

# WEEKLY REPORTS

Checklist  
1/06/2012

Bill Lofy

☒ Agency of Commerce and Community Development – Lawrence Miller

☒ Agency of Agriculture – Chuck Ross

☒ Agency of Transportation – Brian Searles

☐ Department of Labor – Annie Noonan

Alex MacLean

☒ Agency of Natural Resources – Deb Markowitz

☐ Department of Public Safety – Keith Flynn

☒ Public Service Department – Liz Miller\* (shared with Beth)

Susan Bartlett

☒ Agency of Human Services – Doug Racine

Beth Robinson

☒ BISHCA – Steve Kimbell\* (shared with Anya)

Jeb Spaulding

☒ Agency of Administration – Jeb Spaulding

Special Reports

☒ Additional Report: Education

☒ Additional Report: GIRO

☐ Additional Report: \_\_\_\_\_

To: Governor Peter Shumlin  
From: Lawrence Miller, Secretary - Agency of Commerce and Community Development  
Date: January 6, 2012  
Re: Weekly Report

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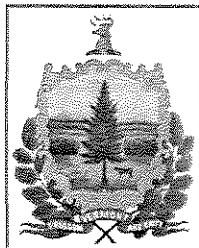
Heads up on arsenic mapping: some work at Middlebury College a couple years ago found no useful correlation between geologic maps and well test results. It was completely hit or miss from one house to the next. Trying to identify districts for testing requirements will not likely be useful, and may lead to a counterproductive sense of false security outside of those areas. People should regularly test their wells for all kinds of contamination and I believe the cost benefit relative to avoided health costs is positive but I also think it is a should not a shall. I spoke to Alex about this concern. I am clearly no expert, but the presenters did seem to be.

Noelle's focus for the week was overseeing the creation of the **Irene Recovery Website**. Working through the holidays and around the clock, Kathy Murphy, Chris Cochran, Tish Goddard, Kate Alberghini, David Metraux, Melissa Prindiville, Shelly Thayer, and volunteer Sam Lacy developed and launched the website in record time.

**Captive Insurance Year end Results:** Dan Towle, Director of Financial Services reports that 41 new captive insurance companies were licensed in Vermont in 2011. That is only the 6th time Vermont has cleared the 40 mark for a year and is an impressive number due to the continued 'softness' of the insurance market. To date Vermont has 590 active captives. 23 captives were dissolved during the year, not unexpected due to continued merger activity at the parent level, and dormant captives closing down. Two of the dissolutions were redomestications to other domiciles, both to Missouri, due to the ongoing concerns about the impact of the Dodd Frank Act. Final numbers on the other domiciles are not in yet, but to the best of our knowledge, only the Cayman Islands kept up with us this year (for the established domiciles).

The only thing that came up of note in testimony so far was discussion at house commerce about seeing the development cabinet activated for consideration of a statewide economic development strategy as passed in last year's jobs bill. We are in a bit of a holding pattern on workload and on the general strategic plan but this is critical and we will be moving ahead in the next few weeks.

To 116 STATE STREET  
MONTPELIER, VERMONT 05620



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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: January 6, 2012

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**Secretary's Top Issues:**

**Mad River Food Hub (MRFH) [www.madriverfoodhub.com](http://www.madriverfoodhub.com)**

Start-up costs supported through VAAFM's grant programs – VT Agricultural Innovation Center (AIC) for \$26,666 and Specialty Crop Block Grant (SCBG) for \$15,000. Agency of Ag staff and AIC Board members toured the facility on Tuesday, December 27.

The tour was extremely inspiring. They've already processed 28,000 pounds and distributed \$38,000 worth of product. They have three processing rooms – 1) meat cutting, 2) vegetable processing, and 3) value-added--- meat grinding, making sausage, i.e. and a shared dishwasher area. And then they have additional cold and frozen storage space.

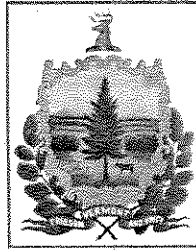
**VT Department of Human Resources Wellness Program meeting about state workplace CSA's:**

- VT Department of Human Resources (DHR) Wellness Program is completely supportive of workplace CSA Program.
- They would like to roll out to all state employees that workplace CSA participation is one option combined with numerous other 'eat healthy, be healthy' opportunities.
- DHR Wellness Program will help survey all employees about their current and future interest in CSA participation.
- DHR recommended top support from Secretaries and Commissioners for this initiative to see successful implementation.
- VAAFM will query 8 'early adopter' state worksites that currently or have in the past offered workplace CSA crop offs to identify successful approaches to include and challenging components to avoid when developing CSA Workplace Guidelines for BGS.

State veterinarian completed/submitted to USDA-APHIS the Animal Disease Traceability road map, which equates to a three year strategic plan for that program's implementation in Vermont. Though implementation is already underway, the completion of a road map is a prerequisite for the future acquisition of federal funding through the animal disease traceability cooperative agreement. The parameters outlined in USDA's animal disease traceability rule, expected to be effective spring or summer of 2012, are an integral part of most of VAAFM's animal health regulatory functions.

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TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
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Legislative Issues

- S.93 is resurfacing in Senate Ag. It is dealing with Maple Labeling ( the Log Cabin issue). Agency would like to response with administration.
- Meat Inspection Section Chief Quenneville met with house Ag to update on past year and looking to the future with Sec. Ross
- Meat Inspection Section Chief Quenneville met with house and Senate Ag for update on the mobile poultry slaughter unit with Ag Dev representatives.
- Meat Inspection Section Chief Quenneville spoke with Legislative counsel regarding equine slaughter and forwarded contact to Dr. Haas for more input.

Status of Governor's Priorities:

Jobs in Agriculture

Press Issues/Releases/Contacts:

- Consumer night press release for Farm Show -- aiming to distribute by end of this week
- Secretary Ross on "Across the Fence" -- Tue. 1/10 at WCAX studio (AK meeting w/ CR to prep tomorrow, 1/4)
- Farm Show outreach -- attempting to call individual publications to pitch Farm Show stories (this week and next)
- Mobile Poultry unit press release -- Chelsea Lewis has requested this by next Wednesday, January 11, 2012
- Mad River Food Hub press -- working with Robin and Kathy Murphy to coordinate. Press conference/grand opening scheduled Tue. Jan 17th

Press Issues/Releases/Contacts:

- Emily Inoue interviewed on WCAX ... story aired Jan.2 <http://www.wcax.com/story/16417078/bad-bug-creates-big-stink-in-vt>
- Diane Bothfeld interviewed by Times Argus about milk prices -- printed Jan. 1 (password needed) <http://www.timesargus.com/article/20120101/NEWS02/701019954>
- Chuck Ross interviewed Dec. 27 by Kathryn Flagg for Seven Days article on hard cider production (not in print yet)
- Diane Bothfeld interviewed Jan. 4 by Steve Zind of VPR for story on milk prices (anticipated air date: Jan. 5)

## **Significant Events/Meetings:**

### **Evolving Issues:**

As of January 1, 2012, galvanized barrels are no longer allowed for bulk maple syrup storage. Surrounding states are following suit, New York has contacted me for information and guidance.

## **Summary of Key Agency Department Activity:**

### **Administration**

Agency of Agriculture began use of on-line licensing in early December weights and measures licenses. The system is working well. Out of 498 renewals that have been processed currently, 148 have been done online and the total \$ amount done online has been \$14584.00. The Agency plans to move more licensing and registration program on-line in 2012.

