WEEKLY REPORTS

Checklist
12/20/2013

Elizabeth Miller/Aly Richards

- ✔ Agency of Commerce and Community Development – Lawrence Miller
- ✔ Department of Labor – Annie Noonan
- ✔ Department of Financial Regulation – Susan Donegan
- ✔ Agency of Education – Armando Vilaseca
- ✔ VT Commission on Lottery – Greg Smith

Louis Porter

- ✔ Agency of Transportation – Brian Searles
- ✔ Agency of Human Services – Doug Racine

Sue Allen

- ✔ Agency of Agriculture – Chuck Ross
- ✔ Agency of Natural Resources – Deb Markowitz
- ✔ Public Service Department – Chris Recchia

Sarah London/Carolyn Wesley

- ✔ Department of Public Safety – Keith Flynn
- ✔ Agency of Administration – Jeb Spaulding

Susan Spaulding

- ______Boards and Commissions **(no report this week)**
- ✔ Department of Liquor Control

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To: **Governor Peter Shumlin**

From: **Lawrence Miller, Secretary - Agency of Commerce and Community Development**

Date: **December 20, 2013**

Lucy met with LCPC Executive Director Bonnie Waninger and the LCPC Economic Development Committee about concerns they have with the NEK project. They expressed a desire to have a “seat at the table” with regards to regional impacts from the EB 5 development, and are feeling frustrated that the conversations seem to end at the town lines between counties. Lucy will reach out to others in state government to share these concerns, and see if there are reasonable ways to address them.

Vermont Yankee: Secretary Lawrence Miller and Lisa Gosselin met with Citizens Action Network to discuss creating a citizens’ council Vermont Yankee's decommissioning. CAN has experience working on similar projects in other states and has agreed to share best practices. Windham County is looking into holding a summit next summer to bring in other states and experts on decommissioning. Discussed seeing how the process might provide opportunities for Vermont businesses, whether an inventory of assets and decommissioning needs could be tallied and whether non-sensitive work in the process (read: non-reactive) could be steered to Vermont businesses.

WCW, Inc., Manchester: The company employs 110 fulltime in a 160,000 sf facility in Manchester. They are close to an announcement with a major national brand on their proprietary new foam mattress design that will increase sales and employment significantly in the next year. 60% of their present sales are to the medical sector for hospital beds. New equipment purchases are in the works.

Key creative economyIssues: Two recurring themes are beginning to crop up with some frequency as opportunities to support Vermont’s creatives:
- Ensuring competitive Vermont companies are given a fair shot at procurement opportunities, and that the process is transparent and well communicated;
- Developing a more effective framework for freelancers and subcontractors in the creative fields to work together without liability for UI and WC overhead.

TIF Staff followed up with Burlington, Winooski and Milton regarding their payments to the Education and inter-fund transfers required by Act 80 and submitted a report to the relevant legislative committees certifying that the required 2013payments and transfers were completed. Staff met with Burlington officials to discuss submittal to VEPC of the first phase to implement the Burlington Downtown TIF District.

Sunset Farm Mobile Home Park: Met with DEC Deputy Commissioner Alyssa Schuren in ongoing coordination. DEC is finalizing the enforcement order. Filing of the order calling for closure of the park will be delayed until after the first of the year to avoid having it occur during the holidays.

Lawrence visited **Copeland Furniture** and Tim Copeland is preparing to expand. We have worked with the neighboring building owner The Hockey Company to find a brownfield insurance product that will give them comfort to sell the building to Tim which would be great. ANR is analyzing the engineering requirements. It is expected that the air changes associated with the finishing operation will mitigate the indoor air quality.

Lawrence, Kiersten and Lisa had a phone conference with the **Carpionata Group** who own the parcel behind the Holiday Inn and Windjammer in South Burlington, adjacent to I89. They want to do a major development including improvements to the impaired waterway there. Will convene a group of affected agencies to discuss.

Memorandum
To: Governor Peter Shumlin
From: Commissioner Annie Noonan
Re: Weekly Report – weeks ending December 13 & 20, 2013

Unemployment and Wage Division
Federal EUC benefits end after the week ending December 28, 2013, and 650 Vermonters will no longer have UI assistance. The UI Division has provided direct notice to affected claimants and through our press release. Our key message has been to encourage those UI claimants to come to our regional offices for help. USDOL has shared that 2 bills have been introduced for extending the benefits (one bill for 3 months, one bill for 12 months). If any compromise language ties eligibility to the UI rate in a state, Vermont may not qualify, but there's no word on that language being proposed as of yet.

For the week ending 12/07/13 we took 3707 calls. This is a increase of 1432 calls from the week ending 11/30/13. For the week ending 12/14/13 we took 3,098 calls. This is a decrease of 609 calls from the week ending 12/07/13. We processed 622 initial and 556 additional claims. This is a decrease of 148 initial claims and a decrease of 215 Add claims from the week ending 12/07/13. We paid 5,887 claimants during the week ending 12/14/13 compared to 6,177 for the week ending 12/07/13. We processed 270 mass RTW dates in the past 2 weeks. 2 Rapid Response was conducted for the week ending December 14: PKC in Burlington 12 of 16 attended; Mobile Medical in St J 19 of 30 attended.

Workforce Development:
VDOL's Trade Adjustment petition on IBM was approved for 115 workers. We are requesting that USDOL Trade Office reexamine the petition since they only approved it for the "Williston" location, not Essex Junction. We are refilling the petition on Monday. Met with interested parties on the USDOL Youth Connect Grant, and tried to navigate a proposal that would be broad enough to include all parties – still not resolved. Bob Flint of Springfield RDC has informed us that PCM Image Tech will be announcing 40 layoffs soon that will take effect in the spring. Okemo Mountain reporting problems in finding staff, but said VDOL's VJL system is helping them. VDOL is holding a job fair for JELD-WEN in January.
December 10: VDOL called together a meeting of about 50 interested stakeholders for the NEK Jobs Project, and held the meeting in Newport. Dec. 12: VDOL, in conjunction with Veterans Affairs, Vt National Guard, and Gov's Council, hosted a very successful meeting of 50 persons involved in Veterans employment. This comment from Gary DeGasta, Governor's Council on Veterans Affairs: *"Congratulations to you and the VDOL for hosting and leading a very informative and encouraging meeting regarding Veterans Employment Issues. Col Heston and I look forward to working with you, the Planning Committee organizations (DOL, OVA, NG and GVAC) and the meeting participants, to assist Vermont's deserving veterans to secure meaningful employment.* Attended VDOL Regional Managers meeting on Dec. 19th.

Workers Comp and Safety: Dec. 13: Closing Conference with the USDOL OSHA Auditors.

Other Meetings of Note:
Dec. 13: Social Network Privacy study committee
Dec. 13: Eastern States Apprenticeship Conference, VDOL hosting in 2014, meeting
Dec. 16: Position Sweep with AoA
Dec. 17: Phil Fiermonte of Senator Sanders Office
Dec. 17: ACCD CEDS meeting
Dec. 17: VOSHA Review Board on administrative and case issues
Dec. 18: S.155 Workforce Development Training legislative study committee
Dec. 18: Rep. Bernie Juskiewicz on RTW requirement for seasonal employees
Dec. 20: VDOL parking lot meeting with AoA

Happy Holidays to All

VERMONT

State of Vermont
Department of Financial Regulation
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Montpelier, VT 05620-3101

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[All Insurance] 800-964-1784
[Securities] 877-550-3907
[Banking] 888-568-4547
www.dfr.vermont.gov

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To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: December 20, 2013
Re: Weekly Report

Susan L. Donegan

Insurance Division:

Vermont was one of two states that received an A-plus rating for having the best insurance regulatory environment in the nation this year, according to the R Street Institutes "2013 Insurance Regulation Report Card." Ranked second behind Virginia, the survey evaluated 19 objectives that supported the principles of "limited, effective and efficient government," the report said. The goal of the report was to assess how effectively states monitor insurers' solvency and incidents of fraud and how well they foster competition in the private insurance market. The full report follows.

As part of a multi-state $12.6 million settlement against Lincoln National Life Insurance Co., Vermont will receive approximately $18,000. The examination revealed that Lincoln's procedures for identifying and paying proceeds to beneficiaries of life insurance policies were inadequate and the Social Security Death Master List was not being consulted to determine if payouts were necessary.

Banking Division:

State banking regulators and the Attorney General's Office participated in a multi-state federal investigation that has resulted in a $2 billion settlement against Ocwen Financial Corp. for improper servicing of high-risk mortgages. In addition, the company must also refund $125 million to borrowers who have already been foreclosed on. Ocwen, the largest non-bank mortgage loan servicer in the country, had deceived customers about foreclosure alternatives, improperly denied loan modifications and lied to borrowers about the status of their loans. The amount of money Vermont consumers will receive has not yet been determined.

R Street

Free markets. Real solutions.

R STREET POLICY STUDY NO. 16
December 2013

2013 INSURANCE REGULATION REPORT CARD

R.J. Lehmann

CONTENTS

INTRODUCTION

Welcome to the R Street Institute's 2013 Insurance Regulation Report Card, our annual examination of which states are doing the best job of regulating the business of insurance. R Street is dedicated to the mantra: "Free markets. Real solutions." Toward that end, the approach we apply is to test which state regulatory systems best embody the principles of limited, effective and efficient government. In this context, that means states should regulate only those market activities where government is best-positioned to act; that they should do so competently and with measurable results; and that their activities should lay the minimum possible financial burden on policyholders, companies and ultimately, taxpayers.

There are three fundamental questions this report seeks to answer, the same questions we asked last year:

1. How free are consumers to choose the insurance products they want?
2. How free are insurers to provide the insurance products consumers want?
3. How effectively are states discharging their duties to monitor insurer solvency, police fraud and foster competitive, private insurance markets?

For this year's report, we have adjusted the weightings of some categories and incorporated new data sets into our analysis. In addition to examining market concentrations and residual markets in the private passenger automobile and homeowners insurance lines of business, we have added analysis of the workers' compensation markets in each of the 50 states. While commercial property/casualty insurance tends to be less stringently regulated than personal lines, workers' comp is similar to home and auto insurance in that many states exercise explicit rate controls and operate large residual markets. In fact, in four states – North Dakota, Ohio, Washington state and Wyoming – the state government serves as the monopoly source of workers' comp coverage, completely displacing the private market. Given the role workers' comp plays in the broader economy, and the potential for workers' comp costs to impact what has been an excruciatingly slow jobs recovery, we felt it essential to more deeply examine how states are performing in this essential marketplace. We also have added analysis of loss ratio data from each of the 50 states in the three targeted lines of business.

Reviewing the data on insurance in 2013, we see continued modest trends toward greater consumer and business freedom in the personal lines and workers' comp markets, as well as real efforts in some states to scale back, or otherwise place on more sound financial footing, residual insurance markets and state-run insurance entities.

Progress did not come evenly, and certain positive trends were offset by other negative ones. Among the major events in 2013:

- In May, Florida Gov. Rick Scott signed legislation (based in part on R Street proposals) lowering the maximum coverage Citizens Property Insurance Corp. can write to $700,000; creating a clearinghouse to verify the eligibility of policies coming in to Citizens; and barring Citizens from insuring new construction in areas seaward of the Coastal Construction Control Line.

- In June, the New York State Assembly adopted a package of bills to deal with homeowners insurance issues that arose following Superstorm Sandy, including banning anti-concurrent causation clauses in policies and adopting tougher standards and penalties for prompt claims investigation and settlement arising from a state of emergency. [1]

- Connecticut, which set off a trend of states moving toward more flexible rate-making when it adopted a "flex band" system in 2006, back-tracked considerably with legislation that narrowed the band from 6 percent to just 3 percent. The legislation was signed by Gov. Dannel Malloy in June.[2]

- Petitioners in Nevada succeeded in placing a referendum on the November 2014 ballot that would subject all businesses with more than $1 million of revenues in the state to a 2 percent tax on net margins, raising the potential for double-taxation of insurers, whose premium taxes already account for more than 8.1 percent of state revenues. [3]

- Oregon lawmakers introduced a slew of bills to make it easier to bring bad faith lawsuits against insurers. One of those measures – H.B. 3160, which would include insurance as a service subject to penalties for unlawful trade practices – passed the state House of Representatives, but not the Senate.[4]

- In July, Rhode Island Gov. Lincoln Chafee signed legislation, H.B. 5263, limiting when an insurer can declare a vehicle a total loss.[5]

- The Illinois House Committee on State Government Administration passed H.B. 2919, which would have created a state-run workers' compensation insurance fund.[6] It did not ultimately clear the full General Assembly.

- The California Office of Administrative Law in January gave the green light to new California Department of Insurance regulations restricting insurers' ability to negotiate auto body repair shop estimates.[7]

- The North Carolina House and Senate considered, but did not pass, legislation that would have allowed some insurers to develop rates and products outside of the state Rate Bureau system.

- During its regular biannual legislative session, the Texas Legislature considered, but did not act on, S.B. 19, a bill that would have replaced the Texas FAIR Plan Association and the financially fraught Texas Windstorm Insurance Association with an unprecedented, and even

1. Michael S. Savett, Susan T. Stead and Marie S. Reilly, "New York Assembly Approves Post-Sandy Insurance Rules," Nelson Levine de Luca & Hamilton, June 7, 2013. http://www.nldhlaw.com/publications/new-york-assembly-approves-post-sandy-insurance-rules/

2. HB 5926, Connecticut General Assembly, June 21, 2013. http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=5926&which_year=2013&SUBMIT1.x=0&SUBMIT1.y=0

3. Deloitte, " Nevada Legislature Takes No Action on Margin Tax Initiative, thus Placing the Measure on the 2014 Ballot; Revisions to Taxation of Mining also Proposed," Multistate Tax External Alert, March 19, 2013. http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_multistate_Nevada_Alert_3-19-2013.pdf

4. HB 3160 Engrossed, Oregon Legislature, March 28, 2013. https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB3160/A-Engrossed

5. H 5263, Rhode Island General Assembly, July 17, 2013. http://legiscan.com/RI/text/H5263/id/724410/Rhode_Island-2013-H5263-Introduced.pdf

6. HB2919 Engrossed, Illinois House of Representatives. http://www.ilga.gov/legislation/98/HB/PDF/09800HB2919lv.pdf

7. Press release, "ACIC Cautions New Aftermarket Parts Regulations Could Increase Consumer Costs," Association of California Insurance Companies, Jan. 9, 2013. http://www.pciaa.net/LegTrack/web/NAIIPublications.nsf/lookupwebcontent/D81221D479C1793D86257AEE00745BD

more onerous, statewide assigned-risk plan.[8] After not passing the regular session, TWIA reform more broadly came up during again repeatedly during each of the Legislature's three subsequent special sessions.

- With the backing of Gov. Rick Snyder, the Michigan Legislature considered, but did not ultimately pass, H.B. 4612, legislation to reform that state's no-fault auto insurance system. The bill would set a fee schedule to address runaway costs and cap benefits at $1 million, which would be the highest such cap in the nation by a large margin. Michigan is currently the only state that requires uncapped personal injury protection benefits.

- In June, the Financial Stability Oversight Council designated insurers Prudential Financial and American International Group as part of an initial set of nonbanks financial firms deemed to be "systemically important financial institutions."[9] Later in the year, the G-20's Financial Stability Board issued its own list of "global systemically important insurers."

- In January, Congress approved a $9.7 billion increase in the National Flood Insurance Program's borrowing authority, as claims from Superstorm Sandy exhausted the NFIP's existing limit of $20.775 billion.[10] As of November 2013, the program's debt was estimated at more than $24 billion.[11]

- In May, Indiana Gov. Mike Pence signed H.B. 1320, putting into place a workers' compensation hospital fee schedule at 200 percent of Medicare and limiting pricing for repackaged drugs to the wholesale rate.[12]

- In September, the Missouri Legislature overrode Gov. Jay Nixon's veto of legislation barring uninsured motorists from being able to collect noneconomic damages for pain and suffering.[13]

- As part of his annual budget proposal, New York Gov. Andrew Cuomo in January introduced a package of proposals to streamline the state's workers' compensation system. [14]

- The Texas Senate Business and Commerce Committee considered, but did not pass, legislation that would prohibit insurers from using credit-based insurance scores.[15]

- In February, the Department of Housing and Urban Development promulgated rules that would make it more difficult for insurers to consider credit the history, occupation or education of homeowners insurance applicants if such practices have a "disparate impact" on minorities, lower-income consumers or other protected classes.

- In April, Tennessee Gov. Bill Haslam signed workers' comp reform legislation that moves to an administrative court system, adopts treatment guidelines and changes the method for calculating permanent partial disability benefits. [16]

- In September, the U.S. House passed the National Association of Registered Agents and Brokers Act, streamlining the system for cross-border licensing of insurance agents and brokers.

- In June, New York Financial Services Superintendent Benjamin Lawsky sent letters threatening to ban from doing business in the state any reinsurer, including non-U.S. companies, that accepted premiums from any insurer that covered shipments to or from Iran.[17]

The study consists of three sections: This introduction, which outlines the purpose of this annual study and a review of major developments of the past year in insurance regulation; an explanation of our methodology; and finally, the state rankings.

We consider this annual report the R Street Institute's flagship publication. As a state-regulated business, the insurance market offers a perfect illustration of how differing

8. Stephanie K. Jones, "Bill Proposing Property Assigned Risk Plan Filed in Texas," Insurance Journal, March 5, 2013. http://www.insurancejournal.com/news/southcentral/2013/03/05/283615.htm

9. Ian Katz & Zachary Tracer, "AIG, Prudential Named Systemically Important by Panel," Bloomberg, June 4, 2013. http://www.bloomberg.com/news/2013-06-03/u-s-regulators-vote-to-label-some-non-banks-systemically-risky.html

10. Arthur D. Postal, "Congress Passes NFIP Borrowing Authority Increase Amid Calls for Reforms," PropertyCasualty360, Jan. 4, 2013. http://www.propertycasualty360.com/2013/01/04/congress-passes-nfip-borrowing-authority-increase

11. Press Release, "Biggert-Waters Flood Insurance Reform Reviewed at Subcommittee Hearing," House Financial Services Committee, Nov. 19, 2013. http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=362225

12. Chad Hemenway, "Indiana Governor Signs Workers Comp Reform," PropertyCasualty360, May 14, 2013. http://www.propertycasualty360.com/2013/05/14/indiana-governor-signs-workers-comp-reform

13. Elizabeth Crisp, "Missouri Legislature chips away at lawsuits with veto overrides," St. Louis Post-Dispatch, Sept. 15, 2013. http://www.stltoday.com/news/local/govt-and-politics/missouri-legislature-chips-away-at-lawsuits-with-veto-overrides/article_47e49050-dcb1-5342-9274-968b9f83e166.html

14. Andrew Cuomo, "2013-14 New York State Executive Budget," Office of the Governor, January 2013. http://publications.budget.ny.gov/eBudget1314/fy1314artVIIbills/PPGGArticleVII.pdf

15. Texas Senate Journal, Jan. 28, 2013. http://www.journals.senate.state.tx.us/sjrnl/83r/pdf/83RSJ01-28-F.PDF#page=7

16. Arthur D. Postal, "Tennessee Gov. Signs Workers Comp Reform," PropertyCasualty360, May 1, 2013. http://www.propertycasualty360.com/2013/05/01/tennessee-gov-signs-workers-comp-reform

17. Shayndi Rice, "Insurers Warned on Links to Iran," Wall Street Journal, June 30, 2013. http://online.wsj.com/news/articles/SB10001424127887324251504578577781499883210

approaches across what U.S. Supreme Court Justice Louis Brandeis called the 50 different "laboratories of democracy" can result in very different outcomes for consumers, for industry and for taxpayers. We hope that an objective look at state regulation will encourage states to adopt policies that promote freer markets, more efficient government processes and a deeper commitment to both consumer choice and consumer protection.

INSURANCE AND GOVERNMENT REGULATION

The insurance market is both the largest and most significant portion of the financial services industry – and, arguably, the economy as a whole – to be regulated almost entirely at the state level. While state banking and securities regulators have largely been preempted by federal law in recent decades, Congress reserved to the states the duty of overseeing the "business of insurance" as part of 1945's McCarran-Ferguson Act.

On balance, we believe states have done an effective job of encouraging competition and, at least since the broad adoption of risk-based capital requirements, of ensuring solvency. U.S. personal lines and workers' compensation markets are, as a whole and in most particular states, unconcentrated.

Insolvencies are also relatively rare and, through the run-off process and guaranty fund protections enacted in nearly every state, generally quite manageable. According to figures kept by the National Conference of Insurance Guaranty Funds, after accounting for recoveries, the total net cost of the ten largest property/casualty insurance insolvencies of the past quarter century is only $5.03 billion, compared to $484.18 billion of U.S. property/casualty insurance premium written in 2012 alone.

However, there are certainly ways in which the thicket of state-by-state regulations leads to inefficiencies, as well as particular state policies that have the effect of discouraging capital formation, stifling competition and concentrating risk. Central among these -- and of particular concern in the property/casualty markets we focus on here -- are rate controls. While explicit price and wage controls largely have fallen by the wayside in most industries (outside of natural monopolies like utilities), pure rate regulation remains commonplace in insurance.

