



The Ethan Allen Letter

IDEAS FOR VERMONT'S FUTURE

A Monthly Publication of The Ethan Allen Institute

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Ducking the Shumlin Health Exchange Bullet

COMMENTARY

Just two years from now – if you are covered by private health insurance at a small business – you are highly likely to find your health insurance in complete limbo. That is, if Gov. Shumlin has his way with the legislature, which given its composition, is also highly likely.

To understand why this will probably happen, let's go back to the 2009 passage of ObamaCare. The centerpiece of that legislation is the requirement that by 2014 each state must establish a health insurance "Exchange".

This Exchange will operate on a state-managed web site where small businesses and individuals will compare available health insurance policies, and choose the one that best meets their needs. Individuals will then qualify for Fed-

eral income-based subsidies to purchase their chosen coverage.

This doesn't sound too threatening on its face – but there's more.

Last spring the Vermont legislature enacted the legislation to create an ObamaCare-compliant Exchange. The state has some leeway in deciding which carriers and which policies will be offered to Vermont residents. Since essentially only two carriers offer health insurance in Vermont – thanks to laws passed in 1991 and 1992 specifically to drive their competitors out – there will not be a lot of offerings to choose from.

That act also required that policies sold on the Exchange must offer what ObamaCare designates as a "silver" level of benefits. That is, the insurer must cover at least 70 percent of the costs, and the insureds no more than 30 percent. This provision of the act will kill off all but the most expensive and impractical Health Savings Account-qualified high-deductible

policies, to the dismay of thousands of Vermont HSA owners.

A new bill just submitted by the Shumlin Administration (H.559) contains two key provisions, specifying which businesses will be forced into the Exchange, and prohibiting insurers from offering health plans outside of the Exchange.

ObamaCare allows states to define "small groups" as businesses with 1-50 or 1-100 employees. The Shumlin bill proposes to require all small businesses with up to 100 employees to purchase insurance only through the Exchange.

This would merge the present small group market with the individual market as an important step toward Shumlin's goal of installing single payer Green Mountain Care in 2017. After that date, if Green Mountain Care is actually put in place, private health insurance would disappear.

The state government would then

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The Ethan Allen Letter

The Ethan Allen Institute is an independent, non-profit, nonpartisan public policy research and educational organization, incorporated in 1993 under Vermont law.

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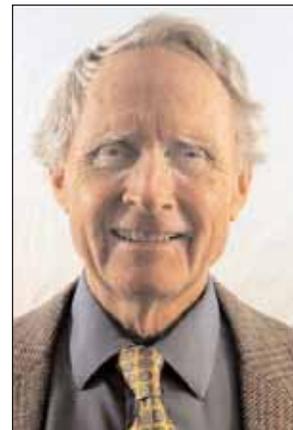
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PRESIDENT'S MESSAGE

An Important Year Ahead



In the past few days EAI members received a letter from me, asking their continued support for 2012. In it I pointed out that the Ethan Allen Institute was founded 18 years ago to educate Vermonters in the fundamentals of a free society. Today we are still waging a war of ideas with the prevailing leftist culture of Vermont.

We host Common Sense Radio, Rob Roper's popular daily talk radio program on WDEV. EAI's John McClaughry does a five-days-a-week commentary on the same high wattage station.

We host the Energy Education Project, with energy expert Meredith Angwin, who blogs and continues to make pro-energy presentations all over the state.

We host the Sheraton Series on the Economy, bringing outstanding speakers to Burlington, and publish this informative and hard hitting monthly *Ethan Allen Letter* (on line).

We maintain an extremely valuable web site with 18 years of Institute commentaries and reports that explain public policy choices – and how and why many turn out very badly.

And we have for 18 years presented John McClaughry's hard-hitting bi-weekly commentaries on Vermont issues, featured in most Vermont daily newspapers, *Vermont Tiger*, *Vermont Digger*, *True North Reports*, and other venues.

