and other public and private health insurance options.

Sec. 3. THE MEDICAID ENROLLMENT INITIATIVE

(a) The governor and the general assembly find that:

(1) Vermont is a leader in providing health insurance coverage for low and moderate income Vermonters. Household income eligibility criteria are

among the highest in the nation, providing health insurance for many working Vermonters.

(2) As a result, Vermont's average uninsured rate is the second lowest in the nation, and 96 percent of children are covered by public or private health insurance.

(3) Despite Vermont's efforts, about 45 percent of the uninsured in Vermont could be eligible for coverage under a Medicaid program based on an estimate of uninsured Vermonters' household income, but are either unwilling or unable to enroll in a public health insurance program.

(b) The office of Vermont health access shall identify the reasons why 28,000 Vermonters with household income below Medicaid and SCHIP household income levels are not enrolled in a public health insurance program and shall develop a strategy designed to encourage eligible individuals and families to enroll. The office shall report annually to the governor and the general assembly on or before January 15 with an assessment of outreach and enrollment strategies, together with any administrative or legislative recommendations for improving participation and retention of eligible individuals and families.

Sec. 4. THE MEDICAID COST SHIFT INITIATIVE

(a) The governor and the general assembly find that the gap among hospital, doctor, and other provider reimbursements for Medicaid claims when compared with commercial health insurance claims is too great. If the current reimbursement gap continues, Vermonters enrolled in public health insurance programs may face reduced access to the health care system because fewer health care providers may participate, and Vermonters enrolled in commercial health insurance plans will face higher premiums than would otherwise be the case because the difference between Medicaid reimbursements and commercial health insurance reimbursements is shifted to commercial health insurance plans.

(b) The governor and the general assembly are committed to a significant appropriation in fiscal year 2007 to increase health care provider reimbursements for Medicaid, the SCHIP program, and other public insurance programs administered by the office of Vermont health access, in accordance with a methodology approved by the director.

(c) In fiscal years subsequent to fiscal year 2007, any health care provider and hospital reimbursement increases appropriated by the general assembly for Medicaid, SCHIP, or other public health insurance programs shall be contingent upon adherence to standards adopted by the office of Vermont

health access relating to quality, performance, and chronic care payment reform strategies.

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

§ 4062d. COST SHIFT REVIEW OF HEALTH INSURANCE PREMIUMS

In connection with insurers' rate filings made pursuant to sections 4062, 4062b, 4515a, 4587, 5104 of this title, and any other applicable provisions of law, the commissioner shall ensure that health insurers appropriately account for reductions in hospital and provider charges attributable to any increase in Medicaid or other public insurance program reimbursements for health care providers or facilities.

Sec. 6. 33 V.S.A. chapter 19, subchapter 9 is added to read:

Subchapter 9. Premium Assistance Program

§ 2091. PREMIUM ASSISTANCE PROGRAM

(a) As used in this section:

(1) "Approved employer-sponsored insurance plan" means a health insurance plan offered to an eligible individual or to his or her dependent, which when combined with the assistance offered under the program established by this section satisfies the criteria adopted by the office for a comprehensive, affordable health insurance plan that includes appropriate coverage of chronic care. The office shall consult with the department of banking, insurance, securities, and health care administration in developing criteria under this subdivision. An approved employer-sponsored health insurance plan shall conform to the standards established for secretary-approved coverage under the Global Commitment waiver.

(2) "Eligible individual" means an individual who:

(A)(i) Is enrolled in VHAP on January 1, 2007, and the individual or his or her dependents have access to an approved employer-sponsored insurance plan;

(ii) Applies for enrollment in Medicaid on and after January 1, 2007, and the individual or his or her dependents have access to an approved employer-sponsored insurance plan; or

(iii) Applies for enrollment in the premium assistance program on and after January 1, 2007, has household income greater than 150 percent of the federal poverty level, and has household income equal to or less than 300 percent of the federal poverty level, and the individual or his or her dependents have access to an approved employer-sponsored insurance plan; and

(I) Has been a resident of this state for at least 12 months immediately preceding the individual's application for assistance;

(II) Is not eligible for any other state or federal public health insurance program; and

(III) Has not been insured under a private market health insurance plan that provides major medical coverage during the 12 months prior to the application. The office may adopt rules permitting the waiver of the provisions of this subdivision because of unusual or mitigating circumstances, including but not limited to the loss of employer-sponsored coverage, the loss of coverage by an institution of higher education, and the very low income of the individual.

(3) "Global Commitment waiver" means the Medicaid Global Commitment to Health Demonstration waiver entered into between the agency of human services and the federal Centers for Medicare and Medicaid Services.

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

(5) "VHAP" means the program that extends publicly sponsored coverage to low income, uninsured adults, previously under the Vermont health access plan, subsequently replaced by the Global Commitment waiver. VHAP includes coverage for adults with household income up to 150 percent of the federal poverty level as well as parent-caretaker coverage for individuals with household income between 150 percent and 185 percent of the federal poverty level.

(b) The office shall request federal approval for the premium assistance program authorized by this section and shall adopt such rules as are necessary to carry out the purposes of this section.

(c) For eligible individuals under subdivision (a)(2)(A)(i) of this section, the premium assistance program shall offer financial assistance to enable eligible individuals to participate in an approved employer-sponsored insurance plan. The rules of the premium assistance program with respect to eligible individuals under subdivision (a)(2)(A)(i) of this section shall include the following:

(1) A subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household income and lesser amounts of assistance provided to eligible individuals with higher household income.

(2) A requirement that eligible individuals under subdivision (a)(2)(A)(i) of this section enroll in an approved employer-sponsored insurance plan as a condition of continued public assistance under this section or under any other benefit program offered or administered by the office.

(3) Standards to ensure that eligible individuals under subdivision (a)(2)(A)(i) of this section on an annual basis are obligated to make out-of-pocket expenditures for premiums and cost-sharing amounts which are substantially equivalent to or less than their premium and cost-sharing obligations under VHAP.

(4) Standards to ensure that eligible individuals under subdivision (a)(2)(A)(i) of this section have health insurance coverage of services which meet a minimum level of coverage as specified by the office. The office may offer supplemental benefit coverage to such individuals.

(d) For eligible individuals under subdivision (a)(2)(A)(ii) of this section, the premium assistance program shall offer financial assistance to enable eligible individuals to participate in an approved employer-sponsored insurance plan offered to the individual. The rules of the premium assistance program with respect to eligible individuals under subdivision (a)(2)(A)(ii) of this section shall include the following:

(1) A subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household income and lesser amounts of assistance provided to individuals with higher household income.

(2) A requirement that eligible individuals under subdivision (a)(2)(A)(ii) of this section enroll in an approved employer-sponsored insurance plan as a condition of continued public assistance under this section or under any other benefit program offered or administered by the office.

(3) The office may offer supplemental benefit coverage to such individuals.

(e) For eligible individuals under subdivision (a)(2)(A)(iii) of this section, the premium assistance program shall offer financial assistance to enable eligible individuals to participate in an approved employer-sponsored insurance plan offered to the individual. The rules of the premium assistance program with respect to eligible individuals under subdivision (a)(2)(A)(iii) of this section shall include a subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household

income and lesser amounts of assistance provided to eligible individuals with higher household income.

(f) Except as provided by this section, eligible individuals may be offered assistance as otherwise provided in this subchapter under catamount health.

(g) In the event that the office determines that appropriations for the premium assistance program for eligible individuals under subdivision (a)(2)(A)(iii) of this section are insufficient to meet the projected costs of enrolling new program participants, the office may suspend or terminate new enrollment for such eligible participants in the program or restrict enrollment to lower income eligible individuals.

(f) With the approval of the joint fiscal committee and upon a demonstration by the office that expansion of the premium assistance program will result in financial savings to the Medicaid program without adversely affecting access to affordable health insurance and to quality health care for the affected individuals, the office may require additional categories of individuals who would otherwise be eligible for enrollment in Medicaid, the State Children's Health Insurance Program ("SCHIP"), or VHAP but who have access to an approved employer-sponsored insurance plan to participate in the premium assistance program as a condition of public financial assistance.

Sec. 7. 8 V.S.A. § 4080f is added to read:

§ 4080f. BASIC HEALTH INSURANCE POLICY

(a) As used in this section:

(1) "Basic health insurance policy" means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan approved by the commissioner offered or issued to an individual or to an employer who has not offered health insurance during the three years prior to application, and offering single, two-person, and family coverage.

(2) "Health insurer" means a health insurance company, a hospital or medical services corporation, or a health maintenance organization.

(3) "Individual" means a person who:

(A) Has been a resident of this state for at least 12 months immediately preceding the individual's application to purchase a basic health insurance policy; and

(B) Has not been insured under a public or private health insurance plan that provides major medical coverage during the 12 months prior to the individual's application for purchase of a basic health insurance policy, and the

individual or a member of the individual's household is not eligible for coverage under a group health insurance plan that provides major medical coverage for the individual and for the individual's dependents if applicable for which the plan sponsor contributes at least 50 percent of the cost of the applicable plan. The commissioner may adopt rules permitting the waiver of the provisions of this subdivision because of circumstances beyond the control of the individual, including but not limited to the loss of employer-sponsored coverage, the loss of coverage by an institution of higher education, and the very low income of the individual.

(C) Has been insured under a basic health insurance policy issued under this section for no more than ten years.

(b) The commissioner shall encourage health insurance companies, hospital and medical service corporations, and health maintenance organizations doing business in this state to offer basic health insurance policies to individuals. If necessary to ensure the availability of basic health insurance policies, the commissioner may require a health insurer covering at least five percent of the lives insured in the private health insurance market in this state to offer basic health insurance policies to individuals. The commissioner may permit one or more health insurers to enter into a joint operating agreement to consolidate the offering of basic health insurance policies to uninsured Vermonters. In connection with a rate decision, the commissioner may make reasonable supplemental orders to a health insurer and may attach reasonable conditions and limitations to such orders as he or she finds, on the basis of competent and substantial evidence, necessary to carry out the purposes of this section.

(c) A basic health insurance policy shall be a policy approved by the commissioner that is consistent with the following standards:

(1) The policy covers major medical services in accordance with the requirements of this chapter and with the requirements of chapter 221 of Title 18.

(2) The policy covers eligible preventive care which meets the requirements of Section 223 of the Internal Revenue Code (health savings accounts), as amended, notwithstanding any deductible amount, including services determined by the commissioner to be necessary for the treatment of chronic conditions, based on the recommendations of the commissioner of health.

(3) The policy has annual deductible amounts no less than the deductible amounts required under a high deductible health insurance plan which meets the requirements of Section 223 of the Internal Revenue Code (health savings accounts), as amended, and no greater than an amount approved by the

commissioner from time to time for the purpose of ensuring that the basic health insurance policy will offer affordable health insurance and quality health care for Vermonters.

(d) A health insurer shall guarantee acceptance of any individual for any basic health insurance policy offered by the health insurer. A health insurer shall also guarantee acceptance of each dependent of such individual for any basic health insurance policy it offers.

(e) A health insurer shall comply with the preexisting condition requirements of subsection 4080b(g) of this title.

(f)(1) Subject to approval by the commissioner, a health insurer shall use a community rating methodology that includes one or more risk classifications and such other rating and underwriting criteria as are necessary to mitigate against adverse selection into the basic health insurance policy market.

(2) The premium charged for a basic health insurance policy shall not deviate above or below the community rate filed by the health insurer by more than 20 percent, or by more than 40 percent if the commissioner determines that the greater deviation is necessary to mitigate against adverse selection into the basic health insurance policy market.

(3) Such rating and underwriting criteria shall not permit any medical underwriting and screening, except that the health insurer may offer rewards, premium discounts, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by the individual to programs of health promotion and disease prevention, in accordance with rules adopted by the commissioner under subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

*** * * Health Care System Reform Initiatives * * ***

Sec. 8. 18 V.S.A. § 9421 is added to read:

§ 9421. IMPROVING QUALITY AND AFFORDABILITY THROUGH HEALTH CARE SYSTEM REFORM

(a) The secretary of administration, working in collaboration with the general assembly, shall be responsible for the coordination of a common sense strategy of health care system reform among executive branch agencies, departments, and offices designed to achieve the following goals:

(1) Improved health care quality and affordability in patient care.