Some degree of rating and underwriting regulation exists in nearly every one of the 50 states. This is, to a large degree, a relic of an earlier time, when nearly all insurance rates and forms were established collectively by industry-owned rate bureaus. In that earlier era, individual insurers generally were too small and decentralized to be able to collect sufficient data to make credible actuarial projections. McCarran-Ferguson charged states with reviewing the rates submitted by these bureaus because of concerns – justifiable, at the time – of anticompetitive collusion.

Rate bureaus still exist, but they are now, for the most part, independent consultants. With the notable exception of North Carolina, the bureaus no longer play a central role in most personal lines markets, and many larger insurers now establish rates using their own proprietary formulas, rather than relying on rate bureau recommendations.

While monopolistic practices are no longer a major concern in rate-making and underwriting, there could be a justifiable role for states to exercise rate regulation to ensure that rates are sufficient. Academics who study the property/casualty underwriting "cycle" have long noted that, in times of robust investment returns, there is competitive pressure on insurers to underprice their products in an effort to grab market share. These so-called "soft" pricing cycles typically turn harder when a major catastrophe – such as an earthquake, hurricane or terrorist event – depletes companies' surplus.

But such concerns are more appropriately handled by monitoring firms' risk-based capital, of which rates are just one of many considerations. Moreover, in practice, it is nearly unheard of for a regulator to reject a rate for being too low. Instead, often driven by political concerns about the cost of coverage, regulators frequently respond to rising rates with restrictions. Sometimes, these come in the way of explicit prior approval rules that prohibitit insurers from charging the rates they consider necessary. Other times, the restrictions are more subtle, such as disallowing primary insurers' rates to reflect rising reinsurance costs or dictating which catastrophe modeling software an insurer is permitted to use in assessing its risks. The inevitable result of these attempts at rate suppression is to drive capacity out of state, and to increase pressure on residual market mechanisms.

While the general trend of insurance markets has been toward greater rate-making and underwriting freedom, certain hot button issues – such as the use of consumer credit information – continue to evoke politically responses that perpetually threaten to undo past progress. Regulation also may, in some cases, hinder the speed with which new products are brought to market. It long has been a truism of the industry that property/casualty insurers have not introduced a new major product since the introduction of homeowners insurance in the late 1950s. This isn't, strictly speaking, true. Pet insurance has been a new and rapidly growing product. Various forms of coverage for loss or damage to cellular phones, or to guard against identity theft, likewise have emerged in recent years. And insurers have introduced new features, like accident forgiveness and pay-per-mile pricing in auto insurance, that ought to be considered, effectively, new products. It is nonetheless also true that there are ways in which insurance innovation lags other segments of the financial services industry when it comes to introducing new products and services.

We believe such innovations could be more widespread if more states were to free their insurance markets. An open and free insurance market maximizes the effectiveness of competition and best serves consumers.

METHODOLOGY

The report card represents our best attempt at an objective evaluation of the regulatory environments in each of the 50 states. It makes use of 19 variables that measure how well states are monitoring insurer solvency and policing fraud; how efficiently they are spending the insurance taxes and fees they collect; how competitive their home, auto and workers' comp insurance markets are; the degree to which they permit insurers to adjust rates and employ rating criteria as they see fit, and finally, the transparency and politicization of insurance regulation in the states. For each of the 19 variables, we use the most recent year's data available.

The report is not intended as a referendum on specific regulators. Scoring an "F" does not mean that a state's insurance commissioner is inadequate, nor is scoring an "A+" an endorsement of those who run the insurance department. For most variables, a plurality of states are assigned a baseline score of zero, earning points for demonstrating they are especially efficient, especially effective, or especially pro-market. Points are detracted for states that demonstrate notable inefficiency, ineffectiveness or especially stringent controls on rates and underwriting.

Variables are weighted to provide balance between considering the rules a state adopts and the results it demonstrates, between the effectiveness of regulators in performing their core duties and the efficiency of a state in making use of its resources. The greatest weight is given to variables that matter most to consumers, such as the competitiveness of markets, while giving relatively less weight to matters primarily of interest to companies, such as how politicized or transparent a state's insurance regulatory system is.

Because we are necessarily limited to those factors we can quantify for all 50 states, there are many important considerations that our report card will not reflect. For example, the ability to bring insurance products to market in a relatively timely manner is tremendously important to effective and efficient regulation, but there is little available data on which to compare the states on this score. We also lack good measures of how well states regulate forms, how responsive they are to consumer inquiries, and the level of competition in local markets for insurance agents and brokers.

SOLVENCY REGULATION

There is no single duty more important for insurance regulators than monitoring the solvency of regulated insurers. Alas, the state-based system of solvency regulation has not always been held in particularly high esteem.

Following a spate of liability insurer insolvencies in the late 1980s, then-House Commerce Committee Chairman John Dingell, D-Mich., produced a 1990 report, titled "Failed Promises," that faulted the state regulatory system for failing to provide adequate oversight of insurers' underpricing, inadequate loss reserves and shaky reinsurance transactions.

Shortly after the release of Dingell's report, the industry was hit again by another spate of insolvencies, this time in the life insurance sector, which was followed by a round of property insurer insolvencies following 1992's Hurricane Andrew. These trends helped give a political boost to legislation sponsored by Dingell in the early 1990s to create a Federal Insurance Solvency Commission and preempt many state regulatory powers.

In response to both the public criticism and the threat of preemption, state regulators moved in 1994 through the National Association of Insurance Commissioners to create and implement a risk-based capital regime of solvency regulation. That regime has held up remarkably well ever since, with few major insolvencies, even following such events as the terrorist attacks of September 11, 2001, the record hurricane seasons of 2004 and 2005 and the financial crisis of 2008 and 2009.

As part of our report, we have chosen two variables to monitor how well states are responding to their duty to regulate insurer solvency, both based primarily on data reported by insurance departments in the NAIC's annual Insurance Department Resources Report.

FINANCIAL EXAMS (-10 TO 10 POINTS)

Under the state-based system of insurance regulation, no matter how many states an insurer operates in, primary responsibility for monitoring that insurer's solvency lies with the state in which it is domiciled.

This may strike some as inequitable. After all, states vary greatly in both size and number of domestic insurers. Indeed, Iowa and Mississippi both have populations of about 3 million residents, but the latter has 41 domestic insurers, while the former has 213.

However, the burden is not so disproportionate as it would appear. Because insurance departments are funded primarily by fees paid by regulated insurers and insurance producers, those with an unusually large number of domestic companies

TABLE I: SOLVENCY REGULATION

	Domestic Companies Examined, 2008-2012		Runoff Claims Liability to Total Premium		Total Points Solvency Regulation
State	(%)	Score	(%)	Score	
AK	191.1	5	0.0	10	15
AL	122.6	-5	0.1	5	0
AR	80.6	-5	0.4	5	0
AZ	94.6	-5	18.2	-5	-10
CA	152.3	0	4.9	0	0
CO	95.2	-5	0.0	5	0
CT	114.5	-5	1.6	5	0
DE	140.6	0	11.0	0	0
FL	89.0	-5	2.4	5	0
GA	105.0	-5	0.0	10	5
HI	122.0	-5	0.2	5	0
IA	56.4	-10	0.0	10	0
ID	145.4	0	0.2	5	5
IL	116.5	-5	4.8	0	-5
IN	115.6	-5	19.6	-5	-10
KS	118.5	-5	0.1	5	0
KY	124.2	-5	0.3	5	0
LA	103.6	-5	0.1	5	0
MA	128.4	0	0.8	5	5
MD	146.3	0	1.0	5	5
ME	85.7	-5	0.0	10	5
MI	173.8	5	0.0	5	10
MN	36.5	-10	0.0	5	-5
MO	100.5	-5	0.9	5	0
MS	154.9	0	1.9	5	5
MT	94.4	-5	0.0	10	5
NC	120.7	-5	5.0	0	-5
ND	113.6	-5	0.0	10	5
NE	124.8	-5	4.8	0	-5
NH	121.4	-5	61.5	-10	-15
NJ	120.0	-5	2.3	5	0
NM	159.4	0	0.0	10	10
NV	278.4	10	0.2	5	15
NY	80.5	-5	6.3	0	-5
OH	106.8	-5	4.2	0	-5
OK	168.8	0	2.3	5	5
OR	163.6	0	0.0	10	10
PA	157.2	0	24.5	-10	-10
RI	82.8	-5	3.2	5	0
SC	50.3	-10	1.0	5	-5
SD	91.2	-5	0.0	5	0
TN	224.1	5	0.0	10	15
TX	150.8	0	2.1	5	5
UT	51.2	-10	1.5	5	-5
VA	202.7	5	0.6	5	10
VT	267.0	10	18.4	-5	5
WA	185.0	5	0.1	5	10
WI	75.5	-10	2.0	5	-5
WV	95.8	-5	0.0	10	5
WY	106.7	-5	0.0	10	5

Source: NAIC Insurance Department Resources Report

also reap the windfall of unusually large resources. In fact, as will be discussed in greater detail later in this report, for most states, insurance regulation is, in effect, a profit center. States conduct two major types of examinations of companies they regulate: financial exams, which look at a company's assets, liabilities, and policyholder surplus, and market conduct exams, which look into a company's business practices and how well the company is treating consumers. Sometimes, states conduct joint financial/market conduct exams that look at both sets of factors simultaneously.

States are generally free to subject any company that operates in their market to either type of exam. With financial exams, states overwhelmingly concentrate their attention on domestic insurers, and it is a regulatory rule of thumb that each domestic company should expect to be examined at least once every five years.

In this report, we attempt to gauge how well states are keeping up with their duties to examine the companies they regulate. We did this by drawing on NAIC data on the number of financial exams and combined financial/market conduct exams the states reported completing for domestic companies in each year from 2008 through 2012. We then compared those figures to the number of domestic companies listed as operating in the state for each of those five years, to calculate the proportion of domestic companies that were examined. Given the guidance that every company should be examined at least once every five years, our baseline expectation for the sum of those five years of exams is 100 percent. The good news is that 35 of the 50 states met that minimum standard, although that necessarily means that 15 states did not. The mean percentage of domestic insurers examined was 126.1 percent.

For scoring purposes, we deducted -5 points for any department that fell below the mean and -10 points for five departments (Wisconsin, Iowa, Utah, South Carolina and Minnesota) that fell more than a standard deviation below the mean. We awarded +5 points to five departments that scored more than one standard deviation above the mean and awarded +10 point to two departments (Nevada and Vermont) that managed to score more than two standard deviations above the mean.

RUN-OFFS (-10 TO 10 POINTS)

Measuring financial exams completed offers a good quantitative assessment of how robust a state's solvency regulation regime is, but there is a need for a qualitative assessment, as well. A state could examine every company every year, but if it doesn't actually catch the problems that lead to insolvency, this would offer little benefit to policyholders.

The best measure we could find to assess the quality of solvency regulation is to look at regulatory run-offs, where an insurer has ceased writing new business and instead chosen to wind down its remaining obligations over time. While run-offs are often voluntary, when a company becomes financially impaired, a department may have to intervene by placing the company into receivership. If the company may be saved, a court can order it into a conservatory rehabilitation or supervisory rehabilitation, a reorganization process that can include allowing the company to resume writing new business. Where rehabilitation is deemed impossible, a liquidation order is signed, wherein a company's assets will be sold off to make good on its remaining obligations, and guaranty fund coverage may be triggered to pay claims.

For the report card, we summed the total in-progress claims liability of insurers placed in run-off, supervision, conservation, receivership and liquidation for each state, as of Dec. 31, 2012. The totals ranged from Pennsylvania's roughly $23.5 billion to 11 states that had no in-progress claims liability at all. States were scored on the proportion of total 2012 net written premiums the outstanding run-off liabilities represented.

We found a mean of 4.2 percent for all states, but a relatively high standard deviation of 9.9 percentage points. We awarded +10 points to each of the 11 states with no regulatory run-off liabilities at all. We also awarded +5 points for each of 27 states whose run-off liabilities were below the mean of 4.2 percent. We deducted -5 points from three departments – Arizona, Indiana and Vermont – whose liabilities were more than a standard deviation higher than the mean and deducted -10 points from two departments, New Hampshire and Pennsylvania, whose liabilities were more than two standard deviations above the mean.

FRAUD (-10 TO 10 POINTS)

After solvency regulation, perhaps the next most important duty of insurance regulators is to police fraud. Particularly in casualty lines of business like auto insurance and workers' compensation, where claims are frequently tied to medical treatment, fraud is a costly problem that can impose significant burdens on consumers and force companies to withdraw from markets.

In 2007, the Insurance Information Institute estimated insurance fraud accounted for about 10 percent of the property/casualty industry's incurred losses and loss adjustment expenses.[18] A report earlier this year from the Aite Group estimated the volume of property/casualty fraud in 2012 at $64 billion, with auto insurance fraud representing $26 billion of that total.[19] The National Insurance Crime Bureau reported receiving 116,171 questionable claims referred by NICB member companies in 2012, up 16 percent from the 100,201 reported in 2011.[20]

It is exceedingly difficult to assess how well states handle the challenge of policing insurance fraud. However, there is significant variation in the tools and resources that states have granted their insurance departments to tackle the problem, and it is those variations that we have chosen to measure as part of this report card.

+2 points were assigned to each of the 39 states that maintain a separate criminal fraud unit.

+2 points were assigned to each of the 32 states where insurance fraud investigators are empowered as officers of the peace. (In Rhode Island, where powers vary depending on the investigator and type of crime, we awarded +1 point.)

+1 point was assigned to each of the 33 states in which there are no limits to the kinds of insurance fraud that can be investigated.

In addition, we looked at the percentage of total full-time equivalent staff and contract workers within each department who are dedicated to antifraud enforcement. We found a mean across the states of 7.1 percent of staff devoted to antifraud activities. We awarded +5 points to four departments – New Jersey, California, Florida and Minnesota – whose antifraud staffing was more than a standard deviation greater than the mean. We deducted -5 points from one department, Illinois, whose staffing fell more than a standard deviation

18. Ralph Burnham, "Are Insurers Winning or Losing the Fraud Game," Claims Journal, April 15, 2013. http://www.claimsjournal.com/magazines/idea-exchange/2013/04/15/226656.htm

19. Stephen Applebaum, " The Escalating War on Insurance Fraud: P&C Carriers and Fraudsters Up Their Games," Aite Group, April 3, 2013. http://www.aitegroup.com/report/escalating-war-insurance-fraud-pc-carriers-and-fraudsters-their-games#sthash.OWC5aXsc.dpuf

20. Press Release, "NICB: Questionable Claims in the United States," National Insurance Crime Bureau, May 16, 2013. https://www.nicb.org/newsroom/news-releases/u-s--questionable-claims-report

TABLE 2: ANTIFRAUD

[State]	Antifraud Staff as Percentage Total (%)	Criminal Fraud Unit	Peace Power	Limited Fraud Types	Total Points Antifraud
AK	7.9	Yes	Yes	No	5
AL	1.3	Yes	Yes	No	3
AR	7.6	Yes	Yes	No	5
AZ	7.3	Yes	Yes	No	5
CA	27.2	Yes	Yes	No	10
CO	7.5	Yes	Yes	No	5
CT	4.7	Yes	Yes	Yes	4
DE	5.7	No	No	No	1
FL	22.4	Yes	Yes	No	10
GA	4.7	Yes	Yes	Yes	4
HI	9.9	Yes	Yes	Yes	4
IA	4.8	Yes	Yes	No	5
ID	7.0	Yes	No	No	3
IL	0.4	Yes	No	Yes	-3
IN	3.4	No	No	_	0
KS	2.0	Yes	No	No	3
KY	9.6	Yes	Yes	No	5
LA	1.4	Yes	Yes	No	5
MA	7.3	Yes	Yes	No	5
MD	11.7	Yes	No	No	3
ME	0.0	No	No	_	-10
MI	0.0	No	No	No	-9
MN	19.9	Yes	Yes	No	10
MO	6.9	No	No	No	1
MS	3.1	Yes	Yes	No	5
MT	8.1	Yes	No	No	3
NC	5.0	Yes	Yes	No	5
ND	4.0	Yes	Yes	No	5
NE	5.0	Yes	Yes	No	5
NH	8.5	Yes	No	No	3
NJ	30.4	Yes	Yes	No	10
NM	11.2	Yes	Yes	No	5
NV	5.5	Yes	Yes	No	5
NY	5.9	Yes	Yes	No	5
OH	7.3	No	No	No	1
OK	7.1	Yes	Yes	No	5
OR	4.0	No	No	_	0
PA	5.0	Yes	Yes	Yes	4
RI	2.0	Yes	Varies	No	4
SC	0.0	Yes	Yes	No	-5
SD	10.5	Yes	Yes	No	5
TN	6.1	Yes	No	No	3
TX	3.1	Yes	Yes	No	5
UT	11.3	Yes	Yes	No	5
VA	10.3	Yes	Yes	Yes	4
VT	0.0	Yes	No	_	-8
WA	7.0	Yes	Yes	Yes	4
WI	0.0	No	No	_	-10
WV	12.7	Yes	No	No	3
WY	0.0	No	No	No	-9

Source: Insurance Department Resources Report

below the mean and deducted -10 points from six other departments who reported effectively no full-time antifraud staff.

POLITICIZATION (-30 TO 0 POINTS)

Insurance regulation is a technical matter and, by and large, should be insulated from the political process and prevailing political concerns. It is necessary for insurance regulators to ensure that insurers and insurance producers deal with the public fairly and in good faith. It is necessary to apply risk-based capital rules to ensure insurance companies are responsibly and competently managing both their underwriting and their investment risks. Regulators also must be vigilant to stamp out fraud – whether by carriers, by agents and brokers or by insureds – wherever it rears its ugly head. None of these charges are inherently political in nature, and the introduction of political pressure to the process of insurance regulation inevitably leads to negative consequences. Insurance regulators are public servants, and thus it is necessary and valuable for the public to have oversight of their activities. But such oversight is properly exercised through elected governors and legislators. Trained, professional regulators can much more effectively enforce the law unbidden by the shifting winds of political passions.

For this reason, we downgrade those states where property and casualty insurance is a hot button political issue, as well as those where legislation that would restrict insurance market freedom gained traction in 2013. Penalties were assessed in the following ways.

- The 11 states in which the insurance commissioner is an elected position automatically received a -10.

Those states are California, Delaware, Georgia, Kansas, Louisiana, Mississippi, Montana, North Carolina, North Dakota, Oklahoma and Washington state. In Florida, where insurance producers are regulated by the elected chief financial officer and the Office of Insurance Regulation is incorporated as part of the CFO's Department of Financial Services, we deducted -5 points.

- In states in which property and casualty insurance regulation was a major campaign topic of at least one statewide ballot between 2010 and 2013, a score of -5 was assigned. We have identified three races that meet these criteria:

1. Florida's 2010 gubernatorial race between Rick Scott and Alex Sink, which focused heavily on property insurance issues.

2. Michigan's 2010 gubernatorial election, in which reform of the state's no fault auto insurance system was a campaign topic.

3. California's 2012 ballot initiative over whether drivers should be eligible to get auto insurance discounts on the basis of continuous coverage.

For each 2013 bill that significantly restricts market freedom or adds significantly to the cost of doing business in property/casualty insurance markets that passed at least one house of the legislature or the insurance committees in both houses, -5 points were deducted. We identified these four key pieces of legislation, as well as one regulatory decision, all of which are outlined in the introductory section of the paper.

1. Oregon bad faith legislation

2. Rhode Island total loss legislation

3. New York post-Sandy rules

4. Connecticut flex band narrowing

5. California auto body repair regulations

REGULATORY CLARITY (-10 TO 10 POINTS)

Rule of law requires that regulations be clear and consistently applied. Neither companies nor consumers can abide by the rules if they cannot anticipate how they will be applied and interpreted. By and large, insurers give state insurance departments good marks on this front, finding most states to be forthright and transparent in their dealings.

However, some states have become notorious for what the industry commonly calls "desk drawer rules," in which regulators' interpretation of ambiguities in the statutory code or inconsistent application of legal provisions creates a lack of clarity.

Where we received reports from more than one source of a state using "desk drawer rules," we assigned a score of -10. Those states were: California, Connecticut, Georgia, Iowa, New Jersey, New York, Pennsylvania, Texas and Washington state.

However, we also assigned +10 points to any state that at least two sources identified as being notably transparent in their rule-making and implementation process. Those states were: Illinois, Louisiana, North Carolina, Ohio, South Carolina, Vermont and Virginia.

FISCAL EFFICIENCY

We feel it is important that state insurance regulators not only do their jobs well, but that they do them efficiently, with minimal cost to consumers, companies and taxpayers. Taxes and fees paid to support insurance regulation are passed on as part of the cost of insurance coverage.

States vary in how they allocate funding to their insurance departments. In 23 states, 100 percent of the department's revenues comes from regulatory fees and assessments. Fees and assessments account for more than 90 percent of the budget in nine other states, and for more than 80 percent of the budget in an additional four states. Other states draw on a combination of fees and assessments, fines and penalties, general funds and other sources. Georgia and Pennsylvania are the only states that do not directly draw any of their revenues from the fees and assessments they levy, in each case drawing the bulk of their operating funds from the state's general fund.