John is still on the EAI team, but this month I take over as its new President and CEO. I'm a tree farmer, small businessman, and graduate of St. Andrews (Scotland) and Rutgers Universities (MA, PhD). I share John's long and unshakable commitment to the free market, liberty, property, limited government, and fiscal responsibility – ideals stated in the Institute's Mission.

My goal is to step up the pace, expand into new areas of influence, and build an ever stronger voice for liberty, property, enterprise, and opportunity in this state we love.

To do that ever more effectively, we need the support of all those who share those goals. I look forward to hearing from you!

PRESIDENT

School Tax Sleight of Hand

COMMENTARY

Vermont's educational finance law is amazingly complex. That complexity means there are many points within the law where small changes can produce quite different results.

Consider the current sleight of hand being performed by Gov. Peter Shumlin to avoid the dreadful necessity of increasing the residential and nonresidential school property tax rates in his re-election year.

Under Act 68, the legislature set in statute a per pupil "basic educational support amount" (BESA) number: \$6,800 in 2005. This number increases each year by a formula related to educational cost increases in New England. It got up to \$8,544 two years ago.

This year, by the formula, it is supposed to increase to \$8,891. Gov. Shumlin wants it to increase only to \$8,723. Why does this matter? Because the residential school property tax rate is directly proportional to the amount per pupil a district spends in excess of the BESA. Hold down the BESA, and residential school property tax rates will jump up to bring more local tax dollars into the Education Fund. That would help make it possible to avoid raising the two property tax rates.

Then there's the Governor's ingenious scheme to reduce the General Fund Transfer into the Education Fund. This transfer was designed in 1997 to convert the former state aid payments into funding for the new Act 60 Education Fund.

Every legislative session the General Fund budget is under lots of fi-

nancial and political pressure. All of state government except transportation feeds from the General Fund.

The architects of Act 60 were well aware that a future legislature could start cheating on the GF transfer. So they wrote into that law an automatic formula to determine the amount of that required annual transfer.

For quite a few years the legislature honored the transfer formula. Rising property values allowed the legislature to fill the Education Fund while slightly decreasing both residential and nonresidential property tax rates.

But this year the deal broke down. Despite exhortations from the Governor and Education Commissioner, public school budgets keep climbing upward. Property tax assessments fell after the 2008 housing crash. There is terrific demand for GF dollars.

In 2010 and 2011 the legislature used \$38.8 million in federal stimulus money to comply with the GF Transfer formula. Now there is no more stimulus money. The formula requires replacing the stimulus money with Vermont tax dollars.

So rather than raise those dollars by raising the two education property tax rates, Gov. Shumlin came up with a subtle plan to reduce the GF transfer. It's called "rebasings". It permanently redefines the formula base downward by \$27.5 million.

That means there will be a \$27.5 million shortfall in the Education Fund. That in turn means more school costs will be shifted onto residential property tax payers who are not likely to figure out what is being done to them.

Back in March one alert legislator, Rep. Oliver Olsen of Jamaica, spotted this scheme in the fine print of the

2012 appropriations bill. He realized that this was a sneaky tax increase on residential property owners to enable the legislature to balance an overgrown general fund budget.

Olsen's amendment to strike this language failed 38-99. The Senate made some minor technical changes, but no senator tried to take out this hidden tax increase. The bill passed 27-1.

Jack Hoffman of the liberal Public Assets Institute, headed by the co-author of Act 60, is a sharp critic of this scheme. "When the legislature cuts the [General Fund] transfer," Anne Galloway of *Vermont Digger* quoted Hoffman as saying, "it drives up property taxes for everyone."

How would an administration committed to speaking plainly to the people of Vermont have handled this? The governor could simply say "despite my exhortations and stern letters from Commissioner Vilaseca, the voters keep on voting to increase school budgets. Therefore we will continue the General Fund transfer as required by Act 60, and increase the two state property tax base rates by two cents."

"That will bring in enough to balance the books for another year. That increase won't be popular, but it will give all of us more incentive to get a better grip on local school spending."

A really visionary governor would go further: "Next year we are going to attack the ever rising costs of our government school system by ramping up parental choice and provider competition. That will produce better educational outcomes for our children, and actually reduce what we are now spending on K-12 education."