### **Ag Development**

#### **Agricultural Roundtable South Royalton Meeting**

- Representative Sarah Buxton pulled together a meeting with Sec. Ross and local farmers
- 30+ local community members were in attendance to discuss their vision for agriculture in VT, ideas for the future, and recommendations to VAAFM about how to best help their local agribusinesses
- Publish on-farm poultry processing standards/recommendations and hold regular processing clinics
- Publish educational materials about how to sell product in VT; what licenses are required, protocols to follow, processing options available
- Recommended a facilitated discussion about reaching middle ground options on slaughtering- for red meat & poultry. Goals are to demystify the confusion around slaughter requirements, understand rational behind federal and state regulations, understand breath of options available based on market
- Provide food safety/handling recommendations for vegetables- as a GAPs alternative

#### **Mad River Food Hub (MRFH) [www.madriverfoodhub.com](http://www.madriverfoodhub.com)**

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The tour was extremely inspiring. They've already processed 28,000 pounds and distributed \$38,000 worth of product. They have three processing rooms – 1) meat cutting, 2) vegetable processing, and 3) value-added--- meat grinding, making sausage, i.e. and a shared dishwasher area. And then they have additional cold and frozen storage space.

Met with Screaming Ridge Farm <http://screaminridgefarm.com/>, whom was busy making soup for First Night in Montpelier. Because of the MRFH, Screaming Ridge is able to scale up and will be hiring an additional 2 employees. Because MRFH worked with VAAFM to become a fully inspected meat processing facility, Screaming Ridge plans to be the first producer of a VT meat soup (chicken noodle).

Also heard from Vermont Bean Crafters <http://vtbeancrafters.com/>, who relocated his business from the Rutland area to the MRFH so he could scale up and meet their expanding market demand.

Vermont Raw Pet Food <http://www.vermontrawpetfood.com/>, can't get enough USDA inspected chicken to meet their growing demand.

### **Small Value-Added Ag Business Incubator Model**

MRFH is providing free technical assistance to producers, mainly through their full-time facility manager – Jacob Finsen (salary half supported by AIC) whom is a very skilled meat cutter and processor.

Potential clients/producers are first encouraged to work with SBDC, Charles Ininger, on their business plan. To ensure producers are financially efficient and viable, MRFH uses a bench mark of 12-15% of product revenue expensed for processing, and the generation of \$900 - \$1,000 a day of product in the facility. MRFH charges a flat daily rate. The MRFH is really working to incubate successful value-added ag businesses. Robin Morris (MRFH owner/champion) sees Vermont as an incubator for small businesses to start and grow. He sees the Vermont Food Venture Center (VFVC) as the next step for producers that out-grow MRFH.

Mad River Food Hub (MRFH) sees role as ‘greasing’ all the steps from farm to consumer. Their goal is to get local products out to the eaters/consumers.

### **Current Capacity & Future Plans**

The MRFH is already at about 30% capacity. At 50% capacity they will be above the break-even point of covering operational expenses. They will be adding a flash freezer and smoker, and by next year “curing” rooms. The MRFH is avoiding duplication of processing efforts that are already being done well in other parts of the state. They are staying away from cheese and leaving that to others already doing it well (i.e. Jasper Hill). They are not allowing any nuts, frying, and staying away from baking and canning (Bristol Bakery on other side of the mountain, and VFVC is doing canning).

### **Challenges**

MRFH has encountered challenges operating as an L3C. All of the grants they get are counted as revenue. Another challenge is they need “soft programs”. The Localvores group needs a new champion to take the lead and foster local producer enthusiasm and producer led initiatives to keep the MRFH healthy and viable.

Official Ribbon Cutting Ceremony – January 17, 2012, 11:30 a.m. For more information and agenda contact Robin Morris directly

P. 802.496.3100      C. 802.498.7379      E. admin@madriverfoodhub.com

### **Other Challenges for Mad River Food Hub**

- ❖ Heard that farmers market expansion is challenged by not being able to find facilities (like Mad River Food Hub) where they can make their product and can scale up production.
- ❖ Acknowledges that Food Hubs are not generally breaking even and worries that not being profitable may not be sustainable.
- ❖ MRFH is cognizant that other groups are offering similar but hopefully different services. They are continuously attempting to fill a gap in the production arena without stepping on toes or being unnecessarily competitive.
- ❖ What is lacking in the Mad River Valley is a organization that will coordinate the complimentary “soft programs”: community outreach, localvore efforts, connections with food shelf, gleaning activities, connecting local agricultural producers.

### **VT Department of Human Resources Wellness Program meeting about state workplace CSA's:**

- VT Department of Human Resources (DHR) Wellness Program is completely supportive of workplace CSA Program.
- They would like to roll out to all state employees that workplace CSA participation is one option combined with numerous other ‘eat healthy, be healthy’ opportunities.
- DHR Wellness Program will help survey all employees about their current and future interest in CSA participation.
- DHR recommended top support from Secretaries and Commissioners for this initiative to see successful implementation.

- VAAFM will query 8 'early adopter' state worksites that currently or have in the past offered workplace CSA crop offs to identify successful approaches to include and challenging components to avoid when developing CSA Workplace Guidelines for BGS.

NOFA-VT hosting and coordinating National Farm to Cafeteria conference:

- NOFA-VT is hosting and assisting with the development of this national Farm to Cafeteria conference on August 2-5, 2012 at UVM.
- VAAFM will have representation on the local committee (Abbey Willard), and Farm to School New England committee (Koi Boynton) to insert locally related activities into the conference as well as coordinate VT field trips, short course and workshop topics of importance to VT communities.

Food Safety and Animal Health and Consumer Protection

State veterinarian completed/submitted to USDA-APHIS the Animal Disease Traceability road map, which equates to a three year strategic plan for that program's implementation in Vermont. Though implementation is already underway, the completion of a road map is a prerequisite for the future acquisition of federal funding through the animal disease traceability cooperative agreement. The parameters outlined in USDA's animal disease traceability rule, expected to be effective spring or summer of 2012, are an integral part of most of VAAFM's animal health regulatory functions.

State veterinarian has received a list of six applicants for the position of assistant state veterinarian, the position that will be vacated by the current asst state veterinarian as of January 14th. Interviews for this position will be held starting the week of January 16th. Securing a productive enthusiastic professional in this position is critical to the efficient functioning of the animal health section.

State veterinarian, wearing the other hat of Director of Food Safety and Consumer Protection, is currently in ongoing discussion with section chiefs of the FSCP Division regarding the reorganization of the Division. This centers on the unanimous sentiment within the Division that the lack of adequate legal counsel availability has resulted in a significant Division-wide decrease in efficiency associated with the handling of enforcement and administrative penalty cases. As such, there will be diligent methodical steps taken over the next six months to ensure that there is a compliance/enforcement officer or point person within each of the four sections to oversee and coordinate all administrative penalty/compliance activities. These individuals will be current employees whose responsibilities are broadened to encompass these duties and/or the acquisition of new employees when there is an opportunity to fill vacated positions. In all instances, these individuals will work closely with other members of their sections as well as each other to ensure that these cases are handled as efficiently as possible. A training protocol and schedule will be established and followed in order to provide these individuals with the support necessary for them to perform these duties. This initiative is consistent with the Agency's strategic plan and with that of the FSCP Division and will be a priority in the coming months.

Consumer Protection will have a new specialist, Dwight Brunnette, starting on January 15. His field territory will be parts of Essex, Orleans and Caledonia Counties. Interviews will be held on January 5 for the specialist position in Addison / Rutland Counties.