Based on the NAIC's Insurance Department Resources Report, the 50 states, Puerto Rico and the District of Columbia spent $1.29 billion on insurance regulation in 2012 but collected more than double that amount, $2.69 billion, in regulatory fees and assessments from the insurance industry. State insurance departments also collected $137.6 million in fines and penalties and another $1.03 billion in miscellaneous revenues. States separately collected $15.64 billion in insurance premium taxes. Altogether, of the $19.5 billion states collected from the insurance industry last year, only 6.6 percent was spent on insurance regulation.

Using this data, we have constructed two variables to measure departments' budget efficiency and the financial burden states place on insurance products.

TABLE 3: FISCAL EFFICIENCY

	Taxes/Fees to Total Premiums		Fee Income to Total Budget		Total Fiscal Efficiency
State	(%)	Score	(%)	Score	
AK	1.88	-5	121.3	5	0
AL	1.55	0	127.9	5	5
AR	1.67	0	171.5	5	5
AZ	1.95	-5	164.1	5	0
CA	1.08	5	115.7	5	10
CO	0.78	5	72.2	10	15
CT	0.37	10	94.9	10	20
DE	0.31	10	310.8	0	10
FL	0.26	10	80.3	10	20
GA	0.80	5	156.7	5	10
HI	1.33	0	61.0	10	10
IA	0.45	10	215.5	0	10
ID	1.37	0	266.2	0	0
IL	0.63	10	94.1	10	20
IN	0.76	5	212.4	0	5
KS	1.20	5	136.1	5	10
KY	0.95	5	184.1	5	10
LA	1.96	-5	330.4	0	-5
MA	1.00	5	1141.7	-10	-5
MD	1.04	5	99.7	10	15
ME	1.57	0	169.1	5	5
MI	0.06	10	86.7	10	20
MN	1.17	5	171.6	5	10
MO	0.80	5	100.0	10	15
MS	2.06	-5	108.6	5	0
MT	1.93	-5	354.1	0	-5
NC	1.31	0	152.1	5	5
ND	0.98	5	115.9	5	10
NE	0.89	5	102.0	5	10
NH	1.26	0	128.7	5	5
NJ	1.07	5	279.7	0	5
NM	1.81	-5	457.0	-5	-10
NV	2.27	-5	127.8	5	0
NY	1.28	0	534.3	-5	-5
OH	0.86	5	185.8	5	10
OK	1.43	0	119.1	5	5
OR	0.32	10	90.1	10	20
PA	0.86	5	228.6	0	5
RI	1.36	0	33.0	10	10
SC	1.03	5	151.5	5	10
SD	1.46	0	362.1	0	0
TN	2.19	-5	78.8	10	5
TX	1.40	0	207.5	0	0
UT	1.20	5	85.6	10	15
VA	1.17	5	283.7	0	5
VT	2.07	-5	121.2	5	0
WA	1.38	0	127.8	5	5
WI	0.62	10	235.5	0	10
WV	2.52	-10	372.0	-5	-15
WY	0.63	10	77.2	10	20

Source: Insurance Department Resources Report

TAX AND FEE BURDEN (-10 TO 10 POINTS)

First, we look at the total of premium taxes, fees and assessments, and fines and penalties collected in each state, expressed as a percentage of the premiums written in the state. This is the tax and fee burden, and the results range from a low of 0.06 percent for Michigan to a high of roughly 2.5 percent for West Virginia. The mean was 1.206 percent. We awarded +5 points to states that were below the mean and +10 points to states that were more than standard deviation below the mean. States that were more than a standard deviation above the mean had -5 points deducted. West Virginia, which was more than two standard deviations above the mean, saw -10 deducted.

REGULATORY SURPLUS (-10 TO 10 POINTS)

As mentioned above, total fees and assessments collected by state insurance departments were more than double the amount spent on insurance regulation. This figure does not include premium taxes, which are a form of sales tax, thus making it appropriate that they should go into a state's general fund. It also does not include fines and penalties, which are meant to discourage bad behavior and to compensate victims of that behavior. Limiting the consideration just to those regulatory fees and assessments that are paid by insurers and insurance producers, states collect about $1.4 billion more in regulatory fees than they spend on regulation.

That excess amount, which we call "regulatory surplus," is typically diverted to cover other shortfalls in state budgets. Sometimes, these programs have some tangential relationship to insurance, such as fire safety or public health programs, but often, they do not. In essence, by collecting this regulatory surplus from insurance fees, states are laying a stealth tax on insurance consumers to fund what should be general obligations.

For this variable, we awarded +10 to 13 states with no regulatory surplus. States that had some regulatory surplus, but whose fees were less than the mean of 196.1 percent of their budget, received +5 points. We deducted -5 for those states whose regulatory surplus was more than a standard deviation greater than the mean and -10 points for the one state, Massachusetts, that was more than two standard deviations greater than the mean.

RESIDUAL MARKETS

Residual automobile, homeowners and workers' compensation insurance markets are intended to serve consumers for whom coverage in the private market cannot be found at a "reasonable" price.

Except in a handful of cases, residual market mechanisms do not generally have the explicit backing of state government treasuries. However, because no state has ever allowed its residual market to fail, there is typically an implicit assumption that states will stand behind the pool if it encounters catastrophic losses. Moreover, some pools and joint underwriting associations have statutory authority to assess private market carriers to cover shortfalls in operations.

Most residual insurance markets are very small. It's unlikely, for example, that a few involuntarily written auto insurance policies representing less than one-half of 1 percent of the market would have serious consequences for automobile insurance prices in any state or affect consumers outside of it.

But where residual markets grow large, it is evidence that regulatory restrictions have prevented the market from meeting consumers' needs by disallowing what would otherwise be market-clearing prices. Such large residual markets represent a state subsidy for policyholders who take risks the market is unwilling to absorb without higher premiums or some other form of compensation.

We measured the size of residual markets for home, auto and workers' comp insurance using 2012 data from the Automobile Insurance Plans Service Office, the Property Insurance Plans Service Office, NCCI Holdings, and SNL Financial, or more recent figures, where they were available.

TABLE 4: AUTO INSURANCE MARKETS

	Residual Market		Market Concentration		5-Year Avg. Loss Ratio		Auto Market Total
State	(%)	Score	HHI	Score	(%)	Score	
AK	0.0	0	1693	-10	56.76	0	-10
AL	0.0	0	1155	0	62.35	0	0
AR	0.0	0	1028	0	64.35	0	0
AZ	0.0	0	859.1	5	60.56	0	5
CA	1.0	-1	772.1	10	59.75	0	9
CO	0.0	0	951	5	64.52	0	5
CT	0.0	0	742.6	10	61.63	0	10
DE	1.0	-1	1251	-5	67.26	0	-6
FL	1.0	-1	1054	0	67.76	0	-1
GA	0.0	0	1021	5	63.27	0	5
HI	1.0	-1	1302	-5	48.8	-5	-11
IA	0.0	0	986.4	5	60.39	0	5
ID	0.0	0	832.8	5	54.53	0	5
IL	0.0	0	1238	-5	61.91	0	-5
IN	0.0	0	923.2	5	62.12	0	5
KS	0.0	0	959.6	5	63.7	0	5
KY	0.0	0	1130	0	69.14	0	0
LA	0.0	0	1565	-10	63.01	0	-10
MA	2.6	-3	1232	-5	62.05	0	-8
MD	1.8	-2	1248	-5	65.84	0	-7
ME	0.0	0	706.7	10	53.99	-5	5
MI	17.1	-17	1003	5	117.5	-10	-22
MN	1.0	-1	1030	0	60.56	0	-1
MO	1.0	-1	1014	5	64.15	0	4
MS	0.0	0	1165	0	61.85	0	0
MT	0.0	0	1018	5	59.92	0	5
NC	17.3	-17	920.2	5	64.12	0	-12
ND	0.0	0	794.4	10	56.55	0	10
NE	0.0	0	1020	5	65.49	0	5
NH	1.0	-1	757.9	10	57.38	0	9
NJ	0.0	0	956.6	5	68.3	0	5
NM	0.0	0	1037	0	60.19	0	0
NV	0.0	0	839.5	5	61.86	0	5
NY	1.0	-1	1333	-5	67.58	0	-6
OH	0.0	0	839.1	5	59.86	0	5
OK	0.0	0	1012	5	68.41	0	5
OR	0.0	0	1050	0	61.8	0	0
PA	0.0	0	997.4	5	61.86	0	5
RI	2.0	-2	951.6	5	64.15	0	3
SC	0.0	0	1168	0	64.41	0	0
SD	0.0	0	843.2	5	63.74	0	5
TN	1.0	-1	1145	0	67.43	0	-1
TX	1.0	-1	903.1	5	63.51	0	4
UT	0.0	0	822.3	5	59.97	0	5
VA	0.0	0	1014	5	62.74	0	5
VT	1.0	-1	730.2	10	56.65	0	9
WA	0.0	0	791.1	10	60.65	0	10
WI	0.0	0	951.3	5	61.71	0	5
WV	0.0	0	1307	-5	57.77	0	-5
WY	0.0	0	1206	0	62.36	0	0

Sources: AIPSO, SNL Financial

RESIDUAL AUTO MARKET (-17 TO 0 POINTS)

In all the business of insurance, there has perhaps been no greater victory of markets over command-and-control regulation than the massive reduction in the size of state residual auto insurance markets over the past 30 years. Where these entities once insured as much as half or, in some states, more than half of all private passenger auto risks, as of 2012, they represent only about 0.8 percent of what is a $172.28 billion nationwide market.

The incredible shrinking of the residual auto market is due to two factors: regulatory liberalization and technological progress. Where once, nearly all states required auto insurance rates be developed via collusive industry-run rate bureaus, today, only North Carolina maintains a pure rate bureau system. As companies became more free to develop their own rating factors and discounts, they also invested heavily in advanced computer models that take advantage of a deep troves of data on consumers' credit, driving history, occupations, education levels, and where, when, how, and how they drive to craft rates that are individually tailored to individual drivers. More recently, advances in technology known as "telematics" has permitted some companies to begin offering rates that charge per-mile and take into account drivers' real-time performance on the road to segment rates.

Today, 45 jurisdictions maintain assigned risk "Automobile Insurance Plans" for applicants who can't find coverage in the voluntary market. In an assigned risk AIP, residual market risks are shared equitably among all carriers licensed to write business in the state. Most are exceedingly small, although Rhode Island's accounts for about 2 percent of its market and AIPs account for about 1 percent of the market in states such as California, Delaware, Tennessee, Texas and Vermont.

The list of assigned risk states now also includes Missouri, which switched to an AIP in September 2008 when it placed the Missouri Joint Underwriting Association into run-off, and Massachusetts, which created the Massachusetts Automobile Insurance Plan, also in 2008, to replace the Commonwealth Auto Reinsurers mechanism. Massachusetts has the largest AIP in the market, at about 3 percent of its market, but that's less than half the market share CAR had when the state initiated its "managed competition" program five years ago. Four other states – Florida, Hawaii, Minnesota and New York – continue to operate joint underwriting authorities, each representing about 1 percent of the market. In addition, Maryland has a state fund mechanism, Maryland Automobile Insurance Fund, to provide automobile insurance to about the 2 percent of applicants who cannot obtain coverage in the voluntary market.

Two other states – New Hampshire and North Carolina – maintain automobile reinsurance facilities through which auto insurers provide coverage and service claims. Policies are initially written by private carriers, but an insurer operating in those states then chooses whether it wishes to retain the risks or cede them to the reinsurance pool. New Hampshire's reinsurance facility is relatively small, while the $787 million of premium ceded last year to the North Carolina Reinsurance Facility represented about 17 percent of the premium written in the state.

While not technically a residual market mechanism, we also included in this section the Michigan Catastrophic Claims Association. An outgrowth of Michigan's unique law that every carrier must provide uncapped lifetime personal injury protection benefits, the MCCA is a state-backed reinsurance facility to which Michigan auto insurers cede the risk of PIP claims that exceed $500,000. It took in $1.14 billion in ceded premium in 2012, which, like, the North Carolina Reinsurance Facility, represented about 17 percent of the premiums written in the state.[21]

For this metric, we deducted -1 point for every percentage of market share (or, in the case of the reinsurance funds, ceded premiums as a percentage of total premiums) the residual mechanisms represented.

RESIDUAL HOMEOWNERS MARKET (-23 TO 0)

Similar to the residual auto insurance market, residual homeowners insurance mechanisms exist to serve insureds who cannot find coverage in the private voluntary market. Thirty states and the District of Columbia operate what are called Fair Access to Insurance Requirements plans, originally created primarily to serve urban consumers, particularly in areas where "redlining" practices made it difficult for lower-income homeowners to obtain coverage.

In addition, five states sponsor specialized pools for coastal windstorm risks, typically called "beach plans." Mississippi, North Carolina and Texas operate both FAIR plans and wind pools, while Alabama and South Carolina only operate wind pools. Florida and Louisiana sponsor state-run insurance companies that serve both the coastal and FAIR plan markets, while California sponsors a privately financed, government-run pool solely to cover earthquake risk.

While most FAIR plans are quite small, excessive price controls in some states have prompted huge increases in the total loss exposure of state-sponsored insurance mechanisms. According to the Property Insurance Plans Service Office, total exposure of the nation's FAIR and beach plans nearly

21. Annual Statement of the Michigan Catastrophic Claims Association, June 30, 2013. http://www.michigancatastrophic.com/LinkClick.aspx?fileticket=TsTweY3jCGA%3d&tabid=2935

doubled from $419.5 billion in 2005 to $818.1 billion in 2012 and has surged by 1,396 percent since 1990.[22]

For this section, we relied on PIPSO data for FAIR and beach plans, deducting -1 point for each percentage point of market share controlled by the residual market mechanisms. Florida's Citizens Property Insurance Corp. is the single-largest residual market mechanism, with about 14 percent of the market, while Louisiana Citizens has about 4 percent of the market. The largest FAIR plans include the Massachusetts Property Insurance Underwriting Association, with about 7 percent of the market, and the Rhode Island Joint Reinsurance Association, with about 4 percent of the market. The largest beach plans are the Texas Windstorm Insurance Association and the North Carolina Insurance Underwriting Association, both with about 4 percent of the market.

In addition, we assigned scores for premiums written by the California Earthquake Authority and premiums ceded to the Florida Hurricane Catastrophe Fund, the only general purpose property reinsurer sponsored by a state entity. Less $222.82 million of premiums it ceded back to private reinsurance markets, the CEA's $346.42 million of 2012 net premiums would represent about 5 percent of the state's homeowners market, were earthquake premiums to be included in the size of that market. In Florida's case, to avoid double counting, we deducted the $475 of premium ceded by Citizens to the Cat Fund,[23] with the remaining $779.2 million of Cat Fund premiums accounting for about 9 percent of the market.

RESIDUAL WORKERS' COMP MARKET (-20 TO 0)

In 48 states and the District of Columbia, all employers are required to compensate employees for workplace-related accidents and illnesses on a no-fault basis. (Texas and Oklahoma permit employers to opt out into the tort system on a voluntary basis.) As such, workers' compensation insurance is one of the most crucial coverages offered in the commercial property/casualty market. Given its intimate link with labor issues and the broader economy, it also tends to be one of the most politically charged and heavily regulated.

While states tend to permit greater rate-making and underwriting freedom for most commercial insurance rates, given the presumption of competent parties with roughly equal bargaining power, workers' comp rates are in many states just as regulated as the so-called "personal lines" of home and auto. This fact is attested to in the significant role played by residual market entities in many workers' comp markets.

22. Property Insurance Plans Service Office, "PIPSO Reports – 2013," June 2013.

23. Citizens Property Insurance Corp. "2013 Operating Budget," Board of Governors meeting, Dec. 14, 2012. https://www.citizensfla.com/shared/corpfinance/2013Budget.pdf

In fact, four states – Ohio, North Dakota, Washington and Wyoming – operate monopolistic workers' comp markets in which the state itself is the only available source of coverage, except for qualified self-insured plans. In addition, 15 states operate competitive workers' comp funds that serve as a market of last resort, although in several of those states, it is the leading or even dominant provider. Most other states operate assigned risk plans, with 19 such plans administered by the National Council on Compensation Insurance. Twelve other state plans are administered by a different third party. For this section, using data provided by SNL Financial, NCCI and other plan administrators, we deducted -1 point for every five points of market share held by the residual market entity, up to -20 points for the four monopolistic states.

MARKET CONCENTRATION

"Free" markets are a theoretical abstraction. Competitive markets are a measurable reality.

For markets to serve consumers well, there must be a variety of competitors with products designed to fit different budgets and needs. A high degree of market concentration is not necessarily a sign that consumers are poorly served, but it can be an indication of unnecessarily high barriers to entry or other market dysfunction.

Using data supplied by SNL Financial, we calculated the concentration of each state's auto, homeowners and workers' comp markets, as measured by the the Herfindahl-Hirschman Index. The HHI, which is used by the Department of Justice and Federal Trade Commission to assess the degree to which markets are subject to monopolistic concentration, is calculated by summing the squares of the market share totals of every firm in the market. In a market with 100 firms, each with 1 percent share, the HHI would be 100. In a firm with just one monopolistic firm, the HHI would be 10,000.

The DOJ and Federal Trade generally consider markets in which the HHI is between 1,500 and 2,500 points to be moderately concentrated, while those in excess of 2,500 points are highly concentrated.

AUTO INSURANCE CONCENTRATION (-10 TO 10 POINTS)

On a nationwide basis, the auto insurance market in 2012 had an HHI score of 711.2. Louisiana and Alaska were the only states with markets that would be considered moderately concentrated and no state would be considered highly concentrated.

We assigned +5 points to every state with an HHI below the mean of 1025.4, and +10 points to seven states that were more than a standard deviation below the mean. Seven other states that were more than a standard deviation above the mean got -5 points and the two states that were more than two standard deviations above the mean got -10 points.

TABLE 5: HOMEOWNERS INSURANCE MARKETS

	Residual Market		Market Concentration		5-Year Avg. Loss Ratio		Home Market Total
state	(%)	Score	HHI	Score	(%)	Score	
AK	0.0	0	2071	-10	52.37	0	-10
AL	1.6	-2	1370	-5	92.59	-5	-12
AR	0.0	0	1181	0	96.11	-5	-5
AZ	0.0	0	942.7	5	76.13	0	5
CA	5.7	-6	1020	5	43.72	-5	-6
CO	0.0	0	1050	0	97.54	-5	-5
CT	0.3	0	617.7	10	61.94	0	10
DE	0.2	0	1207	0	48.45	0	0
FL	23.0	-23	678.8	10	34.85	-5	-18
GA	0.6	-1	1273	-5	91.47	-5	-11
HI	0.0	0	1804	-10	16.75	-10	-20
IA	0.1	0	1180	0	81.14	0	0
ID	0.0	0	847.7	5	57.46	0	5
IL	0.1	0	1456	-10	76.05	0	-10
IN	0.1	0	1045	0	79.66	0	0
KS	0.4	0	1050	0	82.91	0	0
KY	0.4	0	1327	-5	97.4	-5	-10
LA	4.0	-4	1172	0	53.46	0	-4
MA	6.9	-7	727	10	46.87	-5	-2
MD	0.1	0	1065	0	66.68	0	0
ME	0.0	0	559.9	10	48.6	0	10
MI	0.9	-1	996.5	5	65.26	0	4
MN	0.2	0	1082	0	79.78	0	0
MO	0.1	0	1163	0	82.44	0	0
MS	2.6	-3	1317	-5	57.65	0	-8
MT	0.0	0	1190	0	78.28	0	0
NC	4.2	-4	896.1	5	68.58	0	1
ND	0.0	0	844.8	5	46.86	-5	0
NE	0.0	0	1198	0	82.13	0	0
NH	0.0	0	610.4	10	56.16	0	10
NJ	0.4	0	586.4	10	77.31	0	10
NM	0.7	-1	1234	-5	60.56	0	-6
NV	0.0	0	1003	5	44.79	-5	0
NY	0.5	-1	782.1	5	54.1	0	4
OH	0.6	-1	880.4	5	88.5	0	4
OK	0.0	0	1287	-5	115.58	-10	-15
OR	0.1	0	1247	-5	49.08	0	-5
PA	0.2	0	1046	0	67.13	0	0
RI	3.6	-4	764	10	43.72	-5	1
SC	0.5	-1	943.6	5	55.29	0	4
SD	0.0	0	849.7	5	80.28	0	5
TN	0.0	0	1282	-5	113.89	-10	-15
TX	5.1	-5	1168	0	73.78	0	-5
UT	0.0	0	944.6	5	57.73	0	5
VA	0.5	-1	996.9	5	56.83	0	4
VT	0.0	0	665.4	10	48.86	0	10
WA	0.0	0	965.4	5	52.27	0	5
WI	0.1	0	876.2	5	69.33	0	5
WV	0.1	0	1206	0	68.33	0	0
WY	0.0	0	1317	-5	75.3	0	-5

Sources: PIPSO, SNL Financial

HOMEOWNERS INSURANCE CONCENTRATION (-10 TO 10 POINTS)

On a nationwide basis, the auto insurance market in 2012 had an HHI score of 667.2. Hawaii and Alaska were the only states with moderately concentrated homeowners insurance markets and no state had a highly concentrated market.