(Note: On January 26 the House voted unanimously to undo Gov. Shumlin's "rebasings" plan.)

Canadian Doctor Tells How Quebec Single Payer Works

REPORT

Dr. Ferial Ladak discussed life under Quebec's single payer health system at the Institute's first State House Round Table of 2006 on January 26. The picture she painted would dismay and even horrify Vermonters.

Dr. Ladak, a graduate of the University of British Columbia Medical College, was formerly medical director at North Country Hospital in Newport. She married a Canadian and is now head of Clinique Ladak in Lennoxville. She is also medical director at a large insurance company in Lennoxville that negotiates care for Canadians who have health problems while traveling abroad.

The most obvious problem in Quebec, she said, is finding a family physician. Family doctors in Quebec are limited to gross revenues of C\$53,000 per quarter. The doctor must bill only what the government allows for various medical services. Once the doctor bills up to what is left of the \$53,000 after paying nurses, office help, and space rental, the doctor essentially goes on vacation until the beginning of the next quarter when he or she can again be paid.

As a family practitioner in Vermont, she said, she saw 35-40 patients from 6:30 a.m. to 7:00 p.m., and then worked on charts for two evening hours. In Quebec, doctors typically run 50 patients through between 9:00 and 4:00. The single payer practice model is to run patients through as quickly as possible to accumulate billings, earn as much income as the system allows in the shortest amount of time, then take a mini-vacation. Not surprisingly, the frustration experi-

enced by doctors encourages some to figure out how to beat the system, instead of focusing on quality care for their patients.

Once the system starts to break down, Dr. Ladak said, it becomes very unfair. In Montreal, "boutique" practices have sprung up, offering instant access. Since they can't charge patients a premium for that access, they resort to renting parking spaces outside the clinic for \$1000 a year, and creating a separate entrance. The government has tried to stop this, but a recent decision of the Supreme Court of Quebec refused to shut it down, on the grounds that so long as the single payer system fails to meet the statutory requirement for universal access, patients have a right to seek care and pay for it directly.

Appointments with a family doctor for preventive medicine or routine physical exams are typically made six months ahead. If for some reason that can't be kept, the waiting time can be as much as two years. One woman she knew couldn't get a pap smear for three years.

Since under single payer the government "controls costs" through a Global Budget, providers can stay within budget by simply not providing services to patients. In Montreal, the average wait at no-appointment clinics is six hours. A patient who needs a burn dressing changed typically would incur five visits to the clinic, and wait five hours or more each time. Dr. Ladak told of an 80-year-old patient who spent four days on a gurney in the hallway of the Montreal hospital, because the hospital had no bed space. A main reason for inadequate bed space is the practice of "bed blocking" – filling beds up with "hotel" patients who cost very little to care for, instead of far more expensive intensive care patients.

About 100 Canadian resident doctors migrate to the U.S. each year. The Canadian system requires new MDs to serve up to 10 years in rural townships. In Sherbrooke, PQ, a city four times the size of greater Burlington, there are 5,000 people without a primary care doctor, and with no access to aftercare from an acute episode. Primary care doctors can have as many as 2,000 patients. This, she says, "hurts working people the most", because they have to give up work to wait for hours for five minute visits with doctors.

Since high-tech scans like MRIs are expensive, the system requires MRI services to operate only from 7:00 a.m. to 5:00 p.m., even if there are patients lined up and waiting. The main reason is the savings from not having to have the technicians to operate the MRI machines more than those 10 hours.

In 1994 the Province decided to save money by forcibly retiring doctors with retirement packages. The theory is that if there aren't enough doctors, there will be fewer billable procedures, and thus less cost to the government. When public outcry forced a reversal of policy, the government had to reinstate the laid off doctors, running up costs again.

Dr. Ladak said the quality of care in Quebec is good for those who can get into the system and get treated. She told how, after battling bureaucrats for days, she gave up and brought her two children to Newport for treatment rather than wait for "free" care in Quebec's universal system.

