

WEEKLY REPORTS

Checklist

5/2/2014

Elizabeth Miller/Aly Richards

- ☒ Agency of Commerce and Community Development – Patricia Moulton
- ☐ Health Care Reform – Lawrence Miller
- ☐ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Rebecca Holcombe
- ☒ 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 – Susan Spaulding (**no report this week**)
- ☒ Department of Liquor Control – Mike Hogan

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: May 2, 2014
Re: Weekly Report

LEGISLATIVE ACTIVITY

- **Budget:** The budget is now in conference and Lucy is working on several issues including the transfer of VCGI into state government, Domestic Export Program/Working Lands Funding, and parity of funding increases for RDC's and RPC's.
- **S.220 Economic Development Bill:** Lucy will work with conferees to modify the Vermont Products study language and look to eliminate some unhelpful or low priority studies.
- **H.809:** Senator Baruth Reported out H.809's amendments on the floor for Senate Economic Development and Senator Snelling reported out amendments from Senate Natural Resources. H.809 passed the Senate on a voice vote. House Natural Resources is expected to concur with the Senate's amendments.
- **H.823:** Quite the roller coaster ride this past 7 days. Senate Economic Development voted out the bill with amendments 4-1-0. Went to the floor where Senator Flory offered an amendment to strip a portion of the bill dealing with 9(L), a new Act 250 criteria dealing with strip development. The amendment was defeated 22-7-1 and H.823 passed 2nd reading on voice vote. 3rd reading is up tomorrow (Thursday).
- **Fee Bill:** Senate Finance concurred with House to increase the archaeology box fees from \$400 to \$500 and mobile home park registration fees, but did not accept the increase for site fees from \$8 to \$12 and kept them at \$8. Will reach out to House Ways and Means on this in prep for a conference committee. Passage by the full Senate expected by the end of the week.
- **H.168 Municipal Tool Box:** The House Government Operations Committee approved the bill with amended disaster condemnation language late last week. The committee forgot to deliver the bill to Legislative Council for a few days so it will not be considered on the House floor until Friday. ACCD supports the new version of the language.
- **H.884 Miscellaneous Tax Bill:** The full Senate is expected to pass the bill by the end of the week. As approved by the Finance Committee, H.884 includes the \$500,000 increase in downtown tax credits and shared equity language sought by ACCD. Finance also folded the education property tax rate bill into the misc tax bill but dropped the House language directing Housing Council to study alternatives to the renter rebate program. A section clarifying flood damage assistance to the Latchis Theater was removed and added to the FY15 Appropriations bill.
- **H.887 Reports:** The Senate Rules Committee released the bill reinstating a number of report requirements including that DHCD submit an annual Housing Budget and Investment Report. The Senate Government Operations Committee approved the following legislative day, and the Senate will likely pass it by the end of the week.
- **Capital Bill, H.864:** Senate Appropriations voted in support of the Capital Budget on Tuesday with a vote of 6-0 (1 absent). A \$47,000 discrepancy still remains between the House and Senate Institutions Committee versions, however. The Senate read the bill and offered amendments on April 30th.

LUCY LERICHE, DEPUTY SECRETARY

- **Internal Controls:** Departments in ACCD are taking their Internal Controls Surveys very seriously. We are using the guidelines and pointers offered at Monday's Extended cabinet Meeting.
- **WLEB Forestry RFP:** Contract awardee has been chosen for a strategic comprehensive analysis of this important Vermont economic sector.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Lisa Gosselin, Commissioner

- **Vermont Bid System:** The Procurement Technical Assistance Center was notified last week that federal funding for the state-wide bid system is no longer an allowable cost. They commented that the federal government should not be funding the State of Vermont's bid system. After discussions with Robin Miller, the Program Director of the Procurement Technical Assistance Program, they have agreed to allow a one year phase out. Now that being said, we are currently losing all in-kind contributions associated with the support of the system effective immediately and will lose the dollars in support for our technical maintenance of the site in FY16. This system saves state agencies and municipalities time and money by providing and publicizing centralized notifications of RFPs and is the only central portal for the State to list their contracting opportunities as required by Bulletin 3.5. The total financial impact will be upwards of \$75,000. Lisa Gosselin, Robin Miller, David Metraux and Alex Ibey met with Commissioner Obuchowski, Deputy Commissioner Wanda Minoli and Deb Damore, Purchasing and Contracting Director of BGS to discuss the implications and see how we can extend this as a bridge system. BGS has been at work on a new E-Procurement system but does not anticipate being able to roll that out for another year and a half or two years. In the meantime, our infrastructure costs will increase as we isolate this system and ensure it will continue to function until the new State E-Procurement System is in place. David Metraux and Robin Miller will be doing an analysis of usage and costs and we will make recommendations to the Administration on how we can better anticipate and allocate costs between all state agencies. Also, note that Robin and her team were able to double the amount of contracts awarded between 2012 and 2013 using this system.
- **Make Vermont Home:** Lisa has been working with DED team and partners to reach out to employers around the state to gauge employment needs and working with Nancy Brooks on an outbound campaign to alumni of Vermont's colleges to highlight job opportunities and make them more aware of the companies that work here. Some of the companies who anticipate hiring more than 20 people in the next year: Mack Molding (Arlington), GW Plastics (Bethel), Keurig Green Mountain (Williston), King Arthur Flour (White River Junction), Cabot Hosiery/Darn Tough (Northfield), SunCommon (Waterbury), InnTopia (Stowe), Dealer.com (Burlington). Lisa is working with Lars Torres, Jeff Couture of the Vermont Tech Alliance and David Bradbury of VCET to gather data about employer needs in the tech space for an outbound PR and social media campaign that will be aimed at schools and cities/hubs where there are high concentrations of the needed skill sets and a similar environment.

BUSINESS SUPPORT ♦ Ken Horseman, Senior Economic Development Specialist

- **Hampton Direct - Williston:** The company reports that business is strong with full time employment at 23 in Vermont and 18 in California. They have opened a California office primarily to recruit needed workforce. They are seeking to downsize their space needs which exceed their requirements and are in discussion with the state to lease some of their present offices.

- **Faraday:** According to CEO Andy Rossmeissl, the company just completed a round of financing and continue steady growth. They have developed customer acquisition software that increases response rates for companies in the renewable energy sector.

FINANCIAL SERVICES ♦ Dan Towle, Director

- **Press Meetings at RIMS:** Dan had meetings with Editorial Staff of *Risk Management Magazine*, *Captive Review*, *Risk & Insurance* and *Business Insurance Magazine* while attending RIMS.
- **Insurance Journal:** Dan was interviewed by this publication on the recent news of Vermont passing new captive insurance legislation.

VERMONT ECONOMIC PROGRESS COUNCIL ♦ Fred Kenney, Director

- At the April monthly meeting, the Council took the following actions:
 - Gave final approval for incentives totaling \$971,027 for the establishment of an early production center for cold beverage production in Williston.
 - Approved an amendment to the St Albans TIF District to adjust the Original Taxable Value.

VEGI

- Worked with following companies on VEGI applications:
 - Followed up with 1366 Technologies regarding Initial Application for May.
- Contacted all VEGI companies with reminder to file claim by April 30. All 32 active companies filed a claim for 2013 activity except for Alpla.

Note regarding Alpla: Company moved to Vermont to make the recyclable plastic pods used by Keurig Green Mountain for the Vue system. Company did not reach 2011 VEGI employment Performance Requirements for third year which will mean that incentives are terminated. However, this is not an indication that the company is not doing well. They overestimated the number of employees they would need due to a higher level of automation they were able to incorporate into the manufacturing process. The company invested in and established an operation in Vermont to serve Keurig's needs and will continue operating here, but no incentives will be paid because they did not reach the required employment level.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director

- **The Vermont Downtown Board:**
 - Renewed Warren's Village Center Designation
 - Approved Burlington's Neighborhood Development Area (NDA) – the first in the state
 - Awarded \$300,000 in Downtown Transportation Fund grants to Middlebury, Rutland, St. Albans and Vergennes
 - Funded EV Charging Grants to Brattleboro, Springfield, St. Johnsbury and Waterbury

GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director

- All issues have been resolved for the State FY13 Single Audit – just in time as HUD has asked for a copy, noting the Findings.

HISTORIC PRESERVATION ♦ Laura Trieschmann, State Historic Preservation Officer

Historic Sites

- **Coolidge Coin:** This month the U.S. Mint released its [new Coolidge dollar coin](#), one in a series of presidential dollars. Coolidge fans who want to celebrate the new coin can join the Foundation and friends Monday, May 5 in New York at the Union League Club for the new dollar's birthday party. Wall Street's star historian, James Grant, will speak about the dollar. The event will also include cake, cocktails, and a wonderful display of Coolidge-era currency and a performance by Mary Carter singing Cole Porter's famous song, "You're the Top."