We assigned +5 points to states whose HHI scores were below the mean of 1059.7, and +10 points to eight states that were more than a standard deviation below the mean. States that were more than a standard deviation above the mean were assigned -5, and three states that were more than two standard deviations above the mean (Hawaii and Alaska, plus Illinois) got -10.

WORKERS' COMP CONCENTRATION (-10 TO 10 POINTS)

The concentrations of state workers' comp markets vary much more widely than do those of home and auto insurance. Evidence of this can be seen in the fact that, while the nationwide HHI is 317.5, indicating a very competitive market, the mean of the 50 state markets was 1234.8.

For weighting purposes, we excluded from consideration the four states with monopolistic state funds, assigning them each -10 points. That score was also assigned to eight other states – Oregon, Maine, Montana, Rhode Island, Colorado, Idaho, West Virginia and Utah – whose HHI scores were greater than 2,500 and would thus qualify as "highly concentrated."

Three other states with moderately concentrated markets – Texas, Alaska and New York – were given scores of -5. We awarded +5 points to ten states whose HHI was below 500 and +10 points to three states – Illinois, Indiana and Pennsylvania – whose HHI was below 400.

LOSS RATIOS (-30 TO 0 POINTS)

In addition to looking at market concentrations in the 50 states, we also used SNL Financial data to analyze a key profitability metric of home, auto and workers' comp insurance markets. Excess profits indicate an insufficiently competitive market. Insufficient profits indicate one that isn't charging enough to attract entrants or, in the extreme, to pay policyholder claims.

Over the long run, the property/casualty industry as a whole has tended to break even on its underwriting book of business. This has shifted somewhat over the decades. In the 1970s through the 1990s, when investment returns on fixed-income securities were strong due to relatively high bond yields, the industry's "combined ratio" – that is, its losses and expenses expressed as a percentage of its underwriting income – tended to run slightly above 100, indicating underwriting losses. As interest rates have plummeted over the past decade, modest underwriting profits have become more common, as there hasn't been enough investment income to make up the difference.

We looked at the loss ratios of the three key property/casualty segments in each of the 50 states. A company's loss ratio includes its claims paid and the cost of adjusters, but excludes agent commissions and other marketing expenses the industry incurs. Because catastrophes can introduce outsized losses in any given year, we relied on five-year averages. However, loss ratios are not simply a measure of the propensity of a state to experience large losses. If insurers are charging appropriate amounts for the coverage they sell, rates should be relatively higher in riskier states and lower in less risky states, but loss ratios would remain stable either way.

Insurance regulators are charged with ensuring that rates are neither excessive nor insufficient (also, that they are not discriminatory). In line with that goal, we deducted -5 points from any state whose five-year average loss ratio was either greater than or less than the mean of all states by more than a standard deviation. Where the five-year average was greater than or less than the mean by more than two standard deviations, we deducted -10 points.

In the auto insurance market, the nationwide five-year average loss ratio was 65.16 and the mean of the 50 states was 63.12. Hawaii and Maine had five-year average loss ratios that were more than a standard deviation below the mean, while Michigan's five-year average of 117.53 was more than two standard deviations above the mean.

In the homeowners insurance market, the nationwide five-year average loss ratio was 65.03 and the mean of the 50 states was 67.44. Massachusetts, North Dakota, Nevada, California, Rhode Island and Florida had five-year loss ratios that were more than a standard deviation below the mean, while Hawaii's five-year average of 16.75 was more than two standard deviations below the mean. Colorado, Kentucky, Arkansas, Alabama and Georgia had five-year loss ratios that were more than a standard deviation above the mean, while the five-year averages in Oklahoma and Tennessee of 115.58 and 113.89, respectively, were more than two standard deviations above the mean.

In the workers' comp market, the nationwide five-year average loss ratio was 67.69 and the mean of the 50 states was 65.4. Arkansas, Florida, Hawaii, Texas and Nevada had five-year loss ratios that were more than a standard deviation below the mean, while Wyoming's 34.39 and North Dakota's 17.7 were both more than two standard deviations below the mean. Delaware, New York, Oklahoma, Arizona, Illinois and Maryland all had five-year loss ratios that were more than a standard deviation above the mean, while Ohio's five-year average of 90.88 was more than two standard deviations above the mean.

UNDERWRITING FREEDOM

We should admit our biases upfront: when it comes to prices, we believe markets regulate themselves. States impose a variety of schemes to impose controls on how quickly or how sharply premium rates can rise, but ultimately, it is not possible to force an insurer to sell coverage at levels below what they deem to be acceptable risk-adjusted returns.

Leaving the futility of rate controls to the side, it is important to note that not all rate regulation systems are created equal. Based on a synthesis of both statutory rules compiled by the NAIC, and analysis of how certain states apply the rules on the books, we have classified rate regulation systems into six categories, from most to least restrictive and distortionary.

RATE REGULATION (-20 TO 20 POINTS)

State-Made Rates: (-20 points) Just one state, Florida, is classified as practicing "state-made rates." The reason for this is that rates set by the state-run Citizens Property Insurance Corp., which were rolled back and frozen in 2007 and have been permitted to rise just 10 percent annually since 2010, effectively act as the ceiling on rates that private insurers can charge. Citizens is required by law to accept any applicant who can produce a quote from even one insurer who charges at least 15 percent more for a similar policy. Thus, private companies are effectively limited in their ability to charge rates to 15 percent more than the rates of a government agency that is, by design, charging far less than actuaries recommend.

TABLE 6: WORKERS' COMP MARKETS

	Residual Market		Market Concentration		5-Year Avg. Loss Ratio		Comp Market Total
State	(%)	Score	HHI	Score	(%)	Score	
AK	4.0	-1	1688	-5	53.66	0	-6
AL	1.7	0	585	0	64.09	0	0
AR	3.9	-1	653.8	0	52.61	-5	-6
AZ	28.8	-6	1186	0	79.82	-5	-11
CA	10.0	-2	461.2	5	66.82	0	3
CO	58.5	-12	3551	-10	65.86	0	-22
CT	3.1	-1	839.4	0	77.97	0	-1
DE	0.6	0	650.1	0	85.22	-5	-5
FL	0.8	0	653.3	0	51.28	-5	-5
GA	0.2	0	411	5	65.14	0	5
HI	18.4	-4	1034	0	50.53	-5	-9
IA	2.2	0	405.6	5	74.48	0	5
ID	53.8	-11	3202	-10	73.42	0	-21
IL	1.8	0	380.4	10	79.25	-5	5
IN	3.0	-1	389.7	10	65.6	0	9
KS	3.1	-1	520.4	0	63.96	0	-1
KY	26.7	-5	1135	0	69.93	0	-5
LA	21.1	-4	906.1	0	61.94	0	-4
MA	16.8	-3	777.1	0	64.61	0	-3
MD	23.3	-5	955	0	79.13	-5	-10
ME	62.3	-12	4014	-10	63.73	0	-22
MI	0.0	0	777.1	0	60.06	0	0
MN	12.7	-3	452.1	5	69.58	0	2
MO	17.8	-4	712.2	0	62.39	0	-4
MS	0.8	0	657.7	0	63.81	0	0
MT	59.3	-12	3760	-10	75.24	0	-22
NC	1.1	0	422.9	5	71.3	0	5
ND	100.0	-20	10000	-10	17.7	-10	-40
NE	0.0	0	509.7	0	64.45	0	0
NH	3.3	-1	669.8	0	64.97	0	-1
NJ	0.8	0	910.4	0	70.48	0	0
NM	31.5	-6	1329	0	74.44	0	-6
NV	4.9	-1	525.6	0	41.54	-5	-6
NY	40.9	-8	1939	-5	82.96	-5	-18
OH	100.0	-20	10000	-10	90.88	-10	-40
OK	29.0	-6	1174	0	82.36	-5	-11
OR	63.4	-13	4287	-10	77.64	0	-23
PA	7.6	-2	387.7	10	68.82	0	8
RI	59.3	-12	3662	-10	63.3	0	-22
SC	2.1	0	499.5	5	63.8	0	5
SD	2.4	0	459.2	5	63.86	0	5
TN	0.0	0	468.6	5	65.76	0	5
TX	37.1	-7	1639	-5	46.58	-5	-17
UT	50.0	-10	2675	-10	62.82	0	-20
VA	3.6	-1	451.9	5	64.82	0	4
VT	2.4	0	843.9	0	66.75	0	0
WA	100.0	-20	10000	-10	70.26	0	-30
WI	0.0	0	465.5	5	66.41	0	5
WV	50.0	-10	2722	-10	53.58	0	-20
WY	100.0	-20	10000	-10	34.39	-10	-40

Source: SNL Financial, NCCI Holdings, Misc. funds

Low Flexibility: (-10 points) Most of the states falling into the low-flexibility category have prior approval rating systems, in which the regulator must explicitly approve each rate or rating change before an insurer is permitted to deploy it in the market. In theory, Texas has a "file-and-use" law, but insurers report that filings prove so burdensome that it functions similarly to a prior approval system.

Below-Average Flexibility: (-5 points) States with more flexible prior approval systems or with relatively inflexible file-and-use systems were categorized as below average. States that fall into this category have rules for rate changes that are relatively transparent and predictable, but nonetheless, unnecessarily stringent. No state with a prior approval system for property/casualty insurance scored better than this category's -5 points.

Moderate Flexibility: (0 points) The baseline rating of 0 points was reserved for states that maintain conventionally administered file-and-use and flex rating systems. These systems generally allow the market to set rates, but reserves additional scrutiny for larger rate changes.

Above-Average Flexibility: (5 points) Some states maintain use-and-file or file-and-use systems that are only lightly administered. Insurance commissioners retain the authority to disapprove rates or delay their implementation, but typically only exercise that authority in particularly extreme cases.

High Flexibility: (10 points) A handful of states have use-and-file systems where interventions to disallow a filed rate is limited to cases either where the rating system may have a discriminatory impact, or where it is likely to prove inadequate and endanger the company's solvency. These states were judged to have high flexibility and received 10 points.

No File: (20 points) Illinois is unique in that insurers generally do not have to file rates at all, although they must keep documentation of their rates available for regulators to review. This system's nearly pure free market in insurance rates was awarded with 20 points.

TABLE 7. UNDERWRITING FREEDOM

State	Rate Controls	Credit Scoring	Territorial Rating	Underwriting Freedom
AK	0	0	0	0
AL	-10	0	0	-10
AR	0	0	0	0
AZ	5	0	0	5
CA	-10	-10	-10	-30
CO	-5	0	-10	-15
CT	-10	0	-10	-20
DE	0	0	0	0
FL	-20	0	-10	-30
GA	0	0	0	0
HI	-5	-10	0	-15
IA	-5	0	0	-5
ID	0	0	0	0
IL	20	0	0	20
IN	0	0	0	0
KS	-5	0	0	-5
KY	5	0	0	5
LA	0	0	0	0
MA	-5	-10	0	-15
MD	5	-10	-10	-15
ME	0	0	0	0
MI	-5	0	0	-5
MN	0	0	0	0
MO	10	0	-10	0
MS	-5	0	0	-5
MT	0	0	0	0
NC	-10	0	0	-10
ND	-5	0	0	-5
NE	0	0	0	0
NH	5	0	-10	-5
NJ	-5	0	-10	-15
NM	0	0	0	0
NV	-5	0	0	-5
NY	-10	0	0	-10
OH	10	0	0	10
OK	5	0	0	5
OR	-5	0	0	-5
PA	0	0	0	0
RI	0	0	0	0
SC	5	0	0	5
SD	0	0	-10	-10
TN	10	0	0	10
TX	-10	0	0	-10
UT	5	0	0	5
VA	5	0	0	5
VT	10	0	0	10
WA	-10	0	0	-10
WI	5	0	0	5
WV	-5	0	0	-5
WY	10	0	0	10

Source: NCOIL, NAIC

CREDIT SCORING (-10 TO 0 POINTS)

The evolution of credit-based insurance scoring has arguably been the biggest factor in massive depopulation of state residual auto insurance markets. In the past, auto insurers had only a limited number of rating factors on which to base their underwriting and rate-setting decisions, and only a limited number of consumers could qualify for preferred standard rates. The discovery of actuarially credible variables tied to credit information has allowed insurers to construct tremendously innovative proprietary rating models that can assign a proper rate to virtually any potential insured.

However, the use of credit in insurance has periodically proven to be politically controversial. Despite studies by, among others, the Federal Trade Commission and the Texas Department of Insurance demonstrating conclusively that credit factors are predictive of future claims, some politicians and much of the general public have remained skeptical.

Responding to concerns about the disparate impact credit-based insurance scoring could have on certain protected populations, roughly half the states have passed a model regulation promulgated by the National Conference of Insurance Legislators that bars insurers from using credit scores as the sole factor in determining insurance rates. While reasonable and well-meaning, such regulations are also largely irrelevant, as no insurers use credit scores as their only underwriting variable.

However, a few states have moved beyond the NCOIL model to explicitly ban credit scoring in personal insurance. California, Hawaii and Massachusetts all have banned the use of credit in auto insurance underwriting and rate-making, while Maryland has banned its use in homeowners insurance.

We deducted -10 points for each of the four states with active credit scoring bans.

TERRITORIAL RATING (-10 TO 0 POINTS)

Where a piece of property is located, or where a car is garaged and driven, can have a large impact on the likelihood that it will experience claims-generating losses. States generally recognize this reality, and permit insurers to consider location as a factor in their underwriting and rate-setting decisions.

Like the use of credit, most states generally prohibit insurers from making territory the sole factor in determining whether and at what price to insure cars and homes. However, in some states, regulators enforce restrictions on the use of territory that are much more stringent than the norm. For those states, we have deducted -10 points.

GRADING AND RESULTS

We calculated scores for every state by adding all variables and calculating a standard deviation from the mean. (The mean was -3.92.) States were graded as follows:

More than two standard deviations above the mean: A+
More than one standard deviation above the mean: A
Above the mean by less than one standard deviation: B range
Below the mean by less than one standard deviation: C range
Below the mean by more than one standard deviation but less than two standard deviations: D range
Below the mean by more than two standard deviations: F

We awarded pluses and minuses to recognize states at the top and bottom end of each grade range.

Virginia and Vermont had the best property/casualty insurance regulatory environments in the United States this year, both earning an 'A+' for rating more than two standard deviations above the mean. The best state, Virginia, scored 47 out of a maximum possible score of 110. It scored solidly across the board with no glaring weaknesses and with particularly good marks as a strong regulator of solvency with a high degree of underwriting freedom, transparency and a lack of politicization.

Other states receiving an 'A,' as their score were more than a standard deviation above the mean, include Illinois, South Carolina, Tennessee, Missouri and Minnesota.

Only one state, New York, received a failing grade, falling more than two standard deviations below the mean. New York scored a -50, compared to a minimum possible score of -230. Among the categories where New York underperformed were its large regulatory surplus, relatively concentrated auto insurance market, desk drawer rules and lack of underwriting freedom.

Other states that scored more than one standard deviation below the mean – enough to earn a 'D' in our rating system -- include Hawaii, West Virginia, Florida, California, Texas, Washington, North Dakota and Montana.

In conclusion, we are hopeful that R Street's second annual insurance regulation report card proves helpful and informative for consumers, lawmakers, regulators, the insurance industry, and the general public. We welcome comments and constructive criticism as look forward to steadily improve the report next year and in the years ahead.

ABOUT THE AUTHOR

R. J. Lehmann is senior fellow, public affairs director and co-founder of the R Street Institute. He is author of the R Street policy papers "Government sources of systemic insurable risk," "Ten reforms to fix Florida's property insurance marketplace – without raising rates," "The value of conservation compliance to hunters and anglers," "Reforming Michigan's auto insurance market," "Medical cost containment in the Wisconsin workers' compensation market" and the 2012 edition of R Street's Insurance Regulation Report Card.

Prior to joining R Street, he was an award-winning business journalist who spent nine years covering the insurance, banking and securities industries. He served as deputy director of the Heartland Institute's Center on Finance, Insurance and Real Estate. He previously was senior industry editor with SNL Financial, leading the news service's coverage of the Dodd-Frank Act, the Patient Protection and Affordable Care Act and legislative and regulatory developments at both the state and federal level. Prior to that, he spent six years with the A.M. Best Co. as manager of their Washington bureau.

He is a three-time award winner from the American Society of Business Publication Editors and was the youngest-ever winner of a first place prize from the New Jersey Press Association. He also is the former public affairs director of the Independent Institute in Oakland, Calif., and the former state chapters coordinator of the Republican Liberty Caucus.

His writings have appeared in the *San Francisco Chronicle*, *Wall Street Journal*, *Townhall.com*, *RealClearPolicy*, *American Spectator*, *Travel Weekly*, the *South Florida Business Journal*, and *Folio* magazine, among other publications.

TABLE 8: REPORT CARD – RANKED BY SCORE

State	Grade	Solvency	Antifraud	Political	Clarity	Efficiency	Auto	Home	Comp	Freedom	Total
VA	A+	10	4	0	10	5	5	4	4	5	47
VT	A+	5	-8	0	10	0	9	10	0	10	36
IL	A	-5	-3	0	10	20	-5	-10	5	20	32
SC	A	-5	-5	0	10	10	0	4	5	5	24
TN	A	15	3	0	0	5	-1	-15	5	10	22
MN	A-	-5	10	0	0	10	-1	0	2	0	16
MO	A-	0	1	0	0	15	4	0	-4	0	16
NE	B+	-5	5	0	0	10	5	0	0	0	15
WI	B+	-5	-10	0	0	10	5	5	5	5	15
NV	B	15	5	0	0	0	5	0	-6	-5	14
IA	B	0	5	0	-10	10	5	0	5	-5	10
SD	B	0	5	0	0	0	5	5	5	-10	10
UT	B	-5	5	0	0	15	5	5	-20	5	10
IN	B	-10	0	0	0	5	5	0	9	0	9
CT	B	0	4	-5	-10	20	10	10	-1	-20	8
NH	B	-15	3	0	0	5	9	10	-1	-5	6
KY	B	0	5	0	0	10	0	-10	-5	5	5
NJ	B	0	10	0	-10	5	5	10	0	-15	5
KS	B	0	3	-10	0	10	5	0	-1	-5	2
PA	B	-10	4	0	-10	5	5	0	8	0	2
AZ	B	-10	5	0	0	0	5	5	-11	5	-1
AR	B	0	5	0	0	5	0	-5	-6	0	-1
GA	B	5	4	-10	-10	10	5	-11	5	0	-2
ID	B-	5	3	0	0	0	5	5	-21	0	-3
OH	C+	-5	1	0	10	10	5	4	-40	10	-5
AK	C	15	5	0	0	0	-10	-10	-6	0	-6
ME	C	5	-10	0	0	5	5	10	-22	0	-7
MI	C	10	-9	-5	0	20	-22	4	0	-5	-7
NM	C	10	5	0	0	-10	0	-6	-6	0	-7
OR	C	10	0	-5	0	20	0	-5	-23	-5	-8
MD	C	5	3	0	0	15	-7	0	-10	-15	-9
RI	C	0	4	-5	0	10	3	1	-22	0	-9
DE	C	0	1	-10	0	10	-6	0	-5	0	-10
NC	C	-5	5	-10	10	5	-12	1	5	-10	-11
OK	C	5	5	-10	0	5	5	-15	-11	5	-11
MS	C	5	5	-10	0	0	0	-8	0	-5	-13
AL	C	0	3	0	0	5	0	-12	0	-10	-14
CO	C	0	5	0	0	15	5	-5	-22	-15	-17
LA	C	0	5	-10	10	-5	-10	-4	-4	0	-18
WY	C	5	-9	0	0	20	0	-5	-40	10	-19
MA	C-	5	5	0	0	-5	-8	-2	-3	-15	-23

MT	D+	5	3	-10	0	-5	5	0	-22	0	-24
ND	D	5	5	-10	0	10	10	0	-40	-5	-25
WA	D	10	4	-10	-10	5	10	5	-30	-10	-26
TX	D	5	5	0	-10	0	4	-5	-17	-10	-28
CA	D	0	10	-20	-10	10	9	-6	3	-30	-34
FL	D	0	10	-10	0	20	-1	-18	-5	-30	-34
WV	D	5	3	0	0	-15	-5	0	-20	-5	-37
HI	D	0	4	0	0	10	-11	-20	-9	-15	-41
NY	F	-5	5	-5	-10	-5	-6	4	-18	-10	-50

TABLE 9: REPORT CARD – ALPHABETICAL ORDER

State	Grade	Solvency	Antifraud	Political	Clarity	Efficiency	Auto	Home	Comp	Freedom	Total
AK	C	15	5	0	0	0	-10	-10	-6	0	-6
AL	C	0	3	0	0	5	0	-12	0	-10	-14
AR	B	0	5	0	0	5	0	-5	-6	0	-1
AZ	B	-10	5	0	0	0	5	5	-11	5	-1
CA	D	0	10	-20	-10	10	9	-6	3	-30	-34
CO	C	0	5	0	0	15	5	-5	-22	-15	-17
CT	B	0	4	-5	-10	20	10	10	-1	-20	8
DE	C	0	1	-10	0	10	-6	0	-5	0	-10
FL	D	0	10	-10	0	20	-1	-18	-5	-30	-34
GA	B	5	4	-10	-10	10	5	-11	5	0	-2
HI	D	0	4	0	0	10	-11	-20	-9	-15	-41
IA	B	0	5	0	-10	10	5	0	5	-5	10
ID	B-	5	3	0	0	0	5	5	-21	0	-3
IL	A	-5	-3	0	10	20	-5	-10	5	20	32
IN	B	-10	0	0	0	5	5	0	9	0	9
KS	B	0	3	-10	0	10	5	0	-1	-5	2
KY	B	0	5	0	0	10	0	-10	-5	5	5
LA	C	0	5	-10	10	-5	-10	-4	-4	0	-18
MA	C-	5	5	0	0	-5	-8	-2	-3	-15	-23
MD	C	5	3	0	0	15	-7	0	-10	-15	-9
ME	C	5	-10	0	0	5	5	10	-22	0	-7
MI	C	10	-9	-5	0	20	-22	4	0	-5	-7
MN	A-	-5	10	0	0	10	-1	0	2	0	16
MO	A-	0	1	0	0	15	4	0	-4	0	16
MS	C	5	5	-10	0	0	0	-8	0	-5	-13
MT	D+	5	3	-10	0	-5	5	0	-22	0	-24
NC	C	-5	5	-10	10	5	-12	1	5	-10	-11
ND	D	5	5	-10	0	10	10	0	-40	-5	-25
NE	B+	-5	5	0	0	10	5	0	0	0	15
NH	B	-15	3	0	0	5	9	10	-1	-5	6

NJ	B	0	10	0	-10	5	5	10	0	-15	5
NM	C	10	5	0	0	-10	0	-6	-6	0	-7
NV	B	15	5	0	0	0	5	0	-6	-5	14
NY	F	-5	5	-5	-10	-5	-6	4	-18	-10	-50
OH	C+	-5	1	0	10	10	5	4	-40	10	-5
OK	C	5	5	-10	0	5	5	-15	-11	5	-11
OR	C	10	0	-5	0	20	0	-5	-23	-5	-8
PA	B	-10	4	0	-10	5	5	0	8	0	2
RI	C	0	4	-5	0	10	3	1	-22	0	-9
SC	A	-5	-5	0	10	10	0	4	5	5	24
SD	B	0	5	0	0	0	5	5	5	-10	10
TN	A	15	3	0	0	5	-1	-15	5	10	22
TX	D	5	5	0	-10	0	4	-5	-17	-10	-28
UT	B	-5	5	0	0	15	5	5	-20	5	10
VA	A+	10	4	0	10	5	5	4	4	5	47
VT	A+	5	-8	0	10	0	9	10	0	10	36
WA	D	10	4	-10	-10	5	10	5	-30	-10	-26
WI	B+	-5	-10	0	0	10	5	5	5	5	15
WV	D	5	3	0	0	-15	-5	0	-20	-5	-37
WY	C	5	-9	0	0	20	0	-5	-40	10	-19

VERMONT
AGENCY OF EDUCATION
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CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM

TO: Governor Shumlin
FROM: Armando Vilaseca, Secretary
SUBJECT: Agency of Education (AOE)
DATE: December 20, 2013

Secretary Transition: Rebecca was here several days this week, meeting with AOE staff and education partners, attending press events, and finishing up the interviews for the General Counsel position.