(2) Promotion of healthy behavior and disease prevention across the lifespan of individual Vermonters.

(b) The secretary of administration shall ensure that those executive branch agencies, departments, and offices responsible for the development and implementation of Vermont's health care system reform initiatives do so in a timely manner. The secretary may appoint a project manager to assist the secretary in the performance of his or her health care system reform responsibilities.

(c) The secretary of administration shall report to the governor and the general assembly on or before January 15, 2007 and every two years thereafter with a five-year strategic plan for implementing Vermont's health care system reform initiatives, together with any administrative or legislative recommendations.

(d) Vermont's health care system reform initiatives include:

(1) The Vermont blueprint for health - the chronic care initiative.

(2) The Vermont health information technology project.

(3) The multi-payer data collection project.

(4) The common claims administration project.

(5) The consumer price and quality information system.

(6) The public health promotion and disease prevention programs of the department of health and the department of disabilities, aging, and independent living.

(7) The managed care organization activities authorized by the Medicaid Global Commitment waiver.

(e) The commissioner of health shall be responsible for the development and implementation of the Vermont blueprint for health - the chronic care initiative. The commissioner of health, working in collaboration with the blueprint leadership, shall:

(1) Prepare and implement a five-year strategic plan. The plan shall include:

(A) Explicit timelines for achievement of the goals and objectives of the plan.

(B) The development and implementation of measurable standards for the management and treatment of at least four chronic conditions.

(C) A financial plan that provides adequate financial support for the blueprint.

(2) Collaborate with the commissioner of banking, insurance, securities, and health care administration and the Vermont information technology leaders ("VITL") to ensure that the blueprint's chronic disease information system and VITL's electronic medical record project are developed and coordinated in an appropriate and cost-effective manner and in a manner designed to improve the quality and affordability of patient care.

(f) The commissioner of health, the commissioner of disabilities, aging, and independent living, the commissioner of banking, insurance, securities, and health care administration, and the director of the office of Vermont health access shall ensure that Vermont's health care system reform initiatives, identified in subsection (d) of this section, are developed, implemented, and coordinated in an appropriate and cost-effective manner and in a manner designed to improve the quality and affordability of patient care.

Sec. 9. 18 V.S.A. § 9408 is amended to read:

§ 9408. COMMON CLAIMS FORMS AND PROCEDURES

(a) No later than January 15, 1993, the commissioner shall adopt by rule uniform health insurance claims forms, and uniform standards and procedures for the processing of claims, including electronic claims forms submission.

(b) No later than January 15, 2008, the commissioner shall adopt amended rules pursuant to this section designed to lower administrative costs and improve the efficiency and effectiveness of the claims administration system. On or before July 1, 2006, the commissioner shall convene an advisory committee to assist the commissioner in the development of amended rules, consisting of the commissioner of health, the director of the office of Vermont health access, health care providers and facilities, health insurers, individual and business consumers and payers, and other individuals or groups designated by the commissioner. In adopting such rules, the commissioner shall consider the potential public benefit to be derived from implementation of such rules, the cost for and the capacity of health care facilities, health care providers, or health insurers to comply with the requirements of such rules, and any other relevant consideration. The commissioner's rules may include greater standardization or uniformity in connection with:

(1) Claims forms, patient invoices, and explanations of benefits forms.

(2) Payment codes.

(3) Claims submission and processing procedures, including electronic claims processing.

(4) Utilization review standards and procedures.

(5) Benefit plan design.

(6) Prescription drug formularies.

(7) Provider credentialing.

(8) Any other element of the claims administration system which could be made more efficient and effective through greater standardization or uniformity.

Sec. 10. 18 V.S.A. § 9410(a) and (c) are amended to read:

(a)(1) The commissioner shall establish and maintain a unified health care data base to enable the commissioner to carry out the duties under this chapter and Title 8, including:

~~(1)(A)~~ Determining the capacity and distribution of existing resources.

~~(2)(B)~~ Identifying health care needs and informing health care policy.

~~(3)(C)~~ Evaluating the effectiveness of intervention programs on improving patient outcomes.

~~(4)(D)~~ Comparing costs between various treatment settings and approaches.

~~(5)(E)~~ Providing information to consumers and purchasers of health care.

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

(B) The commissioner shall convene a working group composed of the commissioner of health; the director of the office of Vermont health access; health care consumers, employers, and other payers; health care providers and facilities; the Vermont program for quality in health care; health insurers; and any other individual or group appointed by the commissioner to advise the commissioner on the development and implementation of the consumer health care price and quality information system.

(C) The commissioner may require a health insurer covering at least 15,000 lives in this state to file with the commissioner a consumer health care price and quality information plan, in accordance with rules adopted by the commissioner. Approved plans may include the internet publication of the prices or charges established by health care facilities and health care providers

and other providers of health care services and products and the reimbursable amounts negotiated with health insurers and payable by the individual in connection with the individual's deductible or other cost-sharing obligations.

(D) The commissioner shall adopt such rules as are necessary to carry out the purposes of this subdivision (2). The commissioner's rules may permit the gradual implementation of the consumer health care price and quality information system over time, beginning with the ten most common inpatient and outpatient procedures, products, or services. The commissioner's rules shall permit health insurers to use security measures designed to allow subscribers access to price and other information without disclosing trade secrets to individuals and entities who are not subscribers.

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

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

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

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

Sec. 11. 18 V.S.A. § 9410(i) is added to read:

(i)(1) As used in this section, and without limiting the meaning of subdivision 9402(9) of this title, the term "health insurer" includes:

(A) any entity defined in subdivision 9402(9) of this title;

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

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

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

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

*** * * Public Health Initiatives * * ***

Sec. 12. 18 V.S.A. § 104(j) is added to read:

(j) The commissioner shall develop and implement public health programs designed to promote healthy behavior and disease prevention across the lifespan of individual Vermonters and to coordinate such activities with the Vermont blueprint for health - the chronic care initiative and with Vermont's other health care system reform initiatives identified in subsection 9421(d) of this title. Such programs may include:

- (1) The fit and healthy kids program.
- (2) The obesity prevention program.
- (3) The maternal/child health and immunization program.
- (4) Mental health and substance abuse programs.
- (5) Tobacco prevention and cessation programs.

Sec. 13. 33 V.S.A. § 504(c) is amended to read:

(c) In addition to the powers vested in it by law, the department may:

(1) Cooperate with appropriate federal agencies which fund programs which the department administers.

(2) Notwithstanding the provisions of chapter 13 of Title 3, enter into an agreement with the University of Vermont and State Agricultural College to continue the rural and farm family rehabilitation program.

(3) Develop and implement public health programs designed to promote healthy behavior and disease prevention across the lifespan of individual Vermonters and to coordinate such activities with the Vermont blueprint for health - the chronic care initiative and with Vermont's other health care system reform initiatives identified in subsection 9421(d) of Title 18. Such programs may include:

- (A) The healthy aging program.
- (B) The elder care clinicians program.

Sec. 14. 8 V.S.A. § 4080a(h)(2) is amended to read:

(2)(A) The commissioner shall, by rule, adopt standards and a process for permitting registered small group carriers to use one or more risk classifications in their community rating method, provided that the premium charged shall not deviate above or below the community rate filed by the carrier by more than 20 percent (20%), and provided further that the commissioner's rules may not permit any medical underwriting and screening.

(B) The commissioner's rules may permit a carrier, including a hospital or medical service corporation, 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 of the office of Vermont health access in the development of health promotion and disease prevention rules. Such rules shall:

(i) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(ii) provide that the reward under the program is available to all similarly situated individuals; and

(iii) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(C) The commissioner's rules shall include:

(i) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the commissioner of health;

(ii) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(iii) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision.

Sec. 15. 8 V.S.A. § 4080b(h)(2) is amended to read:

(2)(A) The commissioner shall, by rule, adopt standards and a process for permitting registered nongroup carriers to use one or more risk classifications in their community rating method. ~~After July 1, 1993, provided~~

that the premium charged shall not deviate above or below the community rate filed by the carrier by more than 40 percent (40%) for two years, and thereafter 20 percent (20%). Such rules may not permit, and provided further that the commissioner's rules may not permit any medical underwriting and screening and shall give due consideration to the need for affordability and accessibility of health insurance.

(B) The commissioner's rules may permit a carrier, including a hospital or medical service corporation, 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 of the office of Vermont health access in the development of health promotion and disease prevention rules. Such rules shall:

(i) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(ii) provide that the reward under the program is available to all similarly situated individuals; and

(iii) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(C) The commissioner's rules shall include:

(i) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the commissioner of health;

(ii) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(iii) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision.

Sec. 16. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

Annually, on or before March 15, a hospital service corporation shall file with the commissioner of banking, insurance, securities, and health care administration a statement sworn to by the president and treasurer of the

corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the commissioner shall prescribe. To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the state, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 17. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

Annually, on or before March 15, a medical service corporation shall file with the commissioner of banking, insurance, securities, and health care administration a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the state, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 18. 8 V.S.A. § 5115 is amended to read:

§ 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE ORGANIZATIONS

Any nonprofit health maintenance organization subject to this chapter shall offer nongroup plans to individuals in accordance with section 4080b of this title without discrimination based on age, gender, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

***** Adverse Event Reporting *****

Sec. 19. 18 V.S.A. § 9405b(a)(2) is amended to read:

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

(2) measures of patient safety that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks for safety, including adverse event reporting;

Sec. 20. 18 V.S.A. § 1905(19) is added to read:

(19) All hospitals shall comply with the rules adopted by the commissioner of health pursuant to section 1912 of this title. License applications shall document compliance with the rules without providing protected health information.

Sec. 21. 18 V.S.A. § 1912 is added to read:

§ 1912. ESTABLISHMENT AND STUDY OF AN ADVERSE EVENT REPORTING SYSTEM

(a) The commissioner of health shall establish by rule an adverse event reporting system for the purpose of improving patient safety and eliminating adverse events in Vermont hospitals, improving health care outcomes, and supporting and facilitating quality improvement efforts by hospitals. The reporting system shall, at a minimum, require hospitals to:

(1) report adverse health care events, as defined by the commissioner, to their own peer review committees;

(2) complete analyses of adverse events and develop and implement corrective action plans that meet standards determined by the commissioner;

(3) report promptly to the commissioner all adverse events that the hospital reasonably believes to be related to:

(A) the performance of purposefully or recklessly unsafe or unacceptable patient care;

(B) neglect or abuse of a patient;

(C) any violation of law; and

(D) continuing clinical practice by a clinician who exhibits conduct that provides the hospital with reasonable cause to believe that the clinician's ability to practice competently or safely is impaired.

(b) For the purpose of evaluating a hospital's compliance with the provisions of this section, the commissioner and designees are authorized to examine and review information protected by the provisions of the patient's privilege under subsection 1612(a) of Title 12 or otherwise required by law to be held confidential, except that the commissioner's access to and use of minutes and records of a peer review committee established under Title 26 shall be governed by subdivision (c) of this section.

(c) Notwithstanding the provisions of section 1443 of Title 26, the commissioner or the commissioner's designee shall have reasonable access to the minutes and records of any peer review or comparable committee for informational purposes only.

(d) The commissioner may share the information reported pursuant to subdivision (a)(3) of this section with state and federal licensing and other regulatory entities and, in the case of possible criminal activity, with state and federal law enforcement authorities. All other information disclosed or otherwise made available to the department and its designees under this section shall be confidential and privileged and shall not be subject to subpoena or available for public disclosure, except that the commissioner and the board of health are authorized to use such information, other than peer review protected information, during the course of any legal or regulatory action against a hospital.