Animal Health Field personnel –

- Conducted livestock trailer inspections
- Tested poultry in Highgate for Avian Influenza
- Supervised the transport of cervids intrastate
- Attended 2 livestock commission sales in Addison County and collected market information
- Entered dealer information and health charts into USA HERDS
- Coordinated an animal welfare investigation between a veterinarian and ACO
- Participated in an Animal Disease Traceability meeting with an Addison County vet clinic

- Investigated three producers who caused antibiotic tissue residues
- Assisted the Addison and Rutland County Humane Societies with animal welfare cases

#### Assistant State Veterinarian-

- Ordered the quarantine of a producer's farm where a cow was preliminarily found to be positive for Brucella. The producer was testing the cow because she drinks raw milk. The cow was subsequently found to be negative for Brucella.
- Assisted an Animal Control Officer (ACO) with procedures and protocols for response to an animal welfare case
- Conducted Euthanasia Technician Certification at the Rutland County Humane Society
- Performed a facility inspection of the Rutland County Humane Society
- Provided education to a large animal veterinarian who improperly identified an animal on an official tuberculosis form
- Spoke with a member of the Windsor County Fair who had questions on health requirements for livestock
- Referred an animal welfare complaint to the Rutland County Humane Society and local law enforcement

#### Meat Inspection Points of Interest

- Reviewed documentation submitted by Westminster Meats related to their humane handling violation. A compliance officer will make an unannounced site visit next week.
- Sent a reminder letter to all slaughter establishments regarding submission of updated humane handling plans, or statements that there have been no changes in their plan. These are due upon renewal of their license.
- Working with Mad River Food Hub in adding Hazard Analysis Critical Control Point (HACCP) plan for fully cooked ready to eat meat soups
- Working with Adams Turkey Farm to expand HACCP categories to include Raw Ground products
- Samosaman Foods finally transitioned to Federal Inspection. VT will continue to cover under the Cross-utilization contract
- Fielding lots of inquiries about the Mobile Poultry Slaughter Unit and the future operations



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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, January 6, 2012**

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

**Legislature – Off and Loping**

We have made a number of appearances already in the Transportation and Appropriations committees, particularly in the House and it has become clear to me that the level of understanding about what we're up against, post-Irene, is all over the map when it comes to the legislature. The members who come from towns that had significant damage or have been paying close attention get it, but there are many, particularly from the northern part of the state, who don't. I must say that I wasn't anticipating the amount of push-back on limited-service (2-year) positions to help spend all this federal Irene recovery money. Some members seem to think the arrival of funding is immediately followed by a full-blown project and what happens in the middle is somehow related to the world of magic.

The positions (21) in the BAA and those that will be part of FY-13, approximately 12, will be the ones that help the towns define, develop and build their projects. Others will design and engineer what will be a capital program next year that is 50% bigger than normal and still others will deal with myriad right-of-way and financial accounting issues. Further, the additional state positions will represent less than 10% of the overall effort as more than 90% of this money will go to private sector consultants and contractors. We will, of course, prevail but it will involve more education about what is going on the ground that I thought would be necessary.

Internally, we landed a new Policy and Planning Manager by the name of Joe Segale, who has many years of experience as a senior transportation planner at the CCMPO and more recently a consulting engineer at RSG in White River Jct. He has been tasked with managing the Irene Innovations Team that will be sorting through all of our recent experience and developing the new protocols and procedures that will enable us to meet your charge of doing things faster and cheaper than before. Our ever-stronger team at VTrans just got a big boost with the hiring of Joe who replaces a long-time (37 year) employee who retired.

### **Storm and Accident Related Road Closures**

On the heels of the confusion surrounding the closing of I-89 on December 28 and a similar incident involving a multi-vehicle accident at Exit 17 yesterday, an initial meeting has been held to draft new protocol between VTrans and the Vermont State Police that should lead to better public notification. Our new Education and Outreach person, Erik Filkorn, will next meet with the Public Information Officer from VSP to develop a protocol which will inject the new element of social media into the equation. In the meantime, troopers and our maintenance workers have been reminded about the importance of sharing knowledge of an emergency situation and reporting it up the ladder immediately.

**Privileged and Confidential**  
**Memorandum**

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** January 5, 2012

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**Vermont Department of Health (VDH)**

Tuberculosis (TB) Investigation. The Health Department is investigating a case of TB in an independent living community with approximately 80 residents in Chittenden County. Staff held a clinic at the setting on January 3<sup>rd</sup> to collect serologic specimens from approximately 25 close contacts; these specimens will be tested at the Health Department Laboratory.

Office of Local Health. On December 28<sup>th</sup> the White River Junction District Health Office hosted its first "Free WIC Dental Clinic" and provided a variety of oral health support for women and children enrolled in WIC. A total of eight clinics are planned between now and August 2012.

**Legislative Testimony**

Vermont Prescription Monitoring System. Commissioner Chen, Deputy Commissioner Cimaglio and staff testified on January 4<sup>th</sup> before the House Human Services Committee. They reviewed the required legislative report and summarized recommendations from the Advisory Committee that works with the System. Deputy Commissioner Cimaglio also reviewed forthcoming recommendations from the Prescription Drug Abuse Workgroup, a joint workgroup convened by Vermont Department of Health and Department of Public Safety. Commissioner Chen summarized the problem of prescription drug abuse in Vermont and shared the Action Plan that has been developed with the Administration to address the problem.

**Department of Mental Health (DMH)**

VSH. Commissioner Flood will submit a plan after all the testimony has been completed this week.

**Department of Disabilities, Aging and Independent Living (DAIL)**

Jobs. VR is hosting a recognition breakfast for its staff on January 7<sup>th</sup> at Lake Morey to celebrate a banner year in assisting people with disabilities in finding employment.

Health Care. Commissioner Kimball (BISHCA) and Commissioner Wehry have completed a joint report to the legislature on Act 83. They are recommending *against* extending the moratorium on CON applications for home health agencies. Peter Cobb and others at VAHHA

lobbied hard to continue the moratorium. We anticipate they will be critical of the report. I have contacted Susan Bartlett to get your approval before submitting the report.

### **Ongoing Issues**

Adult Protective Service. The national consultant will be here next week to complete her review. The backlog has been eliminated through a combination of new hires, hard work, limited targeted overtime pay, creation of a financial exploitation unit to target investigations and re-screening of cases by senior investigators. New discoveries this week of the extent of management problems are leading to a change in management which will be announced internally by the end of the day Friday. (Suzanne Leavitt will replace Fran Keeler as Director of the Division. There will also be an announcement regarding the Program Chief Liz Manfredi. Commissioner Wehry is working with HR on details). We continue to experience high volumes.

Adult Protective Services Litigation. We are currently reviewing two courses of action recommended by the civil division of the AG's office.

Evolving Issue with possible Media Attention. Prospect Nursing Home in North Bennington is closing at the end of January due to financial pressures. They are in arrears to the state and will not be able to make payroll after January 31<sup>st</sup>. There are currently 15 residents of the home (capacity 21). Residents and families have been informed and some residents already have identified alternative placements. The owner is confident he will find places in Bennington for all of them. The Affordable Care Act requires facilities to give at least 60 days notice or the owners can be held personally liable for a fine; state regulations require that residents receive a notice at least 90 days in advance. Our Division of Licensing and Protection will be issuing a citation. We are monitoring the situation to make sure residents and their families are kept safe during the moves.

### **Department of Corrections (DOC)**

#### **Significant Events/Meetings**

Senate Judiciary. On January 4<sup>th</sup> Commissioner Pallito met with the Committee regarding the Corrections Oversight Committee annual report. Of major interest is the target that the Committee has set for a reduction in recidivism. The report reads that the DOC will reduce recidivism to 30% by January, 2015. Although this goal is aggressive, we have some strategies that should help us move towards this goal. Those strategies include a new casework initiative, more unified risk assessment tools, a new model for the substance abuse treatment system and a continued focus on how the system handles low risk offenders.