Recent Events: As you know, it has been a busy week with the announcement of the early-college expansion program, the announcement that Vermont was selected to receive a RTT-ELC grant, and a press conference honoring Vermont's nominations to the U.S. Presidential Scholars Program. These are exciting accomplishments for us all.

State Board of Education: The State Board of Education met on Tuesday at the Burlington High School. Superintendent Jeanne Collins, and Principals Amy Mellencamp and Bobby Riley addressed the Board on strategies underway in their district to address the achievement gap, in particular for students in poverty and those who are English language learners and their parent involvement efforts. The Board once again took up my proposed dissolution of the Windsor Northwest Supervisory Union, with 6 towns and less than 500 students. Following a lengthy discussion, the Board voted to postpone action on my recommendation until June 2014 – and again asked the affected superintendents to meet to propose an alternate solution. In other action, the Board approved the proposed Education Quality Standards (SBE Rule 2000). These rules are the cornerstone of the Agency's work moving forward and support the Board's and your goals.

Vermont Positive Behavior Interventions and Supports (VTPBiS): The VTPBiS Annual Report for the 2012-2013 school year has been released and there were several positive findings. VTPBiS schools are implementing at a high level of fidelity and professional development opportunities are received with a high level of satisfaction. The VTPBiS system of supports has increased the capacity of supervisory unions/supervisory districts to sustain local implementation. Exemplar schools are reporting decreases in problem behaviors as well as academic improvements. This is great progress in our efforts toward building capacity. The complete report can be viewed here: http://goo.gl/dIzsD9 .

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Dec 20, 2013
Re: Weekly Report

Status of Governor's Priorities: .

Legislative Issues/Contacts:
Appeared before LCAR for Powerball Rules change scheduled for Jan 19th

Press Issues/Releases/Contacts:
Various stories about recent Mega Millions jackpot run. I was also asked about the rules change – first time ever.

Significant Events/Meetings:
n/a

Evolving Issues:
Liquor Commission remains reluctant to engage on the topic of their licensees having new vending machines. Comm Hogan and I have had brief discussions about this and we agree that the Lottery will explore potential violations of liquor regulations with the AAG that might occur with these lottery products. If lottery remains interested in placing these machines in the market we will develop an MOU with DLC, and clear explanations for liquor licensees, so all aspects of this are clear.
The recent Nov results from Sec Spaulding show Lottery down significantly in Nov and nearly 10% YTD to budget. What is difficult is that none of the target numbers or actual results reflect any of our financial statement results. We have asked Tom Kavet and Finance where these numbers come from, knowing that they are likely based on the transfers of profit. YTD we are actually down to budget by 7.6% and over LY by 1.5%. We did a below average job of applying our sales forecast across the months (still liking our annual total), and will be behind forecast in Nov, Dec and Jan, and spend the rest of year catching up.

Summary of Key Agency Department Activity:
We are circulating the AA-14 for our instant ticket contract today. The estimated cap was raised to $6.3M over three years which incorporates anticipated sales improvements and the opportunity to try some more expensive print ideas that have been highly successful on the market in other states. Mega Millions jackpot raised sales for many games by bringing in many less regular customers, but it also appears to be affecting our raffle game in a negative way – suppressing spending that already went into MM.

Executive Director's Commentary:

Making plans for next year and new staff members.

OFFICE OF THE SECRETARY
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Executive Privilege

TO: **Governor Peter Shumlin**

FROM: **Secretary Brian R. Searles**

DATE: **Friday, December 20, 2013**

SUBJECT: **VTrans - Confidential Report to the Governor**

NOTES FOR GOVERNOR

Embezzlement at DMV

An internal investigation at DMV has resulted in a confession from one employee to embezzlement of money from vehicle registrations. The theft, which was isolated at the South Burlington office, may have involved others and the investigation continues. It could be that at least two others knew of the activity but did not report it to supervisors. It is believed that the motive is related to prescription drug addiction and the employee who is the focus of the investigation will be cited to appear in Chittenden District Court on a felony charge.

Vermont Rail Systems

Our recent emphasis on inspection and load rating of rail bridges has resulted in three bridges being load restricted between Rutland and Bennington. As a result, Vermont Rail Systems has ceased operations on that line pending repairs. The freight will move over the Clarendon & Pittsford Line to New York State and then south, instead. Cost of repairs is being assessed and a plan developed to respond to the inadequate load ratings.

We are anticipating more problems on the Green Mountain Railroad and the Conn River Line but results are incomplete at this point. The New England Central Line and the Western Corridor north of Rutland are in good shape due to recent investments.

Irony in Senate Bill 172

S.172 is Senator Joe Benning's latest effort to overturn the state's motorcycle helmet requirement. The law was buttressed by a Supreme Court decision in *Benning v. State,* 161 Vt. 472 (1994). And, yes, it is the same Benning.

BTV Air Service Efforts

We are continuing our efforts to assist the Burlington International Airport with air service incentives. We have pledged $50,000 to support marketing efforts for a potential new service on US Airways to their fastest growing hub, Charlotte, NC (CLT). This connection has been a target of the airport for more than 10 years and would offset the possibility of losing some Washington non-stop service due to requirements of the newly merged US Airways/American to give up slot pairs at DCA.

NOTES FOR STAFF

James Hart of Bradford

Remember this name in case you end up on a phone call with him. You'll need a lot of time. Mr. Hart fashions himself as an attorney, however, he lacks certain credentials such as education and admission to the Vermont Bar.

He has a long-running feud with a neighbor on Route 5 in Bradford over the parking of their RV on their property, which he characterizes as an imminent public safety hazard. He cites as part of his case a fatal accident that happened in 1970 near his home that precedes by many years the manufacture of the RV in question. He has petitioned the Town of Bradford, which doesn't agree with his assessment, and VTrans. Our staff has looked at the site and we see no issues. He recently turned his attention to possible action by the Vermont Traffic Committee, which I Chair, but I have informed him that we deal with requests from municipalities and the Town of Bradford has no intention of bringing anything forward for our consideration, according to the Selectboard Chair Ted Unkles.

I bring this to your attention only because I have finished my long series of communications with him and he is now apt to turn to the 5th floor to plead his case.

Vermont Rail Systems 50th Anniversary

The ceremony, etc. to celebrate this event will be held on January 6th and Lawrence Miller and I will represent the Governor. However, if you think a letter of congratulations from GPS is in order, I would be happy to share it with the revelers on his behalf.

TDI New England Presents Plan to VTrans

As a follow-up to my conversation with TDI that I previously reported, company officials have made a presentation to Construction, Right-Of-Way and legal staff concerning their plans to run a High Voltage direct current (HVdc) line from the U.S.-Canadian border south through Lake Champlain moving onto existing rail and highway rights-of-way, where possible, to a converter station to be built in Ludlow. They plan to apply for necessary permits in December, 2014 and have the line in service by 2019.

Regional Planning Commission Role in Disasters

Our Policy and Planning team have convened a working group with representatives from the RPC's and the Division of Emergency Management and Homeland Security (DEMHS) to better define the role of RPC's in transportation system disaster planning, response and recovery. We are looking for these regional groups to have a central role in collecting and consolidating information from the towns in their districts to help our

District Techs provide adequate and timely assistance. We have all learned from Irene and other disasters over the last few years, the shortcomings of many towns to identify and articulate their needs without a great deal of assistance. Given the lack of County government structure and the performance of the RPC's during Irene, it seems that a formalized relationship, perhaps through an MOU with the State, is a good move for dealing with future problems.

In a related matter, we lost another District Tech yesterday and our ability to help the towns with past and future disasters is being eroded. Obviously, they are looking for permanent positions and their great work is being recognized by other employers as they interact with towns, consultants and contractors. We are making our best case that the Limited Service positions will be extended in the legislature but they are still nervous and the recent position sweep has not helped our cause.

Motor Vehicle Crash Facts

Fatal Crashes December 10 – December 20, 2013

12/19/13 – Eden, VT 118. Two vehicle crash, PC vs. Van, double fatality. Seatbelts worn by operators, unknown for passenger. Driver & passenger fatalities.

--2013 Fatalities: **69 Total** - **45** vehicle operators (1 snowmobile, 5 motorcycle, 3 ATV), **18** passengers (1 motorcycle & 1 ATV), and **6** pedestrians.

As of **December 20 in each calendar year**:

Year	Fatalities (people)	Fatal Crashes
2013	69	62
2012	75	68
2011	54	47

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: December 20, 2013

Vermont Department of Health (VDH)

Vermont Scores 5/10 in Outbreak Report:
Trust for America's Health released a new report on December 17th entitled "Outbreaks: Protecting Americans from Infectious Diseases". The report finds that the nation's ability to prevent and control infectious disease outbreaks is hampered by outdated systems and limited resources. Vermont was among the 33 states that scored 5 or lower out of 10 key indicators in the report. New Hampshire scored the highest of all states, with 8/10. Among the highlights, Vermont does not meet goals for:

- vaccinated young children against whooping cough
- requiring the cancer-prevention vaccine HPV for teens
- vaccinating at least half of Vermonters against flu
- covering routine HIV screening under Medicaid
- plans for laboratory surge capacity to respond to large outbreak

Vermont met goals for maintaining funding for public health, having a climate change adaptation plan that describes human health impacts, mandating that health care facilities report healthcare-associated infections, and having capacity for timely transportation of lab samples 24/7/365.

Attorneys General to Send Letter to FDA:
Vermont Attorney General Bill Sorrell has joined with 28 other state AGs to write to Food & Drug Commissioner Margaret Hamburg, MD, to request that the FDA reconsider its recent decision to approve the high-dose narcotic painkiller Zohydro ER. This drug will be the first hydrocodone-only opioid narcotic that is reported to be five to 10 times more potent than traditional hydrocodone, and it has no abuse-deterrent properties. Commissioner Chen supplied the following quote for a news release from the AG's office:

> "With the growing opioid addiction problem, we must take the public health approach and put all possible safeguards in place," said Vermont's Health Commissioner Harry Chen, MD. "We rely on our federal partners at the FDA to require abuse-deterrent formulations and labeling, and tamper-resistant packaging for pain relief products."

Board of Medical Practice Investigator Resigns and Offers Guilty Plea:
Board Investigator Phil Ciotti, who had been out on administrative leave since being charged with federal crimes related to his off-duty activities as a federally-licensed firearms dealer, offered his resignation on December 16th. After consulting with DHR, the resignation was

accepted on December 17th, effective December 31, 2013. Also on December 17th, Mr. Ciotti offered a plea of guilty to a charge filing a false tax return that did not include $700 in income from firearm sales and a charge of not complying with federal law by failing to complete a background check for two firearm transactions. Pursuant to a request from Mr. Ciotti and his attorney, the judge delayed the entry of findings until a later date. The resignation and change of plea have been widely reported in the media.

Department of Mental Health (DMH)

Vermont Psychiatric Care Hospital (VPCH):
Commissioner Dupre and Deputy Commissioner Reed are nearing completion of contract negotiations for psychiatry at VPCH.

Commissioner Dupre and Deputy Commissioner Reed are meeting Monday with Fletcher Allen Health Care (FAHC) Partners (includes Central Vermont Medical Center (CVMC)) to discuss pharmacy needs and other ancillary services that FAHC Partners may be able to provide. Negotiations with FAHC regarding Electronic Health Records (EHR) are ongoing.

Mental Health and Health Care Oversight Committees:
Timelines for the VPCH were presented to the Mental Health and Health Care Oversight Committees. They are as follows:

May 15th	The Dept. of Buildings and General Services (BGS) gives keys to DMH
June 15th	BGS punch list
June 27th	Licensing & Protection gives approval for licensing
June 28th	First eight (8) patients arrive at VPCH
By July 15th	Additional eight (8) patients are admitted
By August 15th	Final nine (9) patients are admitted for a total of 25-beds.

There are many variables that are not directly in our control (Examples: The contract negotiations with FAHC regarding EHR has been proceeding cautiously with give and take on both sides; however, both need and/or cost could put a damper on final discussions).

Department of Disabilities, Aging and Independent Living (DAIL)

Developmental Disability rescission story picked up by VT Business week, Vt Digger:
The FY14 policy reduction budget target passed by the legislature for FY14, continues to roll out with the headline "Administration orders cuts" but our office has had little inquiry and the Council is noticeably silent. The plans for how to implement the change have been received from all but two agencies and staff are reviewing these to ensure impact on individuals will be minimal.

"R" word sign replaced:
DAIL has replaced the old office directory sign at the Howe Center in Rutland labeled “Division of Mental Retardation Services” to read, “Developmental Disabilities Services Division.” Unfortunately, this sign has gone unnoticed for too long. Once it was discovered it was immediately replaced. DAIL's Developmental Disabilities Services Division is dedicated to

assuring respectful language in documentation, resource material and signage. This is a fitting closure to 2013, which marks the 20th Anniversary of closing Brandon Training School.

Department of Corrections (DOC)

Superintendent – Newport Facility:
The DOC is currently looking into a personnel issue regarding the superintendent of the Newport Facility (Northern State). This is the third personnel issue within the last twelve months regarding this individual. After the investigation is complete, we will evaluate whether this necessitates a change in personnel.

Adult Recidivism Reduction Planning Grant:
The DOC is planning the first meeting of the Task Force that was assembled to complete the requirements of the Adult Recidivism Reduction Planning Grant. The meeting is scheduled for January 16, 2014. Work will be completed by the end of June of 2014.

Population:
The department's incarcerated population averaged 2,105 for the previous week. The male population averaged 1,941 with 371 being presentenced inmates. The female population averaged 164 with 41 being presentenced inmates.

Department for Children and Families (DCF)

Child Support Overpayment Issue for Reach Up and 3SquaresVermont:
In October 2013, new ACCESS programming was put into place to de-couple child support from Healthcare. Programming issues were noticed when it was put into production. In late October, November, and early December 2013, there were active Reach Up Cases that looked like they were not receiving Reach Up benefits on the child support side. Due to this, money collected by child support was sent directly to clients instead of the Economic Services Division (ESD). Typically money collected for child support by the Office of Child Support (OCS) is sent to ESD to reduce clients' Reach Up grants or 3SquaresVT benefits; this did not happen. Although the OCS was able to catch many cases before child support payments were sent out, approximately 350 cases did receive money in error totaling $83,691.95. This issue was fixed on December 6th; however, this may have caused overpayments for Reach Up and 3SquaresVT households. We are looking at cases manually to determine how to recoup the overpayment.

New Child Care Regulations Update:
The Child Development Division (CDD) has been working for over two years with Child Care providers, stakeholders, the Agency of Education and the VDH to complete a major revision of the Child Care Licensing Regulations. The work has streamlined five sets of unaligned regulations into three sets, organized them to align with one another and with Vermont's early learning, development and afterschool systems.

One significant change in the new regulations is the proposal of a three year license; currently licensees are required to re-apply annually. We believe this will help streamline paperwork and focus on technical assistance and monitoring in our Child Care Licensing Unit.

Paper Health Care Application Backlog Gone:
As recently as December 10th, DCF was looking at a backlog of 1,900 paper Vermont Health Connect applications. Today we are down to 63 paper applications! We plan to dial back on the mandatory overtime from 16 to 8 hours a week through the rest of the year. DCF Commissioner Yacovone wants you to know he is proud of his team!

Social Media Campaign to Increase Senior Participation in 3SquaresVT Offers Promising Results:
On November 1, 2013, DCF launched a 6-month campaign to test the use of social media to educate older Vermonters, and adult children of those older Vermonters, about help available through 3SquaresVT. Pay-Per-Click campaigns are a cost effective way to market a program because you only pay when someone clicks through the ad to enter your website. Early results are very promising! Here are some highlights from the first five weeks:

	Google Ads	**Facebook Ads**
Total Impressions - *how often the ad was seen*	380,886	1,706,235
Total Clicks - *visits to our website directly from ads*	1,839	827
Average Time Spent on Website	3 minutes	1 minute
Average # of Pages Visited	2 – 3 pages	1 – 2 pages

- Of the total visitors to our website, over 19% visited the *Apply for Benefits* page next.
- There were 78 phone calls to the Senior Helpline as a result of the ads.

Department of Vermont Health Access (DVHA)

Broker Payments:
In appreciation for the extra time and energy brokers have dedicated to supporting enrollments, Vermont Health Connect (VHC) has proposed to subsidize the 2014 administrative fee for the Third Party Administrator, effectively increasing broker payments. DVHA Access will cover $1.00 of the $1.50 TPA administrative fee, so the take home compensation will now be $19.50 per client per month, up from $18.50. This additional funding is contingent on the Centers for Medicare and Medicaid Services (CMS) approval, and completion of a contract amendment.

Public records request:
DVHA continues to respond to a large quantity of public records requests related to VHC and the integrated eligibility procurement process.

Medicaid ACO Contract Update:
Contract negotiations continue on the Medicaid Shared Savings ACO Program between DVHA and Community Health Accountable Care and OneCare Vermont. DVHA is cautiously optimistic that we will complete that process and be able to meet our planned launch date of January 2014.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged
TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: **December 20, 2013**

Secretary's Top Issues

Methane Digestion - Alex DePillis, Senior Ag Development Coordinator and Diane Bothfeld, Deputy Secretary presented to over 50 operators of manure digesters, giving a primer on how get permission to use off-farm food-processing liquids in a digester. The guidance was developed with ANR, in the wake of Act 88, which streamlined the process of permitting. Staff and consultants also covered the issues involved in taking food waste, which is potentially becoming available because of the universal recycling law (Act 148).

Renewable Energy on conserved Land - Alex DePillis, Sr. Ag Development Coordinator, Sylvia Jensen, Land Use Administrator and Stephanie Smith, Chief Policy Enforcement Officer have drafted criteria and guidance for renewable energy installation on conserved land. ANR has provided flood-resilience-related considerations. The document will be given to the Vermont Housing and Conservation Board in January for approval.

Enforcement Actions for Manure Spreading - Enforcement actions will be issued as a result of inspections conducted on MFOs and LFOs in Franklin, Orleans and Orange Counties related to the spreading of manure (complaints had been received). Actions may include letters of warning or administrative penalties.

Pesticide (Bed Bugs) A Pest Control Operator (Cary Buck) who misused a cancelled pesticide for the control of bed bugs in multiple properties in Rutland County has requested a hearing on the Agency's proposed revocation of his pesticide applicator certificate and company license, and proposed penalty.