(e) The commissioner of health shall conduct a study of best practices and principles for adverse event reporting systems and shall make recommendations for a statewide Vermont adverse event reporting system consistent with the study findings by July 1, 2007. The recommendations shall consider the implications of the federal Patient Safety and Quality Improvement Act of 2005 and shall include:

(1) recommendations and cost estimates for a statewide adverse event reporting system capable of aggregating and analyzing such data for the purpose of developing and implementing strategies to target and eliminate specific adverse events;

(2) recommendations and cost estimates for a statewide adverse event reporting system capable of aggregating and analyzing such data for the purpose of public reporting.

(f) The commissioner may retain such additional professional or other staff as needed to carry out responsibilities under this section. Expenses incurred by the department for these and for any other related contracts authorized by the commissioner beyond those funded by hospital licensing fees for activities necessary to implement this section shall be billed to hospitals in proportion to each hospital's share of the total of hospital licensing fees as required by this title.

(g) If the commissioner determines that a hospital has violated or failed to comply with any of the provisions of this section, the commissioner may sanction the violation or failure to comply as provided in this title. In evaluating compliance, the commissioner shall place primary emphasis on assuring good faith compliance and effective corrective action by the facility.

reserving punitive enforcement or disciplinary action for those cases in which the facility has displayed recklessness, gross negligence, or willful misconduct, or in which there is evidence, based on other similar cases known to the department of health, the agency of human services, or the office of the attorney general, of a pattern of significant substandard performance that has the potential for or has actually resulted in harm to patients.

(h) After notice and an opportunity for hearing, the commissioner may impose on a person who knowingly violates a provision of this subchapter or a rule or order adopted pursuant to this subchapter a civil administrative penalty of no more than \$10,000.00 or, in the case of a continuing violation, a civil administrative penalty of no more than \$100,000.00 or one-tenth of one percent of the gross annual revenues of the health care facility, whichever is greater. A person aggrieved by a decision of the commissioner under this subsection may appeal the commissioner's decision to the supreme court.

(i) The authority granted to the commissioner under this section is in addition to any other authority granted to the commissioner under law.

*** * * Tort Reform * * ***

Sec. 22. 12 V.S.A. § 1911 is added to read:

§ 1911. EXPRESSION OF REGRET OR APOLOGY BY HEALTH CARE PROVIDER INADMISSIBLE

(a) As used in this section, "health care provider" is defined by subdivision 9402(8) of Title 18.

(b) An expression of regret or apology made by or on behalf of a health care provider, including an expression of regret or apology that is made in writing, orally, or by conduct does not constitute an admission of liability for any purpose and shall be inadmissible in any civil or administrative proceeding against the health care provider, including any arbitration or mediation proceeding.

(c) A health care provider or any other person who makes an expression of regret or apology on behalf of the health care provider, including an expression of regret or apology that is made in writing, orally or by conduct, may not be examined by deposition or otherwise with respect to the expression of regret or apology in any civil or administrative proceeding against the health care provider, including any arbitration or mediation proceeding.

Sec. 23. 12 V.S.A. § 551 is amended to read:

§ 551. MINORITY, INSANITY OR IMPRISONMENT

(a) When a person entitled to bring an action specified in this chapter is a minor, insane or imprisoned at the time the cause of action accrues, such person may bring such action within the times in this chapter respectively

limited, after the disability is removed, except as provided in subsection (c) of this section.

* * *

(c) Notwithstanding the provisions of subsection (a) of this section, a claim by a minor to recover damages for injuries to the minor arising out of any medical or surgical treatment or operation shall be brought within the time limitations required by section 521 of this title, except that a minor under six years of age shall have until his or her ninth birthday for the limitations period to commence.

Sec. 24. 12 V.S.A. § 1910 is added to read:

§ 1910. MEDICAL MALPRACTICE; LIMITATION ON DAMAGES FOR PAIN AND SUFFERING

In an action based on medical malpractice, the damages awarded for pain and suffering or other noneconomic loss shall not exceed the amount of \$250,000.00. On January 1, 2008, the department of banking, insurance, securities, and health care administration shall increase the \$250,000.00 limit on damages established under this section by a percentage based on the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding August 2007. Thereafter, beginning on January 1, 2010, and every other January 1 thereafter, the department of banking, insurance, securities, and health care administration shall increase the \$250,000.00 limit on damages established under this section by a percentage based on the same Consumer Price Index, computed for the 12 months preceding the previous August, compounded annually. The limit on damages shall be rounded off to the nearest \$1.00.

Sec. 25. 12 V.S.A. § 1911 is added to read:

§ 1911. MEDICAL MALPRACTICE ACTIONS; DAMAGES; RECOVERY BY PLAINTIFF FROM OTHER PERSONS; REMITTITUR

(a) If damages have been awarded in an action based on medical malpractice, a party may file a motion for remittitur on the grounds that the plaintiff has been or will be paid, reimbursed, or indemnified for at least part of

his or her special damages under a contract, insurance agreement, or statute. The court shall provide all other parties to the action an opportunity to reply to the motion and shall set it for hearing.

(b) If the court finds after the hearing that the plaintiff has been or will be paid, reimbursed, or indemnified for at least part of his or her special damages under a contract, insurance agreement, or statute, the court shall grant the motion for remittitur and order the damages award reduced by the amount the plaintiff has been or will be paid, reimbursed, or indemnified.

(c)(1) No damages award shall be reduced under this section on the basis of other amounts paid or payable to the plaintiff if a reduction on such grounds would be prohibited by state or federal law.

(2) No damages award assessed in whole or in part for future expenses, costs, or losses shall be reduced under this section unless:

(A) the court orders the defendant or the defendant's insurer to provide adequate security; or

(B) the defendant's insurer is authorized to do business in this state and maintains reserves in compliance with rules of the department of banking, insurance, securities, and health care administration sufficient to assure payment of the amount by which the plaintiff's future damages are reduced.

(d) Except as expressly provided by federal law, no person may recover from the plaintiff or assert a claim of subrogation against a defendant for any sum included in an order for remittitur of damages issued under this section.

(e) Nothing in this section shall be construed to limit motions for remittitur on any other grounds.

Sec. 26. MANDATORY ARBITRATION

(a) Sec. 50 of No. 160 of the Acts of the 1991 Adj. Sess. (1992) is amended to read:

Sec. 50. EFFECTIVE DATE

~~Secs. 46, 47, 48 and 49, amending chapter 215 of Title 12 to provide for mandatory arbitration in medical malpractice cases and admission of practice guidelines, shall take effect on the effective date of a universal health care system enacted by the general assembly.~~

(b) This section, which establishes mandatory arbitration of claims based on medical malpractice by repealing Sec. 50 and making effective Secs. 46 - 49 of No. 160 of the Acts of the 1991 Adj. Sess. (1992), shall take effect on September 1, 2006.

Pending the question, Shall the House amend the bill as recommended by Rep. Errecart of Shelburne? **Rep. Tracy of Burlington** asked that the question be divided and that Sec. 6 be voted on separately.

Thereupon, **Rep. Tracy of Burlington** raised a Point of Order that Sec. 6 is in violation of House Rule 77 in that the House rejected the same language in the O'Donnell amendment earlier today which Point of Order the Speaker ruled well taken. Thereupon, Sec. 6 was struck from the amendment.

Thereupon, **Rep. Errecart of Shelburne** asked and was granted leave of the House to withdraw the rest of her amendment.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

First: In Sec. 14, 33 V.S.A. chapter 19, subchapter 6, § 2023, page 22, by striking subsection (a) and by inserting in lieu thereof the following:

(a)(1) An individual shall be eligible for catamount health if the individual:

(A) is an uninsured Vermont resident;

(B) filed a Vermont resident full-time or part-time income tax return for the year immediately preceding the date of application for catamount health; and

(C) does not have access to employer sponsored health insurance at a cost not in excess of the premiums and other cost-sharing amounts set for catamount health.

(2) An individual receiving Medicaid, the Vermont health access plan, or Dr. Dynasaur within 12 months of applying for catamount health shall not be required to wait 12 months to be eligible for catamount health. An individual who has coverage under catamount health may purchase an insurance policy designed to provide health services not covered by catamount health and remain eligible.

Second: In Sec. 15 (Catamount health; premiums), page 27, line 15, by striking the colon and inserting the following: “, determined annually by July 1 by reference to the individual's or family's Vermont income tax form HI-144 for the previous calendar year. Initial premium amounts shall be:”

Pending the question, Shall the House amend the bill as recommended by the Rep. Koch of Barre Town? **Rep. Koch of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by the Rep. Koch of Barre Town? was decided in the negative. Yeas, 21. Nays, 82.

Those who voted in the affirmative are:

Allaire of Rutland City	Flory of Pittsford	McFaun of Barre Town
Allard of St. Albans Town	Helm of Castleton	Miller of Elmore
Baker of West Rutland	Houston of Ferrisburgh	Morley of Barton
Bostic of St. Johnsbury	Johnson of Canaan	Peaslee of Guildhall
Donaghy of Poultney	Koch of Barre Town	Sunderland of Rutland Town
Dowland of Holland	Livingston of Manchester	Winters of Swanton
Endres of Milton	Marron of Stowe	Young of Orwell

Those who voted in the negative are:

Ancel of Calais	Haas of Rochester	Miller of Shaftsbury
Aswad of Burlington	Head of S. Burlington	Minter of Waterbury
Atkins of Winooski	Heath of Westford	Molloy of Arlington
Bohi of Hartford	Hosford of Waitsfield	Mook of Bennington
Botzow of Pownal	Howard of Rutland City	Nease of Johnson
Branagan of Georgia	Howrigan of Fairfield	Nitka of Ludlow
Brooks of Montpelier	Hunt of Essex	Nuovo of Middlebury
Chen of Mendon	Hutchinson of Randolph	Obuchowski of Rockingham
Clarkson of Woodstock	Jerman of Essex	Orr of Charlotte
Condon of Colchester	Jewett of Ripton	Otterman of Topsham
Copeland-Hanzas of Bradford	Johnson of South Hero	Partridge of Windham
Corcoran of Bennington	Keenan of St. Albans City	Pellett of Chester
Cross of Winooski	Keogh of Burlington	Perry of Richford
Darrow of Dummerston	Kiss of Burlington	Peterson of Williston
Deen of Westminster	Kitzmiller of Montpelier	Potter of Clarendon
Donovan of Burlington	Klein of East Montpelier	Pugh of S. Burlington
Dostis of Waterbury	Kupersmith of S. Burlington	Randall of Troy
Edwards of Brattleboro	Larson of Burlington	Reese of Pomfret
Emmons of Springfield	Leriche of Hardwick	Rusten of Halifax
Evans of Essex	Lippert of Hinesburg	Seibert of Norwich
Fallar of Timmouth	Lorber of Burlington	Shand of Weathersfield
Fisher of Lincoln	Maier of Middlebury	Sharpe of Bristol
Frank of Underhill	Marek of Newfane	Smith of Morristown
French of Randolph	Martin of Wolcott	Sweaney of Windsor
Gervais of Enosburg	Masland of Thetford	Tracy of Burlington
Grad of Moretown	McCullough of Williston	Trombley of Grand Isle
Green of Berlin	McLaughlin of Royalton	Zuckerman of Burlington
	Milkey of Brattleboro	

Those members absent with leave of the House and not voting are:

Acinapura of Brandon	Dates of Shelburne	Kilmartin of Newport City
Adams of Hartland	DePoy of Rutland City	Komline of Dorset
Audette of S. Burlington	Donahue of Northfield	Krawczyk of Bennington
Barnard of Richmond	Dunsmore of Georgia	Larocque of Barnet
Bartlett of Dover	Errecart of Shelburne	Larrabee of Danville
Brennan of Colchester	Hube of Londonderry	LaVoie of Swanton
Canfield of Fair Haven	Hudson of Lyndon	Lawrence of Lyndon
Clark of St. Johnsbury	Kainen of Hartford	Louras of Rutland City
Clark of Vergennes	Kennedy of Chelsea	Malcolm of Pawlet

Marcotte of Coventry
 Martin of Springfield
 McAllister of Highgate
 Monti of Barre City
 Morrissey of Bennington
 Myers of Essex
 Niquette of Colchester

O'Donnell of Vernon
 Parent of St. Albans City
 Pillsbury of Brattleboro
 Rodgers of Glover
 Severance of Colchester
 Shaw of Derby
 Smith of New Haven

Turner of Milton
 Valliere of Barre City
 Westman of Cambridge
 Winters of Williamstown
 Wright of Burlington

Rep. Klein of East Montpelier explained his vote as follows:

"Madam Speaker:

I vote no because this amendment would likely block people who do not file income or homestead tax return from eligibility for Catamount Health, which is exactly the opposite of our intent to reduce the cost shift caused by uninsured Vermonters to the health care system and other Vermonters."