#### **Other**

Offenders at Southeast State Correctional Facility make Toys. Several Offenders at Southeast State Correctional Facility spent over 1,000 hours constructing toys to donate to The Toys for Tots foundation. The story was covered by the local media. Photos and news article will be forwarded to you by pink mail.

Offender Carl Wilkins. On December 20<sup>th</sup> Community Correctional Officers went to Wilkins' house for a routine check. When they arrived at the residence, a young male answered the door; the Officers indicated they were looking to speak with Carl Wilkins. The male went upstairs to get Wilkins. The young male came back to the door appearing to be in a panic stating that there was something wrong with Wilkins.

Correctional Officers went upstairs and found Wilkins unresponsive. 911 was immediately called and the Officers began chest compressions. Wilkins was transported to Springfield Hospital; staff advised that Wilkins was deceased on arrival to the hospital. Information received from family members is Wilkins had been drinking all day and may have consumed some Oxycodone.

Health Services Director. Dr. Delores Burroughs-Biron will begin work with the DOC on January 9<sup>th</sup>. Dr Burroughs-Biron returns to the DOC after an extensive search for a Health Services Director and will oversee the daily delivery of health services to incarcerated individuals as well as any possible transition to a new service delivery model.

Populations - Something to Keep In Mind. As we roll into the 2013 Budget Year, we are projecting that our out of state population may potentially drop well into the 300's by the end of 2013. This goal is based on a few assumptions and timing regarding construction, but it is something that is very feasible.

You may recall that we were projecting that we would be housing nearly 1,000 people out of state by this time; today there are 527 people out of state.

There are 145 women currently housed in Chittenden. We have 172 beds available and were housing over 170 women in mid- November.

Of importance to note, we have more than 350 people detained currently.

## **Department for Children and Families (DCF)**

### **Press Issues/Releases/Contacts**

Anne Galloway from VT Digger has been following the DCF BAA testimony requesting additional social work positions. She is requesting information per a Freedom of Information Act to obtain federal reports going back to 2007 regarding the Family Services Division inadequate services and social worker staffing shortages for children in DCF custody.

### **Evolving Issues**

Regulated Child Care Programs in Vermont. There are approximately 1,675 regulated child care programs in Vermont – 60% of those are registered home providers and about 40% are licensed centers. Vermonters placing their children in the care of these homes and centers rely on the state to assure the health and safety of their children through the licensing process. Licensing, in turn, relies upon the integrity and quality of the regulations to support its oversight function. The Child Development Division (CDD) believes this is the right time to undergo a comprehensive

regulatory reform process so that Vermonters can have confidence in a solid regulatory foundation for our child care system.

The current regulations governing the child care system are over 10 years old and many feel they do not reflect current research or best practice in early childhood care. CDD and its community partners plan to engage parents, providers and communities in meaningful dialogue and consensus building, to create a coordinated set of streamlined regulations that are child-centered, family-friendly and fair to providers.

A series of Community Forums throughout the state will give people an opportunity to hear about the implementation process, discuss “what matters” when it comes to child care licensing and have questions answered by Deputy Commissioner Reeva Murphy and Child Care Licensing Director Sheila Duranleau.

The Revision Process also includes convening workgroups at six Vermont Interactive Television (VIT) sites across the State. Workgroup participants will be responsible for meeting with hired consultants to review research, hear presentations from content experts and actually develop the new child care standards. Once this 10 -12 month development phase is concluded, the Division will proceed on formal promulgation processes.

State Auditor’s Office to conduct a review of two DCF programs: LIHEAP and Strengthening Families Grants. The questions related to LIHEAP focus on the systems in place to prevent fraud and the heightened public awareness with the transfer of monies from the Weatherization Trust Fund and the recent press coverage of the reduced federal funding.

The questions about the strengthening families grants focus on the criteria used to determine grant parameters. DCF suspects the questions arise from providers who were disappointed in their funding levels.

## **Department of Vermont Health Access (DVHA)**

### **Significant Events/Meetings**

Dr. Peter Gray. On December 29<sup>th</sup>, the Attorney General’s office issued a press release indicating Dr. Peter B. Gray was arraigned in Rutland Superior Court on one felony count of lewd and lascivious conduct. In addition to imposing standard conditions of release, the Court ordered Dr. Gray not to administer patient care to female patients and prohibited him from working in any setting where he would have direct access to controlled substances without supervision by a licensed provider approved by the State.

DVHA excluded Dr. Gray from Medicaid participation effective October 27<sup>th</sup> under section 6501 of the Affordable Care Act, *Termination of Provider Participation under Medicaid if Terminated under Medicare of other State Plan.*

CHIPRA Grant. The Centers for Medicare & Medicaid Services (CMS) announced almost \$300 million in performance bonus payments, which were included in the Children’s Health Insurance

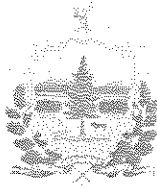
Program Reauthorization Act (CHIPRA). States receive the funds for simplifying their enrollment and renewal processes and for increasing enrollment of children above a baseline level. More information, including a list of states receiving the awards, is available at: <http://www.hhs.gov/news/press/2011pres/12/20111228a.html>

Vermont is not eligible to be a recipient of a performance bonus because it does not utilize at least five of the eight strategies to simplify enrollment and renewal as outlined in the CHIPRA Reauthorization. Vermont has implemented three of the CHIPRA enrollment and renewal simplification strategies. With Vermont having a low uninsured rate for children, the additional cost for implementing any new strategies are prohibitive as it is doubtful Vermont would see year over year increases in Medicaid children enrolled above the baseline level to receive a performance bonus payment.

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Center Building  
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[www.anr.state.vt.us](http://www.anr.state.vt.us)



Deborah L. Markowitz  
Agency Secretary

Christopher Recchia  
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:** January 6, 2012  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

- **State of the State Address:** Thank you for acknowledging the work of ANR in trying to effectively respond to TS Irene. This was greatly appreciated by staff. On that same note we are planning a thank you event for staff who went above and beyond the call of duty sometime in February, and we would love it for you to attend. We will work with your scheduler when we start to identify possible dates.
- **LIHEAP Moneys:** I was pleased to see us stepping up to the plate to keep low income Vermonters warm this winter. I wonder whether we could link this at all to the incentive program you spoke about last year to assist Vermonters who choose to switch from oil heat to wood pellets. Perhaps some portion of the \$6 million additional funds could be used to purchase pellet stoves or boilers/furnaces for low income Vermonters to get them off this treadmill and advance our energy planning implementation? For example, \$3M would buy about 2000 pellet stoves, or about 600 boilers for low income homeowners. If this is too generous, perhaps establishing a revolving loan fund at 0% or negative interest? Of course, this is a win/win for Vermont since instead of sending our heating dollars out of the country we would be supporting Vermont businesses. I'd be happy to talk to you more about this idea if you think it has potential.
- **EPA Letter on De-Delegation Petition Issues:** We received the expected letter from EPA restating the need to address Public Participation in Enforcement or risk losing federal funds negotiated as part of our performance partnership agreement. This letter is expected to be helpful in moving the pending legislation out of the Senate.



## **EVERYTHING ELSE**

### **Press Issues/Releases:**

**Ice Fishing Caution and Safety Reminders:** The Vermont Fish and Wildlife Department distributed a press release on safety tips during ice fishing season. Follow up coverage included the list of safety tips in addition to the poor ice conditions so far this winter.

**Fish and Wildlife Press Releases:** Press releases were issued this past couple of weeks ranging from, 2012 Hunting, Trapping and Fishing licenses available online, to announcing the winner (a Virginia man) of our Lottery of a Lifetime annual draw.

**Grandpa's Knob:** VPR reported on our preliminary meeting with Grandpa's Knob wind developers last month in which we described the very problematic hurdles a project at this site would face.