Consumer Protection - Ten Consumer Protection/W&M violations resulting in penalties and RCAT's (Report of Corrective Action Taken) have been sent to the Agency for approval and processing. Two of these violations are for short weight and six for scanner issues. The violations took place in Rutland, Randolph, and Chittenden County and represent an estimated $10,000.00 in penalties.

Meat Inspection Compliance - Investigating a retail store that was offering uninspected meat products for sale. Compliance has been working on a notice of violation for the same store for insanitary conditions.

Mosquitos and Triple E - Alan Graham, State Entomologist met with Erica Berl, Vermont Department of Health epidemiologist, to review the 2013 mosquito surveillance year and begin to make plans for 2014. Eastern Equine Encephalitis virus risk areas identified last year in Addison and Rutland Counties will remain the same, and an additional moderate risk/survey area will be added, reflecting the two EEEv horse cases in Highgate (Franklin and Grand Isle Counties) this past summer. A meeting with the Vermont Department of Health Laboratory team is planned for January to review and streamline the processing of mosquito samples. Collaborative efforts among people at the Vermont Agency of Agriculture, the Vermont Department of Health, and the Centers for Disease Control continue to be very successful.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged
TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: December 20, 2013

Status of Governor's Priorities:

Jobs in Agriculture

Press

- Randy Quenneville, Meat Inspection Section Chief participated in a phone interview with VT Public Radio concerning Agency position on the new on-farm slaughter rules.
- Diane Bothfeld, Deputy Secretary was interviewed on milk pricing by WCAX.

Significant Events/Meetings:

Methane Digestion - Alex DePillis, Senior Ag Development Coordinator and Diane Bothfeld, Deputy Secretary presented to over 50 operators of manure digesters, giving a primer on how get permission to use off-farm food-processing liquids in a digester. The guidance was developed with ANR, in the wake of Act 88, which streamlined the process of permitting. Staff and consultants also covered the issues involved in taking food waste, which is potentially becoming available because of the universal recycling law (Act 148).

Evolving Issues:

Meat Inspection Compliance - Investigating a retail store that was offering uninspected meat products for sale. Compliance has been working on a notice of violation for the same store for insanitary conditions.

Summary of Key Agency Department Activity:

Administration

Section 248 - Deputy Secretary Bothfeld, Sr. Ag Development Coordinator DePillis, Chief Policy Enforcement Officer Smith and Assistant Attorney General Zamos discussed Section 248 applications and how to review for effects on primary ag soils. Many solar projects are coming forward in the pre-application and application process and the Agency's resources are stretched to provide input within this process.

Agricultural Development

Renewable Energy on conserved Land - Alex DePillis, Sr. Ag Development Coordinator, Sylvia Jensen, Land Use Administrator and Stephanie Smith, Chief Policy Enforcement Officer have drafted criteria and guidance for renewable energy installation on conserved land. ANR has provided flood-resilience-related considerations. The document will be given to the Vermont Housing and Conservation Board in January for approval.

Assistance to New Digesters - Alex DePillis, Sr. Ag Development Coordinator, Rob Achilles, Agricultural Engineer and Diane Bothfeld, Deputy Secretary reviewed for relevance to agricultural rules a request to allow compressed natural gas to be added to a new digester, for the purposes of commissioning the engine-generators. Authority rested with the Department of Public Service (Division of Fire Safety), who came to the

Agency for clarification. Agriculture was able to provide clarification within three hours, being familiar with the farm, the digester developer, and serendipitously, having just visited the farm project.

Food Safety and Animal Health and Consumer Protection

Consumer Protection:

- Consumer Protection/ Weights and Measures (W&M) Staff met with the newly appointed Director of the State of New Hampshire's W&M Program; meeting both in Montpelier and the W&M facility in Berlin. Considerable information was exchanged related to policy, operations, uniformity, initiatives, and priorities of programs. The possible assistance in training and information sharing as well as mutually benefiting utilization of some testing equipment was discussed.
- Ten Consumer Protection/W&M violations resulting in penalties and RCAT's (Report of Corrective Action Taken) have been sent to the Agency for approval and processing. Two of these violations are for short weight and six for scanner issues. The violations took place in Rutland, Randolph, and Chittenden County and represent an estimated $10,000.00 in penalties.

Meat Inspection

- Judy Hurley, Department of Human Resources came over and updated all HR and Civil Rights postings as a result of the Meat Inspection Self-Assessment for civil rights and "at Least equal to" documentation. Judy Hurley apologized that many of the documents were so far out of date.
- Continuing with interview process for Food Safety Specialist trainee
- Participated in Federal conference call for update of federal computer loads since Microsoft will stop supporting Windows XP. FSIS target date for transition is April 8 2014
- One custom slaughter plant will not be renewing their custom slaughter license since the new on-farm slaughter rules have undermined his efforts to provide a sanitary environment for personal use slaughter and the rule gives individual farmers an economic advantage by not having to maintain a sanitary environment for such slaughter

Agricultural Resource Management

Water Quality:

- Enforcement actions will be issued as a result of inspections conducted on MFOs and LFOs in Franklin, Orleans and Orange Counties related to the spreading of manure (complaints had been received). Actions may include letters of warning or administrative penalties.
- A large farm operation that received an Administrative penalty for violations of their LFO permit and LFO rules has requested a hearing. A pre-hearing settlement conference will be scheduled for after the new year.
- A small farm that received an administrative penalty for violations of an Assurance of Discontinuance has requested a hearing. A pre-hearing settlement conference will be scheduled for after the new year.

Pesticide:

- A Pest Control Operator who misused a cancelled pesticide for the control of bed bugs in multiple properties in Rutland County has requested a hearing on the Agency's proposed revocation of his pesticide applicator certificate and company license, and proposed penalty.

Manure Spreading Ban

- To date, one request for an exemption to the winter manure spreading ban has been received from a small farm in Westmore.

Medium Farm Operation (MFO) and Large Farm Operation (LFO) Programs:

- Staff conducted one BMP implementation check on a MFO in Franklin County.
- Staff responded to two manure spreading exemption requests on a MFO in Franklin County and on a former MFO in Bennington County.

- Staff received a complaint about a LFO spreading manure in Addison County after the start of the spreading ban.
- Staff developed an implementation/verification strategy for the CEAP to verify equipment purchases as well as field implementation and equipment usage. Staff has begun conducting farm visits to evaluate equipment and as well as fields where the equipment was used.
- Staff is processing Farm Agronomic Practices (FAP) grant program payments for farms that implemented winter cover cropping and are working with UVM Extension to evaluate the program for spring practices and FY2015.
- Staff met with technical service providers to discuss the NMP and FAP grant programs.
- Staff attended a Central Lake Champlain Partner water quality meeting.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs.

Conservation Reserve Enhancement Program (CREP):

- General CREP related paperwork
- Preparation for annual report to FSA
- Desktop planning for CREP projects
- Staff participated in two hearings regarding CREP contracts

Plant Industry

- On December 18, Emilie Inoue, State Pest Survey Coordinator attended as the VAAFM representative at the quarterly meeting of the Vermont Urban and Community Forestry Council. Agenda items and discussion included how communities are preparing for the arrival of emerald ash borer. The arrival of EAB is going to have a major impact not only in Vermont's forested landscape but in urban areas where many street trees are ash. Burlington and Rutland have been very active in trying to prepare for EAB's arrival, and more towns/cities are expected to develop EAB strategy plans in the coming months. Power companies (GMP/CVPS) have also been developing their own ash management plans. Plant Industry will be cooperating with UVM Extension and Department of Forests, Parks and Recreation on 'Ash Awareness Week', April 27-May 3, 2014.
- On Monday, December 16 Alan Graham, State Entomologist met with Erica Berl, Vermont Department of Health epidemiologist, to review the 2013 mosquito surveillance year and begin to make plans for 2014. Eastern Equine Encephalitis virus risk areas identified last year in Addison and Rutland Counties will remain the same, and an additional moderate risk/survey area will be added, reflecting the two EEEv horse cases in Highgate (Franklin and Grand Isle Counties) this past summer. A meeting with the Vermont Department of Health Laboratory team is planned for January to review and streamline the processing of mosquito samples. Collaborative efforts among people at the Vermont Agency of Agriculture, the Vermont Department of Health, and the Centers for Disease Control continue to be very successful.

<u>Secretary's Comments</u>

MEETINGS

- Green Mountain dairy Federation; Montpelier - met with board to review status of dairy and issue from Farm Bill to FSMA and current Use
- Louis Porter; Montpeler - reviewed legislative agenda for session
- Bedbug final meeting; confernce call - participated in final joint Health/Agriculture Emergency Operation Committee meeting, thanked everyone for their participation and the cross agency collaboration

- FDA, NASDA call on FSMA, conference call - met with Mike Taylor, FDA official tasked with getting rules promulgated for FSMA, reiterated NASDA's positions on concerns with technical and administrative issues
- Sustainable Ag Council - met with board to review status of issues and to identify major issue affecting ag; USDOL audits of farms with resulting fines and penalties is changing landscape for many growing ag operations
- George Burrill, New Zealand collaborations; conference call - explored ongoing collaborations on water quality and local food economies, issue discussions led by and facilitated by Ambassador Michael Moore
- Higher Education Consortium; Middlebury College - meeting with Middlebury College to discuss how to have them join the new announced and launched consortium to make VT the epicenter of ag and food system education led by consortium of higher education institutions

EVENTS

- Working Lands Summit; Randolph - attended pre-conference meeting with Governor, introduced Governor and facilitated panel/audience discussion on barriers of regulation

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Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
Deputy Secretary

State of Vermont
Agency of Natural Resources

CONFIDENTIAL and PRIVILEGED

To: **Governor Peter Shumlin**

From: **Deborah Markowitz, Secretary, Agency of Natural Resources**

Date: **December 20, 2013**

Subject: **ANR Weekly Report**

Governor Level Issues:

Vermont Yankee/Yankee Rowe: A contingent from ANR/DEC travelled to Greenfield, MA to discuss the Yankee Rowe decommissioning experience of the Massachusetts Department of Environmental Protection and Franklin Regional Council of Government with Chris Campany of the Windham Regional Commission. We heard a presentation about the site assessment, combined risk assessment (hazardous waste and radiological risks) and site remediation issues that were identified, addressed and mitigated during the ten year process from shut down to License Termination. An overriding recommendation from our Massachusetts counterparts was to involve the public early and often in the decisions regarding the long-term cleanup surrounding the site. This meeting was a scratch of the surface, and we will seek more detailed information in the future. This meeting opened the door to future information exchanges, and provided good insights into the process that occurred.

Burlington Water Quality Permitting Issues: Watershed Management staff met with Burlington wastewater and stormwater staff and EPA to discuss aspects of the Lake Champlain cleanup plan relating to the Burlington Bay watershed. Burlington is interested in pursuing an integrated permitting approach under which the city is given the flexibility to achieve a single allocation in the most cost-effective manner possible by balancing load reduction efforts across wastewater discharges, combined sewer overflows, and other stormwater discharges. EPA has recently indicated that they would support such a flexible approach provided there was accountability, which could be provided through the permit.

Lake Champlain Cleanup Plan (TMDL): DEC, AAFM, and EPA completed the last three of six public meetings on the state's proposal to address the pollution loading goals being developed by EPA. All six meetings were well-attended and produced substantial media coverage. Comments from the audience were generally supportive of the package of nonpoint source policy proposals that DEC and AAFM outlined at the meetings, even among those farmers and municipal officials who spoke at the meetings. We are accepting written comments until Jan 13, 2014.

VT Gas Phase II: ANR program staff, Office of Planning and Legal Affairs staff, VT Gas, and VT Gas consultants met to review and discuss issues and concerns with the second phase of the project (Middlebury to Ticonderoga, NY). ANR is concerned about the proposed placement of the trenched pipeline in and adjacent to Cornwall Swamp, Salisbury Swamp, and Farmingdale Swamp, three very large and regionally significant wetlands. We will be working with VT Gas to find alternatives that can work.

Gillett Pond Dam questions: We have received a few inquiries (including an inquiry from Rep Anne O'Brien) about The Gillett Pond dam in Richmond which is owned by the girl scouts. The dam is unsafe and needs to be completely replaced or removed. It is expensive to replace so the girl scouts were planning to remove the dam. There is some local opposition. There have been some instances in which the legislature appropriates money to help repair a dam but generally private money is raised.

EVERYTHING ELSE:

Legislative Issues/Contacts:

Materials Management Plan (MMP): The draft Material Management Plan was presented to ICAR on 12/9. There was only one comment of note, to consider adding the words "solid waste" to the "Materials Management Plan" title. We have added those words to our forms, and also made several minor clarifying format and grammar changes. The committee gave positive feedback on the draft MMP, stating it was clear, easy to read, and had no typos. They especially liked the Act 148 timeline that is appended to the draft MMP.

Press Issues/Releases/Contacts:

Watershed Blog: Following our media release, a reporter from the Times Argus/Rutland Herald contacted us about featuring an article on the Watershed Management Division's new blog (*FLOW)* in the Environmental Section of the paper. The article would focus on the Division's work towards water quality improvements and the vast information available to the public through our blog. The blog can be found at: www.vtwatershedblog.com.

Man Charged with Fish and Wildlife violations: Kenneth Bacon Jr, 30, of Barton, allegedly shot from a vehicle on a public road on Nov 30 in Craftsbury and then fled as wardens attempted to apprehend him, putting one warden in danger of serious injury. Wardens with the Vermont

Fish & Wildlife Department were in Craftsbury at the time conducting an operation in response to several recent complaints of illegal road hunting and poaching activity in the area.

Backcountry Skiing: Commissioner Michael Snyder was a guest this week on VPR's Vermont Edition for a segment on backcountry skiing, an increasingly popular form of outdoor recreation in Vermont and a key element of FPR's renewed emphasis on outdoor recreation.

Significant Events/Meetings:

Waterville FD 1 Water System Contamination: Low levels of volatile organic compounds (VOCs) were detected in a portion of Waterville's Fire District 1 in mid-September. The system was flushed and periodic sampling has occurred since then, confirming the system was meeting the Maximum Contamination Levels (MCLs). Recently, a DEC investigation showed benzene now present just above the MCL at one location. DEC and the Vermont Department of Health have issued a "Do Not Drink" advisory to users (Dec. 12). Waste Management and Prevention Division has now become involved and are working to determine the cause of the contamination. The flushing program also continues.

Tree Stewards Awards Ceremony: This event took place on Dec 18 at the State House. The awards program, in its 17th year, is sponsored by the Vermont Urban and Community Forestry (UCF) Council – a twenty-member board that advises the state's UCF Program, meets quarterly and spends a considerable amount of time visioning and supporting UCF needs in the state. UCF State Program Coordinator Danielle Fitzko, Director of Forests Steven Sinclair and Commissioner Michael Snyder were present to congratulate the award recipients.

State Lands Stewardship Meeting: The Lands Administration Division and the ANR Lands Stewardship Team hosted a day-long meeting with ANR state lands staff from all five district offices on Dec 18 at Vermont College of Fine Arts. The theme for the meeting was integrating water quality, aquatic habitat, river corridor and flood resiliency needs into state lands management activities.

Vermont Dept. of Health (VDOH) Environmental Public Health Tracking: VDOH staff briefed DEC staff on their Environmental Public Health Tracking portal, which brings together environmental hazards and health outcomes to help Vermonters, policymakers, health professionals, and scientists assess what environmental health issues are important in their communities. Some climate change-related data is already available on the portal, but VDOH expressed an interest in working more closely with ANR to improve the quantity and quality of those data specific to climate change. http://healthvermont.gov/tracking

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SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Killington Alpine Pipeline Connector: The re-construction of the Killington Alpine Pipeline connector, connecting the resort's treatment facilities with Rutland's wastewater treatment plant, has been completed. The original connector was plagued by small leaks over the past several years to such a point that it was no longer useable. Re-establishing this connection provides needed wastewater disposal capacity for future projects.

Koffee Kup Bakery & VT Bread Company: Earlier this year, Air Quality and Climate Division (AQCD) staff noted an erroneous air emissions calculation made by Koffee Kup Bakery and Vermont Bread Company, causing the bakeries to underestimate their VOC emissions and avoid registration, and in one case, an air pollution permit. Staff have been working with the bakeries to bring them into compliance, and have determined through outreach that there are no other bakeries that require registration.

Greenhouse Gas (GHG) Analyses for Section 248: Staff continue to work to examine the possible GHG benefits and/or impacts of various energy projects being proposed for operation in Vermont. Recently, they conducted preliminary examinations of the lifecycle (upstream) GHG emissions associated with various configurations of solar photovoltaic (PV) panels, mounting racks and other system components, as compared to the avoided lifetime GHG emissions associated with the clean, renewable electricity that the PV panels generate. Draft results indicate that in most cases, PV projects are likely to be "GHG beneficial" to the VT and NE electric power supply (however, the results are sensitive to PV panel efficiencies and operational life, the quantity and quality of various system components, the GHG intensity of the electricity that is being displaced by PV, etc.) Another preliminary and more qualitative evaluation is beginning to examine multi-pollutant (NO_x, CO_2, N_2O, O_3, etc.) trade off issues associated with emissions controls at a biomass electricity generating unit.

Municipal Improvement Loans: East Haven was awarded a loan to fund improvements to the Town's municipal water system. West Windsor was given a loan to fund engineering services for construction of a municipal sewage collection system. Royalton was given a loan to fund a sewer rate study and wastewater treatment facility nitrogen removal feasibility review.

Universal Recycling (Act 148): Solid Waste Program staff gave a presentation and had a productive meeting on Universal Recycling (Act 148) with managers from BGS and VTRANS on Tuesday Dec 10. We discussed how these buildings might comply with recycling and food scrap diversion aspects of the law, haulers who are currently hauling food scraps, and how it is being managed effectively at state buildings and cafeterias currently.

Deerfield Wind: The Response Summary for the Deerfield Wind 401 is complete and the stormwater permits are pending issuance once the 401 has been signed by Commissioner Berry.

TransCanada and Boat Greeter Program: TransCanada has expressed concerns to us regarding their liability if we establish an Aquatic Invasive Species Boat Greeter Program at the public access on Somerset Reservoir, which is owned by TransCanada. Elizabeth McDonald is researching landowner liability protections provided in state law for recreational uses, and is assisting the Lakes Program in developing a document for private accesses comparable to the Special Use Permit provided by the Fish and Wildlife Department for the Greeter Program at state fishing accesses.

Fish and Wildlife

Endangered Tortoise in Bathtub: Staff looked into the care and maintenance requirements of the desert tortoise (*Gopherus agassizii*), an endangered species native to AZ, CA and NV, after learning that one is now living in a Vermont bathtub (the 'owner' has applied for a possession permit). Despite the tortoise's endangered status, the California Fish & Wildlife Department allows hundreds of people to possess specimens of this tortoise.

Deer: The late archery and muzzleloader seasons are now closed. Wardens were extremely busy last week with many desperate hunters willing to do anything to fill their deer tags. Numerous arrests were made for deer being shot at night either by archery equipment and muzzleloaders or by taking deer in the incorrect antlerless zone. Sadly there were also numerous other antlerless deer illegally shot and left in the woods. Wardens also handled many people who voluntarily turned themselves in for shooting protected spike horns believing they were antlerless deer. The unseasonable cold weather contributed to more road hunting activity and associated complaints as the heat of the truck cab was more inviting than the cold woods.

Forest, Parks and Recreation

Ski Areas: The Department has received its annual ski lease payment from Okemo Mountain ski area. This year's payment of approximately $544,000 was nearly $90,000 more than last year's lease fee payment from Okemo. Lease fee payments from Stowe and Killington are also due before the end of the calendar year.

Land Transactions: We expect to close before the end of December on up to five transactions; Stone donation at Rupert State Forest, Munson donation at Niquette Bay State Park, Fitzpatrick donation at Coolidge State Forest, Alburgh Dunes State Park land exchange, and transfer of a portion of Grand Isle State Park to the Town of Grand Isle for recreational uses. Work continues on active and pending Forest Legacy projects, Lafreniere sale parcel, and other priority land transactions.

Contract Administration Training: Parks and Forestry Division staff attended a contract administration training program last week conducted by the FPR Business Office. The purpose was to train staff in administering construction contracts to assure more efficient and effective execution of maintenance and capital projects.

Ash Peeling: On Dec 10, FPR and UVM staff along with some First Detector volunteers peeled Ash tree bolts looking for signs of Emerald Ash Borer (EAB). The bolts, approximately 3 to 4 feet in length, were taken from the crowns of trap trees girdled earlier this summer in Districts 1 and 2. Bark was carefully peeled away using draw-knives to reveal the cambium of the bolts and to expose any larva galleries and/or pupae of EAB. This was done at FPR's Gifford Woods Maintenance Shop in Killington, and all uninfested wood was burned in a wood furnace on site. Suspect bolts were held for positive confirmation of EAB.