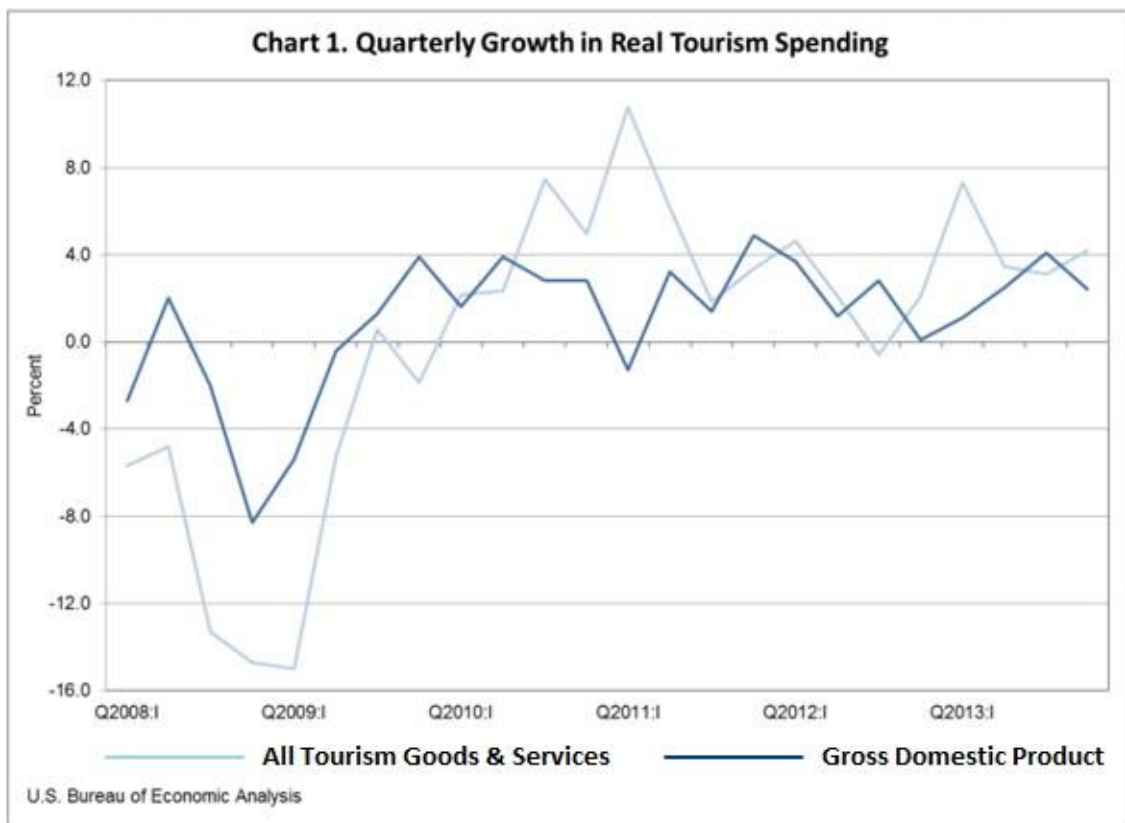
DEPARTMENT OF TOURISM & MARKETING

Megan Smith, Commissioner

- **Travel Helping Lead Economic Recovery:** The following excerpt from an article from [TravelPulse.com](#) highlights how the travel and tourism industry is integral to job growth and economic recovery.

Data released Friday [April 25] by the Commerce Department's Bureau of Economic Analysis (BEA) [showing estimates of GDP growth by industry](#) illustrate that travel posted the No. 2 growth rate of all U.S. industries in 2013, trailing only the agricultural sector.

[Travel growth](#) accelerated to a 4.2-percent rate in the fourth quarter, up from 3.1 percent in the third. Travel dramatically outpaced the rest of the economy for the year, growing more than three percent compared to 1.9 percent for all sectors.



Department of Labor statistics show that the travel sector has recovered 138 percent of the jobs it lost in the recession, versus only 92 percent for the U.S. economy overall. Inbound international travel - counted as an export - grew at a rate of 9.1 percent in 2013 - more than four times faster than other goods and services - and remains the United States' third-largest export.

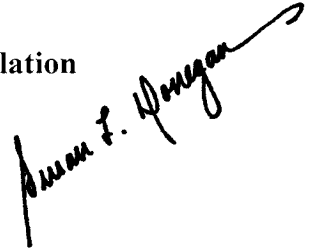
- **State Website Template:** Nancy and Heather met with DII Web Services and VIC last week for an updated work-in-progress presentation of the new state website template. The group agreed on the new options for mobile-responsive navigation, and the set of new features within the template. Next steps are for VIC and Heather to set up several working sessions to start refining the style and look-and-feel of all of the template elements. Estimated timeline: presentation of the new template to interested parties around mid-summer, with go-live of the first websites on the new template occurring in early to mid-fall.
- **Made in Vermont:** Heather and Nancy met with Megan Smith and Mike Osborne this week to outline first steps for implementation of the Made in Vermont program, now that we have signs of approval from both the House and the Senate sides. (Not to jinx anything!) Assuming we do get final legislative approval, Mike will take the administrative lead on rolling out the program, but there is still a lot of planning work to be done within VDTM, CMO, ACCD and Ag before we're ready to go live. Among the discussions that need to take place: (1) finalizing the nitty-gritty details of eligibility criteria and application documents and getting a lot of people to "poke holes" in those processes and documents to make sure they're sound; (2) planning for the program website (Will we build it in-house? Hire a contractor? What are the requirements of that site and what technologies do we need to support them?)

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CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: May 2, 2014
Re: Weekly Report



Insurance Division:

Over the past few months, the Insurance Division has received several communications from the Roman Catholic Diocese of Burlington. The Diocese has taken issue with Blue Cross Blue Shield of Vermont (BCBS) over the policy that includes contraception/sterilization and abortion services in their plans citing the religious exemption that is available under the Affordable Care Act (ACA). BCBS responded to the Diocese indicating that they were following Vermont law and applying no moral or ethical consideration to the inclusion of the services.

Recently, Commissioner Susan Donegan spoke with Rev. Monsignor John J. McDermott to explain the perimeters of Vermont law with respect to these services.

She indicated:

- 1) While the ACA has a religious exemption for contraception including sterilization, the Vermont Legislature elected not to recognize such an exemption and has mandated this coverage in health insurance plans. BCBS and MVP, both sold on the Exchange, are in compliance and all Vermont plans include this feature.
- 2) Regarding abortion services, the ACA and Vermont law are both silent on this issue. In the absence of a regulatory mandate by the Vermont Legislature, Commissioner Donegan told Monsignor McDermott that the issue is one that the insurers are free to interpret as they wish. BCBS allows elective abortions as a covered service with no pre-authorization (medical necessity applies but that probably means that a pregnancy must be confirmed). MVP, however, does not cover elective abortions. MVP only allows medically necessary and pre-authorized abortions and the standards for the procedures are considerations such as life-threatening conditions regarding the mother's health. The Commissioner explained that the different approaches by the two carriers concerning abortion services were acceptable. The Monsignor asked whether a change in such policy would have to be done legislatively and the Commissioner indicated that she believed it would.



- 3) The Monsignor asked the Commissioner if she would reduce their conversation to a letter explaining the issues so that he could pass the information along to his boards. The Commissioner asked whether he was exploring options as an employer and he said that the Diocese was in the process of considering its coverage options for its employees including teachers. He does not believe that the group is large enough to move into a self-insured model so understanding the various coverage mandates was important. It is possible that the Catholic Church may attempt to create larger self-insured groups regionally or beyond.

Captives Division:

Deputy Commissioner David Provost reported that he met with a number of serious prospects for future captive insurance companies at the Risk and Management Society Annual Conference this week. He met with representatives from the Michelin Co., and said there is “good potential for it to form a captive in Vermont.” There were approximately 10,000 attendees at this year's conference.



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CONFIDENTIAL AND PRIVILEGED
MEMORANDUM

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: April 26, 2014

This week, I'd like to spend most of this memo on the governance work.

I have been asked to testify in Senate Finance on Monday.

The goal is to get a bill out of Senate Finance and in to committee. However, the bigger chess game is laying the groundwork for better decisions in committee.

Senate Finance's version would be absolutely devastating to the AOE. Ashe has a faith in leadership by cudgel and compliance that defies our reality. His version takes roles assigned to the SBE and gives them to the Secretary, and assigns a whole additional cluster of enforcement and investigative responsibilities to the Secretary. This would put me in an adversarial relationship with the field, and would ensure that I spent the next 2 years becoming black and blue in fights with districts, and no time on moving an educational agenda. Paradoxically, I think my power in the field comes through influence and support, not from enforcement. In addition, the additional bureaucracy created is costly in time and resources.

It is true: a voluntary bill is an easier sell politically, and defuses the opposition from places like Stowe. The problem is it means the wrong districts listen and don't listen. Westford will still think it is exceptional and the world for all should reflect the needs of Westford, and Vergennes instead will respond by cutting critically needed teachers.

One of my biggest concerns is that the Senate Finance version adds bureaucracy and I believe it will add substantial cost, without achieving the desired more efficient end state. The reality is that any savings are likely to be achieved through more efficient use of staff, which is more likely to be achievable through the SD structure.

Ashe is Machiavellian enough that he knows this. I am inferring based on his comments that the purpose of his language is to line up services at the SU level, so that when SDs become politically achievable, the transition is eased. I am also suspecting he know we are likely to have 50+ budgets go down next year if this goes through, and may see that as a necessary evil to get people to a place where this can move. I know he said he thinks we are so small the whole state should be one district.

I guess the question you need to weigh is how much pain is necessary, or what kind, and when.

Here is a draft of what I was proposing to send to Ashe (below) in response to his request. It needs to be edited down. However, I can't tell whether he proposes what he proposes from a lack of understanding of how this language will play out, or from a conviction that imposing this pain/compliance will get districts to the place where they will do the right thing. I am staying away from details in the letter, because I think those need to wait for the conference committee. This is really high stakes for us. I am in your able hands, but hope you will help us manage the politics. This is quite a tight wire.

Dear Sen. Ashe,

First of all, thank you for engaging seriously with issues related to school governance and the financial sustainability of our schools. I look forward to supporting these conversations as the discussion moves into conference committee.

As we at the Agency look at economic and demographic forecasts, we are increasingly worried that our education future will be characterized by declines in quality and increasing inequity across districts, even as tax burdens rise. We agree it is critical to engage our public in hard, realistic conversations around how we can provide:

1. public assurance around the quality of our programs;
2. clarity about desired outcomes and clear accountability for ensuring students achieve those outcomes, while allowing for local autonomy about how to best achieve those outcomes;
3. evidence decision makers can use to improve the efficiency and cost effectiveness of our systems, and slow and control the growth in education spending;
4. opportunities to "right size" our schools to reflect both our economic realities and our declines in enrollment.



Two realities with which we may need to come to grips are:

5. SUs are combinations of districts in critical shape, districts beginning to struggle, and districts in good shape. When realignment is voluntary, an unintended consequence that needs to be managed is that voluntary approaches radically restrict the opportunities for districts in critical shape. This has implications for equity.
6. Financial pressures and declining enrollments may be moving us into a place where choice is about choosing between being a small district without operating schools or being a small school in a larger district.