**First Day Hikes:** First Day Hikes lead at eight different State parks (9 hikes total) received broad attention in the media and among our partners in the Vermont Outdoor Guide Association, the Green Mountain Club and the Cross Vermont Trail Association. The message, the weather, the media exposure and the volunteer spirit of our partners all contributed to a huge success. Over 190 people came to the easy, family-friendly hikes. There is considerable support for continuing the program.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Kids v. Global Warming Rulemaking Petition:** Staff participated in a teleconference with Julia Olsen and Meg Ward from Our Children's Trust (OCT) to discuss the pending rulemaking petition from Kids v. Global Warming (KvGW). They ask that we see if the governor would issue an executive order supporting their GHG reduction goals, or to sign on as an Amicus to their national law suit. ANR agreed to review the model executive order and determine if this course was worth pursuing. ANR has already declined participating in the suit as amicus. We are looking at whether it would make sense to involve OCT in our Climate outreach and education work.

**ISC Climate Leadership Academies:** We met with Steve Nicholas and George Hamilton from the Institute for Sustainable Communities (based in Montpelier). They offered to help with our community outreach/climate adaptation and mitigation work by holding climate leadership academies around the state. They apparently have a close relationship with some funders who they believe will be interested in paying for this work. If they get funding they will do a series of trainings in different areas of Vermont, bringing in experts, producing a best practices handbook focused on climate mitigation and adaptation strategies. I offered to provide a letter of support and to work with them on this to get the word out, offer our scientific expertise and ensure that it aligns with our efforts if they get the grant.

**DEC Transitory Records Procedure Implementation and Licensing GRS DEC Procedure:** Even though the DEC Transitory Record Procedure was finalized August 24<sup>th</sup>, implementation of the Procedure essentially began this week. To the extent possible the Procedure provides cross departmental consistency

in the disposition of transitory records. Programs will need to develop specific operating procedures to further ensure consistency within programs.

**DEC Records Document Reprocessing:** DEC's records manager met with a representative of the firm working on our flood damaged records (Document Reprocessors). DEC records have been frozen, dried and treated for bacterial contamination (mold spores may still be present hence the reason to not get original records returned). The records have been moved into 563 new boxes and a high level inventory completed on the contents. BGS needs input from the records manager to ensure that the majority of costs can be covered by FEMA insurance. Staff will be working with the appropriate staff and BGS to address this and other issues related to the files over the next few weeks.

**OMYA:** Geosyntec, the environmental consultants for OMYA, submitted the fall 2011 water quality monitoring results for the Verpol Site. The results indicate stable or improving water quality, and compliant situation, though monitoring wells continue to show flotation reagent, arsenic, and detectable levels of perchlorate.

**Solid Waste Rules:** A response to LCAR's concerns has been drafted and sent to interested parties who have been involved in the lengthy rule making process to date. The draft proposes:

- to require small facilities regulated under the ACPs to include a letter from the Solid Waste Planning entity that the facility is acceptable under the plan (the draft rules already include this requirement for medium and large composting facilities),
- to require all composting facilities to provide documentation that the facility is in compliance with local ordinances and zoning regulations, and
- suggested options for prohibited areas to be added for all facilities. Under this section, we provided three options and requested feedback from the interested parties.

### **Fish and Wildlife**

**Deer:** Wardens have completed most of their deer season investigations. Wardens are visiting each of their district's game check stations to determine if they have sent in all their reports. Final deer kill numbers are still being received from the various reporting stations around the state. On a related note, the number of road-killed deer documented in 2011 by wardens dropped 6.5% from 2010.

**Ice Fishing:** Ice conditions are marginal at best, so ice fishing is very limited. Where there is ice, ice thickness is ranging from 2"- 4". This is an abnormally late start for good ice conditions.

**Stocking:** Staff began adjusting stocking numbers because of reduced numbers of trout available due to flooding and other problems this year.

**Johnson Project:** Staff have been working with the Vermont Land Trust and other partner organizations on the closing and press related activities for the Johnson Farm conservation project in Canaan. Proposed press activities have been delayed a number of times, but we hope that something will happen this winter.

**Irasburg Captive Hunt Facility (Nelson):** Staff wildlife biologist retrieved deer, moose, and elk bones from the Irasburg captive hunt facility. After processing them, they were shipped to Cornell Animal

Diagnostic Lab. Planning efforts for depopulation of the white-tail and fallow deer are being coordinated with USDA Wildlife Services, and, so far, the facility owner continues to be cooperative.

### **Forest Parks and Recreation**

**State v. Inkel:** The court has not yet ruled on the cross motions for summary judgment in this heavy cut litigation. The Inkels have applied for re-enrollment of the Bloomfield parcel in the UVA program. The application is under review.

**Plum Creek v. State:** Plum Creek submitted a settlement offer to the state which proposes to have the state accept penalty payments for the AMP violations and to reinstate the Plum Creek land in the UVA program. The AG's office will prepare a response.

**Appeal of Hannum/O'Connor:** This is an appeal of discontinuance from the UVA program to the Department of Taxes, Division of Property Valuation and Review for the failure to file an updated forest management plan. The appellant argued "accident, mistake and misfortune" among other things. The Director of PVR upheld the discontinuance in a decision dated January 3, 2012. The appellant has the right to appeal to Superior Court or the State Appraiser within 30 days.

**State Land Transactions:** We are still waiting for a letter of support from the Town of Bolton on the Department's proposed acquisition of the Smith property from the Green Mountain Club (though the selectboard has verbally indicated that they support this project). Work continues on several active Forest Legacy projects including Morrisville Water and Light Phase I (Forest Legacy fee purchase), Canada View property (Forest Legacy easement) and Morrisville Water and Light/Judkins Phase II (Forest Legacy fee purchase). Closing is anticipated later this winter on all of these projects. We expect to close in the near future on the purchase of the Heath parcel, which will provide access and buffer to Green River Reservoir State Park. Work continues on other priority ANR land transactions including the sale of the Lafrenniere house and barns in Bolton, transfer of Woodchuck Mt. parcel in Newbury from FPR to the Town of Newbury, conveyances at Steam Mill Brook and Willoughby Falls WMA to memorialize various boundary agreements, and possible land exchanges in the towns of Plymouth (Coolidge State Forest) and Alburgh (Alburgh Dunes State Park).

**WMA's:** We are working with our partners (VHCB, TNC, VLT) regarding the planning process for the required 2012 update of the management plans for West Mt. WMA and the private working forestlands now owned by Plum Creek, and will be working closely with these partners to assess whether we will need to seek an extension of this planning requirement from the legislature.

**Holiday Sales:** Holiday package sales ("Give Summer: Fully Assembled") remained strong through the season. There was a 22% increase in packages sold over 2010 and a 19% increase in the total revenue produced. Broader exposure, changes in the packages and changes in the pricing all contributed to the increases.

**Campground Solar Heating:** Solar water heating systems have been completed at 15 campground restroom buildings. Extensive energy efficiency improvements are being incorporated into renovations to the ranger's residence at Little River State Park this winter. Many other construction projects are slowed for the winter but planning continues for an active spring season of improvements.

**Sweet Pond Dam:** Staff from District 1 met with engineers from Dubois and King to review the draft options report for the Sweet Pond Dam in Guilford. D & K's report is thorough and outlines cost and benefit of several different options for the dam. A public meeting is anticipated for February to present the report to the public.

**Forestry:** In anticipation of a strong winter logging season, staff foresters are busier than typical with requests for AMP assistance and heavy cut permit exemptions on private land. Harvesting on state land was at a near standstill before the holidays with wet conditions prevalent, particularly in the south. Hopes are that the cold conditions forecast for January will allow operations to begin on several harvests around the state.