Dr. Ladak was very concerned about the American problem of malpractice liability, and urged strong tort reform to free doctors from the threat of frivolous lawsuits.

NEWS & VIEWS

Actual Progress: In our commentary “The Blessing of Irene” (December) we noted that sweeping away piles of regulations that constipate action by Vermont government better serves Vermonsters at lower cost.

In his State of the State message, Gov. Shumlin made exactly the same point: “Instead of having state workers bunkered in their individual agencies, processing paper, we broke down the silos, forming a partnership between AOT, ANR, private contractors, and municipalities.

“Contracting procedures were modified; access to stone and gravel was expedited; dangerous debris was removed from brooks and streams as engineers worked together with environmental experts to get the job done. Projects that pre-Irene would have taken years got done in months; environmental quality was preserved; taxpayer dollars were saved; and roads and bridges were built to withstand the assault of extreme weather that looms even larger in our future .”

The governor’s main task now is to thwart enviro legislators in his own party from passing bills to keep him from doing this on a continuing basis.

Also Remember This: “I am a proud and strong supporter of Vermont’s progressive income tax structure – the most progressive in the country, where unlike the federal government, we require our wealthiest citizens to pay their fair share of income tax. But, we cannot correct the tax failures of Washington from the State House in Montpelier, and we must be always mindful that every day, we compete with our neighboring

states for jobs. Therefore, **I remain determined not to increase broad-based taxes on Vermonsters** as we begin to see signs of modest economic growth.” – State of the State Message, January 5, 2012

Vermont Sues NRC: “Vermont is suing the Nuclear Regulatory Commission, claiming it was the NRC’s obligation to make sure that Vermont Yankee had an up-to-date permit. Apparently, the *state didn’t care* about the permit, except that *the state wanted to be sure that the NRC cared.*” – Meredith Angwin blog, 1/5/12.

Annual Failure Recurs: The nonpartisan Tax Foundation ranks the states annually for “state business tax climate”. For 2011: Vermont: 47th. New Hampshire: 6th.

Constitution Revisited: In our 11/09 News and Views we reported that Congressman Peter Welch, a practicing lawyer for 35 years, was quoted as saying about ObamaCare, “there’s not a constitutional argument, in my view.”

Beginning March 26, the U.S. Supreme Court will hold an unprecedented five and a half hours of oral argument on the constitutionality of ObamaCare. Apparently the Justices have discerned a constitutional argument.

Constitution Defended: Sen. Peter Galbraith (D-Windham), on the currently fashionable left wing resolution to demand that the Constitution be amended to deny that corporations and associations have any First Amendment rights: “[JRS 11] does say that ‘rights protected by the Constitution of the United States do not extend to corpora-

tions.’ What this amendment does is take those rights away. So, you can’t say at the same time you’re protecting them, and at the same time take them away.” (1/24/11)

Department of Propaganda: “Just today I saw a request for proposals issued by the Green Mountain Care Board to buy public relations and marketing services from a firm that had experience in ‘message control’. When the legislature passed Act 48 last year, I don’t remember it including a Department of Propaganda.”

“The proponents of [the Green Mountain Care] legislation argued we would save huge amounts by cutting out insurance company advertising and marketing ... and the first thing this board does is go out and look for an advertising and marketing firm to spread its message.” – Sen. Randy Brock (1/14/12).

There They Go Again: H.508 proposes to: “(1) prohibit handheld use of portable electronic devices by adults operating motor vehicles; and (2) repeal secondary enforcement of safety belt law for adult operators, thus **authorizing primary enforcement.**”

The primary seat belt enforcement part of this bill has been beaten down for 20 years. It’s a big government assault on our liberty to solve a non-existent problem, and deserves to be beaten down again.

More Costly Foolishness: “Senate Natural Resources will take up S.247 – An act relating to establishing the Vermont Green Trust. This would establish the trust, “as a body corporate and politic and a public instrumentality

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of the state, the Vermont Green Trust, the purpose of which shall be to provide financing and investment in clean energy throughout the state.” It involves the creation of yet another board of five people whose ultimate job is to hand out money.” – TNR 1/24/12.