We know that our current model is costly and difficult to evaluate. Achieving greater cost effectiveness will require changes in how the public delivers education. We see this as inevitable. We already have schools that are seriously dilapidated, towns that cannot pass budgets, and towns with continuing declines in enrollment that leave their long term viability in question. Towns that respond by cutting programs to alleviate the burden on tax payers sometimes find themselves in a downward spiral; increasingly deficient programs incentivize families that have the resources to move their children to other schools or towns, which simply contributes to the decline.

To survive and hopefully thrive, some of our communities and their schools will be compelled to adapt how they deliver education or to partner with neighboring towns to find more sustainable ways to support high quality education. They will come to this in an intentional and purposeful way, or they will come to this moment one at a time, scattered around the state, as they arrive at a point of fiscal and educational distress.

We see PK-12 districts as a policy goal as one way to address this challenge.

We understand there are many ways to achieve this goal, and the current debate in the legislature is an effort to identify the most effective, Vermont-appropriate means to an effective and efficient end. We agree, as you have argued, that any solution needs to build on the strengths and commitments of local communities, and be crafted locally to reflect local priorities.

Thank you for providing us with an opportunity to offer feedback on some of the elements in your current proposed amendments. I will give you a big picture response in this letter, and will also comment on a few specific proposals that we feel would



substantially undermine our capacity to provide much needed educational leadership in the state.

We feel several components of your proposed legislation are promising:

1. We think the strong policy statement that PK-12 SDs are a desired policy end-state is important. It indicates that you feel the challenges and education spending pressures are real, and will hopefully encourage local actors to consider whether partnership to ensure greater efficiency are possible.
2. We think the expedited RED vote process may enable several confederations of districts that tried to merge but were thwarted by a single town to revote and merge efficiently. This language will make it easier for local actors to act efficiently on local interests, in order to better serve their children.
3. We think incentives may encourage districts to pursue partnerships that will yield long-term savings, or at the very least, better opportunities and greater returns on every education dollar that is spent. Change is hard and schools are often the cultural centers of their communities. Some incentives may make the change process easier to take, and will support the voluntary nature of the change you are trying to encourage.
4. We appreciate your support of the Special Ed experiment, which will enable us to see if a controlled process can lead to less onerous processes in the field, better practice and lower costs. We are reaching out to faculty at UVM to help guide this process.

We agree that our priority needs to be supporting system-changing reforms that will save money year after year. For this reason, we have asked for one time funding to support

- The development of a RED formation handbook, which provide clear guidance on the RED process, identify and discuss common challenges and questions, and provide sample articles of agreement which outline different approaches different actors have taken to the question of how to govern the new district.
- The development and implementation of a common chart of accounts for all school districts. This will make it easier to contrast cost effectiveness, and will also facilitate any merger processes, should districts choose to move in that direction.
- The development of comparison sets of schools that share demographic and governance characteristics, so that we can contrast effectiveness across small groups of schools that share characteristics.

We also have strong concerns about some elements of the proposed language.



1. We are concerned the **proposed language significantly increases the AOE obligations related to compliance monitoring and dilutes our focus on educational leadership**. This will compromise our ability to act on an education agenda.

These provisions place substantial auditing and compliance enforcement responsibilities on the Agency that would substantially change our relationship with the field from one of providing technical support and guidance to one of enforcing compliance with external mandates. This changed relationship, together with the increased obligations related to enforcing compliance, would substantially erode our ability to provide educational leadership and support continuous improvement in the field. We agree, for example, that we need to engage in continuous auditing and monitoring of the field. However, if we want to improve practices, particularly in weaker districts, we need to come in with a focus on capacity building and process improvement, not a focus on imposing sanctions.

In addition, the language in this legislation grants authorities to the Secretary that previously resided with the State Board.

2. The proposed language asks us to **invest a tremendous amount of time and resources into statutes that are not well defined in either scope or outcomes**.

The bill presumes that there are additional savings to be reaped by adding additional supervisory and regional oversight. We feel, in contrast, that we already have too much administration, and need to be looking for ways to streamline bureaucracy to support more efficient operations and more strategic targeting of resources to the classroom level, where they will most benefit our students. The formation of SU regions increases bureaucracy by adding another supervisory level, without improving educational outcomes. To adequately perform the auditing obligations you assign to the AOE, we would also need more staff. We feel this would add cost and take time away from efforts to improve education. We feel real savings are instead found in SD formation, where units can collaborate to reduce duplication of functions across small units. We need to support districts that want to move to an SD structure, so that they can do so as efficiently as possible, without adding additional layers of bureaucracy, for which they will have to pay in either time or resources.

3. The plan focuses on SUs, which do not address some of the key challenges facing some of our schools. In contrast, unified pre-k to 12 districts would allow for flexibility in deploying assets strategically, which would enable districts to be more



efficient. We are concerned that emphasizing SU change first essentially encourages districts to go through two change processes, first to become an enhanced SU, then again to become an SD. It also confuses districts that need to find cost reductions about where those reductions are likely to be found.

As I mentioned earlier, SD's are vertically integrated single municipal entity. In contrast, SU's are a confederation of multiple municipal entities. In an SD, certain governance functions (policy development, audits, safety plans, etc....) are performed once on behalf of all members. In SUs, those functions need to be repeated for each member entity. This burden falls hardest on small units, such as districts with very small numbers of students, which still have to pay for all governance obligations. In addition, SDs can look system wide at needs and aggregate and respond quickly to needs (e.g. a qualified HS physics teacher to teach physics in every high school) in a way that gives benefits to all students.

Here is another way to look at the same thing. Basically, we can educate children appropriately up front, or we can service the warranty policy in terms of remediation, referrals to special education, discipline issues and drop out rates all the way along the PK-12 trajectory. If low income students don't have access to quality PK, the elementary schools will be playing catch up to try and narrow achievement gaps that developed before Kindergarten. Districts that don't operate at the 7-12 grade levels pay tuitions, over which they have no say. If tuitions rise, they are compelled to make any cuts at only the elementary level. In union districts, if elementary and middle school programs do not support a good program, the union district ends up sharing the costs and servicing the "warranty" on students who were insufficiently supported in earlier grades. And, if a union district HS budget fails after an elementary budgets have passed, then any cuts that need to be made, have to be made at only the HS level.¹ Thus, in most districts, despite local decision making authority, voters may actually have less control, flexibility and discretion over local decisions than they sometimes think.

Not all districts are at a point of crisis. However, those that are need to move as efficiently and realistically as possible as they craft a solution that meets their local needs. As suggested above, a challenge is that districts tend to focus on their individual interests, not the health of the system overall. This means that as one district reaches a point of crisis, others in its SU may not be in a similar situation,

¹ District residents don't vote on supervisory union budgets. As SUs assume greater responsibilities a growing portion of expenditures moves beyond direct voter control.





to provide PK-12 data that would give some feedback to the town on its effectiveness at educating its children.

- b. Analyzability:** How does the current variety of governance structures impede effective comparison between schools and districts in terms of outcomes and best practices?

We want to preface up front that we are in no way, in what follows, suggesting schools be consolidated or made bigger just to support the goal of analysis. We are observing that development of PK-12 districts, whatever the size or number of the schools in them, would give us analyzable units that would support analysis and evaluation of how to improve learning.

Comparison between districts and schools is complicated by size, the socio-economic status of the district in general, and “urbanicity” (i.e. whether a district is rural versus urban). While those factors can be controlled for and are informative splits between district and schools, the addition of other complicating factors such as differing grade configurations, unions schools, joint contract schools, tuitioning districts, etc., makes it difficult to get any meaningful comparisons between districts and schools across the state. ²

In order to draw valid inferences about effective practices that improve outcomes, we need units that can be modeled. Finding “like” schools and districts given the current structure means reducing the sample size, thereby limiting the comparisons we can make, and reducing the statistical power we have to find effects.

A main challenge with measuring student achievement in high schools at the town level is the way high schools are organized with respect to the town(s) they serve. There are 61 public schools with a 12th grade. Thirty of those schools are union high schools, serving more one than one town, 21 serve one town and are a part of a larger supervisory union, 1 serves two towns and is part of a supervisory union, and 9 serve one town, which is its own supervisory district. This means that half of the high schools cannot be evaluated at the town level and the remaining half are split with regards to their supervisory relationship. There is no way to make any generalization about high schools from the town level. It is important to note that an analysis of any one governance structure at the high school level will not apply to other governance structures if only because of the relationship between governance

² In addition, the general Pre-K—12 structure would enable us to produce data that would better inform parents in choice districts as they make decisions.



structure and poverty (union districts are more rural and Vermont has more poverty in rural districts).

Comparisons at the elementary level are less complicated but still challenging to do well. The first challenge is the variability in size of schools in Vermont. (Again, we want to be VERY clear here that we are in no way suggesting that we need to make schools bigger so that we can analyze them.) If we were interested in comparing 4th grade reading assessment scores and assessing whether we are closing score gaps, we would find that over 30% of schools with a 4th grade do not have enough students testing to analyze.

In addition, our current units are very small, and small units tend to be very unstable from a measurement perspective. In any given year, small schools may appear to be high or low performing for issues that have to do more with size and sampling bias, than with any underlying element of quality. By allowing analysis of outcomes in small schools at an aggregate level as part of a PK-12 system, we at least provide some useful information to communities with small schools.

5. We are concerned a focus on supervisory unions and supervisory service areas may actually increase the cost of education, while not actually achieving the benefits we expect to see associated with economies of scale.

As I noted above, it is our conviction that savings will be found with district mergers, not SU mergers. SU mergers, as outlined in these proposals, may in fact increase costs. A very real danger we have noted in the field is that when school districts move functions—such as special education or curriculum development—to the SU level, instead of reducing local spending proportionally to increases in spending at the SU level associated with a transfer of function—local districts tend to backfill local spending equivalent to the net transfer to the SE level. In effect, this substantially increases local spending, and simultaneously triggers antipathy towards the SU budget, which is accused of “increasing” while “local budgets held even”.

We have some additional line-by-line feedback that we are happy to share if you are interested.