**Firewood Applications:** The application activity for personal firewood lots on state lands is brisk. For 2012, 83 lots have been designated on state forests. Permit price is \$30 for a 3-cord lot of standing firewood. Selection will be by lottery. Applications will be accepted for the lottery until close of business on January 13.

### **Business Office**

**Budget:** We are waiting for final approval on our BDS budget details under review by our Budget Analyst. Work is proceeding on the required standard supplemental reports also required for our budget books.

**Testimony:** FY12 Budget Adjustment testimony continued this week for FPR.

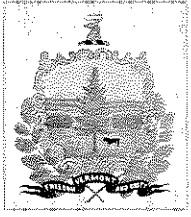
**F&W Fee Bill Proposal:** We are still waiting for the remainder of the Southwick report to help us to finalize a DFW fee bill proposal. Additional research has been done on license fee rates in neighboring states.

**5 Year Plan:** Had a good meeting last week with BGS on the Capital Bill including presentation of our 5-year plan.

### **Information Technology**

**Email Retention:** A significant amount of staff time was spent looking into email retention issues related to work concerning VSEA. We met with Richard Boes to discuss the current state and the plans for email retention tied to the Secretary of State's efforts.

**Impervious Surface Analysis Project:** The project is gearing up. The result will provide the 1<sup>st</sup> impervious surface map for Vermont.



## ***State of Vermont...***

### **Department of Banking, Insurance, Securities & Health Care Administration (BISHCA)**

89 Main St. Drawer 20 Montpelier, VT 05620-3101 Main Number: 802-828-3301

Divisions: Banking, Insurance, Captive Insurance, Securities, and Health Care Administration

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### **Memo from Commissioner Steve Kimbell**

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## **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending January 5, 2012**

### **Governor's Priorities**

#### **Health Care Reform**

Commissioner and BISHCA staff met with new DHVA deputy commissioner of Health Insurance Exchange Lindsey Tucker to get acquainted and plan how the two departments work together to create the exchange.

Department staff participated in drafting the Integration Plan to be presented to the Legislature January 15 pursuant to Act 48.

#### **Evolving Issues**

#### **Outreach**

In 2011 the Insurance Division received 5,274 calls or other contacts from consumers. There were 1,398 Resolved Inquiries (these are consumer issues that are able to be resolved on an informal basis through intervention by the consumer services staff) and 580 complaints were closed (these are issues that complete the formal consumer complaint investigation process).

Refunds and restitution returned last year to Vermont insurance consumers as a result of Insurance Division consumer services staff intervention totalled \$1,069,256.

### **Legislative**

Commissioner testified in the Senate Health & Welfare Committee with Joint Fiscal Office staff regarding health care reform cost analysis required by Act 48, 2011.

Commissioner met with health care committee chairs of House and Senate to coordinate hearing schedules and objectives for legislative session. Similar meetings will occur on weekly basis, including Robin Lunge and Mark Larson as appropriate.

### **General Information**

Friday the Commissioner will sign two BISHCA Banking Bulletins required by legislation. Underwriting guidelines will be provided to municipalities and third party agents to be used to determine if property owners in the PACE program have the ability to repay the program assessments (loans). Homeowners in towns that have adopted the PACE program will be able to apply for funds to pay for energy efficient home improvements. The funds will be repaid through the homeowners' property tax bill.

The Captive Division reports that in 2011 forty-one new captives were formed, the sixth time Vermont has exceeding the mark of forty new captives in a year. There are now 590 active captives. Twenty-three captives were dissolved during the year, due to anticipated continuing merger activity at the parent level. Only two of the dissolutions were re-domestications to other domiciles.

2012 has begun well. The Commissioner has two licenses on his desk for signature: Diversified Foods Insurance Co ( Hormel) and Wireless Risk Solutions (GoWireless), and there are three more applications in process.

**Vermont Department of Public Service**

**Privileged and Confidential**

**To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel**  
**From: Elizabeth H. Miller, Commissioner & Sarah Hofmann, Deputy**  
**Subject: Weekly Report – Priorities Version**  
**Date: January 6, 2012**

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**Status of Priorities:**

- CVPS/GMP Merger: Michael Dworkin continues to refine his testimony on VELCO governance which will be filed on Tuesday, January 10, 2012. We did provide an outline of his testimony to Senator Illuzzi on Thursday the 5th. Our other witnesses are working on the remainder of the testimony which will be filed on January 20, 2012. WEC has informed DPS that it is developing an alternative proposal for public ownership of the transmission system that it will share with DPS hopefully before the 20th.
- VY: Another week without anything from the federal court on Energy v. Shumlin. On the VY delist bid case at FERC, we are working toward a settlement of issues from the Forward Capacity Auctions 5 and 6 that would mean ratepayers are not on the hook for excessive payments and Entergy wouldn't be subject to capacity replacement costs nor eligible to receive capacity compensation. Details are still being worked out.

**Legislative Issues/Contacts:**

- We have jumped in with both feet. Besides monitoring extensively in House and Senate Natural Resources, Liz and staff testified in Senate Natural, House Natural and Senate Finance. These were on the Comprehensive Energy Plan, H.468 and H.475, and the GMP/CVPS merger. Jim Porter testified in House Commerce on Act 53 and the state of telecom. Sarah testified in House Natural on some clean-up items – one of them should result in a bipartisan bill cleaning up a timing problem with the current Commercial Building Energy Standards statute.
- Liz met with Tim Ashe about his legislative priorities and concerns. He seems concerned about the VGS expansion into Addison County.
- Liz also spoke with Speaker Smith about legislative priorities. Shap did not think that there would be a slow-down of the merger docket through legislation.
- Jim and Sarah will work on language for a bill for a study of the Universal Service Fund and what needs should be addressed.

**Press Issues/Releases/Contacts**

- Allen Panebaker of VT Digger was going to do some kind of story on VGS but decided against it for now.
- Many calls are coming in asking about when we would see the federal court's decision in Entergy v. Shumlin. There really is nothing we can tell them.

**Significant Meetings/Events:**

- Porter and Sarah met with E911 to discuss the E911 study one final time before publication and to discuss strategy on E911's desire for legislation to collect the USF on prepaid mobile services. E911 will take the lead on this legislation and DPS will support.
- The Texas Compact Commission met in Texas on the 5th. Commissioners Saudek and Bradford attended. They will send me a summary next week.
- Liz met with Chuck Ross and Ellen Kahler to talk about the Comprehensive Energy Plan implementation and possible roles for the Vermont Sustainable Jobs Fund and/or Energy Action Now.

**Evolving Issues:**

- Next week Sarah will attend as an "invited observer" the first of the VGS advisory group on the expansion plans into Addison County. This will probably bring this project back to the front burner.
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State of Vermont  
Vermont Department of Education  
120 State Street  
Montpelier, VT 05620-2501

CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM

TO: Governor Shumlin  
FROM: Armando Vilaseca, Commissioner  
DATE: January 6, 2012

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**A Personal Note:** Governor, thank you very much for your phone call last week regarding my mother's health. It is a challenging time to have her so ill and so far away. Thank you for your kind words and support.

**Deputy Commissioner Knopf:** Deputy Commissioner Knopf has been named as the first executive director for the Connecticut Council for Education Reform (CCER). She will be leaving the Department following the State Board meeting on January 17<sup>th</sup>. This is a huge loss for us as she has been leading the work on the ESEA Flexibility Waiver. Next week I will be meeting with SBE Chair Fayneese Miller and Susan Bartlett to discuss next steps. I am also having internal discussion here at the Department. I will keep you abreast of developments in this regard. Rae Ann will definitely be missed by many of us, but fortunately we have a very competent team who are more than capable of continuing our work.