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

By inserting Sec. 19a to read:

Sec. 19a. PRIMARY CARE CLINICS; CAPITALIZATION GRANTS; CASE MANAGEMENT

(a) There is appropriated the amount of \$1,000,000.00 from the general fund in fiscal year 2007 to the department of health for the purpose of providing grants or loans for initial capitalization to primary care clinics. The department shall distribute the grants and loans in a manner that furthers the state policy of eliminating the use of the emergency room for nonemergency treatment. Grants or loans shall be available only to those primary care clinics that are:

(1) located in proximity to a hospital emergency room;

(2) staffed principally by physician's assistants and nurse practitioners;

and

(3) open 24 hours a day, seven days a week.

(b) The commissioner of health may adopt rules governing eligibility for and use of the funds appropriated by this section, as well as rules relating to the operation of primary care clinics receiving grants or loans under this section.

Which was disagreed to.

Pending third reading of the bill, **Rep. Johnson of Canaan** moved to amend the bill as follows:

In Sec. 14, 33 V.S.A. § 2023, by adding a subsection (d) to read:

(d)(1) If the monies available in the catamount fund established under section 2027 of this title are insufficient to support ongoing, new enrollment in catamount health, the agency shall recommend to the health access oversight committee a plan to cap or limit enrollment.

(2) If at any time after enrollment is capped or limited under subdivision (1) of this section, expenditures are anticipated to be equal to or less than the aggregate amount of funds appropriated for catamount health, the agency shall recommend to the health access oversight committee a plan to open enrollment in catamount health.

(3) The agency's determinations under this section shall be based on monthly enrollment figures and the official revenue estimates for the catamount fund under section 305a of Title 32.

(4) An enrollment plan under this section shall be deemed approved unless the committee disapproves the plan after 21 days' notice of the agency's recommendation and financial analysis. The committee shall notify the general assembly and the agency of its action on an enrollment plan within 15 days.

Thereupon, **Rep. Johnson of Canaan** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Reps. Krawczyk of Bennington, Morrissey of Bennington and Clark of Vergennes** moved to amend the bill as follows:

By adding a new Sec. 21a to read:

Sec. 21a REALLOCATION OF HEALTH CARE FUNDS

(a) The amount of \$350,000 of the general funds appropriated by Sec. 255(a)(7)(A) of Act 71 of 2005 to the legislature to support the activities and studies of the legislative commission on health care reform is reallocated and transferred to the Vermont National Guard to fund family support and counseling services to Vermont National Guard members and their families through June 30, 2007. The funds shall be expended for:

(1) Continuation of the programs for family support and counseling services, including preventive and educational services to family members and Vermont National Guard members, and training for other community leaders and guard commanders, chaplains, and others; and

(2) Other initiatives that meet this programmatic need.

(b) The Vermont National Guard may negotiate with the U.S. Department of Defense and Veterans' Administration a sharing agreement as necessary.

Pending the question, Shall the House amend the bill as recommended by Reps. Krawczyk of Bennington, et al? **Rep. Krawczyk of Bennington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Reps. Krawczyk of Bennington, et al? was decided in the negative. Yeas, 58. Nays, 76.

Those who voted in the affirmative are:

Acinapura of Brandon	Flory of Pittsford	McAllister of Highgate
Adams of Hartland	Grad of Moretown	Miller of Elmore
Allaire of Rutland City	Helm of Castleton	Molloy of Arlington
Allard of St. Albans Town	Houston of Ferrisburgh	Morley of Barton
Baker of West Rutland	Howrigan of Fairfield	Morrissey of Bennington
Bartlett of Dover	Hube of Londonderry	Myers of Essex
Bostic of St. Johnsbury	Hudson of Lyndon	Niquette of Colchester
Branagan of Georgia	Johnson of Canaan	O'Donnell of Vernon
Brennan of Colchester	Kainen of Hartford	Otterman of Topsham
Canfield of Fair Haven	Kennedy of Chelsea	Peaslee of Guildhall
Clark of St. Johnsbury	Kilmartin of Newport City	Smith of New Haven
Clark of Vergennes	Koch of Barre Town	Sunderland of Rutland Town
Condon of Colchester	Krawczyk of Bennington	Turner of Milton
Dates of Shelburne	Larocque of Barnet	Valliere of Barre City
Donaghy of Poultney	Larrabee of Danville	Winters of Swanton
Donahue of Northfield	Lawrence of Lyndon	Winters of Williamstown
Dowland of Holland	Livingston of Manchester	Wright of Burlington
Dunsmore of Georgia	Louras of Rutland City	Young of Orwell
Endres of Milton	Marcotte of Coventry	
Errecart of Shelburne	Marron of Stowe	

Those who voted in the negative are:

Ancel of Calais	Dostis of Waterbury	Hunt of Essex
Aswad of Burlington	Edwards of Brattleboro	Hutchinson of Randolph
Atkins of Winooski	Emmons of Springfield	Jerman of Essex
Audette of S. Burlington	Evans of Essex	Jewett of Ripton
Bohi of Hartford	Fallar of Tinmouth	Johnson of South Hero
Botzow of Pownal	Fisher of Lincoln	Keenan of St. Albans City
Brooks of Montpelier	Frank of Underhill	Keogh of Burlington
Chen of Mendon	French of Randolph	Kiss of Burlington
Clarkson of Woodstock	Gervais of Enosburg	Kitzmiller of Montpelier
Copeland-Hanzas of Bradford	Green of Berlin	Klein of East Montpelier
Cross of Winooski	Haas of Rochester	Kupersmith of S. Burlington
Darrow of Dummerston	Head of S. Burlington	Leriche of Hardwick
Deen of Westminster	Heath of Westford	Lippert of Hinesburg
Donovan of Burlington	Hosford of Waitsfield	Lorber of Burlington
	Howard of Rutland City	Maier of Middlebury

Marek of Newfane
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Milky of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Mook of Bennington
 Nease of Johnson

Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Orr of Charlotte
 Partridge of Windham
 Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy

Reese of Pomfret
 Rusten of Halifax
 Seibert of Norwich
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Barnard of Richmond
 Corcoran of Bennington
 DePoy of Rutland City
 Komline of Dorset
 Larson of Burlington

LaVoie of Swanton
 Malcolm of Pawlet
 Martin of Springfield
 Monti of Barre City
 Parent of St. Albans City

Pillsbury of Brattleboro
 Rodgers of Glover
 Severance of Colchester
 Shaw of Derby
 Westman of Cambridge

Rep. French of Randolph explained her vote as follows:

"Madam Speaker:

H. 861 is a first step in health care reform. I voted no because we need the studies in order to be able to continue to move forward on health care reform. My understanding is that we are already appropriating more money to fund services for Guard members and their families.

Rep. Houston of Ferrisburgh explained her vote as follows:

"Madam Speaker:

It is unfortunate that we continue to waste taxpayers money for reports that are not produced when we could be directing that same taxpayer money.... \$450,000 to the families of the Vermont National Guard members who are our real heroes."

Rep. Hunt of Essex explained his vote as follows:

"Madam Speaker:

It should not be forgotten that this body opposed today, the \$250,000 originally recommended to fund mental health services to our guard members and their families. It should also be remembered that this money was put forward because our Federal government has not recognized and met its obligation to our valued guard members.

Rep. Leriche of Hardwick explained her vote as follows:

"Madam Speaker:

I voted no because I object to using our troops; our guardsmen and women as pawns for political gain in the debate on whether or not people should have affordable healthcare."

Rep. Milkey of Brattleboro explained her vote as follows:

"Madam Speaker:

The effect of this proposal of amendment is to use the men and women of our National Guard as a political football in a debate on health care. I find that shameful."

Rep. Perry of Richford explained his vote as follows:

"Madam Speaker:

I fully support the objective of continuing these programs of support to Vermont National Guard members and their families. I do not support this proposed source of funds.

Rep. Young of Orwell explained his vote as follows:

"Madam Speaker:

It would be better to spend money buying yellow ribbons for our returning guardsmen than claiming to have spent it on missing red tape."

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Morrissey of Bennington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 77. Nays, 58.

Those who voted in the affirmative are:

Ancl of Calais
Aswad of Burlington
Atkins of Winooski
Audette of S. Burlington
Bohi of Hartford
Botzow of Pownal
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Condon of Colchester
Copeland-Hanzas of
Bradford
Cross of Winooski
Darrow of Dummerston
Deen of Westminster

Donovan of Burlington
Dostis of Waterbury
Dowland of Holland
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gervais of Enosburg
Grad of Moretown
Green of Berlin
Haas of Rochester
Head of S. Burlington

Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kainen of Hartford
Keenan of St. Albans City
Keogh of Burlington
Kiss of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Kupersmith of S. Burlington

Lerich of Hardwick	Miller of Shaftsbury	Pugh of S. Burlington
Lippert of Hinesburg	Minter of Waterbury	Randall of Troy
Lorber of Burlington	Nease of Johnson	Reese of Pomfret
Maier of Middlebury	Nitka of Ludlow	Rusten of Halifax
Marek of Newfane	Nuovo of Middlebury	Seibert of Norwich
Martin of Wolcott	Obuchowski of Rockingham	Shand of Weathersfield
Masland of Thetford	Orr of Charlotte	Sharpe of Bristol
McCullough of Williston	Partridge of Windham	Smith of Morristown
McFaun of Barre Town	Pellett of Chester	Sweaney of Windsor
McLaughlin of Royalton	Peterson of Williston	Tracy of Burlington
Milkey of Brattleboro	Potter of Clarendon	Trombley of Grand Isle

Those who voted in the negative are:

Acinapura of Brandon	Helm of Castleton	Morley of Barton
Adams of Hartland	Houston of Ferrisburgh	Morrissey of Bennington
Allaire of Rutland City	Hube of Londonderry	Myers of Essex
Allard of St. Albans Town	Hudson of Lyndon	Niquette of Colchester
Baker of West Rutland	Johnson of Canaan	O'Donnell of Vernon
Bartlett of Dover	Kennedy of Chelsea	Otterman of Topsham
Bostic of St. Johnsbury	Kilmartin of Newport City	Peaslee of Guildhall
Branagan of Georgia	Koch of Barre Town	Perry of Richford
Brennan of Colchester	Krawczyk of Bennington	Smith of New Haven
Carnfield of Fair Haven	Larocque of Barnet	Sunderland of Rutland Town
Clark of St. Johnsbury	Larrabee of Danville	Turner of Milton
Clark of Vergennes	Lawrence of Lyndon	Valliere of Barre City
Corcoran of Bennington	Livingston of Manchester	Westman of Cambridge
Dates of Shelburne	Louras of Rutland City	Winters of Swanton
Donaghy of Poultney	Marcotte of Coventry	Winters of Williamstown
Donahue of Northfield	Marron of Stowe	Wright of Burlington
Dunsmore of Georgia	McAllister of Highgate	Young of Orwell
Endres of Milton	Miller of Elmore	Zuckerman of Burlington
Errecart of Shelburne	Molloy of Arlington	
Flory of Pittsford	Mook of Bennington	

Those members absent with leave of the House and not voting are:

Barnard of Richmond	LaVoie of Swanton	Pillsbury of Brattleboro
DePoy of Rutland City	Malcolm of Pawlet	Rodgers of Glover
Howrigan of Fairfield	Martin of Springfield	Severance of Colchester
Komline of Dorset	Monti of Barre City	Shaw of Derby
Larson of Burlington	Parent of St. Albans City	

Rep. Botzow of Bennington explained his vote as follows:

"Madam Speaker:

Dr. Thorpe focused us on costs and how to control them. Chronic care management and health care for the uninsured will move us out of the dilemma we've been debating."