And now, back to the mundane: Meetings

SBAC meeting in Minneapolis:

At the SBAC conference, member states agreed to:

1. *Move ahead with the process of setting achievement levels.* I registered my protest that this is a bad way to report scores, but practically speaking, since the Federal Government requires these, we have to have them.
2. *Endorse the Career Readiness Framework.* We believe that all students need to be educated to high levels, and that to succeed in careers, students headed to careers need high levels of skill just as much as kids headed to post secondary opportunities. We were able to help reshape the language to emphasize that this framework was not about tracking.
3. *Approved the general direction of the blue Print planning process.* The process is pretty consistent with well-established practice.

And a request:

Blog by Governor for AOE website?

Would the Governor be willing to write a very short blog for our website around the appropriate uses of testing? We will have a range of commentators write short pieces. Since the Gov has spoken so openly about his own early learning challenges, we are hoping he would be willing to share his story again as an example of why relying on a single measure to predict potential is a bad idea. It could read something like this (note liberal cribbing from other sources):

When I a kid, my mom sometimes worried that I might struggle to find a job when I grew up.

Schoolwork was not easy for me. I learned differently than many of my classmates. When I was in the second grade, my principal called my parents and me to the office and told us what I already suspected: that despite all their good efforts, my teachers could not teach me how to read. The prospects of my being a successful student and going to college were dim, they were told. That was not a great day.

I was lucky. I had a teacher named Claire Ogelsby who refused to accept my apparent inability to read. After school, Claire loaded me into her Willys Jeep and took me to her log cabin deep in the woods on Windmill Hill Road in Westminster West. In warm weather, we sat on her lawn; in cold weather, we huddled around the woodstove. No



matter how difficult the challenge, no matter how innovative she had to be or how hard she had to work, Claire Ogelsby never gave up on me. Therefore, neither did I.

As we move to a new standardized test, the SBAC assessment, I hope Vermonters will keep my own experience in mind. When I was a kid, federal policy did not encourage [Send](#)

states to grade teachers based on their students' test scores, so that teachers who taught lots of kids like me would end up getting labeled ineffective. Federal policy back then did not require that we test every child in every grade 3-8 and in HS and label them "not proficient" or "proficient". If that had happened to me, it might have discouraged me from reaching high and pursuing ambitious goals. I still don't test well, and I suspect I never will. Schools need good test data so they can assess whether their efforts to be more effective are paying off, but I suspect there are many kids in our schools today who don't test well but who will still grow up to be Governor or entrepreneurs or tech designers or farmers who harness technology to make their farms thrive in the 21st century.

As a state, let's focus on using all the tools we have to help all children learn better, but let's not get sidetracked with labeling and ranking. In my case, I think my experience suggests that while test scores are useful for overall snapshots of how kids and schools are doing, they don't always tell the whole story, and this is particularly true in individual cases. Most importantly, Clair Ogelsby wasn't interested in just judging how well I could read. Instead, she was deeply invested in helping me learn to read better. If she was a young teacher and being evaluated based on my test scores, I wonder if she would have kept her job long enough to teach me to read. On the other hand, she did teach me to read, and I am forever grateful to her for it.



CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: May 2, 2014
Re: Weekly Report

Status of Governor's Priorities: .

Working on another review of shipping processes now that we are changing some of our distribution plans. We also made another millionaire yesterday with our third \$1M Powerball win in 6 months.

Legislative Issues/Contacts:

I continue to stay in touch with some Senators about H575 attempting to keep it pinned to the wall. There have been some attempts at using it as an amendment but were stopped.

Press Issues/Releases/Contacts:

We gave away a car yesterday at Lamoille Valley Ford and had live radio there with some brief interviews with the lottery and the winner. We expect more with this latest Powerball \$1M.

Significant Events/Meetings:

n/a

Evolving Issues:

I will be attending the annual VCPG conf in Fairlee, VT on May 5-6.

Summary of Key Agency Department Activity:

Preparation for our website RFP and all paperwork necessary for the purchase and programming for the bar vending machines is capturing most of my time. Hot Lotto is coming to an end in a few weeks. The rules process to eliminate the current rules has begun with an ICAR meeting planned on May 12.

Executive Director's Commentary:

Ed Flanagan has been a good addition to our commission. It won't surprise me if we have a couple more openings next year as a few three year terms come to an end. I will continue to keep my eyes open for potential candidates. Hope you will too.

OFFICE OF THE SECRETARY

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Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, May 2, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

VTrans Organizational Change

We are moving through the process of change (in the works since Irene) in the organization that would combine the design, construction and maintenance of our roads and bridges under one division. This is highly recommended as an important part of managing assets and maintaining travel corridors. The new Highway Division would be headed by a Chief Engineer, Rich Tetreault. It also is expected to provide opportunity for efficiencies through elimination of redundant activities in two divisions.

A detailed briefing can be provided whenever you want but for now we have been checking in with Jeb as we move along. We will brief Dick Mazza and Pat Brennan next week even though no legislative action is needed.

Domestic Leads to State Vehicle Damage

A VTrans supervisor from District 9 and his wife who is a DCF employee were involved in a domestic which resulted in damage to a VTrans truck, which was rammed by another vehicle allegedly operated by the wife. A shot was fired, as well, but no one was injured. Details are forthcoming via a State Police report and the wife, Lisa Matten, was arrested.

HTF Strategy

A senior staffer at the U.S. House Transportation and Infrastructure Committee told an audience that I was in last week that he believes a Band-Aid will be provided for the HTF to shore it up through December 31, 2014. That's really all we need to get through the construction season. In the meantime we are working with the Treasurer to understand the capacity for receivables from the FHWA as the amount of reimbursements is reduced starting in late July.

In response to a question about funding a long-term transportation bill he said “No idea; we’re waiting for guidance from leadership”. No confidence comes to me from that observation.

Railyard Enterprise Project

In the wake of the FHWA denial of a new Purpose and Need for the project, as presented by the City of Burlington, Chris Cole and I have been meeting with the Mayor on a potentially successful strategy. We will make a site visit with him and Chapin Spencer, along with both FHWA Administrators, on Wednesday of next week. Hopefully, we can restart this important addendum to the Champlain Parkway project.

NOTES FOR STAFF

Vermont Agency of Transportation's (VTrans') Calculation of Liquidated Damages

In September, 2013 and reissued in March, 2014, the Office of the State Auditor issued audit reports on two VTrans construction projects. (Reports can be found at <http://auditor.vermont.gov>.) A follow up report was issued April 25, 2014 on VTrans' calculation of liquidated damages. Liquidated damages are charges assessed to a contractor for failing to complete a project within the agreed timeline. The auditor's office found that VTrans' calculation of liquidated damages meets FHWA requirements but that the calculations are not updated frequently enough. Further suggestions include considering additional costs in the calculations. VTrans has initiated a plan to update calculations every 2 years and consider additional costs in the calculations.

New England Power Link Project

VTrans staff met internally to discuss the request from TDI New England for their New England Power Link Project, to use our state highway ROW corridor for their HVDC cable installation. The proposal is to bring their cable out of Lake Champlain in the Town of Benson and then take local roads to Route 22A, then Route 4, then Route 7, then Route 103 and finally Route 100 to the Ludlow substation. This request to bury a high-voltage DC transmission cable in a five-foot by four-foot engineered trench in our state highway ROW that cannot be moved once in place, presents significant challenges to the Agency of Transportation in the future to adequately maintain our highway network without impacting their engineered trench. Typically, when utilities locate in the highway ROW, they are either overhead or buried, but the Agency can require the utilities to relocate their transmission lines when we need to replace culverts or reconstruct the roadway. This transmission line will be different as TDI has indicated that, once in place, they don't want it moved or the engineered trench to be violated. In order to meet these conditions, the Agency will need to locate all of the culverts and other drainage systems to identify which need replacing to reduce the potential impacts to their cable and trench. Agency staff have prepared a list of questions which we are going to send to TDI to better understand their flexibility and needs. We are also going to look at similar projects in other states to see if anyone has buried one of these cables in a state highway ROW that was not a limited access highway. The only examples we have thus far are for limited access highways. VTrans is continuing to keep an open mind to the

possibility of locating this cable within the ROW while evaluating its impacts to our ability to properly maintain the highways.

Motor Vehicle Crash Statistics

Fatal Crashes **April 22 – April 28, 2014:** No fatal crashes reported during this period.

--**2014** Fatalities: **11 Total** – **7** vehicle operators (1 motorcycle; 1 snowmobile), **2** passenger and **2** pedestrians.

| As of April 28 in each calendar year: | | |
|--|---------------------|---------------|
| Year | Fatalities (people) | Fatal Crashes |
| 2014 | 11 | 11 |
| 2013 | 15 | 14 |
| 2012 | 24 | 21 |

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: May 2, 2014

Health Services Enterprise:

We are reaching a critical phase in the Health Services Enterprise (HSE), which really should be called the Health and Human Services Enterprise. (It envisions full integration of health and human services as necessary to accomplish the goals of your health care reform vision, including access, affordability and quality.) I would like to schedule a briefing for you and your senior staff so that you all have a complete understanding of where we are headed as we roll out large projects including MMIS (Medicaid Management Information System), IE (Integrated Eligibility), and the operational details of Green Mountain Care. RFPs are out and should all be moving into the signed contract phase in the next several months, at a cost of a couple hundred million dollars.

Briefly, the Executive Steering Committee (ESC) of the HSE has restructured governance of the project, we have hired a new Program Manager (Stephanie Beck), and we are restructuring the management of the whole enterprise in a revitalized Program Management Office (PMO).

Welcome to a world of acronyms and, really, a foreign language!

Vermont Department of Health (VDH)

Alcohol and Drug Abuse Program (ADAP):

The Senate's proposed move of the ADAP from VDH to DVHA is causing some anxiety for me, Commissioner Chen, Deputy Commissioner Cimaglio and many in the substance abuse provider community. I strongly believe that such a move would be detrimental to the Administration's successful efforts to have a unified and effective substance abuse system and would be harmful to the Care Alliance for Opioid Addiction (Hub and Spoke).

The move was made with no consultation with anyone in AHS, VDH or the Administration, so was done without any real knowledge of what we have been doing in the substance abuse arena. In fact, an email I received from Sen. Kitchel explaining her reasoning showed that she does not have the benefit of knowing how much we have already done to integrate substance abuse with other health programs, including the Blueprint.