**Higher Education/Dual Enrollment:** In response to your speech yesterday and your plan to propose significant state investments in higher education and dual enrollment, I am meeting today with Alex MacLean and Representative Donovan to discuss how such investments can work to produce a more competitive workforce, competent and skilled to meet the needs of Vermont's employers. Tim Donovan, Chancellor, Vermont State Colleges, will also be participating in this meeting.

**Licensing Hearing Panel Nominees:** Thank you for finalizing the appointments to the Licensing Hearing Panel. And thank you to Susan Spaulding for assisting in moving this process along. Unfortunately, Michael Lonergan had to respectfully decline so we will be working to fill that last remaining opening as soon as possible.

**High School Math Survey:** Today I met with the Vermont Superintendents Association to enlist their help in completing a survey to determine the math course sequence of high school students. It is hoped that the data collected from this survey will enable the Department to investigate the relationship between high school students' course completion patterns and the significant drop in school level results between 8<sup>th</sup> and 11<sup>th</sup> grade on the math NECAP assessments. This might also help us discover if there is any correlation between these test scores and the fact that only 45% of high school graduates pursue post-secondary endeavors immediately following graduation. It could also provide some insight into the work we are doing to reduce the achievement gap.

**Legislative Activities:** As the Legislature started up, the Department followed several discussions this week including the Picus Report, Act 153, Safe Cleaning Products, Statewide Collection of Education Property Tax, and Deferral of December Payments to the Education Fund. I look forward to a productive session.

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## MEMORANDUM TO GOV. PETER SHUMLIN

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To: The Honorable Peter Shumlin  
From: Governor's Information and Referral Office  
Date: January 6, 2012  
RE: Constituent Services Update

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### Current Issues

- Received calls from 20 constituents complaining that when they call the unemployment claim center, they receive a message that all circuits – many of them spent hours trying to call before they were able to speak to a person.
  - Several people raised concerns that the requirement that they file online creates undue hardship because of a lack of internet service. Others raised concerns with using public computers (library computers are often the only option) to share personal information.
- Similar calls from 5 constituents about the DCF call center.
- Received letters from 10 constituents asking GPS to speak out against postal closings (this was before the meeting).

### Staff Update

- GIRO staff will begin compiling daily constituent contact reports next week.

### APPOINTMENTS MADE IN 2011

574 appointments  
249 women  
Approximately 100 boards/commissions/councils

### Appointments made this week to Boards and Justice of the Peace

#### **Justice of the Peace, Braintree:**

APPOINTED: Alan J. Lamell, Braintree

#### **Justice of the Peace, St. Johnsbury:**

APPOINTED: Matthew Choate, St. Johnsbury

#### **Justice of the Peace, Barnard:**

APPOINTED: Jay Caruso, Barnard

#### **Board of Allied Mental Health Practitioners:**

APPOINTED: Jason Kirchick, Stowe

**Board of Medical Practice:**

REAPPOINTED: Eileen Illuzzi, Newport

**Chiropractic Board:**

APPOINTED: Vernon Temple, Rockingham

APPOINTED: John Webber, Rutland

**Vermont Communications Board:**

APPOINTED: Dwight DeCoster, Underhill

**Board of Funeral Service:**

REAPPOINTED: Lyndon Mann, Randolph

**Veterinary Board:**

APPOINTED: Paula Yankauskas, Hyde Park

**Hearing Panel for Professional Public Educators:**

APPOINTED: Jay Nichols, Richford

APPOINTED: Linda Kelley, Norwich

APPOINTED: Jennifer Harper, Proctorsville

APPOINTED: Theresa Akerley, So. Burlington

**Transportation Board:**

APPOINTED: Nick Marrow, Montpelier

**Osteopathic Physicians and Surgeons:**

APPOINTED: Daniel Wilson, East Montpelier



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** January 6, 2012  
**SUBJECT:** Confidential Report to the Governor

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**CONNECT VT**

Nothing to report.

**BUILDINGS AND GENERAL RESOURCES**

**Legislative Issues/Contacts:**

- Testified to Senate Appropriations regarding budget adjustment request of \$250,000 to relieve FY12 program deficit

**Press/Media Notes:**

- Spoke with Alexi from WCAX regarding coverage of the Waterbury Tour by Senate Institutions

**FINANCE AND MANAGEMENT**

**Issues Update:**

W-2 Processing: Finance will be testing the IRS Form W-2 process over the next several days and expect to issue W-2s during the 3<sup>rd</sup> week in January. They expect to issue approximately 10,000. As with Form 1099s, W-2s for the prior calendar year must be mailed to the employee on or before January 31<sup>st</sup> of each year.

FY 2012 Budget Adjustment Bill (BAA): On Tuesday, January 3, 2012, Commissioner Reardon presented the BAA language changes to the House Appropriations Committee and the overview of the BAA to the Senate Appropriations Committee the following day.

FY 2013 Governor's Recommend Budget: Departments have now finalized and submitted their FY 2013 Governor's Recommended Budgets in the legacy Budget Development System (BDS); all submissions have been reconciled to the Commissioner's planning documents and the internal tracking control totals. The plan for the remainder of this week and for the weekend is to complete the presentation book that will accompany the Governor's Budget Address to the General Assembly. Deputy Zeller has the book in production, with the majority of work needed on the narrative sections and verification of the numbers and charts. The goal is to have the print-ready version finished and sent to the BGS print Shop by the end of the day on Friday, January 6, 2012, in order to allow for sufficient time to proof, print and deliver the books in advance of the speech.

LIHEAP: Finance and Management worked with the Governor's staff to develop the LIHEAP (Low Income Home Energy Assistance Program) proposal that was released on December 27, 2011 and adopted by the Emergency Board on January 3, 2012.

## **HEALTH CARE REFORM**

Nothing to report – Robin at Dartmouth this week.

## **HUMAN RESOURCES**

### **Status of Governor's Priorities:**

Strategic Planning: DHR is working with Deputy Secretary Clasen to finalize the strategic plans for both the Agency of Administration and the State overall. DHR anticipates final documents will be sent to the Governor's Office for review within the next few weeks.

### **Legislative Issues/Contacts:**

Questions from Rep. Heath: Commissioner Duffy responded to an inquiry from Representative Heath regarding the timing for negotiations of collective bargaining agreements. Apparently, Representative Heath has some question whether, in the future, we will be able to make appropriations to cover salary increases required under the collective bargaining agreement in the Big Bill or whether it is necessary to do so as part of Budget Adjustment.

### **Significant Events/Meetings:**

Meeting with VSEA on the Vermont State Hospital: Secretary Spaulding, Deputy Secretary Clasen, Commissioner Flood, Commissioner Duffy and DHR staff met with members of the VSEA to discuss the status of employees at the Vermont State Hospital. Commissioner Duffy advised VSEA that the state expects Brattleboro Retreat and Fletcher Allen to start staffing their facilities with their own staff in the very near future. The parties discussed ways to alleviate the impact on state employees, including a potential pre-RIF process and a retirement incentive.

Commissioner Duffy requested that the parties move quickly to draft a side-letter addressing these issues, but VSEA indicated that it will have to meet with its Board before it can enter into such an agreement, which will not take place for over a week. VSEA also stated that while it wants to work with the Administration on the immediate issues affecting state employees, it intends to argue against the Governor's long term proposal to build a 15 bed facility and will argue for a larger state hospital staffed with state employees.