Energy Explanation: For an excellent, accurate explanation of the Renewable Portfolio-SPEED issue, read the January 9 piece by Alan Panebaker “Critics say utilities...” on www.vtdigger.com.

The enviros want to make Vermonters pay the higher cost of renewable electricity, AND also have bragging rights for leading the world in fighting the Menace of Global Warming. But Vermont’s utilities are (rationally) selling off the bragging rights (“renewable

energy certificates”) to utilities in states whose foolish legislatures have imposed Renewable Portfolio Standards” mandates.

So the Vermont enviro legislators’ current enthusiasm is to impose an RPS on Vermont utilities, AND thus not allow them to sell the enviro bragging rights. That of course will result in even higher costs for Vermont ratepayers. (JMc).

Sorrell Informs Supreme Court: Vermont Attorney General William Sorrell is again hoping for a rare win in the U.S. Supreme Court. He signed on to a brief authored by the Maryland AG in defense of the ObamaCare proposition that “Congress has the power

to regulate individual conduct that substantially affects Interstate Commerce”, including the power to force you to buy government approved insurance or pay a penalty.

Under the Sorrell theory, the federal government can force anyone to do or not do anything that conceivably might affect commerce, however remotely, or suffer fines and penalties. The brief cites the Founding Fathers, every one of whom would have been horrified by such a proposition.

Read It and Weep: “The [Shumlin] Administration is proposing to mandate that all utilities obtain 75 percent of their electricity from renewable generation by 2033. Given the much higher cost of renewable energy than tra-

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Ducking the Shumlin Health Exchange Bullet

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pay for and in effect ration all health care for every resident of Vermont not covered by Medicare, VA, or self insured plans commonly provided by large companies like IBM.

Jeanne Keller is one of the state’s most experienced and knowledgeable health insurance experts. A onetime aide to Bernie Sanders, she is a believer in single payer health care as the only effective way of controlling escalating medical costs – but only at a national level. She strongly believes that Vermont cannot possibly make Green Mountain Care work, and that Shumlin’s monopoly version of the Exchange will prove to be a catastrophic mistake.

In January 2014, she points out, the Shumlin version of the Ex-

change will swallow up 98 percent of Vermont’s businesses. They will only be allowed to buy the legislatively-mandated one-size-fits-all benefit plan offered by (most likely) a single carrier. Add in the individuals and current Cata-mount/VHAP enrollees, and 143,000 Vermonters will be drawn into this trap.

Then, she writes, “in one fell swoop, one quarter of the population will change plans from what they had in 2013. Is one carrier, one plan design, one enrollment portal, one help desk, or one state really capable of carrying this out smoothly and without a break in coverage or in payment to providers?”

Vermont businesses are quickly getting behind an alternative mea-

sure that makes more responsible choices. A bill by Sens. Vince I-luzzi and Hinda Miller (S.208) specifies that only small businesses with fewer than 50 employees can be forced into the Exchange, and businesses and individuals will remain free to buy insurance, including HSA-qualified plans, outside of the Exchange.

The great merit of passing the I-luzzi-Miller bill is that when Shumlin’s ambitious Green Mountain Care effort collapses, as seems likely, Vermont will still have a working – although severely restricted – health insurance market. Its enactment would also spare 143,000 Vermonters from a huge amount of government-caused grief.

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NEWS & VIEWS

ditional sources of electricity, the Public Service Board itself has predicted that this mandate will increase electricity costs by \$311-\$435 million.” – Rep. Heidi Schuermann (1/12/12).

Single Payer News: “California advocates saw their push to pass single payer legislation delayed Tuesday when the Senate Appropriations Committee postponed a vote after legislative analysis showed the state-funded program could cost the state general fund \$200 billion a year, according to the *Los Angeles Times*.”

Despite the setback, William Skeen, executive director of Physicians for a National Health Program in California, said, “I think that what’s happening in Vermont really energizes what’s happening in California.”