Commissioner Chen and I will continue to reach out to Sen. Kitchel in the hope of her agreeing to talking with us. We have reached out to various House committees which have shown a real interest and concern.

Department of Mental Health (DMH)

Pathways to Housing:

Commissioner Dupre is announcing that he is designating Pathways for their Specialized Services Agency (SSA) status on a conditional basis for FY 15.

Vermont Psychiatric Care Hospital (VPCH):

The hospital is still on schedule for a July 1st opening.

Vermont Psychiatric Survivors (VPS):

The Vermont Psychiatric Survivors (VPS) Board is starting the process of a forensic audit to determine whether VPS has violated any of its contracts and to ensure that the Board understands its duties and responsibilities. DMH will continue to monitor the Board's progress and the results of the audit.

Emergency Involuntary Procedures (EIP:)

DMH held its first meeting of the Emergency Involuntary Procedures Review Committee. This Committee will meet quarterly to review aggregated EIP data from the six (6) designated hospitals. The first goal will be to learn from one another about what works well and what doesn't work well with regard to best practice. The second goal will be to reduce the use of coercion wherever possible.

Department of Disabilities, Aging and Independent Living (DAIL)

Homecare Workers Union Strikes Tentative Deal With Administration:

Peter Hirschfeld covered the announcement of the new contract and described the new contract as..."the latest push by the Shumlin administration to increase pay and conditions for workers performing taxpayer-funded government services." Vermont Homecare United is the state's newest union, and already its second largest.

Press:

Only VPR has carried story of Homecare Workers Union

H.555 and H.728 pass final Senate committees; passage expected. Department supports Senate versions:

H. 555 provides for a study of the magnitude of the problem of individuals with traumatic brain injuries who have been found incompetent to stand trial and requires a program to be designed and implemented by July 2017. The 2017 date differs from the House version which required a program be in place by July 2015. We feel strongly that the 2017 date should stand.

H. 728 provides for rule-making for creating a developmental services system of care plan and at request of DAIL was amended in Senate Appropriations to restore the expectation that the Commissioner manage within available resources. An earlier version would have made consideration of resources "permissive" and directed the Commissioner to consider only principles and family-directed determination of needs in creating priorities.

Department of Corrections (DOC)

Chittenden Conference:

This weekend is the annual Prison Ministry Conference. Commissioner Pallito will open the conference at the Chittenden facility tonight. Several media outlets have expressed an interest in covering this event.

Facility Proposal:

We have been approached by Eagle Companies Detention System (ECDS) regarding the construction of a detention facility on current State property. It appears that they construct and lease just the buildings and it would be up to us to hire staff. The DOC is going to work with ECDS to understand if this idea is feasible and if it is cost effective. If so, we will communicate through the SFY 2016 budget building process.

Population

The department's incarcerated population averaged 2,119 for the previous week. The male population averaged 1,953 with 342 being presentenced inmates. The female population averaged 166 with 41 being presentenced inmates.

Vermont recognized by the National Correctional Industries Association:

Vermont was recently acknowledged for its outstanding work in the area of correctional industries. Mark Duquette, an employee at the Vermont Correctional Industries in Newport, attended the ceremony in New Orleans and accepted the 2014 Staff Award for the Northeast Region.

Department for Children and Families (DCF)

Tension with Hunger Free Vermont:

Hunger Free Vermont (HFVT) may contact the Governor about how DCF is developing its FFY-2015 SNAP-Ed nutrition education program. The HFVT Learning Kitchen series was our only SNAP-Ed service for years. In 2010, Congress replaced the program with a 100% federal Nutrition Education and Obesity Prevention block grant. SNAP-Ed now requires a more rigorous and comprehensive set of approaches. Vermont's share of the block grant was under \$50,000 for 3 years, and HFVT remained the sole recipient. Our grant increased this year and should grow to \$200,000 in FFY-15. This grant could grow to be as large as \$475,000 by FFY18. Mary Carlson, our Program Manager, advised HFVT over a year ago that, while we could support the existing HFVT program during this transition year, a Request for Proposal (RFP) jointly developed by DCF and the VDH would be used to solicit proposals for FFY-15 SNAP-Ed funding. DCF expects the RFP to draw proposals from many organizations, including HFVT. HFVT has met with Commissioner Yacovone as well as Commissioner Chen to discuss their concerns. They are naturally concerned that Vermont's multi-year SNAP-Ed expansion plan would reduce the funding and flexibility that the Learning Kitchen series has enjoyed for so long.

Milton Child Sex Abuse Allegation:

DCF, in collaboration with the Chittenden County Special Investigations Unit, is investigating an allegation of child-to-child sexual abuse among members of the Milton High School football team, which may have been part of an “initiation” to the team. Part of the allegation includes the possibility that school administrators may have been aware of the situation and did not report it.

Department of Vermont Health Access (DVHA)

Brattleboro Retreat (Retreat):

DVHA has presented the Retreat with a proposed settlement agreement regarding denied reimbursement for inpatient stays. The agreement proposes:

- Payment by DVHA of \$200,000 for denied days over the past 2 years.
- Use of the American Society of Addiction Medicine (ASAM) criteria as the recognized standard for determining appropriate level of service for substance abuse and mental health services.
- Payment at full inpatient rates for anyone meeting the ASAM criteria for inpatient stays, and payment at DVHA’s sub-acute hospital rate for anyone not meeting the criteria.
- Collaboration between DVHA and the Retreat on implementation of the criteria, including decisions about the appropriate application of the determination of “imminent risk” and consideration of the availability of community based services.

On April 29th, the Retreat sent a new proposal which Commissioner Larson and I have reviewed. DVHA and I would like to discuss this with the Agency of Administration before responding to the Retreat.

Major Issues and Risks:

- Timeline for renewals / Package 4: the team continues to be concerned around the timeline for the renewals package delivery. Under the current timeline, we are concerned that it will be pushed out too far, cut too close to open enrollment, and negatively impact customer experience and operations.
- Timeline for small business / Package 3: we still have little visibility into the plan or its efficacy and are awaiting CGI response on detailed plan. We don’t have confidence in meeting the current deadline.
- Timeline for Change of Circumstance / Package 2: Delivery of Hot Fix 3 code, necessary for moving forward with Package 2, was delayed and is now flawed. This puts at risk the start of Integration testing and potential the 6/5 deployment date.

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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: May 2, 2014

Secretary's Top Issues

Kristin Haas and Alison Kosakowski participated in a virtual regional emergency exercise focused on **Foot and Mouth Disease messaging** to different stakeholder sectors in VT. The exercise was facilitated by the District 1 USDA office, and there was also participation from NH, ME and CT. Also participating in the VT cell were Dr. Erica Berl with the VT Dept of Health and Jane Clifford with Green Mountain Dairy Federation.

The Secretary & Agency energy & water quality staff met with General Systems Research and the Commercial Aviation Alternative Fuels Initiative, to generate a Vermont farm project that uses manure to make jet fuel via algae. This project dovetails with the **USDA-FAA "Farm-to-Fly" initiative**, is a scale-up at Nordic Farm in Charlotte, from bench-scale to pilot scale, and would involve re-starting the dormant biodigester at Nordic Farm. The fuel output could also be used as home-heating fuel, and the Agency is coordinating with the Vermont Fuel Dealers Association, who secured funding for the bench-scale work. Either use of the fuel would be a "drop-in" fuel that meets existing technical standards.

Steve Parise and Scott Dolan of the Consumer Protection Section have been **inspecting nucleus colonies of bees** that are coming into Vermont to replace winter killed colonies. They reported that the bees look healthy with good populations in the nucleus.

Meat Inspection program and FSCP Management employees continue to communicate with FDA's Center for Food Security and Applied Nutrition to obtain an MOU that exists btw. FDA and Ag Marketing Services that outlines approval for state meat inspection programs to provide **slaughter inspection for alpaca**. The VT Meat Inspection Program has received multiple requests for state inspection, and we are working to try and accommodate those. This issue is expected to be wrapped up within the next week.

Water Quality Enforcement

- A medium farm in Highgate Center will receive a corrective action letter for violations of the MFO General Permit. The farm had a pump malfunction which lead to the release of manure across property boundaries and to surface water. The pump has been fixed and the release of manure stopped.
- A small farm in Newport will receive a notice of violation with administrative penalty for violations of the AAPs. Over the past 2 years, the farm has had a number of releases of manure from the storage structure, resulting in the runoff of waste across property lines. The Farm has already received a corrective action letter and a cease and desist order.
- A medium farm in Richford will received a corrective action letter for violations of the MFO General Permit and the AAPs. The farm has stacked a rather large quantity of manure within the 100 foot setback to surface water.

Vector management group has begun to set up **mosquito traps, expanding the surveillance areas** from last year. Testing of mosquitoes for mosquito-borne viruses will begin on June 15. Population sampling will begin on June 1.

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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: May 2, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

H. 448 Primary Agricultural Soils Senate Agriculture

H. 448 was referred to Senate Agriculture. The committee took testimony this week on where agreement exists, generally, in the bill among stakeholders. As a result and to further the less controversial sections of the bill, the Ag Committee agreed to propose an amendment to H. 869 to advance the

- definition of primary agricultural soils as passed the House and out of Senate Natural Resources,
- the 1:1 mitigation in a downtown development district, a growth center, a new town center designated on or before January 1, 2014, and a neighborhood development area associated with a designated downtown development district.

Also included in the amendment, and was part of 448, is a funding piece for the Agency of Agriculture to continue its work implementing Criterion 9(B). This proposed amendment to H. 869 has the full support of the Senate Ag Committee.

H. 869 Miscellaneous Agriculture subjects- Senate Finance

This has tentatively been on the Agenda at least once this week. It is unclear when it will be heard by the committee because they are working on many issues. The Agency continues to keep in contact with Barbara Dall, the committee assistant to ensure that the Agency is available to answer questions about this important bill.