Rep. Cross of Winooski explained his vote as follows:

"Madam Speaker:

My votes on H. 861 today have been cast so as to continue Vermont's effort to provide high quality health care, including preventative care and chronic disease management, to all our citizens. My votes coupled with the majority have prevented a \$50 million cost shift onto the backs of our state's employers, large and small, who are currently providing health insurance as the administration's plan would have done. Today's action on this floor was the right thing to do."

Rep. Donahue of Northfield explained her vote as follows:

"Madam Speaker:

There was a commitment made in last year's appropriations bill that I would receive economic impact and financing studies so that I could responsibly assess a new plan. We received no such information, and I can only see in the Catamount Health Plan a potentially devastating impact on our obligations to our poorest elderly and disabled Vermonters/ I regret that its attachment to the rest of this bill forces my "no" vote."

Rep. Errecart of Shelburne explained her vote as follows:

"Madam Speaker:

I vote no because I don't want to repeat last year's exercise in gridlock and futility. Vermonters don't need more political posturing and promises that we can't keep. Vermonters need more affordable health insurance now."

Rep. Flory of Pittsford explained her vote as follows:

"Madam Speaker:

I cannot support a bill that threatens to bankrupt Medicaid, harming our most vulnerable, poorest people, in order to provide a more generous, inexpensive insurance plan to people earning over \$70,000. Our poor cannot afford to subsidize our wealthy simply so that we can claim we did health care reform."

Rep. Hosford of Waitsfield explained her vote as follows:

"Madam Speaker:

The point of H. 861 is to control health care costs. Everyday we do nothing, our health care costs rise by one million dollars. We have to take action now. To change how we manage health care. H. 861 is an important first step."

Rep. Johnson of South Hero explained her vote as follows:

“Madam Speaker:

One million daily increase in health care costs. 65,000 uninsured Vermonters. 183 million annual cost shift. Funding sources that carry us through 2011. This is the information I need to proudly vote ‘yes’ on this bill that chips away at those tragic numbers by providing affordable insurance, curbing costs and improving quality of life for my chronically ill constituents.”

Rep. Keogh of Burlington explained his vote as follows:

“Madam Speaker:

There are those who think we went too far; others think we didn’t go far enough. Nevertheless, this bill is a step in responding to our constituents’ cry for health care relief.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Madam Speaker:

Catamount Health is a leap off Niagara Falls with no wooden barrel or life vest. We ignored the signs that said “danger, Rapids Ahead”. Then we ignored the rapids of “cost shifting”, provider underpayment, and growing deficits which have already disintegrated our life rafts and safety nets.

While the moments of freefall between now and the November election may be exhilarating to some, everyone who can count on their fingers and toes knows that after November 2006, we are going to be sucked down the raging whirlpools of deficits and drowned in debt.

Creating fiscal corpses of Vermonters in the name of “better health” will lead to the destruction of essential health services for the most vulnerable and needy.

Out of love and respect for my neighbor, I cannot consent to harm them in the name of helping them.”

Rep. Louras of Rutland City explained his vote as follows:

“Madam Speaker:

I am unable to support a bill that initiates a new program that is by design and by admission already broken. Medicaid must be brought into balance, not driven into bankruptcy.”

Rep. Minter of Waterbury explained her vote as follows:

“Madam Speaker:

H. 861 is a first step to control costs without a proactive effort to reform our health care delivery system, address chronic care and increase access to care. We accept the status quo: more uninsured Vermonters and rising health care costs that are swamping our economy and breaking the bank on our State, municipal and school budgets."

Rep. Morrissey of Bennington explained her vote as follows:

"Madam Speaker:

H. 861 truly has all the fiscal implications and complexities of Act 60 when it was passed. There is a saying "If you don't heed the mistakes of the past you are doomed to repeat them".

Rep. Peterson of Williston explained her vote as follows:

"Madam Speaker:

I vote for this bill because I applaud that it is focused on one thing - reducing costs. It accomplished that in two ways, with innovative chronic care and Catamount Health. Catamount Health is responsible initiative leveraging available federal fund to drive down the number of uninsured."

Rep. Sunderland of Rutland Town explained his vote as follows:

"Madam Speaker:

Because this bill is built; unsustainable funds, unknown costs and unknown benefits, and because it places in further jeopardy our already unsustainable Medicaid system, because it is built without the very information that just one years ago, this body said was critical in order to proceed, because the Vermont taxpayer is on the hook for 100% of the cost overruns with no Federal match assistance, because this bill threatens the already over-taxed and under-protected Vermonter, I have no other choice but to vote "No".

Rep. Wright of Burlington explained his vote as follows:

"Madam Speaker:

For those Vermonters concerned about the high cost of Health Care, of creating a scholarship program to keep young Vermonters in Vermont and concerned about the future of our Medicaid program, passage of this bill must cause great concern."

Joint Resolution Adopted

J.R.H. 62

Joint resolution, entitled

Joint resolution in support of the 25 by 25 agricultural energy initiative;

Was taken up and adopted on the part of the House.

Message from the Senate No. 34

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title

S. 310. An act relating to common sense initiatives in health care.

In the passage of which the concurrence of the House is requested.

The Senate has considered a bill originating in the House of the following title:

H. 873. An act relating to procedural protections for Vermonters eligible for Medicare Part D and VPharm.

And has passed the same in concurrence.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 53. Senate concurrent resolution recognizing Robert E. Miller for his contributions in Vermont.

S.C.R. 54. Senate concurrent resolution congratulating Richard Cassidy on his 50 years of service as Highgate town moderator.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 244. House concurrent resolution congratulating Peter Miller of Colbyville on his being named the Burlington Free Press's Vermonter of the Year.

H.C.R. 245. House concurrent resolution honoring the Vermont Youth Orchestra.

H.C.R. 246. House concurrent resolution honoring Woodford Town Clerk Aileen C. O'Neil.

H.C.R. 247. House concurrent resolution designating April 29, 2006 as Vermont National Guard Family Readiness Volunteer Day in honor of the outstanding volunteers who are assisting National Guard families whose loved ones are deployed.

H.C.R. 248. House concurrent resolution congratulating Allethaire (Gussie) Goodrum on her 80th birthday.

H.C.R. 249. House concurrent resolution recognizing the extraordinary public service of retiring Weston town moderator Sam Lloyd.

H.C.R. 250. House concurrent resolution congratulating David Hamilton for his many years of civic service in the town of Jamaica.

H.C.R. 251. House concurrent resolution congratulating Bruce Chapin for his many years of civic serviced in the town of Jamaica.

H.C.R. 252. House concurrent resolution congratulating Raymond Landman for his many years of civic service in the town of Jamaica.

H.C.R. 253. House concurrent resolution designating March 2006 as National Social Work Month in Vermont.

H.C.R. 254. House concurrent resolution congratulating the Peace Corps on its 45th anniversary.

Senate Bill Referred

S. 310

Senate bill, entitled

An act relating to common sense initiatives in health care;

Was taken up, read the first time and referred to the committee on Health Care.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the third day of March, 2006, he approved and signed a bill originating in the House of the following title:

H. 617 An act relating to fiscal year 2006 budget adjustments

Adjournment

At four o'clock and thirty minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, March 14, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 44.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 244

House concurrent resolution congratulating Peter Miller of Colbyville on his being named the Burlington Free Press's Vermonter of the Year

H.C.R. 245

House concurrent resolution honoring the Vermont Youth Orchestra

H.C.R. 246

House concurrent resolution honoring Woodford Town Clerk Aileen C. O'Neil

H.C.R. 247

House concurrent resolution designating April 29, 2006 as Vermont National Guard Family Readiness Volunteer Day in honor of the outstanding volunteers who are assisting National Guard families whose loved ones are deployed

H.C.R. 248

House concurrent resolution congratulating Allethaire (Gussie) Goodrum on her 80th birthday

H.C.R. 249

House concurrent resolution recognizing the extraordinary public service of retiring Weston town moderator Sam Lloyd

H.C.R. 250

House concurrent resolution congratulating David Hamilton for his many years of civic service in the town of Jamaica

H.C.R. 251

House concurrent resolution congratulating Bruce Chapin for his many years of civic service in the town of Jamaica

H.C.R. 252

House concurrent resolution congratulating Raymond Landman for his many years of civic service in the town of Jamaica

H.C.R. 253

House concurrent resolution designating March 2006 as National Social Work Month in Vermont

H.C.R. 254

House concurrent resolution congratulating the Peace Corps on its 45th anniversary

S.C.R. 53

Senate concurrent resolution recognizing Robert E. Miller for his contributions to Vermont.

S.C.R. 54

Senate concurrent resolution congratulating Richard Cassidy on his 50 years of service as Highgate town moderator.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, MARCH 14, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobie Weissman of the Yearning for Learning Center for Jewish Studies in Montpelier, VT.

Pledge of Allegiance

Page Gabriel Calza-Everett of Montpelier led the House in the Pledge of Allegiance.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the eighth day of March, 2006, he approved and signed a bill originating in the House of the following title:

H. 706 An act relating to miscellaneous technical tax amendments

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the ninth day of March, 2006, he approved and signed bills originating in the House of the following titles:

- H. 468** An act relating to the designation of Randall Lineback cattle as a state heritage breed of livestock;
- H. 665** An act relating to promoting gourmet food and beverage products by permitting tastings of alcoholic beverages at Vermont food and wine events;
- H. 873** An act relating to procedural protections for Vermonters eligible for Medicare Part D and Vparm.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 690

House bill, entitled

An act relating to the identification, documentation and advancement of the creative economy of the state's economy;

H. 749

House bill, entitled

An act relating to women offenders.

Committee Bills Introduced

Committee bills of the following titles were severally introduced, read the first time and under the rule, placed on the Calendar for notice tomorrow:

H. 877

By the committee on Education,

An act relating to funding of regional technical center school districts;

H. 878

By the committee on Commerce,

An act relating to fuel and purchased power adjustments clauses;

H. 879

By the committee on Commerce,

An act relating to universal telecommunications service.

Bill Referred to Committee on Ways and Means

H. 853

House bill, entitled

An act relating to technical amendments to the Vermont statutes annotated related to restructuring the agency of human services;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 630

House bill, entitled

An act relating to teaching about signs of and responses to depression and risk of suicide in public schools;

H. 710

House bill, entitled

An act relating to organization of supervisory districts;

H. 717

House bill, entitled

An act relating to direct sellers and unemployment insurance.

Bill Read Second Time; Bill Amended and Third Reading Ordered

H. 871

Rep. Hutchinson of Randolph spoke for the committee on Government Operations.

House bill entitled

An act relating to professions and occupations;

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Lippert of Hinesburg** moved to amend the bill as follows:

In Sec. 4, 3 V.S.A. § 129a(a), by striking subdivision (11) in its entirety and inserting a new subdivision (11) to read as follows:

(11) Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, a federal court, or a court outside Vermont within 30 days.

Which was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

H. 12

Rep. Kennedy of Chelsea, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to municipal regulation of amateur radio antennas;

Reported in favor of its passage when amended as follows:

First: In Sec. 2, by striking subsections 24 V.S.A. § 2296(b), (c), (d), (e) and (f) in their entirety and inserting in lieu thereof the following:

(b) Notwithstanding subdivision 2291(19) of this title, a municipal ordinance regulating amateur radio antenna or amateur radio antenna support structures shall comply with the requirements of 47 C.F.R. § 917.15(b), as amended from time to time, by allowing for the erection of an amateur radio antenna or an amateur radio antenna support structure at a height and dimension sufficient to accommodate amateur radio service connections.