## **INFORMATION AND INNOVATION**

### **Status of Governor's Priorities:**

Healthcare Reform: Concerns continue over having adequate IT resources (people) to manage all of the outsourced relationships we need to manage to make our implementation successful. A study was completed last year in AHS (contracted out) to determine how many additional permanent positions were needed. At the point of the contract the answer was 14 and they got 6. Additional positions, beyond the 14, were limited service, but the resources DII needs are not commonly found in the state, so it is hard to recruit successfully for limited service positions and expect relocation to VT. Richard Boes has asked for Robin Lunge's help in getting them the permanent positions they need to help make this successful. Richard believes they can be successful, but will need the resources to make it happen.

Workforce: In addition to the challenges above, the uptick in the economy is causing DII to lose valuable people to other Vermont employers. To retain employees, Richard Boes is working with agency and department IT leaders and coordinating with HR to propose a market factor adjustment for those jobs where the data supports it. Given the track record from previous market factor studies, Boes thinks the best course of action is to contract out this analysis and they are currently working on a scope of work that they expect to have ready next week.

## **LIBRARIES**

Nothing to report this week.

## **TAXES**

### **Legislation:**

Cloud Computing: Secretary Miller is rounding up some possible attendees for the press conference on Monday. Ways & Means was already set to take up the issue, so the Commissioner will be testifying on Thursday. I did confirm to Rep. Ancel that we were going forward with a proposal, and following up from her conversation with Alex, she signaled her conviction that Ways & Means can craft a solution this session. Given the differing interests on the Committee, from Rep. Olsen who works for a cloud company (just purchased by Oracle) and Rep. Greshin (his partner Win Smith raised this issue at the Lake Champlain Chamber) to Rep. Wilson, who was the champion for taxing Amazon and others on the committee itching for revenue, it will be fascinating to see if they can reach any philosophical consensus, much less iron out the technical nuances. The final revenue estimate from Susan Mesner pegs the loss from an exemption at \$2.5 – 3M per year (assuming the Department's interpretation withstands appeals).

The decision points for the Administration going forward revolve around four possible outcomes.

- The Speaker raises the distinct possibility that a temporary exemption will not pass the House (especially because conventional wisdom is that once in place, the exemption will never go away and the opportunity to tax will be lost). Are we comfortable with no action, and the Tax Department continuing to tax as tangible personal property?
- The most aggressive taxation position would be an immediate statutory change like in Washington state that explicitly extends taxes to services related to cloud software. Do we support this approach to protect our sales tax base from erosion?
- The least likely result in this political climate may be an immediate statutory change to limit taxation to downloads and avoiding the service issue. Can we live with the permanent loss of revenue?
- Finally, do we push the temporary exemption with a strong process to insure a statutory solution in two years?

Education Tax Rate Letter: The Commissioner was invited to speak to both Ways & Means and Senate Finance on the Education Tax Rate letter. The Administration's recommendation to target level school spending was met with hearty opposition from all sides, although the Rs opposition was a bit hard to reconcile with their stance that school spending in general is out of control (yet there should be higher state support). In general, the members took the occasion to stake out their well known positions on ed funding. The Commissioner emphasized that with declining student enrollment and declining teaching staff, level funding was achievable.

Unfortunately, the numbers emerging as school budgets are being finalized are even worse than the 1.7% increase in spending that the DOE projected in the fall. Rumor is that the number may be on the order of 4%. That would suggest that the statewide rates should be raised even higher than the 2 cents we sought to avoid.

Miscellaneous Tax Bill: The Department has pulled out several provisions as not ready for prime time. The Commissioner is meeting with the Secretary, and Commissioners Maclean and Reardon next week to go over the final draft and revenue implications. The Department approached VSAC about limiting the higher education tax credit to eliminate a loophole where taxpayers set up accounts for multiple beneficiaries for immediate rollover. Belatedly VSAC is very opposed. Other provisions that may kick up some dust are proposals to limit the income sensitivity and renter rebate benefit to \$6000 (previously passed the House), to increase the interest paid on overdue taxes (to address our accounts receivable) and to increase the minimum tax on corporations with gross receipts over \$1M from \$250 to \$500 (in line with other states).

Reports and Studies: Renewable Energy: The Commissioner and staff met with Commissioner Miller of DPS to discuss the report on valuation of renewable energy projects for property tax. Highlight of the consensus was to recommend that a rate for solar be set based on nameplate capacity, and to suggest a hi-lo range. In the meantime, the Department is finishing work on the numerous other studies and reports due to the legislature on the 15th.

Picus Group Ed Finance Study: Before it reaches its final resting place on the shelf, the Picus education finance study seems to have met its purpose in evaluating the outcomes of Act 60/Act 68 some 12 years out. The finance and education committees (both House and Senate) heard the preliminary report. The Picus team is a national leader that has studied ed finance in every state. They conclude that equity has been achieved – school spending in Vermont is not a function of community wealth. They state the

obvious that the connection between spending and price has been diluted in the move to statewide funding. They point out that Vermont has high spending relative to the nation, and also good results relative to the nation (although less impressive compared only to other Northeast states). They find that our high performing schools are not necessarily high spenders. Something for everyone. Bottom line is that Vermont likely has the fairest system in the nation, has invested in its kids and gotten good results, and going forward can continue to see those results without breaking the bank.

### **Operations:**

Confidentiality of Net Property Bills: Municipalities have been in a flurry to react to the Supreme Court decision that property adjustment amounts on tax bills must be kept confidential. (The Tax Department and most towns had previously relied on statutory provisions strongly suggesting legislative intent to keep all aspects of the property bill public). The Department now is advising towns to only release the gross amount of the bills, and has worked out a solution with the billing vendor used by most towns to produce a file of the bills for each town with adjustments redacted. The Department also advised the towns to act cautiously in releasing the net bills to agents of the homeowner (such as escrow companies) unless there is documentation of agency – some VLCT advice on this point has caused confusion.

Online Travel Litigation: The Commissioner met with Asst. AG Bill Griffin, and spoke with the Multistate Tax Commission (MTC), the Federation of Tax Administrators, and the New Hampshire Commissioner about the possibility of seeking tax on the retail price of rooms charged by online travel companies (OTC). NH appears unlikely to pursue this matter (since their legislature is “south of crazy” and bent on eliminating any tax enforcement), but their Commissioner had interesting insights about standard settlement deals being offered by the OTCs – trying to buy states off for a couple years in the hopes that Congress passes protective legislation. Our department legal counsel is researching the caselaw, and then we plan to set up a meeting with the litigation group. Aside from litigation, we also may want to seek clarifying statutory language – MTC is close to adopting a model bill that would require collection and remittance by OTCs.

Meals Tax: Residents of a certain senior living community have been complaining far and wide that the landlord has been assessed for unpaid meals tax. The Commissioner has been contacted by numerous residents, legislators - and VPR. The Department of course cannot comment on individual cases due to confidentiality. As per our usual disclaimer, every taxpayer has several avenues of recourse, including a full hearing before our impartial hearing officer and a written decision from the Commissioner considering the facts and legal precedent. However, as a general matter, we may want to work with the legislature to re-examine our meals tax, which is very broad, and the exemptions, which are fairly narrow based on old terminology. Back when the tax was passed in the 1950s the legislature certainly was not contemplating all of the living options marketed to the burgeoning over 50 crowd. The Commissioner has met with the head of the Vermont Health Care Association, and has another meeting set for next week, including the Commissioner of DAIL.

“Performance Audit” of Offset Program on Payments to Medicaid Providers: The Auditor’s office has shared a preliminary draft of its so called performance audit to examine what an offset of payments to Medicaid providers might yield in tax collections. Given its finding that 68 Medicaid providers have a tax liability, the report recommends that the legislature explicitly expand offsets to reach payments to Medicaid providers. Only the IRS and Kentucky have implemented such offsets, and DHVA has expressed concerns about any possible effect on access to care.