H. 329 Current Use Senate Finance

Lots of testimony was taken on this bill into the evening on April 30. There is a new section involving the Tax Department /PVR sending an annual certification form to farmers/landowners with enrolled farm land. If the land owner does not return the self-certification form back in a specified timeframe they are removed from the current use program - with the ability to come back in within a year. This possible program raises many issues for towns, the tax department, and landowners.

Jobs in Agriculture
Press

- Kristin Haas, State Veterinarian, was contacted this week by several reporters on the following topics 1)status of the VDART grant that was obtained from the Department of Public Safety to advance animal related emergency preparedness efforts around the state; 2)status of Santa's Land captive cervids related to the fact that the owners were arraigned this week on charges of animal cruelty; and 3)status of a situation in Poultney involving a property where dead pigs were allegedly found. The 2nd and 3rd of these inquiries highlight the general lack of understanding of the Agency's role in animal welfare cases

– many reporters and humane officers still think that VAAFM has criminal investigatory authority in these cases.

- Meat Inspection Chief Randy Quenneville spoke with reporter from the Brattleboro Reformer concerning startup of The Adams Farm red meat and poultry slaughter and processing operation in Wilmington, Vermont and the expansion of the meat industry and slaughter facilities across the state. Also, discussed the importance of the availability of inspected facilities for all producers to be able to market their meat and poultry products within the state
- Agricultural Production Specialist Steve Parise spoke with Laura Cahners-Ford of the VT Farm Bureau Magazine this afternoon for a story she is doing about bees and honey in VT. They discussed general information related to the industry here, loss of bee forage due to changing agricultural practices, honey yields and related information.

Significant Events/Meetings:

- State Veterinarian, Kristin Haas, spoke at the Farm to Plate meeting this week to attendees about the humane calf/cattle transport being undertaken by the Livestock Care Standards Advisory Council – there is room for partnership between these two groups that will hopefully achieve the goal of ensuring humane treatment of calves and cattle during transport to slaughter. There will be an economic analysis completed by UVM Extension in support of this effort.
- Kristin Haas and Darryl Kuehne met with Levi Geyer from Ag. Marketing Services this week regarding AMS’ desire to establish MOUs with state depts. of agriculture regarding statistical reporting from livestock auctions, the Farm to School program and farmers markets. While Dr. Haas can make decisions regarding livestock market reporting, the decisions regarding farmers market and F2S reporting will need to be made by the Ag Development Division and the Deputy Secretaries with input from legal counsel so more internal discussion will be held in the near future.
- The Secretary and Agency energy and water quality staff met with General Systems Research and the Commercial Aviation Alternative Fuels Initiative, to generate a Vermont farm project that uses manure to make jet fuel via algae. This project dovetails with the USDA-FAA “Farm-to-Fly” initiative, is a scale-up at Nordic Farm in Charlotte, from bench-scale to pilot scale, and would involve re-starting the dormant biodigester at Nordic Farm. The fuel output could also be used as home-heating fuel, and the Agency is coordinating with the Vermont Fuel Dealers Association, who secured funding for the bench-scale work. Either use of the fuel would be a “drop-in” fuel that meets existing technical standards.

Evolving Issues:

The FSCP Division received an inquiry from a Vermont producer this week regarding a visit made to his farm by a FSIS inspector. He notified VAAFM that the inspector did not take adequate biosecurity measures when visiting the farm, and that he was concerned that the inspector could be spreading animal disease in VT. Dr. Haas made a follow up call to the FSIS Philadelphia District office to request that the management there mandate that all inspectors on VT farms practice adequate biosecurity.

Summary of Key agency Department Activity

Administration:

Deputy Secretary Bothfeld took part in the Vermont Land Trust Farmland Access Program farm review committee meeting. The property in question is in Grand Isle County and the RFP will be re-opened to encourage a greater number of project proposals for potential purchase of this property.

Agricultural Development:

The [RFP](#) for a pilot project(s) to demonstrate the [anaerobic digestion of food waste](#) continues to receive interest. Five separate formal inquiries to the Q&A component were received and answered. Two more were received just prior to the April 30 deadline for questions. Proposals are due May 19, for a total maximum grant amount of \$150,000.

The Agency has completed a survey of 171 farms to judge their **interest in biodigesters and other renewable energy projects**, and to understand how they are getting their information. Using Castleton Polling Institute's multi-pronged approach of e-mail, US Mail, and phone calls, we achieved a response rate of 64%. Capital cost remains an obstacle, in addition to wariness about the technology. Awareness of biodigesters is very high. The Agency, as an official partner of US EPA's AgSTAR methane-reduction program, jointly presented the findings with Castleton Polling Institute in a webinar to AgSTAR's partners.

Food Safety and Animal Health and Consumer Protection:

Consumer Protection:

- Consumer Protection staff performed inspections on small capacity scales, tested liquid measuring devices, assisted in testing several heavy duty scales such as hopper scales in concrete and asphalt plants. Several consumer complaints involving firewood, gasoline, and method of sale were followed up on.
- Scott Dolan of the Consumer Protection Section has received certification from the National Conference of Weights and Measures in Retail Motor Fuel Dispensing Systems.
- Henry Marckres, Chief, Consumer Protection presented classes on the new maple grades and voluntary maple certification at Goodrich's Maple in Cabot on Friday.
- Steve Parise and Scott Dolan of the Consumer Protection Section have been inspecting nucleus colonies of bees that are coming into Vermont to replace winter killed colonies. They reported that the bees look healthy with good populations in the nucleus.
- Henry Marckres, Marc Paquette, Scott Dolan and Mike Larose of the Consumer Protection Section graded syrup for maple producers at Franklin County Maple Co-op on Thursday.

Meat Inspection:

- Program continues to provide relief inspection to new USDA slaughter plants through the cross-utilization program. State plants are coming on line and seasonal poultry operations are restarting taxing the existing inspection service. Due to lack of personnel we will have to tell USDA that we cannot provide the services that they are requesting
- New Humane Handling plans, required for Vermont slaughter plant licensure regardless of whether plants are going to operate under state or federal inspection, continue to be submitted for approval, the program has approved 4 in the last three weeks, has one pending, and we expect another before the end of June
- Adams Farm in Wilmington will start operations under state inspection on May 5th. They will be slaughtering, Cattle Swine, Sheep, Goats and Poultry including Ratites (Ostrich, Emus and Rheas). They will also be providing private label services for other producers enabling them to further market their own farm products
- Tangletown Farm in West Glover will be resuming State Inspected poultry slaughter on May 6th. They will also be adding an extra slaughter day to provide private label services as well.
- Work is progressing on slaughter plant construction in Berlin, Randolph Center, Springfield, Milton and Grand Isle
- Program is still waiting for approval from legislature to hire an additional 2 inspectors in order to go through the hiring process and begin the 6 month training regimens for the selected individuals

Animal Health:

- The Animal Health section received notification this week from USDA that the second of its two cooperative agreements was approved. This funding allows animal health personnel to complete many of the seasonal activities necessary to ensure widespread compliance with the federal Animal Disease Traceability rule.
- Meat Inspection program and FSCP Management employees continue to communicate with FDA's Center for Food Security and Applied Nutrition to obtain an MOU that exists btw. FDA and Ag Marketing Services that outlines approval for state meat inspection programs to provide slaughter

inspection for alpaca. The VT Meat Inspection Program has received multiple requests for state inspection, and we are working to try and accommodate those. This issue is expected to be wrapped up within the next week.

- State veterinarians and VAAFM Lab Director participated in a conference call with a representative of the Horse Pulling industry to finalize the new protocol for drug testing of pulling horses in VT. The new protocol will involve a direct communication/relationship btw private veterinarians collecting the samples and the VAAFM lab. By eliminating the Animal Health program personnel as the middle segment, the Agency will save costs otherwise associated with inspector time and travel.
- Kristin Haas and Alison Kosakowski participated in a virtual regional emergency exercise focused on Foot and Mouth Disease messaging to different stakeholder sectors in VT. The exercise was facilitated by the District 1 USDA office, and there was also participation from NH, ME and CT. Also participating in the VT cell were Dr. Erica Berl with the VT Dept of Health and Jane Clifford with Green Mountain Dairy Federation.
- State Veterinarian, Kristin Haas, facilitated a regional conference call this week involving the 6 New England states and the American Kennel Club to identify resources aimed at educating consumers about best management practices associated with pet adoption/acquisition. This ongoing effort will result in a regional approach to the consumer outreach plan that will complement the existing regulatory framework in each of the six New England states. AKC is interested in this initiative because it could serve as a model for other regions of the country with the same goal in mind.
- Kristin Haas, State Veterinarian, has assembled a Task Force consisting of practicing food animal veterinarians, UVM Extension and reps from the Vermont Veterinary Medical Association in order to develop an education/outreach program for producers regarding antibiotic residue avoidance. The Task Force will review the program that has been implemented in Wisconsin to determine whether portions of it can be customized for Vermont. Hopefully, this program will help to further reduce the incidence of residue violations found at slaughter.

Agricultural Resource Management:

Water Quality Enforcement

- A medium farm in Highgate Center will receive a corrective action letter for violations of the MFO General Permit. The farm had a pump malfunction which lead to the release of manure across property boundaries and to surface water. The pump has been fixed and the release of manure stopped.
- A small farm in Newport will receive a notice of violation with administrative penalty for violations of the AAPs. Over the past 2 years, the farm has had a number of releases of manure from the storage structure, resulting in the runoff of waste across property lines. The Farm has already received a corrective action letter and a cease and desist order.
- A medium farm in Richford will received a corrective action letter for violations of the MFO General Permit and the AAPs. The farm has stacked a rather large quantity of manure within the 100 foot setback to surface water.

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

- Staff visited one LFO in Orange County to discuss the LFO program, LFO permitting, answer questions, gather information and complete paper work for the farm's LFO permit amendment.
- Staff conducted one joint inspection with ANR-DEC on a MFO in Caledonia County. The inspection was part of the LFO permitting process and the farm is transitioning into the LFO permit program.
- Staff conducted one complaint-based inspection on a MFO in Addison County. The complaint related to water leaving the farm's pasture. No compliance concerns were noted during the inspection of the pasture.
- Staff visited a MFO in Addison County to discuss the management of a corn field. ANR-DEC, NRCS and the Conservation District are working with the farm to implement conservation practices on field to reduce the amount of erosion occurring in the field.
- 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. Information is being complied and permits are being drafted for these farms and this will be a major focus of the team through the month of April.