Second: By adding a Sec. 3. to read:

Sec. 3. 24 V.S.A. § 4306(b) is amended to read:

(b) Disbursement to regional planning commissions shall be according to a formula to be adopted by rule under chapter 25 of Title 3 by the department for the assistance of the regional planning commissions. The rules shall give due consideration to the region's progress in adopting a regional plan. Disbursement to municipalities shall be through a competitive program administered by the department providing the opportunity for any eligible municipality or municipalities to compete regardless of size, provided that to receive funds, a municipality:

(1) Shall be confirmed under section 4350 of this title; or

(2)(A) Shall use the funds for the purpose of developing a municipal plan to be submitted for approval by the regional planning commission, as required for municipal confirmation under section 4350 of this title; and

(B) Shall have voted at an annual or special meeting to provide local funds for municipal and regional planning purposes; or

(3) Shall certify that it complies with the requirements of subsection 2296(b) of this title or is applying for a disbursement from the fund in order to come into compliance with the requirements of subsection 2296(b) of this title.

Third: By adding a new Sec. 4 to read:

Sec. 4. DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS REPORT

On or before January 15, 2007, the department of housing and community affairs shall report to the house and senate committees on government operations concerning municipal permitting and siting of amateur radio antennas and amateur radio antenna structures and municipal compliance with the requirements of 24 V.S.A. § 2296(b). In developing the report, the department shall consult with representatives of the amateur radio operators of Vermont and shall include the recommendations and input of such representatives in the report to the general assembly.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time. Pending the question, Shall the House amend the bill as recommended by the committee on Government Operations? **Rep. Kennedy of Chelsea** moved to amend the report of the committee on Government Operations as follows:

In Sec. 2, by striking “§ 917.15(b)” where it appears and inserting in lieu thereof “§ 97.15(b)” and by striking the last word in subsection (b), “connections”, and inserting in lieu thereof “communications”

Which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Government Operations, as amended, was agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 150

Rep. Young of Orwell, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to insurance fraud;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2031 is added to read:

§ 2031. INSURANCE FRAUD

(a) Definitions. As used in this section:

(1) "Conceal" means to take affirmative action to prevent others from discovering information. Mere failure to disclose information does not constitute concealment. Action by the holder of a legal privilege or one who has a reasonable belief that a privilege exists to prevent discovery of privileged information does not constitute concealment.

(2) "Insurance policy" has the same meaning as in 8 V.S.A. § 4722(3).

(3) "Insurance premium finance company" has the same meaning as in 8 V.S.A. § 7001.

(4) "Insurance premium finance transaction" means a transaction by, between, or among an insured, a producer, or another party claiming to act on behalf of an insured and a third party insurance premium finance company for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured pursuant to the terms of an insurance premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment of premiums on insurance policies only, and does not include the financing of insurance premiums purchased in connection with the financing of goods and services.

(5) "Insurance professional" means sales agents, managing general agents, brokers, producers, adjusters, and third-party administrators.

(6) "Insurance transaction" means a transaction by, between, or among:

(A) an insurer or a person who acts on behalf of an insurer; and

(B) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(7) "Insurer" has the same meaning as in 8 V.S.A. § 4901(2).

(8) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation, agency of government, or any other entity.

(9) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, or law, or any other licensee of the state or person required to be licensed in the state whose services are compensated either in whole or in part, directly or indirectly, by insurance proceeds, including insurance adjusters, or a licensee similarly licensed in other states and nations or the licensed practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

(10) "Premium" means consideration paid or payable for coverage under an insurance policy. "Premium" includes any payments, whether due within the insurance policy term or otherwise, and deductible payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; any self-insured retention or payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; and any collateral or security to be provided to collateralize obligations to make payments listed in this subdivision.

(11) "Withhold" means to fail to disclose facts or information which any law (other than this act) requires to be disclosed. Mere failure to disclose information does not constitute "withholding" if the one failing to disclose reasonably believes that there is no duty to disclose.

(b) Fraudulent insurance act. No person shall, with intent to defraud:

(1) Present, cause to be presented, or prepare with knowledge or belief that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or insurance premium finance company in connection with an insurance transaction or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The application for, rating of, or renewal of any insurance policy.

(B) A claim for payment or benefit pursuant to any insurance policy.

(C) Payments made in accordance with the terms of any insurance policy.

(D) The application used in any insurance premium finance transaction.

(2) Present, cause to be presented, or prepare with knowledge or belief that it will be presented, to or by an insurer, insurance professional, or an insurance premium finance company in connection with an insurance transaction or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The solicitation for sale of any insurance policy or purported insurance policy.

(B) An application for certificate of authority.

(C) The financial condition of any insurer.

(D) The acquisition, formation, merger, affiliation, or dissolution of any insurer.

(3) Solicit or accept new or renewal insurance risks by or for an insolvent insurer.

(4) Remove the assets or records of assets, transactions, and affairs or such material part thereof from the home office or other place of business of the insurer or from the place of safekeeping of the insurer, or destroy or sequester the same from the department of banking, insurance, securities, and health care administration.

(5) Divert, misappropriate, convert, or embezzle funds of an insurer, an insured, a claimant, or an applicant for insurance in connection with:

(A) an insurance transaction;

(B) the conduct of business activities by an insurer or insurance professional;

(C) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$500.00, be imprisoned for not more than two years or fined not more than \$5,000.00 or both; or

(2) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$500.00, be imprisoned for not more than five years or fined not more than \$10,000.00 or both; or

(3) for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00 or both.

(d) Administrative action. Upon the conviction of a practitioner for a violation of subsection (b) of this section, the practitioner shall inform the court of all jurisdictions in which the practitioner is licensed to do business. The court shall then forward a record of the conviction to the licensing authorities in each state. Any victim may notify the appropriate licensing authorities in this state and any other jurisdiction where the practitioner is licensed of the conviction.

(e) Civil remedies.

(1) A person damaged as a result of a violation of subsection (b) of this section may bring a civil action against the violator for damages and such other relief as the court deems appropriate. The relief may include:

(A) Return of any profit, benefit, compensation, or payment received by the violator directly resulting from said violation.

(B) Reasonable attorney's fees and court costs.

(2) The attorney general shall have authority to maintain civil proceedings in superior court on behalf of the department of banking, insurance, securities, and health care administration and any victims of violations of this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(f) Cooperation. Any insurer or insurance professional that has reasonable belief that insurance fraud will be, is being, or has been committed shall furnish and disclose any information in its possession concerning such act to the appropriate law enforcement official or authority, subject to any legal privilege protecting such information.

(g) Immunity. No person acting in good faith and furnishing or disclosing information to the appropriate law enforcement official shall be subject to civil liability for libel, slander, or any other cause of action arising from the furnishing or disclosing of such information. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Sec. 2. 8 V.S.A. chapter 130 is added to read:

Chapter 130. Insurance Fraud

§ 4750. INSURER ANTI-FRAUD PLANS

(a) Every insurer with direct written premiums shall prepare, implement, and maintain an insurance anti-fraud plan. Each insurer's anti-fraud plan shall

outline specific procedures, appropriate to the type of insurance the insurer writes in this state, to:

(1) Prevent, detect, and investigate all forms of insurance fraud, including fraud involving the insurer's employees or agents; fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies; claims fraud; and security of the insurer's data processing systems.

(2) Educate appropriate employees on fraud detection and the insurer's anti-fraud plan.

(3) Provide for the hiring of or contracting for fraud investigators.

(4) Report insurance fraud to appropriate law enforcement and regulatory authorities in the investigation and prosecution of insurance fraud.

(5) Where appropriate, pursue restitution for financial loss caused by insurance fraud.

(6) Ensure that applicable state and federal privacy laws are complied with and that the confidential personal and financial information of consumers and insureds is protected.

(7) Comply with such other procedures as the commissioner may require by rule.

(b) The commissioner may require an insurer to file its anti-fraud plan with the department and a summary of the insurer's anti-fraud activities and results.

(c) This section confers no private rights of action.

(d) Enforcement. Notwithstanding any other provision of this title, the following are the exclusive monetary penalties for violation of this section. Insurers that fail to prepare, implement, maintain, or submit to the department of banking, insurance, securities, and health care administration an insurance anti-fraud plan are subject to a penalty of \$500.00 per day, not to exceed \$10,000.00.

§ 4751. FRAUD WARNINGS

(a) All applications for insurance and all claim forms regardless of the form of transmission provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to the application or claim form, that clearly states in substance the following:

"It is a crime for any party to knowingly provide material false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits."

(b) The lack of a statement required in subsection (a) of this section does not constitute a defense in any criminal prosecution under 13 V.S.A. § 2029 nor in any civil action referenced therein.

(c) The warning required by this subsection shall not be required on forms relating to reinsurance.

Sec. 3. 1 V.S.A. § 317(c)(34) is added to read:

(36) anti-fraud plans submitted by insurers to the department of banking, insurance, securities, and health care administration for the purposes of complying with 8 V.S.A. § 4750.

Sec. 4. EFFECTIVE DATE

This act shall take effect July 1, 2005, except for Sec. 2, which shall take effect January 1, 2006.

Rep. Marek of Newfane, for the committee on Judiciary, recommended the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2031 is added to read:

§ 2031. INSURANCE FRAUD

(a) Definitions. As used in this section:

(1) "Conceal" means to take affirmative action to prevent others from discovering information. Mere failure to disclose information does not constitute concealment. Action by the holder of a legal privilege or one who has a reasonable belief that a privilege exists to prevent discovery of privileged information does not constitute concealment.

(2) "Insurance policy" has the same meaning as in 8 V.S.A. § 4722(3).

(3) "Insurance premium finance company" has the same meaning as in 8 V.S.A. § 7001.

(4) "Insurance premium finance transaction" means a transaction by, between, or among an insured, a producer, or another party claiming to act on behalf of an insured and a third party insurance premium finance company for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured pursuant to the terms of an insurance premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment of premiums on insurance policies only, and does not include the financing of insurance premiums purchased in connection with the financing of goods and services.

(5) "Insurance professional" means sales agents, managing general agents, brokers, producers, adjusters, and third-party administrators.

(6) "Insurance transaction" means a transaction by, between, or among:

(A) an insurer or a person who acts on behalf of an insurer; and

(B) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(7) "Insurer" has the same meaning as in 8 V.S.A. § 4901(2).

(8) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation, agency of government, or any other entity.

(9) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, or law, or any other licensee of the state or person required to be licensed in the state whose services are compensated either in whole or in part, directly or indirectly, by insurance proceeds, including insurance adjusters, or a licensee similarly licensed in other states and nations or the licensed practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

(10) "Premium" means consideration paid or payable for coverage under an insurance policy. "Premium" includes any payments, whether due within the insurance policy term or otherwise, and deductible payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; any self-insured retention or payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; and any collateral or security to be provided to collateralize obligations to make payments listed in this subdivision.

(11) "Withhold" means to fail to disclose facts or information which any law, other than this section, requires to be disclosed. Mere failure to disclose information does not constitute "withholding" if the one failing to disclose reasonably believes that there is no duty to disclose.

(b) Fraudulent insurance act. No person shall, with intent to defraud:

(1) Present, cause to be presented, or prepare with knowledge or belief that it will be presented by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or insurance premium finance company in connection with an insurance transaction or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The application for, rating of, or renewal of any insurance policy.

(B) A claim for payment or benefit pursuant to any insurance policy.

(C) Payments made in accordance with the terms of any insurance policy.

(D) The application used in any insurance premium finance transaction.

(2) Present, cause to be presented, or prepare with knowledge or belief that it will be presented to or by an insurer, insurance professional, or an insurance premium finance company in connection with an insurance transaction or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The solicitation for sale of any insurance policy or purported insurance policy.