Savings from Green Mountain Care: “We don’t know what we’re spending. We don’t know what we’re building. We don’t know what the measures are going to be to capture the savings. And here we are coming up with a savings number – a range. It’s a very unsatisfying exercise.” – JFO Director Steve Klein, Senate Finance Committee (TNR 1/18/12)

Be Very Afraid: If the Keystone XL pipeline goes forward, “it will be game over for the planet.” – leading Global Warming alarmist Dr. James Hansen

Vermont’s No. One! Pupil/Teacher ratio (2010): VT 9.8, U.S.: 15.3. Vermont has consistently ranked No. 1 since at least 2000, when the ratios were VT 12.3, U.S. 16.1. (2012 Picus report, p. 104).

Hypocrisy Award Candidate: “H.508 proposes to prohibit school districts from paying tuition for a resident student to attend an out-of-state independent school. This bill is sponsored by Rep. Alison Clarkson (D-Woodstock), who sent her own kids to the elite Massachusetts boarding school, Groton. God forbid (actually, the legislature forbid), kids whose parents have less means than Rep. Clarkson should have the same educational opportunities.” – Rob Roper (TNR 1/17/12)

Taxpayer Funded Preschool: The National Institute for Early Education Research reports that Vermont is tied for third with West Virginia for percentage of four-year-olds attending preschool at taxpayer expense (65 percent). (New Hampshire ranked 50th, 10 percent). The data is for the 2008 school year.

In 2010 (Act 156) the Vermont Legislature allowed the commissioner to bypass the cap on preschool spending when a school fails to make adequate yearly

progress, so Vermont is likely keep creeping up in the NIEER rankings.

Important Thought:

“The country will not accept a permanent class of technocrats that will diminish freedom, enhance crony capitalism, and allow the economy to enter some sort of managed decline. [Our task is] “reclaiming our founding principles, and fighting paternalistic, arrogant, and condescending government elites who want to equalize outcomes, create new entitlement rights, and promote less self-government by the citizenry.” – Rep Paul Ryan (interview NRO 12/23/11)

Bankruptcy Bomb: If you want to understand how our federal government is lurching toward bankruptcy, perhaps your best resource is my friend Peter Ferrara’s *America’s Ticking Bankruptcy Bomb* (2011). He explains the problem, how we got there, and how we can avoid an unimaginable fiscal calamity. – JMc

Indiana School Choice Update: Marion Co. Superior Court Judge Michael Keele ruled that every claim brought against the Indiana school scholarship program – brought by plaintiffs supported by both state and national teachers’ unions – was defective, and ruled in favor of both the state and two parents who have intervened in the lawsuit in defense of the program. (Institute for Justice, 1/13/12).

Have You Renewed Yet?

If you’ve renewed your membership for 2012 – please accept our profound thanks. If you haven’t – great news! It’s not too late. We will welcome your contribution (by mail or online) – and any suggestions you may have or bring “Ideas for Vermont’s Future”. Thanks for keeping the Institute in the action at this critical time!



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Canadian Government View. Sound Familiar?

MEDIA

Unfortunately, there are environmental and other radical groups that would seek to block this opportunity to diversify our trade [in global energy markets]. Their goal is to stop any major project, no matter what the cost to Canadian families in lost jobs and economic growth. No forestry. No mining. No oil. No gas. No more hydroelectric dams.

These groups threaten to hijack our regulatory system to achieve their radical ideological agenda.

They seek to exploit any loophole they can find, stacking public hearings with bodies to ensure that delays kill good projects.

They use funding from foreign special-interest groups to undermine Canada's national economic interest.

They attract jet-setting celebrities with some of the largest personal carbon footprints in the world to lecture Canadians not to develop our natural resources.

Finally, if all other avenues have failed, they will take a quintessential American approach: Sue everyone and anyone to delay the project even further. They do this because they know it can work. It works because it helps them to achieve their ultimate objective: delay a project to the point it becomes economically unviable.

– Joe Oliver, Canadian Minister
of Natural Resources