- Staff are working on developing the water quality section of the new CAI USA Food Safety water quality database.

Conservation Reserve Enhancement Program (CREP):

- Continued mapping/planning work for several ongoing potential CREP projects.
- Staff are evaluating ERP grant applications that relate to agriculture water quality projects.
- Staff met with partners to discuss Lake Carmi and related ag outreach coordination. Partners included ANR, VAAFM, NRCS, and the Franklin Watershed Committee.
- Staff coordinated CREP tree plantings on two SFOs in Lamoille County.
- Staff met with contractors in Franklin County to discuss CREP work related to cattle stream crossings.
- Staff assessed flood damage and potential for program support to reduce the impact of future flood damage on a SFOs crop land.
- Staff met with a fencing contractor to discuss fencing on an SFO in Franklin County.
- Staff met with an excavation contractor on two SFOs in Franklin County to discuss cattle stream crossings.
- Staff has continued to reach out to farms that have amended their CREP agreements. One grant amendment has been finalized.
- Staff coordinated a CREP tree planting on a SFO in Coventry.
- Staff visited a farm in Fairfax to discuss EQIP and CREP project planning on their farm.

Vector management group has begun to set up mosquito traps, expanding the surveillance areas from last year. Testing of mosquitoes for mosquito-borne viruses will begin on June 15. Population sampling will begin on June 1.

The Agency will be collaborating with Alan Giese of Lyndon State College to collect ticks and test them for three tick-borne diseases. In addition to Lyme disease, the Vermont Agency of Agriculture Laboratory will be looking for Anaplasmosis and Babiosis in mice and immature deer ticks collected in the summer months.

The annual Community Mosquito Control meeting was held at the Middlebury Courtyard Marriot on April 29. This half-day conference was well-attended and provided updates and training for people involved with managing mosquito populations. Alan Graham, Nik Nikbakht, and Matt Wood all made presentations.

Secretary's Comments:

MEETINGS:

Extended Cabinet Meeting with Governor

Anju Dahiya, PhD., Montpelier: discussed research efforts at Clark Hinsdale's Nordic Farm on algae derived biofuels, requested letter of support for USDA grant subject to articulation of better understanding of business plan and finances

Sodexo "Vermont First" strategy, Montpelier: discussed with staff outline of Sodexo's plan for launching a "Vermont First" local sourcing effort, may lead to event worthy of Governor attending

Governor's Council of Energy and Economic Advisors, Montpelier: Attending meeting and explained possible federal funding sources for water quality work in VT

Boston Public Market, Montpelier: Met with ACCD staff to discuss if and how VT might want to participate in the Public Market scheme that would offer a coalition of VT businesses the opportunity to sell products in downtown Boston.

New England Food Vision, conference call: discussed with other New England Secretaries of Agriculture and researchers how the researcher may want to roll out the vision of how New England could produce up to 50% of their food within New England

DEC/VAAFM monthly Water Quality Meeting, Montpelier: reviewed ongoing work with staff on the TMDL and the Regional Conservation Partnership Program with USDA

Ag and Food Systems Partners Gathering, Hinesburg: Sec Ross hosted meeting at his home of the leaders of UVM Extension, VHCB, VSJF, NOFA and VLT to discuss how they could work together better. This was the first such meeting ever among these groups.

EVENTS

UVM Rubenstein School Communication Training, Burlington: participated as part of panel discussion about how to best communicate science base information to public policy makers and press

UVM Charlie Ross Practicum Program Reception, Montpelier: attended and spoke as reception for interns and legislators who participated in the program during legislative session

LEGISLATURE

H-869 – testified to Senate Ag Committee regarding amendments to 869 to advance agreed upon components of S448 to include definition of prime ag soils and 1 to 1 mitigation measures in designated areas. Discussed same subject with Senator Hartwell and McDonald

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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: May 2, 2014
Subject: ANR Weekly Report

Governor Level Issues:

Yankee Magazine Awards: Two Vermont State Parks made the prestigious “Editors’ Choice: 2014 Best of New England” in the May/June travel issue of Yankee Magazine. Burton Island State Park received the “Best Island Getaway” award and Camp Plymouth State Park received the “Best Place to Strike It Rich” award - a nod to Camp Plymouth’s gold panning opportunity. Both received matted posters suitable for framing to display in the park.

TDI New England: DEC, DFW and ACOE met with the TDI New England “Terrestrial” team to go over the proposed overland DC transmission line route. The preferred plan is to bury the cables. The proposed timeline is to start field work this May, ANR field review in late June/Early July, and submit applications in the fall. Attendees discussed the lake modeling work done for the New York project and to identify further data needs and modeling refinements necessary to assess water quality impacts of the Vermont project during construction.

EVERYTHING ELSE:

Legislative Issues/Testimony:

As we are heading into the final days of the session we are in constant contact with Louis on the status of our bills. There is still work to do on the Dams bill and Current Use. Solid waste, toxics, the battery bill and Shorelands are all heading for final votes and/or the governor. We are still watching with interest the fee bill with the hopes that the renewable energy team fee and

positions will get in this bill. It is a top priority because, with the great increase we are seeing in Act 250 work, we can no longer use our Act 250 team to focus on 248 cases without it resulting in a significant slowdown that will affect the speed of approvals.

Press Issues/Releases:

Costco Gas Station Permits: VT Digger posted an article about the proposed Costco gas station in Colchester. <http://vtdigger.org/2014/04/22/costco-gas-station-opposition-anti-competitive-conscientious/>

2014 Governor's Awards for Environmental Excellence: Recipients of the awards will be announced in a press release this week and will be recognized in a ceremony at the Vermont Businesses for Social Responsibility Annual Spring Conference on May 14.

Lots of F&W press releases this week: Be Alert to Avoid Moose on the Highway, give nesting Bald Eagles Space and be aware that Reptiles and Amphibians are on the move. Public meetings on the state-owned 947-acre Atherton Meadows Wildlife Management Area in Whitingham, and the Long Range Management Plan for the state-owned 1,272-acre Knapp Brook Wildlife Management Area (WMA) in Cavendish and Reading.

Brush Fire Danger: Dan Dillner from the Essex district office appeared in a story WCAX did this week about preventing brush fires. Dan said last year there were 125 reports of fires in Vermont. FPR is called upon to back up local fire departments, and the Department has staff and resources including four fire trailers that are implemented for extended attack of a large wildland fire. Each trailer contains about 3,000 feet of forestry hose, a chain saw kit, fire tools, fire rakes, shovels and water pumps. Tools like these are helpful for fires that burn deep in the woods and into the ground.

State Parks Opening: Fox 44 News did a story on Vermont State Parks this week. The parks are getting ready for what should be a busy season. Wilgus State Park opened Monday; the next parks to open will be Jamaica and Grand Isle on May 9. Even with the new fee increase, a decline in visitors is not expected. "We have about 450,000 camper nights each year," said Craig Whipple, Director of Vermont State Parks. "That's about standard for us."

Spring Trail Conditions: Also reported by Fox 44 this week was a story about Vermont State Parks asking people to stay off some higher elevation hiking trails for a few more weeks. Memorial Day is when all trails reopen. For mud season hiking guidelines and places to hike now, visit vtstateparks.com.

Significant Events/Meetings:

Berlin Pond Petition: A public meeting on the Berlin Pond petition to eliminate surface use on the lake has been scheduled for May 27, 6-8 pm, at the Berlin Elementary School. Montpelier

officials had hoped the public meeting would be held in Montpelier. Comments are coming in on the petition daily.

Hermitage Club at Haystack Resort: A draft operating permit renewal was issued. This is the former Haystack Resort that shut down several years ago and has reopened as a private ski resort. DEC's Air Quality and Climate Division had previously granted approval for several diesel compressors for snowmaking operations in 2006, but they were never installed and the approval has since lapsed. Much has changed in the landscape of diesel engine regulations since that time and the revised permit has removed that prior approval.

North Country Sportsman's Club (Williston): The Sportsman's Club is a shooting range, whose activities have contaminated a stream and nearby residential property with lead shot. A corrective action plan is being developed to clean up this contamination in the short-term, and develop a system to recapture the lead shot for the current shooting area. A site visit was held this week. Representative McCullough and local residents are expressing concerns.

The **Fish & Wildlife Board** held a meeting on April 23. The main topic for discussion and voting was the 2014 Antlerless and Youth Seasons.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

LC TMDL: Staff had a conference call with EPA, Wastewater Management, and Facilities Engineering Division (FED) staff to discuss the cost estimates for wastewater treatment upgrades. The reasons for the different cost estimates between EPA and DEC are primarily based on different approaches to parsing out the costs involved in a facility upgrade, which are directly driven by phosphorus removal under the TMDL, and the additional facility-specific needs that EPA may not have considered, as opposed to costs that will be driven by routine periodic wastewater treatment facility upgrades. The Wastewater Program and FED are preparing more refined facility-specific cost estimates and justifications which will be shared with EPA for its review.

Shorelands Management: Staff are anticipating the launch of the Shorelands program. Internal meetings are being held to develop guidance documents, update our website, and to clarify the standards and develop an application process. Already DEC is coordinating within ANR, meeting with FPR to look at preliminary plans for work at Lake Bomoseen to ensure the new standards are met.

Omya Tailings Proposal: Representatives of Omya came in to talk with DEC and EPA staff about the use of Omya tailings in the remediation of the Ely Mine Site. Omya has put together a fact sheet on the material and a proposed stakeholder communication sequence to present the ideas to the residents, municipal officials, VT Law School, and other interested parties. DEC and

EPA is open to its use, dependent on technical merit, community buy in, and cost. The material, marketed as Omya SPS, has been approved by the Agency of Agriculture as an agricultural liming agent.