(B) An application for certificate of authority.

(C) The financial condition of any insurer.

(D) The acquisition, formation, merger, affiliation, or dissolution of any insurer.

(3) Solicit or accept new or renewal insurance risks by or for an insolvent insurer.

(4) Remove the assets or records of assets, transactions, and affairs or such material part thereof from the home office or other place of business of the insurer or from the place of safekeeping of the insurer, or destroy or sequester the same from the department of banking, insurance, securities, and health care administration.

(5) Divert, misappropriate, convert, or embezzle funds of an insurer, an insured, a claimant, or an applicant for insurance in connection with:

(A) an insurance transaction;

(B) the conduct of business activities by an insurer or insurance professional;

(C) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$500.00, be imprisoned for not more than two years or fined not more than \$5,000.00, or both; or

(2) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$500.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or

(3) for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both.

(d) Administrative action. Upon the conviction of a practitioner for a violation of subsection (b) of this section, the court clerk shall inform the office of professional regulation, the department of health, and the department of banking, insurance, securities, and health care administration of the conviction. The office of professional regulation, the department of health, and the department of banking, insurance, securities, and health care administration shall then forward a notice of the conviction to the licensing authorities in every state. Any victim may notify the appropriate licensing authorities in this state and any other jurisdiction in which the practitioner is licensed of the conviction.

(e) Civil remedies.

(1) A person damaged as a result of a violation of subsection (b) of this section may bring a civil action against the violator for damages and such other relief as the court deems appropriate. The relief may include:

(A) Return of any profit, benefit, compensation, or payment received by the violator directly resulting from the violation.

(B) Reasonable attorney's fees and court costs.

(2) The attorney general shall have authority to seek restitution, reasonable attorney's fees, and court costs in superior court on behalf of the department of banking, insurance, securities, and health care administration and any victims of violations of this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions

or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(f) Cooperation. Any insurer or insurance professional that has reasonable belief that insurance fraud will be, is being, or has been committed shall furnish and disclose any information in its possession concerning such act to the appropriate law enforcement official or authority, subject to any legal privilege protecting such information.

(g) Immunity. No insurer or insurance professional acting in good faith and furnishing or disclosing information to the appropriate law enforcement official shall be subject to civil liability for libel, slander, or any other cause of action arising from the furnishing or disclosing of such information. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Sec. 2. 8 V.S.A. chapter 130 is added to read:

CHAPTER 130. INSURANCE FRAUD

§ 4750. INSURER ANTI-FRAUD PLANS

(a) Every insurer with direct written premiums shall prepare, implement, and maintain an insurance anti-fraud plan. Each insurer's anti-fraud plan shall outline specific procedures, appropriate to the type of insurance the insurer writes in this state, to:

(1) Prevent, detect, and investigate all forms of insurance fraud, including fraud involving the insurer's employees or agents; fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies; claims fraud; and security of the insurer's data processing systems.

(2) Educate appropriate employees on fraud detection and the insurer's anti-fraud plan.

(3) Provide for the hiring of or contracting for fraud investigators.

(4) Report insurance fraud to appropriate law enforcement and regulatory authorities in the investigation and prosecution of insurance fraud.

(5) Where appropriate, pursue restitution for financial loss caused by insurance fraud.

(6) Ensure that applicable state and federal privacy laws are complied with and that the confidential personal and financial information of consumers and insureds is protected.

(7) Comply with such other procedures as the commissioner may require by rule.

(b) The commissioner shall require an insurer to file annually its anti-fraud plan with the department and an annual summary of the insurer's anti-fraud activities and results.

(c) This section confers no private rights of action. This section does not affect private rights of action conferred under other laws or court decisions.

(d) Enforcement. Notwithstanding any other provision of this title, the following are the exclusive monetary penalties for violation of this section. Insurers that fail to prepare, implement, maintain, or submit to the department of banking, insurance, securities, and health care administration an insurance anti-fraud plan are subject to a penalty of \$500.00 per day, not to exceed \$10,000.00.

§ 4751. FRAUD WARNINGS

(a) All applications for insurance and all claim forms regardless of the form of transmission provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to the application or claim form, that clearly states in substance the following:

"It is a crime for any person knowingly to provide material false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company, for any person knowingly to provide material false, incomplete, or misleading information concerning the sale of insurance or the status of an insurer, or for any person to misappropriate the funds of an insured or an applicant for insurance. Penalties include imprisonment, fines, and denial of insurance benefits."

(b) The lack of a statement required in subsection (a) of this section does not constitute a defense in any criminal prosecution under 13 V.S.A. § 2031 nor in any civil action referenced therein.

(c) The warning required by this subsection shall not be required on forms relating to reinsurance.

Sec. 3. 1 V.S.A. § 317(c)(36) is added to read:

(36) anti-fraud plans and summaries submitted by insurers to the department of banking, insurance, securities, and health care administration for the purposes of complying with 8 V.S.A. § 4750.

Sec. 4. EFFECTIVE DATE

This act shall take effect July 1, 2006, except for Sec. 2, which shall take effect January 1, 2007.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Commerce? **Rep. Marek of Newfane** moved that the House substitute the report of the committee on Judiciary for the report of the committee on Commerce, which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Judiciary was agreed to and third reading was ordered.

Message from the Senate No. 35

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title

S. 106. An act relating to increasing the beverage container handlers' fee and an ongoing evaluation of the bottle redemption system.

The Senate has considered a bill originating in the House of the following title:

H. 237. An act relating to emergency contraception.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Governor has informed the Senate that on the ninth day of March, 2006, he approved and signed a bill originating in the Senate of the following title:

S. 311. An act relating to an appropriation to continue Vermont National Guard family support and counseling services.

Bill Amended; Third Reading Ordered

H. 612

Rep. Deen of Westminster spoke for the committee on Fish, Wildlife and Water Resources.

Rep. Martin of Wolcott, for the committee on Institutions, to which had been referred House bill, entitled

An act relating to allowing pollution abatement monies to protect the public health from wastewater systems that fail to meet required isolation distances from drinking water supplies;

Reported in favor of its passage when amended as follows:

First: In Sec. 1, § 1625, subsection (a), prior to subdivision (1), by striking the number "25" and inserting in lieu thereof the number "35"

Second: By adding a new section to be Sec. 2 to read:

Sec. 2. 10 V.S.A. § 1625(c) is amended to read:

(c) ~~Any municipality having proceeded with construction of facilities with a state grant of 25 percent since July 1, 1984 shall be eligible for an increase in the state grant to a total of 35 percent of the eligible project costs. [Deleted.]~~

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Institutions agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 777

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to resident ownership of mobile home parks using cooperative and condominium structures;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9A V.S.A. § 9-311(a)(2) is amended to read:

(2) the following statutes of this state: ~~9 V.S.A. chapter 72 and 23 V.S.A. chapters 21 and 36;~~ or

Sec. 2. 11 V.S.A. § 1589(a) is amended to read:

(a) Within two years after issuance of the certificate of incorporation of a cooperative housing corporation, the cooperative housing corporation shall secure memberships or subscription agreements representing no less than 80 percent of the units in the cooperative housing corporation. In the case of a conversion, other than a conversion of a mobile home park, subscription agreements representing no less than 50 percent of the units in the proposed cooperative housing corporation shall be secured prior to issuance of the certificate of incorporation, provided that at the expiration of the two-year period after issuance of the certificate of incorporation or at the expiration of

the notice periods provided to tenants at 27 V.S.A. § 1333, whichever comes later, no fewer than 80 percent of the units in the cooperative housing corporation shall be occupied by members, occupied by sublessees permitted under subdivision 1599(1) of this title, or subject to subscription agreements. In the case of a conversion of a mobile home park, subscription agreements representing no fewer than 25 percent of the units in a proposed cooperative housing corporation shall be secured prior to issuance of the certificate of incorporation, provided that at the expiration of the two-year period after issuance of the certificate of incorporation or at the expiration of the notice periods provided to tenants pursuant to 27 V.S.A. § 1333, whichever comes later, no fewer than 80 percent of the units in the cooperative housing corporation shall be occupied by members, occupied by sublessees permitted under subdivision 1599(1) of this title, or subject to subscription agreements. Extensions of the time limits imposed by this section may be granted by the commissioner of housing and community affairs for cooperative housing corporations containing more than 50 units or for cooperative housing corporations formed in connection with the conversion of a mobile home park.

Sec. 3. 32 V.S.A. § 5830c(c)(1) is amended to read:

(1) "Affordable housing" shall be defined by rule adopted by the department of housing and community affairs. ~~Such~~ The rule shall include the following provisions:

(A) ~~The income of at least 75~~ At least 50 percent of the units shall be occupied by households occupying the units shall whose income does not exceed 100 percent of the greater of state or area median income.

* * *

(C) The affordability of the unit shall be protected for a period of time not less than the term of any loan made pursuant to subdivision (d)(4) of this section for the unit or units or at least 40 15 years, whichever is greater, through a housing subsidy covenants or ~~through~~ other legally binding ~~instruments~~ instrument, which shall terminate upon the issuance of a judgment of foreclosure or a transfer of the property in lieu of foreclosure. ~~Such~~ This rule may also include additional provisions consistent with this section.

Sec. 4. 32 V.S.A. § 5830c(d)(4) is amended to read:

(4) At least 70 percent of all investments subject to this section are disbursed within 12 months either for the acquisition, rehabilitation, or construction of affordable housing in Vermont by the eligible housing charity, or for loans for affordable housing in Vermont ~~to other eligible housing charities~~ or at an average rate of interest not more than two percent above the

bank prime loan rate. Loans to individual borrowers in Vermont shall only be made to borrowers having no more than 80 100 percent of median income, at an average rate of interest at or below the most recent bank prime loan rate of the state or area, whichever is greater.

Sec. 5. 27A V.S.A. § 1-209 is added to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION

A condominium that will contain no more than nine units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subdivisions 2-101(b), 2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title.

Sec. 6. EFFECTIVE DATE; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage.

(b) Notwithstanding any prior statutory provision, financing statements filed in connection with manufactured home transactions filed since June 30, 2001, shall be deemed to be effective to perfect a security interest in the manufactured home.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

Adjournment

At eleven o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, MARCH 15, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by David Cavanagh, Johnson State College - Burlington Campus, Burlington, VT.

Senate Bill Referred

S. 106

Senate bill, entitled

An act relating to increasing the beverage container handlers' fee and an ongoing evaluation of the bottle redemption system;

Was taken up, read the first time and referred to the committee on Natural Resources and Energy.

**Committee Relieved of Consideration
and Bill Placed on Calendar for Notice**

H. 690

Rep. Perry of Richford moved that the Committee on Appropriations be relieved of House bill entitled

An act relating to the identification, documentation, and advancement of the creative sector of the state's economy;

Which was agreed to. Thereupon, under the rule, the bill was placed on the Calendar for notice tomorrow.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 12

House bill, entitled

An act relating to municipal regulation of amateur radio antennas.

H. 150

House bill, entitled

An act relating to insurance fraud

H. 612

House bill, entitled

An act relating to allowing pollution abatement monies to protect the public health from wastewater systems that fail to meet required isolation distances from drinking water supplies.

Bill Amended, Read Third Time and Passed

H. 777

House bill, entitled

An act relating to resident ownership of mobile home parks using cooperative and condominium structures;

Was taken up and pending third reading of the bill, **Rep. Head of South Burlington** moved to amend the bill as follows:

By striking Sec. 4, 32 V.S.A. § 5830c(d)(4), in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 32 V.S.A. § 5830c(d) is amended to read:

(d) Eligibility. Any organization seeking eligibility shall apply to the commissioner of housing and community affairs, who is authorized to issue certificates of eligibility for tax credits to eligible housing charities in specific amounts. In no event shall certificates of eligibility for tax credits for charitable investments be issued in excess of \$5,000,000.00 in the aggregate for any fiscal year. The commissioner by rule shall establish procedures and criteria for application to ensure the equitable distribution of tax credit certificates among eligible applicants. Subject to this limit, the commissioner shall issue a certificate of eligibility to receive tax credit investments to an organization if it meets all of the following criteria:

* * *

(4) At least 70 percent of all investments subject to this section are disbursed within 12 months ~~either~~ for:

(A) the acquisition, rehabilitation, or construction of affordable housing in Vermont by the eligible housing charity; or

(B) ~~for~~ loans for affordable housing in Vermont ~~to other eligible housing charities~~; or

(C) loans to individual borrowers in Vermont having no more than ~~80~~ 100 percent of median income, of the state or area, whichever is greater.