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VERMONT
PUBLIC SERVICE DEPARTMENT

Privileged and Confidential

MEMORANDUM

To: The Honorable Peter Shumlin, Governor
Sarah London, General Counsel

From: Christopher Recchia, Commissioner

Date: December 20, 2013

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

Significant Meetings/Events this week:

Ice Storm: The storm predicted for beginning tomorrow afternoon going through Sunday afternoon is expected to be bad in the Northern Champlain Valley and east to Newport area. Up to an inch of Ice is predicted. Assuming that occurs, VEC says they expect power outages to be significant. We are working closely with VDEMHS and expect they'll be activating the SEOC at some point. In the meantime, we have calls scheduled every day at 9:00am and 3:00pm to coordinate with Utilities, Vtrans, etc. There is some inter-utility jockeying about who can get out press releases to their customers faster – and not always the same info – so we are reaching out to them to say that once the SEOC is activated we strongly recommend messaging be coordinated.

VY: Consumed most of the time this week, but I believe we sent good solid documents to Entergy last night, and we'll probably hear whether we have a deal or not sometime today. We have to file something with the Board this afternoon… Not sure what that will be as I write this report – likely "still discussing, progress, but no conclusion to report."

Ryegate: We are filing with the Board today that we see no issues with their SCR request and recommend the 248(j) application be processed expeditiously. We coordinated with ANR and they are doing the same. Meanwhile, talks on forest management will continue outside that process. Liz's meeting with ANR was instrumental in turning them – I am sorry I was not able to accomplish that result without her intervention, though I tried from my beginning conversations with Deb to relay that position.

NSSEP: Adam Winstanley relayed (confidentially) that he is in talks with Apple about a data center at the biomass facility industrial park that would take all the power from the facility. At first, I thought this an unlikely scenario due to the cost of his power relative to other sources, but then thought of their cooling needs, which could make use of the waste heat from the plant and raise the efficiency of the plant considerably using absorption chillers powered by the waste heat. I relayed that thought to Adam. We'll see, but that would be a huge win for the project and Vermont.

NRC Waste Confidence Rule: We are filing today through the AGO comments to NRC on their DGEIS (Draft Generic Environmental Impact Statement) saying the analysis is inadequate. Consistent with NEPA and the Court's remand, the NRC must address in this proceeding foundational questions including whether the generation of further nuclear waste should be allowed and, if allowed, what mitigation measures are available to reduce environmental impacts, and what alternatives exist to the current practice of permitting nuclear wastes to be stored at individual reactor sites indefinitely and in spent fuel pools never designed for that purpose. We are joined in this by NY, CT, MA and I believe IL in this filing.

Regional Cost Allocation Filing with FERC: On Monday we filed an objection to the default cost allocation formulas proposed by ISO and Transmission Organizations to the 30/70 (state/region) proposal. NH took the lead with the filing, joined by RI and Vermont, VELCO and TRANSCO in emphasizing we thought a default formula was inappropriate ,and that beneficiaries of public policy projects should bear the costs, but if FERC insisted on a default formula, it should be 70/30 rather than 30/70.

Significant Events/Meetings this week

December 16: Chris was in VY discussions pretty much all week; Darren meets with Sen. Ashe; We released the TES study report – unfortunately, as expected and the "carbon tax" option got the most play; We filed our FERC objection to cost allocation with NH and RI and VELCO
December 18: Chris met with Mary Powell and Steve Terry at GMP; Chris and Jim Porter meet with Beth Fastiggi of FairPoint
December 19: Chris could not attend VY longer term planning meeting at Dept of Public Safety due to ongoing VY discussions; Darren met with Sen. Hartwell

December 20: Chris participates on NESCOE call to discuss New England Gas-Electric Study; Darren meets with Andrew Savage of AllEarth Renewables, George Twigg of VEIC, and attends Senator Sanders' Sandia/VT meeting. Chris participated in VDEMHS and Utility calls in prep for storm. We will have coverage at SEOC if/when center is activated; We filed with the Board on Ryegate SCR installation.

Significant Meetings/Events next week:

No significant meetings currently scheduled during the Christmas holiday week.

Media: Chris interviewed by Susan Keese of VPR on North Springfield Biomass; Chris spoke with Susan Smallheer, Terri Hallenback, Anne Margolis, John Herrick, Bob Audette and Susan Keese on VY negotiations. Chris was invited to call in to Vermont Edition yesterday and did so for a few minutes on biomass energy.

Everything Else:

PERD

Energy Score Labeling Working Group

- Legislative report – The report was submitted to the Legislature and posted on our website on Friday. It was also sent to the House and Senate Natural Resources and Energy Committee staff.

Residential and Commercial Building Energy Standards (RBES & CBES)

- Code Update:
    - A meeting was held with Ron Shems and Peter Gill from the Natural Resources Board (NRB), DPS staff, and our code contractors to discuss the options for including renewable energy into the stretch codes. The NRB is asking the DPS to take the lead on what this should include.

Energy Efficiency Utility Activities

- EVT, BED and GMP CEED 2014 Annual Plans
    - Staff filed comments supporting EVT's annual plan. However, requested a workshop to discuss the open questions about behavioral programs. Specifically, the Opower pilot is proposed to serve over 100,000 residential customers and this seems an order of magnitude larger than a pilot program. In addition, questions about evaluation, and cost effectiveness remain unanswered. The workshop (proposed to follow presentation of the modeling results in the DRP) will span both the EVT 2014 annual plan proceeding and the DRP proceeding.

Total Energy Study

- Finalized Legislative Report and submitted to Legislative Council as well the House and Senate Natural Resource and Energy Committees. Also posted on the DPS website and issued a press release, which has received some coverage in the media.

Engineering

Vermont Yankee Radiation Monitor

On 12/15/13 @ 0825, plant operators received a Reactor Building Refuel Floor CH B RAD HI alarm from one of the radiation monitors that was replaced a few months ago due to spurious spiking. The alarm resulted in activation of both Standby Gas Treatment Systems, as designed.. VY immediately responded to the alarm in accordance with plant procedures, and confirmed normal radiation levels on the refuel floor. VY subsequently determined that rad monitor RM-17-453B was inoperable, and it was removed from service. Appropriate compensatory measures are in place pending replacement of the monitor. There was no risk to plant workers or the public as a result of the inadvertent alarm. The condition has been entered into VY's corrective action process. Per NRC Regulation 10 CFR 50.73(a)(2)(iv)(A), a verbal report is due to NRC in 60 days. When VY replaces the monitor with a new monitor, they will also replace the power supply and alarm card, and will test all three components on the bench to determine which one is the problem. VY will also engage the monitor manufacturer on this issue. Engineering will monitor this situation, and will provide updates as new information becomes available.

Vermont Yankee Flood Seal Report

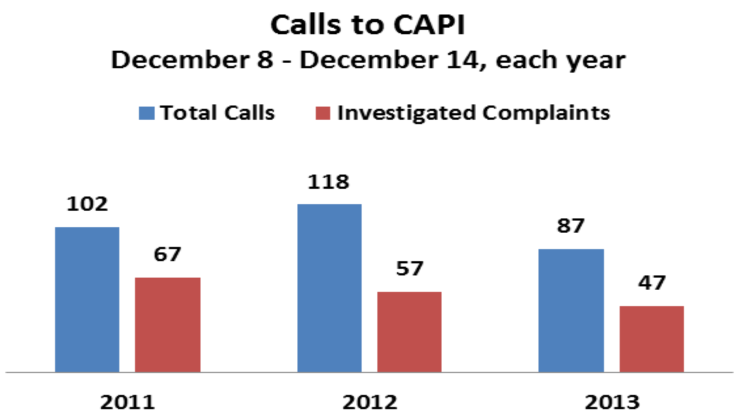
On November 7, 2013, VY identified a missing conduit flood seal (this was reported in the November 13 weekly report), and expected to complete an investigation by “mid December.” Engineering requested an update from VY regarding when this investigation report will be available.

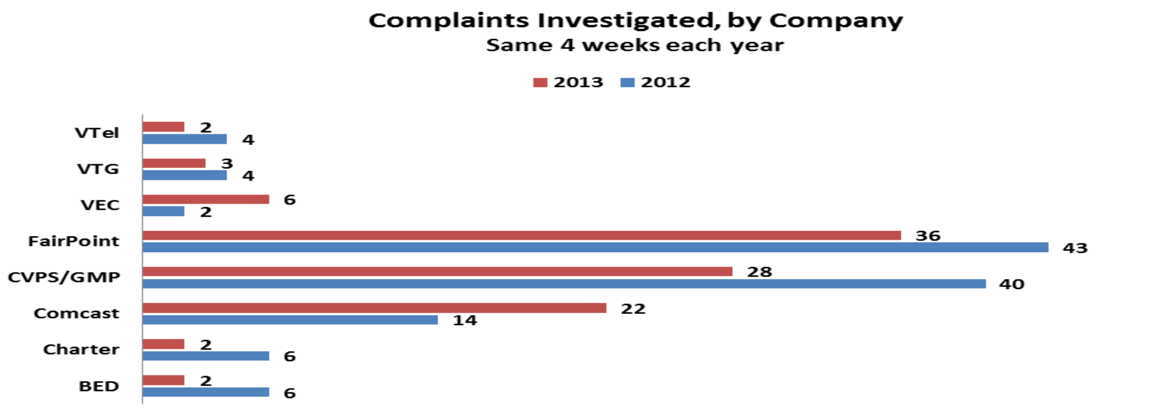
GMP Lowell Wind Project

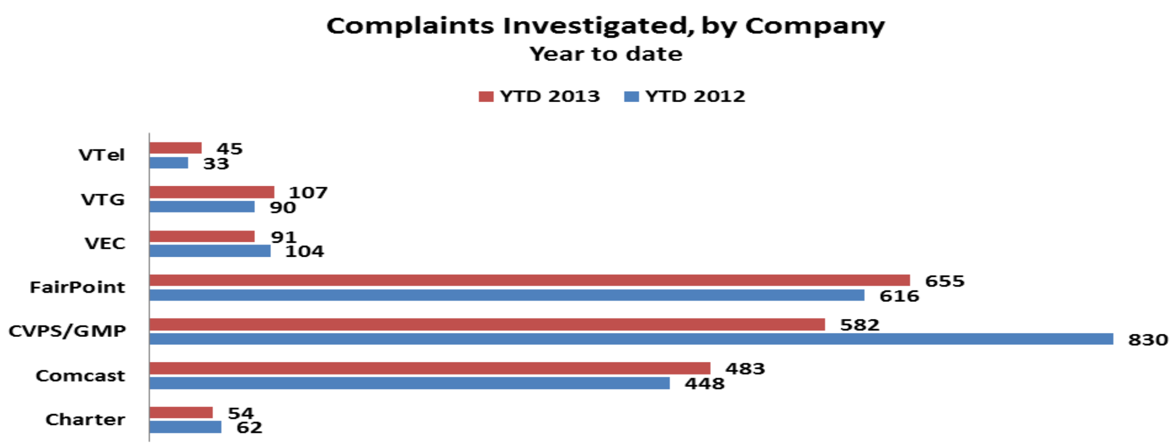
Pursuant to a PSB to order directing GMP to research and file a report on the feasibility of continuous sound monitoring for the Kingdom Community Wind project in Lowell, GMP has provided a draft report to the Department for comment prior to GMP’s filing deadline of December 24, 2013. The Department will meet with GMP today to offer feedback regarding areas where the Department believes the draft report is deficient.

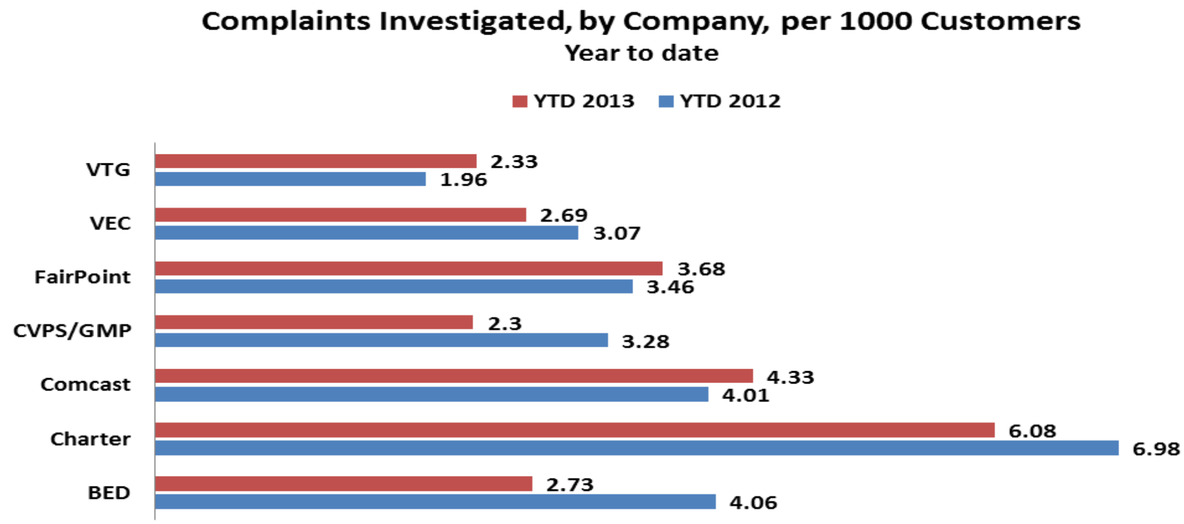
CAPI

CALL DATA


Calls to CAPI
December 8 - December 14, each year
Total Calls
Investigated Complaints
102
67
118
57
87
47
2011
2012
2013


Complaints Investigated, by Company
Same 4 weeks each year
2013
2012
VTel
2
4
VTG
3
4
VEC
6
2
FairPoint
36
43
CVPS/GMP
28
40
Comcast
22
14
Charter
2
6
BED
2
6


Complaints Investigated, by Company
Year to date
YTD 2013
YTD 2012
VTel
45
33
VTG
107
90
VEC
91
104
FairPoint
655
616
CVPS/GMP
582
830
Comcast
483
448
Charter
54
62



NOTE: The data on complaints by company is based on companies with the highest complaint volume. Absence from this chart does not mean there have been no complaints against a company.

POST CPG WIND COMPLAINTS

Rather than a complaint, CAPI was contacted by a consumer who owns a turbine on her property and is pleased with it. She reported that supports wind projects.

Public Advocacy

No. Springfield Biomass – Docket 7833 – The Board had scheduled December 19, 2013 for oral argument on the proposal for decision. Petitioner asked that the argument be postponed. On December 16 the PSB issued a memorandum cancelling the oral argument, and stating that it would be re-scheduled in 2014.

Barton Solar – Docket 8148 – The project's adjoining property owners have moved to intervene. The petitioner has requested the Board deny party status arguing the grounds for intervention are too vague and non-specific. In a letter to the Board, the Department did not object to the intervention. The hearing officer intends to rule on this intervention request by January 10th. Additionally, the petitioning has proposed a schedule to be used if the intervention is allowed.

Sale of Berlin Water Company – Docket 8118 – The Board has granted the Town of Berlin's request to join the proceeding as a co-petitioner. The Town of Berlin responded to the Department's information requests. Despite the Department's best efforts to reach out to the attorney representing the City of Montpelier in order to be certain that any outstanding issues are resolved involving the water system's allegedly unpermitted interconnection and alleged unauthorized use of water (these issues are pending in Docket 8000), he has yet to respond. A status report is due to the Board by December 20th. PSD expects to support the sale.

Red Pines Water System 821% Rate Increase – Tariff No. 8478 – In a letter to the Board, the petitioner requested a schedule extension to allow rates to go into effect on February 1st. The Department's recommendation is now due to the Board by December 16th. In an effort to determine the appropriate rate increase, the Department has requested the petitioner provide documentation supporting the cost for a contractor to manage the water system.

Middle Road Ventures Middlebury Solar – Docket 8060 – Pursuant to a condition of its CPG, the petitioner shared its post-construction assessment with the Department. The petitioner intends to commission the facility next week.

TracFone Wireless for Designation as an Eligible Telecommunications Carrier – Docket 7817 – The Department submitted comments on December 16th regarding TracFone's request for redesignation, following a discussion with TracFone's counsel. The letter indicated that TracFone's Request for Redesignation did not provide any information as to why redesignation is appropriate under the federal rules, and therefore the Department is unable to support TracFone's request at this time. The letter also pointed out that TracFone failed to copy the Department with its filing. The Department has received assurances that TracFone will be preparing prefiled testimony, which it will share with us prior to filing with the Board. PSD recommended that the Board require TracFone to file testimony no later than January 15th.

VEC Replacement of Madonna Substation in Cambridge – Docket 8171 – A prehearing conference is scheduled for the first week in January.

Stowe Electric Rate Investigation – Docket No. 8074 – Settlement talks have progressed and it appears that the parties are nearing a stipulation that reduces Stowe's rates by 3.5 percent, requires Stowe to undergo a business process review, and refunds over-recoveries since July to ratepayers. The parties are due to report back to the Board on December 20. Stowe's Board of Electric Commissioners has voted to accept the rate decrease, but also sought to cap the cost of a business process review. PSD is opposing the concept of a cap, but does intend to keep the cost of the review reasonable.

VEC Request for Rate Increase – Tariff No. 8476 – The Department recommended that the Board approve VEC's request for a 2.93 percent rate increase. The Department noted that although VEC's TIER will remain somewhat high, the TIER remains just and reasonable as a mechanism to fund VEC's 10-year capex spending plan while keeping VEC financially healthy.

GMP 4th Quarter 2013 Power Adjustor – Tariff No. 8473 – Overall, the filing reflects a proposed credit adjustment of $0.00202 per kWh (approx. $2 million) in the energy charge for those rate classes subject to the Plan. The Department recommended approval of the proposal. The Board currently is asking GMP questions about the proposal, with answers due shortly.

GMP 2013 Earnings Sharing and Exogenous Cost Filing – Tariff No. 8477 – The filing includes a line item surcharge of 1.4845 percent to recover a portion of the storm costs associated with four major storms identified by GMP, which occurred during fiscal year 2013, which are to be recovered under the exogenous events component of the plan. The filing also shows that demonstrates that its actual 2013 revenues were approximately $3.37 million above the revenues based on the target return on equity (8.84 percent), which is within the 75 basis point Earnings Sharing Band set forth in the Plan. The Department conducted extensive discovery on this filing, and ultimately concluded that the costs were properly accounted for. Therefore, the Department recommended approval of the proposal.

Alternative Regulation Workshop – No Docket – On December 12, the Board held a workshop about alternative regulation in general. The workshop was well attended and addressed a number of high-level issues related to alternative regulation. Primarily, the discussion focused on whether parties are better off under alternative regulation or whether they are better off under the traditional system. The main party raising concerns about alternative regulation was AARP, and the main party in support was GMP. No action items resulted from the workshop.

Technology Drive Solar – Docket 8111 – Board issued an order affirming its initial finding that the Project is of limited size and scope, and that expedited review of the petition under § 248(j) is appropriate. Board Member Burke dissented, arguing that 248(j) treatment for larger projects places an undue burden on the reviewing state agencies. The Department has executed an MOU together with AAFM and petitioner. ANR continues to have some outstanding issues with the Project.

VTel/SBA 248a application – Richmond – Docket 8162 – The Department has retained an aesthetics consultant, Mike Buscher, to conduct a review of the application and site. Buscher will be able to complete his review and submit a report for filing by January 31, 2014.

FairPoint Service Quality Workshop – The Department and FairPoint representatives attended a Board workshop to address various service quality concerns voiced by CAPI, and in some instances triggered action plan requirements pursuant to agreement and Board Order in Docket 5903. Concerns were raised by both the Department and the Board regarding FairPoint's inability to provide minimum quality service recently and in the future. FairPoint attributed most service quality shortcomings to record rainfall during spring/summer of 2013.

National Life 500kW Net Metering Project 248(j) - Docket 8110 – The Department retained a landscape architect to serve as our consultant to review this project under the 248(b)(5) aesthetics criterion. Based on that review we support the project if it is conditioned upon the use of a particular species of trees for visual mitigation. In addition the Department will request certain engineering conditions to ensure compliance with the National Electrical Safety Code. The Petitioners have agreed in principle to these conditions subject to a final review of the wording of the conditions. The Department's recommendation is due 12/19.

Ryegate Biomass Amendment of CPG to install Selective Catalytic Reduction System 248(j) - Docket 8129 – The Department's recommendation on this 248(j) petition is due on 12/23/13, but Ryegate, ANR and DPS are discussing an extension of the deadline until 1/10/14 in order to give ANR and Ryegate more time to reach agreement on additional forest harvest standards for the facility. The Department supports the issuance of an amendment to the Certificate of Public Good for installation of the SCR device, as it does not raise any significant issues with any of the 30 V.S.A. § 248 criteria.

Addison Expansion—Docket 7970 –Some issues have arisen regarding the testing protocols and other specifications for the pipe to be ordered, which specifications the Department's expert consultant recommended and VGS agreed to. The consultants are conferring with a view toward resolving all issues.

VGS Addison Expansion Phase 2—No docket—Counsel for the Town of Cornwall and AAFM have entered Notices of Appearance. VGS is meeting with ANR to try and resolve differences early in the proceeding.

VGS Alternative Regulation—Dockets 7803/7843—The Department continues to work with its consultant and VGS to revise what the Department believes is VGS's overly conservative hedging program. The Successor Alt Reg. plan provided for this review, with a report to the Board to follow.