(5) Loans of charitable investments made pursuant to subdivision (4) of this subsection shall be at an average rate of interest at or below not more than two percent above the most recent bank prime loan rate.

~~(5)(6)~~ It can demonstrate that it has the administrative capacity to segregate funds to comply with and account for the requirements of subdivision (4) of this subsection.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Amended, Read Third Time and Passed

H. 871

House bill, entitled

An act relating to professions and occupations;

Was taken up and pending third reading of the bill, **Rep. Hutchinson of Randolph** moved to amend the bill as follows:

First: In Sec. 3, 3 V.S.A. § 129(a)(12), by striking "licensing fees and"

Second: In Sec. 20, 26 V.S.A. § 2293(e), by striking "on or after July 1, 1996"

Which was agreed to. Thereupon, the bill was read the third time and passed.

Rep. Carolyn Partridge in Chair.

Bill Read Second Time; Third Reading Ordered

H. 876

Rep. Adams of Hartland spoke for the committee on Fish, Wildlife and Water Resources.

House bill entitled

An act relating to management of exposure to mercury;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Speaker Symington back in Chair.

Bill Read Second Time; Third Reading Ordered

H. 874

Rep. Kainen of Hartford spoke for the committee on Judiciary.

House bill entitled

An act relating to sentencing for first and second degree murder;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action on Bill Postponed

H. 869

House bill, entitled

An act relating to state's transportation program;

Was taken up and pending the reading of the report of the committee on Ways and Means and Appropriations, on motion of **Rep. Westman of Cambridge**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**H. 101**

Rep. Morrissey of Bennington, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to post-traumatic stress disorder and state police officers;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 1004a is added to read:

**§ 1004a. CRITICAL INCIDENTS AND POST-TRAUMATIC STRESS
DISORDER; COMMITTEE**

(a) The commissioner of public safety shall engage in a cooperative effort to identify and address issues associated with critical incidents and post-traumatic stress disorder for department of public safety employees.

(b) A committee to address issues associated with critical incidents and post-traumatic stress disorder for department of safety employees shall meet not less than three times annually and present a report to the house committee on government operations by January 15th of each year. The committee shall be comprised of the following members: the Vermont state police field force commander or designee; the director of the Vermont state employees' association or designee; one employee of public safety who is not a law enforcement officer, appointed by the director of the Vermont state employees' association; the chair of the Vermont state police union; one member of the state police union appointed by the chair of the union; the team leader of the department peer support team; the personnel administrator for the department or designee; and the person serving as the department clinical psychologist or designee.

(c) The committee shall:

(1) evaluate existing programs, education, training needs, process, and department policies that address issues of critical incident or post-traumatic stress effect on employees;

(2) review current and best practices in the field of critical incident response and treatment and post-traumatic stress disorder impact, response, and treatment for department employees; and

(3) regularly share information with the law enforcement advisory board and other interested law enforcement groups.

Sec. 2. SUNSET

Sec. 1 of this act (critical incident and post-traumatic stress disorder committee) shall be repealed on March 1, 2011.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Government Operations? **Rep. Donahue of Northfield** moved to amend the recommendation of amendment offered by the committee on Government Operations, as follows:

In Sec.1, 3 V.S.A. § 1004a(c)(1), following the words "addresses issues of" by inserting the phrase "recognition of symptoms of acute stress reaction, and of"

Which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Government Operations, as amended, was agreed to and third reading was ordered.

Bill Ordered to Lie

H. 424

House bill, entitled

An act relating to guardianships;

Having appeared on the Calendar one day for notice, was taken up and pending second reading of the bill, on motion of **Rep. Lippert of Hinesburg**, the bill was ordered to lie.

Bill Amended; Third Reading Ordered

H. 611

Rep. Mook of Bennington, for the committee on Education, to which had been referred House bill, entitled

An act relating to responsibilities of a principal and school policies when a student with a food allergy enrolls in a school;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Because of the life-threatening nature of a variety of allergies, there is a need to be prepared for the presence of students with allergies.

(2) Food allergy prevalence has increased 55 percent in the last five years and continues to increase.

(3) From 40 to 50 percent of those persons with a diagnosed food allergy are judged to have a high risk of anaphylaxis. Every allergic reaction has the possibility of developing into a life-threatening and potentially fatal anaphylactic reaction. This can occur within minutes or as long as a few hours after exposure to the allergen.

(4) Multiple food allergies in children are increasing.

(5) Allergic reactions vary and can range from mild to severe life-threatening anaphylactic reactions. Some individuals who are very sensitive may react to just touching or inhaling the allergen. For others, consumption of as little as one five-thousandth of a teaspoon from a food allergen can cause death.

(6) Anaphylaxis is a sudden, severe, potentially fatal, systemic allergic reaction that can involve various areas of the body.

(7) Eight foods (peanuts, tree nuts, milk, egg, soy, wheat, fish, and shellfish) account for 90 percent of total food allergies, although there are over 170 other foods reported that have the potential to cause an allergic reaction.

(8) Approximately 80 percent of allergies to milk, egg, soy, and wheat are outgrown by age five.

(9) Peanuts and tree nuts account for 92 percent of severe and fatal reactions and are considered life-long. Allergies to fish and shellfish are also considered to be life-long.

Sec. 2. 16 V.S.A. § 212(14) is added to read:

(14) Annually, with the approval of the commissioner of health, inform superintendents and principals of best practices regarding students with life-threatening chronic allergies and illnesses; and prepare and distribute model policies, training materials, and school guidelines for managing students with life-threatening chronic allergies and illnesses, including family responsibilities, school responsibilities, and student responsibilities.

Sec. 3. 16 V.S.A. § 563(27) is added to read:

(27) Shall assign an employee to be responsible for informing parents of students with life-threatening chronic allergies or illnesses of their rights under Section 504 of the Rehabilitation Act of 1973, other federal statutes, state statutes, state rules, and school policies, and for ensuring appropriate school staff are informed of their responsibilities and receive proper training.

And that when so amended, the title shall read:

AN ACT RELATING TO LIFE THREATENING CHRONIC ALLERGIES
AND ILLNESSES IN SCHOOLS

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Education agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 618

Rep. Donahue of Northfield, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to increasing the age limit for children in need of care and supervision;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

The general assembly finds that the services provided to youths ages 18–22 who are transitioning from state custody to adulthood are insufficient and do not support youths in becoming self-sufficient adults. It is the intent of the general assembly to provide necessary and essential transitional services to these youths up to age 22 to assist them in becoming self-sufficient adults.

Sec. 2. 33 V.S.A. § 1901(d) is added to read:

(d) The agency of human services shall adopt rules and procedures pursuant to chapter 25 of Title 3 for automatically assessing any child whose eligibility for Medicaid, a Medicaid waiver program, or Dr. Dynasaur is threatened to determine whether the child is eligible under a different eligibility category or public health care program and for completing such assessment in time to avoid interruption in the child's coverage.

Sec. 3. COORDINATION OF INITIATIVES; TRANSITIONAL YOUTHS

The department for children and families shall assess what efforts, task forces, and initiatives are being undertaken in government, the judiciary, communities, and other public or private groups on issues relating to youths ages 18–22 who are transitioning out of state custody. The department shall develop a plan for coordinating these efforts on transitional youths, shall combine the recommendations from the task forces on youth issues related to the judiciary, foster care, and higher education, and shall report those recommendations to the house committee on human services and the senate

committee on health and welfare no later than January 15, 2007. The department's plans and recommendations shall be consistent with the policy expressed in Sec. 1 of this act.

Sec. 4. TRANSITIONAL YOUTHS; SERVICES STUDY

(a) The agency of human services shall analyze current law and regulation regarding Medicaid eligibility for young adults between the ages of 18 and 22 and will report on the following:

(1) existing current eligibility;

(2) how the state currently administers those aspects of the plan, including the type of outreach that has been done to assure a full opportunity for enrollment;

(3) an estimate of the percentage of eligible youths who are enrolled;

(4) additional options available to increase access to Medicaid coverage for all categories of potentially eligible youths over the age of 18, including but not limited to the developmentally disabled youths who are not in custody, and the cost of each option;

(5) the cost of extending health care coverage through either Medicaid, the Vermont health access plan, or Dr. Dynasaur solely to an individual under the custody of the state on his or her 18th birthday for the period of time the individual attends college or postsecondary training.

(b) The agency of human services shall study the costs and benefits of providing necessary and essential transitional services up to age 22 for a youth who has been in the custody of the state or who has been receiving state-funded services for developmental disability or severe emotional disturbance on his or her 18th birthday in order to assist the youth in becoming a self-sufficient adult.

Sec. 5. OUTREACH

The office of Vermont health access shall provide information on the eligibility of children under age 21 for Medicaid under the Ribicoff eligibility category to community organizations, to designated agencies, and over the internet.

and by amending the title to be "AN ACT RELATING TO SERVICES FOR TRANSITIONAL YOUTHS"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Human Services agreed to and third reading ordered.

Bill Amended; Third Reading Ordered**H. 774**

Rep. Johnson of Canaan, for the committee on Agriculture, to which had been referred House bill, entitled

An act relating to the Vermont Economic Development Authority;

Reported in favor of its passage when amended as follows:

By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 10 V.S.A. § 374a(b) is amended to read:

(b) No borrower shall ~~have loans~~ be approved for a loan from the corporation ~~outstanding at any time having an aggregate principal balance in excess of \$500,000.00 that would result in the aggregate principal balances outstanding of all loans from the corporation to that borrower exceeding the then current maximum Farm Service Agency loan guarantee limits.~~

Rep. Trombley of Grand Isle, for the committee on Commerce, recommended the bill be amended as follows:

First: By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 10 V.S.A. § 374a(b) is amended to read:

(b) No borrower shall ~~have loans~~ be approved for a loan from the corporation ~~outstanding at any time having an aggregate principal balance in excess of \$500,000.00 that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then current maximum Farm Service Agency loan guarantee limits.~~

Second: In Sec. 4, 10 V.S.A. § 374b(7)(C), by striking "the"

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Agriculture? **Rep. Trombley of Grand Isle** moved that the House substitute the report of the committee on Commerce for the report of the committee on Agriculture, which was agreed to.

Thereupon, the report of the committee on Commerce was agreed to and third reading was ordered.

Message from the Senate No. 36

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 111. An act relating to prior service credit for teachers.

In the passage of which the concurrence of the House is requested.

Rep. Carolyn Partridge in Chair.

Bill Amended; Third Reading Ordered**H. 817**

Rep. Deen of Westminster, for the committee on Fish, Wildlife and Water Resources, to which had been referred House bill, entitled

An act relating to stormwater management;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) The state is committed to clean water as a key factor in preserving Vermont's quality of life;

(2) Stormwater runoff has impaired certain waters of the state and remains a potential source of pollution to all state waters;

(3) Previous legislative efforts to address stormwater runoff in the state have focused largely on discharges of stormwater runoff to impaired waters;

(4) Municipalities and property owners in watersheds that are not impaired by stormwater runoff are faced with issues of pollution, liability, and title encumbrance similar to those faced by municipalities in stormwater-impaired watersheds;

(5) An orphan stormwater system pilot program in the agency of natural resources will help address the issue of stormwater runoff to the unimpaired waters of the state by providing grants to municipalities to aid in the costs associated with the construction, renovation, or repair of certain stormwater systems;