Finance and Economics

Electric

Rutland Regional Energy, LLC (RRE) has filed a 248j petition for approval as a merchant generator to build the "City Solar Garden Project". Staff has begun a review of the project to assess its financial and economic viability and provide support to the PA Division. GMP has signed a power purchase agreement for all of the output of this proposed facility at prices that are above the market for comparable solar power.

GMP-Depreciation Study-preliminary results. Staff is continuing its review of the GMP depreciation study done for GMP. The preliminary results indicate GMP's depreciation rates are too high and need to be reduced, thus reducing depreciation expense and the revenue requirement by about $4 million or more (lengthening the remaining life of existing plant). One potential issue, however, is the increased depreciation expense proposed for Lowell Mountain (shortened life) which does not appear to be based on supportable or empirical evidence.

GMP –Tariff No. 8477: Green Mountain Power Corporation Alternative Regulation Plan Earnings Sharing Adjustor Filing for twelve month period ending September 30, 2013. The filing requests a surcharge of 1.4845% to recover a portion of the storm costs associated with four major storms during fiscal year 2013. Staff and our consultant have completed a thorough review of the filing and provided a timely recommendation to PA that it should be approved without a hearing or an investigation. PSD recommendation was due 12/16/13.

Stowe Electric Department – Docket 8074 Investigation into Stowe's the existing rates. Staff has completed its review of Stowe's Cost of Service-- and finds the utility is maintaining excessive cash balances and should implement a 3.5% to 3.85% rate decrease (about $400k). Stowe has indicated its rates are only about 1% too high. The Department is currently in settlement negotiations where preliminary indications are that a settlement may be possible with a 3.5% rate reduction. We are continuing to work through the details.

TF 8476 Vermont Electric Cooperative, Inc. (VEC) Tariff Increase Filing Effective for Service on or after January 1, 2014. VEC filed a tariff increase which imposes an increase in rates to effectuate an annual revenue increase of $2,093,464, or 2.93% over current revenues. VEC attributes 84 percent of this proposed revenue increase to increases in transmission costs. The Department has reviewed the filing, including the supporting work papers and invoices, and has found no basis for adjustments or exceptions and has sent a recommendation to PA that the rate increase should be approved without a hearing or an investigation and with language that would indicate a 2.18 TIER needs to be supported consistent with the remaining 4-5 years of its 10 year capital plan. When the capital plan is completed it is expected the TIER will move to 1.5.

Telecommunications

Broadband verification status – PSD staff has received sets of locations from Stone Environmental for verification by broadband service providers for the 6/30/13 dataset.

Broadband availability gathering post 2014 – The state has a grant from the NTIA to gather broadband availability information through 2014. PSD staff has begun to develop cost estimates to provide this service after the grant expires.

Nondiscrimination/open-access – PSD staff provided legislative counsel information about the open-access requirements imposed on recipients of federal grants for telecommunications infrastructure. This was apparently at the request of certain legislators who want to impose similar requirements on state-funded projects.

Nondiscrimination/open-access – PSD staff provided legislative counsel information relating to the local calling area for local exchange service providers. LECs such as FairPoint now provide local service at steeply discounted rates within a customer's exchange and the exchanges that border this exchange. There is a proposal to expand the area for this local service to be statewide. PSD staff considers that while this would simplify the rate plans for some customers, it would also significantly increase the rates for these local calls.

Regional Policy

Regional Infrastructure Coordination

- Maine circulated a draft letter from the six states to ISO that asks for ISO's assistance in seeking approval of tariffs for recovery of costs associated with electric transmission and increased natural gas capacity. The proposal is to have a letter to ISO and NEPOOL that the New England Governors would publicly announce in late January or early February.

Connecticut wants an in-person meeting of the Governors for the announcement, and wants states to sign off on a letter by the third week of January to accommodate this schedule.

  - ISO is now working with NESCOE to redraft the letter to better reflect the type of tariff filing that would be needed at FERC. In order to allocate costs through a transmission tariff, states need the Transmission Owners to make the filing at FERC, as the TOs have the Section 205 filing rights with respect to cost allocation.

- Based on a study by Synapse that has not been shared with other states, Massachusetts believes that transmission lines accessing 2400-3600 MW of clean energy (mostly Canadian hydro) would provide benefits to the region and should be paid for by all states based on each state's pro rata share of load. Massachusetts expects to provide the report to other states early in the week of December 23. The states discussed the possibility of working towards issuance of a Request for Proposals that would outline the total amount of MW and MWh desired (the amount of MWh would help determine how much of the resource mix would be wind vs. baseload large hydro).
  - Vermont staff indicated that there should not be a presumption that transmission costs would be socialized based on pro rata share of load, but was willing to review the Synapse study. Discussions regarding cost allocation will continue in January.
- With respect to a possible natural gas pipeline, there was discussion that an additional 1,000 MMcf would be ideal. Maine suggested that the cost of the pipeline be borne by electric ratepayers through an electric tariff filed at FERC. This raises the question of cross-subsidies with thermal customers, particularly given that the penetration of gas for thermal uses is unequal among the states. Some states indicated that requiring electric customers to pay for a gas pipeline was acceptable since the primary justification for the pipeline is addressing reliability and impacting LMP.
- Maine is organizing calls with pipeline owners to discuss possible mechanisms for getting a new line built.
- The next steps are to: (1) Review the Synapse report when it becomes available, (2) continue work on a possible letter to ISO-NE from the New England Governors; and (3) Participate in discussions with pipeline owners regarding the feasibility of funding mechanisms for getting a pipeline built.

<u>Distributed Generation Forecast Working Group</u>

- Staff will be working with NESCOE to draft a letter expressing general support for the interim forecast, but note that the states continue to believe that ISO is being overly conservative in its discount rates for solar PV once state programs sunset. In addition, the states plan to convey that we expect the 2015 forecast to include additional DG technology types besides solar, and also to include better econometric studies with respect to expected DG.

<u>Order 1000 Default Cost Allocation</u>

- On December 16, VT staff finalized a protest to the ISO-NE and Transmission Owner filing regarding the default cost allocation for transmission projects driven by public policies. ISO-NE and the Transmission Owners proposed that 70% of the costs of such projects should be borne by all states based on each state's pro rata share of load, with the remaining 30% paid by those states driving the need for the transmission. VT DPS and PSB worked with the New Hampshire PUC, Rhode Island PUC, and VELCO in a joint filing opposing this default allocation and recommending that FERC instead approve a default cost allocation in which 30% of the costs would be socialized and the remaining costs would be borne by states driving the transmission need.

Forward Capacity Market Administrative Prices

- The New England Conference of Public Utility Commissioners (NECPUC) filed a protest of ISO-NE's proposed changes to the administrative prices that would apply if the Forward Capacity Auction had either inadequate supply or insufficient competition. ISO-NE's proposal would raise the administrative prices considerably and would not provide any additional benefit to ratepayers. DPS staff drafted and filed the protest for NECPUC.

DPS

I hope this email finds you all in good health and spirit. Other than the daily operational events there is nothing to report this week. Commissioner Flynn has kept the administration informed about major events this week. We have received our budget numbers from Commissioner Reardon, that is where the focus has been and will continue while making all efforts to meet the expectations that have been set for public safety.

We are watching and preparing for this weekend's weather events particularly the issues we'll have in the northern part of the State with power outages. Contact has been made with the power companies, and AOT for coordination of response.

I wish you all a safe, healthy, and wonderful Holiday Season. John

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Jeb Spaulding, Secretary

PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR

TO: **Governor Peter Shumlin**

FROM: **Secretary Jeb Spaulding**

DATE: **December 20, 2013**

SUBJECT: **Confidential Report to the Governor**

BUILDINGS AND GENERAL RESOURCES

Significant Events/Meetings:

- Energy Evolving Fund Meeting with Sec. Spaulding & Sec. Pearce
- Lamoille County Courthouse meeting with Tricia Harper and Pat Gabel: phase in or proceed
- Met with sculptor Eric Oberg, Shelly Martin, Tom Ball and David Schutz to discuss/preview plans for Employee Monument. Meeting with Capitol Complex Commission in January to review design.
- Follow up meeting on Berlin Hospital/CON with Frank Reed, Heidi Hill, Shannon Thomson
- Meeting with Bill Shepeluk, Village of Waterbury, scheduled for today, to discuss Stanley-Wasson property
- DOL Parking meeting scheduled for Friday with Michael Clasen, Annie Noonan and Bob Rea
- Follow up meet with Michael Clasen, Dixie Henry and Diane Nealy regarding AHS space needs due to new HIPAA rules

FINANCE AND MANAGEMENT

Issues Update:

The Comprehensive Annual Financial Report (CAFR) is complete for FY 2013 and has been sent to the printers.

The Department has received, for the fifth consecutive year, the Certification of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association (GFOA) for the Comprehensive Annual Financial Report (CAFR) for FY 2012.

Secretary Spaulding, Commissioner Reardon and Budget Office staff briefed the Governor on a proposed FY15 budget package on Wednesday, December 18th. General Fund targets were issued to most departments and agencies on Thursday, December 19th. Finance & Management is still working to finalize the target for the Agency of Human Services, Education, Labor and State's Attorney's and Sherriff's.

HEALTH CARE REFORM

No report.

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy spoke with Representative Bray regarding a proposed bill that would identify all employment and post-employment benefits associated with new positions. After discussion, Representative Bray decided not to introduce the bill, but he will continue to discuss the issue with Commissioner Duffy and Treasurer Pearce to assess what options are available to fully educate the General Assembly on the total cost of positions.

Despite repeated attempts, the state was not able to reach consensus with the VSEA on a draft bill that would exempt certain employees from the classified service at the Vermont Veterans' Home and place a classified employee on the VVH Board. Negotiations continue, but DHR is not optimistic that a compromise can be reached.

Press/Media Notes:

Commissioner Duffy spoke with Neil Goswami, Anne Galloway and Taylor Dobbs regarding the implementation of mandatory overtime at DCF.

Commissioner Duffy spoke with Anne Galloway about protections currently available for whistleblowers under the Public Records Act.

WCAX reached out to Secretary Racine and DHR to obtain information about the number of retirees currently employed by the State and regulations pertaining to such employment. Commissioner Duffy has reached out to WCAX and will respond to the request. Initially, she will seek clarification of the request, which is vague and does not state clearly the scope of potential individuals, *i.e.*, contractors, temporary employees and classified employees—all of whom are governed by different policies and practices.

Significant Events/Meetings:

Commissioner Duffy, DHR staff and DHR's consultant, Gallagher, Flynn, met with a number of key attorneys throughout state government to discuss DHR's efforts to create an attorney pay plan. The initial work was well received, although fully operationalizing the plan will involve significant negotiation among the players and planning to ensure sufficient funding.

The Auditor's Office has advised DHR that it is considering doing a performance audit on the Department of Liquor Control. No specific request for information has been made yet, but is likely in the next few weeks.

Evolving Issues:

Planning on staffing issues for the successor facility to the Vermont State Hospital has begun, and DHR hopes to present a timeline to Secretary Spaulding in the near future.

DHR responded to a public records request from a company called HP Enterprise Services for information pertaining to the bidding process for the award of benefit contracts to Blue Cross Blue Shield.

The Blue Cross Blue Shield transition work continues. BCBS has raised some issues around the stop loss contract and is requesting the state enter into a contract with a BCBS subcontractor, apply for the policy and pay premiums up front. This is inconsistent with the bid requirements and BCBS's response to the bid. Commissioner Duffy will work with BCBS officials to resolve the issue if the front line staff have not finalized the issue by the end of the week. The open enrollment process for benefits has concluded, and all eligibility files have been sent to Blue Cross Blue Shield for processing. BCBS will send identification cards and enrollment packets to enrollees.

DHR has scheduled a meeting with VSEA to address issues pertaining to the Employer Group Waiver Program (EGWP) on January 6th. Treasurer Pearce will attend, and may bring Buck consultants with her to discuss the experience of the Teachers' Plan. DHR has drafted legislation to allow implementation of EGWP should VSEA not agree to do so after this presentation.

DHR is working on the Annual/Workforce Report, which must be submitted on January 15th. A copy will be sent to Secretary Spaulding and Deputy Secretary Clasen for review prior to submission.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Vermont Health Connect: Through the security testing and remediation, it has been discovered that the testing system and the live system are different. While this resulted in a good outcome for the critical vulnerability, in that it does not exist in the live system, it calls into question the validity of our testing (not just security, but business functionality as well). The end result is that we can test functionality in the test system, roll it into the live system and it may not work exactly the same way. We (CGI & SOV) have a history of introducing new functionality to the system that causes side effects, a clear indication that testing of new functionality is not robust enough. We (SOV) need to push CGI to have a more comprehensive test plan and additional testing resources, and we (SOV) need to allow adequate time in our UAT (user acceptance testing) to provide a website functioning with fewer glitches.

We (CGI & SOV) are engaged in so many firefighting issues (immediate issues affecting the live system) that it takes away from the resources needed to make appropriate progress on the capabilities not yet part of the system. To remediate this, Mark Larson, Robin Lunge and DII have charged the healthcare PMO with defining a new governance process to be presented to ESC on Friday. It will be painful to implement as decisions are currently being made for short term gains that negatively impact our long term success.

IE: The small sub-group making up the RFP team has done a fabulous job at turning around a new scope of work for an IE re-bid. Our aim is to have the draft RFP in front of Gartner as quickly as possible and have it ready for CMS by the first week of January.

Legislative Issues/Contacts:

Commissioner Boes testified to the Healthcare Oversight committee with Mark Larson and answered questions about security including disclosure of a new audit report that was received Monday. As with most audit reports that contain security information of systems that contain confidential information, the audit report is not a public document.

The Commissioner also testified to Government Accountability and provided a document describing DII's oversight process along with some sample business cases submitted to DII by agencies and departments.

Press/Media Notes:

Spoke with Taylor Dobbs and Alicia Freese, who both followed up on the security audit report mentioned during testimony. DII explained the document was about security controls, not security vulnerabilities and they seemed to lose interest.

LIBRARIES

No report.

TAXES

Legislative Update:

Ways & Means: In the first couple weeks of the session, the Committee has asked the Commissioner to testify on the Department's BAA request (slight modification of the tax system computer modernization fund to accommodate the FAST contract), Amazon, Ed Tax Rate Letter and the Miscellaneous Bill.

Tasha Wallis also asked the Committee for time with Jim Harrison to explain what Tasha apparently perceives as continued communication problems with the Department. This is frustrating considering the amount of time we have spent on Tasha's issues. One amusing note, Tasha complained that no one in her organization was getting Department e-newsletters – our analytics showed they were received, but only sporadically opened. In any event, we will be prepared to showcase our new outreach efforts, and be open to suggestions as to how we could do more (within existing resources).

Education Tax Rate Letter: In her story on the corrected letter, Anne Galloway characterized the original statutory recommendation of 1.8% as a mistake – she quickly corrected the story, but her complete misunderstanding despite long conversations with me and Mark Perrault are symptomatic of the complexity.

Renter Rebate: The Commissioner and Maribeth Spellman met with Chris Curtis, and a Legal Aid attorney who prepares tax returns. They were very interested in exploring revenue neutral ideas to make the rebate more accessible, for example, as a simple credit on the income tax form. They actually put forward some ideas to limit access by students who were dependents. Their concern was that the % of rent covered not be lowered – although they had no problem with capping the total amount of the credit.

Solar Generation Tax: REV Proposal: The REV proposal is to exempt facilities 150kW and under from the solar tax; the state would continue getting the $4 per kW for facilities above that. (The proposal also would exempt facilities 150kW and under from municipal tax; adding $4 additional dollars in tax on the above 150 facilities, which the Department would collect and remit to the respective towns. Our estimate does not deal with the lost municipal revenue, only the GF.) Applying a 50% growth rate (extrapolated from just two years of data), the estimate is that the proposal would result in $122,000 in lost revenue over current law. Aside from the uncertainty over the growth rate, the forecast is also clouded by the fact that our collection rate has been under forecast in this first year of implementation. We are having administrative difficulty reaching the target taxpayers – we are working off granted CPGs, but the facilities have not all been built or built to size, addresses are not always correct, and CPGs may be in the lessee's name when it is the owner that owes the tax.

E-Cigarettes: The Department and JFO are landing on a forecast that e-cigarettes are replacing 2% of cigarette sales and we would expect to lose $1.4M. in cigarette tax revenue. One taxing option is to define e-cigarettes as a tobacco product and tax it at 90% of wholesale; this new tax would replace $587,786 of the lost cigarette tax revenue.

Current Use Issues: We have a meeting scheduled in early January to discuss current use issues with Ag, including treatment of value added products, horse farms and solar facilities.

Cloud: We have draft cloud regulations that we are debating internally. I have challenged staff to consider whether the regs as drafted actually sweep into taxation items that were not taxed previously merely because software is used to facilitate or customize the purchase. I also have challenged staff to provide more evidence of how other states that tax remote access software are drawing lines. The bottom line, as we posited when advocating for extension of the moratorium on taxation, is that these are difficult administrative issues.

FAST Contract for Integrated Tax System: We have had marathon telephone negotiations this week with FAST, and appear to be close to a deal. DII is still deciding how it wants to manage the hardware purchase, and has yet to approve the independent review. In the meantime, the Commissioner spoke at length with Hilary Niles of Digger who said she was investigating issues raised by an anonymous tip – we also had an inquiry from Taylor Dobbs of VPR.

PRIVILEGED AND CONFIDENTIAL

TO: Secretary Jeb Spaulding

FROM: Robin Lunge

DATE: December 20, 2013

SUBJECT: Weekly Report

Status of Governor's Priorities:

Financing

The Business Advisory Council met on 12/16 and focused on three issues.

1. Reviewed the health care finance report prepared by Partners for Health Care Reform and Avalere Health. No surprises here, as the group continues to use Avalere's report as a political/negotiating document to make the point that (a) providers must be paid more, (b) show doubt about the ability to achieve administrative savings, (c) create uncertainty about the impact of health care reform on businesses/jobs, and (d) drive up the total system cost. The council seemed to believe that the Administration ought to create a consensus process that ensures that the 2015 bill and report is as complete as possible and can answer the questions raised by stakeholders.

2. Reviewed the work of a council sub-committee focused on determining whether the financing plan presented in 2015 should include full or partial integration of workers' comp into Green Mountain Care. I expect the sub-group to continue its work and advise the council in March.

3. Received an update on the four hypothetical financing concepts and an overview of how you might structure a Green Mountain Care revenue system with credits and deductions that may allow some businesses to off-set their costs. We set the expectation that the next council meeting, to occur in late January or early February, will drill down on the four concepts and any related scheme of credits, deductions, or exemptions.

Michael, Robin, and Bea Grause convened a meeting between Avalere Health and UMASS to discuss their respective health care financing reports. The back and forth between the two sides did not shed additional light on the analysis; however, it highlighted the lack of communication between the parties regarding the finance plan and the opportunity and need for a stakeholder process focused on numbers (not politics) that reduces stakeholder uncertainty. Michael committed to Bea that he would consider how such a process might work. To that end, Michael is drafting a document for review by Robin and others that would provide a way to work constructively with the Legislature and stakeholders to identify the key questions to be answered by the 2015 bill and accompanying report.

Michael spent a significant amount of time trying to set forth realistic options that would pair the finance plan with the strongest possible benefits package, complementary tax reform, and reduction of OPEB liability. These efforts will likely yield concrete options for the Governor by the end of January.

Next 2 Weeks

The next two weeks will focus on several key tasks. We will work with the Legislature to agree on a revenue range, process for unveiling that range, and updating that number over time. Also, we are working with the Legislature to determine how to obtain the money both the legislature and administration needs to fund the consulting work required to produce the 2015 bill and report. Furthermore, we continue to work with JFO to determine which consulting tasks can be done together (reducing time and cost) and which must be done independently. Lastly, Robin and Michael continue to work with Scott Coriell on a communications plan for the next year.

Vermont Health Connect

Single Payer Operational Planning

SIM Grant
Update next week.

Legislative Issues/Contacts:
Update with legislators and Governor (12/18)
Met with JFO (12/19)

Press/Media Notes:
Pete Hirschfeld (12/13)
Met with Alicia Freese, Nancy Remsen and Taylor Dobbs (12/18)

Significant Events/Meetings:
Tuck Executive Education Workshop (12/13)
CGI contract negotiations (12/17, 12/20)
Deputy Director interviews (12/16, 12/18)
Business Advisory Council on Health Care Financing (12/16)
GMC planning (12/16, 12/18)
Heather Shouldice/Indra meeting (12/19)
Duals Project MOU (12/19)
HSE Executive Committee Meeting (12/20)

Evolving Issues:

Exchange enrollment
CGI contract negotiation
Single payer operational planning
Single payer staffing/contracting
Financing planning

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: December 20, 2013
Re: Weekly Report

Status of Governor's Priorities: Working on performance measures for FY15 budget and final budget numbers.

Legislative Issues/Contacts:

- ICAR review set for regulation changes set for January.

Press Issues/Releases/Contacts: Nothing.

Significant Events/Meetings: Next Board Meeting 01/15/2014 13 Enforcement Hearings.

Evolving Issues:

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- I met today with the vendor for performance audit. I think it went very well. I will keep Jeb and his folks up to date on how things are going.

Summary of Key Department Activity:

- December sales looking good: +5%.

Commissioner's Commentary: Have a great weekend and Merry Christmas.