Former Friendly's (Colchester): The former Friendly's in Colchester will be demolished. DEC staff met with the general contractor and Myers Containers at the site to go over the ANR approved, and Act 250 permit mandated, recycling plan for demolition of the building. All salvageable items have been auctioned off and have been removed. The contractor will attempt to remove large, intact pieces of the structure, which will allow Myers to separate more undamaged material at their facility for recycling. They will also attempt to remove and salvage the large number of double-paned, greenhouse-type windows, the concrete slab, framing, drywall, and metal.

VTrans Garage (Thetford): A routine underground storage tank inspection showed the VTrans tank to be leaking. Seven inches of water and fuel was found in the interstitial space between the two walls of the double-lined tank. The tank had received a delivery just a few days before the inspection, so it was very close to full. VTrans officials immediately lowered the fuel inside the tank by 20+ inches by filling all the trucks based at the garage. The breach in the inner wall of the tank was identified and mitigated. DEC will continue to monitor the situation closely. VTrans will not order any more fuel deliveries, and are ordering a replacement tank.

VELCO Contamination Issue (Monkton): Odors and a sheen was seen in a spring water supply in Monkton. The contamination was linked to nearby utility poles, which were being replaced by VELCO. We suspect that the older pole is causing the contamination. Initial sampling of the water supply following the complaint showed levels of pentachlorophenol (PCP) exceeding the VT Drinking Water Enforcement Standards. There was a conference call between DEC, DOH and AAFM on the matter, and a site visit will occur next week to determine a proper response. The affected homeowners have a temporary source of water for now. DEC is drafting a NOAV to VELCO for failure to report the contamination in a timely manner.

Fish and Wildlife

Moose: The annual spring moose vs motor vehicle carnage continues; 3 more moose were killed on the highway last week. Staff also reviewed many moose photos taken on lynx game cameras deployed in the Nulhegan and Victory Basins. Hair loss is not noticeable, or only light, but most photos were taken before mid-March, and thus before the heavy feeding period of adult female ticks. Warden Dukette indicated moderate hair loss on each of 3 moose he handled over the last couple of weeks.

Youth Turkey Hunting Weekend: Wardens report fairly light hunting pressure with limited success. Wardens did receive several complaints regarding youths shooting two turkeys with one shot and even shooting an illegal hen. In most cases wardens handled these situations with warnings provided there weren't other extenuating circumstances.

More Master Anglers: Staff generated the first batch of Trophy Angler certificates for the Vermont Master Angler Program for over 80 entries received so far for 2014. The Vermont Master Angler program is an angler recognition and incentive program that provides a list of 33 eligible fish species, each with minimum qualifying lengths established by the Department. Specimens meeting or exceeding the minimum length are considered by the Department to be of “trophy size,” and anglers catching and submitting such a catch receive a Trophy Fish certificate. Anglers catching 5 different trophy fish species within the same calendar year receive Master Angler recognition and receive a pin commemorating the achievement. The collectible pin changes each year.

Potential Solar Farm: Staff coordinated and attended a site visit to review a potential solar farm location in Rutland. Representatives from Green Mountain Power, and VTDEC’s Wetlands and Rivers Management Programs also attended. The site is designed to generate 100 MW of solar power, but in order to reach that capacity, one array of panels was proposed to be placed within 20-feet of the top of bank on Mussey Brook, a tributary to Otter Creek. The solar farm is sited on the north side of the brook that flows east-west, and as a result, GMP proposed to eliminate all riparian vegetation adjacent to the solar panels in order to maximize sun exposure.

Forest, Parks and Recreation

Green Mountain Club Camp Purchase on Plum Creek Lands: Green Mountain Club executed a purchase and sales agreement for a camp located on Plum Creek lands. GMC wants to rent out the camp to hikers using a 14-mile trail that GMC will build as corridor manager. FPR, VHCB and VLT reviewed the Working Forest Easement and Public Access Easement and agreed that the Easements do not allow the rental of a camp on Plum Creek lands. The Easements specifically prohibit the charging of a fee for any recreational use except for snowmobiling, equestrian and mountain biking and only if such fee is related to their corridor manager responsibilities of maintaining the trails. Also, the Easements specifically provide that only Plum Creek may lease the camps and no other lease or rental is allowed. FPR attorney prepared a draft letter to GMC and provided to VLT and VHCB for comment and approval. VHCB has requested a re-evaluation of the legal opinion in an attempt to allow GMC to rent out this camp to hikers. A meeting will most likely be scheduled in the near future.

Parks are Opening: Wilgus State Park began full operation this past weekend to take advantage of some traditional early season groups and the busy activity on the Connecticut River. Jamaica and Grand Isle will open next weekend and eight more campgrounds the weekend after that. The balance of the system will be fully operational by May 23.

Ash Tree Awareness Week: We are in the middle of Ash Tree Awareness Week, which kicked off with walks in the woods in almost every county of the state on Sun, April 27. These walks were coordinated by CE staff. Not all walk leaders have reported yet, but so far over 70 people attended these walks across the state.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: May 2, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY: The Board decided today to reject NEC's request to reconsider the decision. As a result, Entergy will release CEDF funds and deposit \$10M in the new Site Restoration Fund. Based on conversations with Entergy, we expect these funds will be provided within about 3 business days.

Sheffield Wind: I contacted Bruce Cody – Vice President of Compliance with First Wind about opportunities to resolve the Therrien case. They have since met with the Therriens, made an offer for the 2 acre homestead, with noise easements on the remaining 58 acres of the 60 acre parcel. I do not have more details on the offer, but Cody represented to me the offer was "above fair market value." The Therriens have until today to reply to the offer. I will let you know if I hear something.

GMP Rate Case: I'm meeting with AARP and then GMP next week to try to negotiate a global settlement to the rate case, the alt reg case and the credit of the \$17.8M over probably a three year period. I'll also be meeting with Janet B. and Janet D. from IBM about these cases and

other issues.

CEQ: I thought today's meeting with CEQ Chair Boots was great. I gave him a list of energy issues I will follow up with his staff on regarding the FAA's (lack of) approval of radar-initiated lighting for wind projects, NRC issues we've discussed ("Seat at the table," and DOE/DOJ Settlement of SFM costs) and FERC issues related to prioritization of renewables and the regional gas constraints.

VGS: Meeting with legislators on Monday. There is still much controversy about how VGS is going about land acquisition. They have been secretive about a parcel they purchased for the Monkton gate station, which is odd, since it was common knowledge that that is why they bought the property and we think this was a reasonable reason to purchase the property rather than simply get an easement on it. I am still waiting for a response from our prior meeting three weeks ago regarding opportunities to enhance the value of Phase II.

Regional Initiative: As reported last week, we need to decide this month if we are on board for the states, through NESCOE, to begin to discuss a tariff with NEPOOL based on the cost allocation formula negotiated among the states, whereby Vermont would agree to pay .53x its normal cost allocation (based on reliability). Other details have yet to be worked out, so I have left us some negotiating room, but the rate negotiated is the best we will get – more will make our Benefits:Costs ratio greater than other states, which was a principle the other states would not accept.

EVT: Meeting on Monday with EVT and staff to negotiate terms of an MOU on their DRP plan, and to discuss roll out of the peak reduction program we hope the Governor to announce within a couple of weeks, perhaps in conjunction with a bill signing for S.202.

Legislature:

- **S.202 (heat pumps):** This bill was finally moved from Rules to House Natural Resources on 4/29, and the bill will likely come to the floor for debate early next week. We have heard there is concern about amendments on Efficiency VT budget or related items.
- **H. 297 (telecom):** Passed Senate on 4/29, and amendment by Senator Rodgers related to radar requirements for wind turbines was defeated 11-16.
- **H. 612 (gas safety):** Senate Finance reported this bill to increase Vermont gas safety pipeline penalties to be consistent with federal requirements, which is necessary to ensure PSD's gas safety program continues to receive full federal funding. On 2nd read on 5/1.

Significant Meetings/Events this week and next

4/28: Chris and Darren attend extended Cabinet meeting

4/29: Darren, Asa, and Bill Jordan meet with Rep. McCormack to discuss future electric energy

scenarios and heat pumps; PSB noise workshop; Chris and Darren attend Governor's Energy/Environment Council

4/30: Chris and Darren meet with Susan Donegan to discuss solar group net metering exemption from securities regulations; Chris, Darren and Geoff call with Beaver Wood Energy

5/1: Darren on Mark Johnson show; PSD and GMP meeting to discuss state building initiative and heat pumps; Chris attends CEQ visit at Energy Innovation Center

5/2: Chris and Darren attend state electric policy meeting at UVM

5/5: Chris attends Entergy meeting at Governor's Office

5/6: Chris and Darren and other staff meeting with EVT, Chris and staff meeting with AARP on GMP Rate Case

5/7: PSD/BED meeting on solar projects; PSD/GMP meeting on rate case

5/8: PSD call with First Wind

5/9: Chris attend Regional Initiative meeting in MA

Media: Darren went on Mark Johnson show for an hour on 5/1 to discuss solar energy and net metering, and also discussed regional transmission, PSB process, and related topics.

Everything Else:

PERD

Residential and Commercial Building Energy Standards (RBES & CBES)

- There has been some complaints recently from municipalities and others regarding Public Safety issuing COO's without obtaining code certificates as required by statute (they've previously justified to us that they issue a conditional COO, which states that they are supposed to submit the certificate, but admitted they don't ever enforce/follow-up on). Municipalities are asking why they should follow a "state requirement" that the state itself doesn't follow. **Staff will follow-up again with Dept. of Public Safety on this issue, but it may take a higher level discussion to see any change from them on this.**

Energy Efficiency Utility Activities

- Demand Resources Plan Proceeding
 - Staff developed draft reply comments for the DRP proceeding to be filed on May 7th. Comments center mostly on justifying keeping VEIC compensation rate of 4.1% and not increasing it as proposed by VEIC. Comments will also contain a small correction to the rate and bill analysis.

Thermal Energy Finance Pilot Program

- The review team met and discussed scoring of four proposals. We are going to explore combining/funding two of the proposals.

Clean Energy Development Fund

- Senator Hartwell appointed Mark Whetworth to serve on the CEDF Board. He is a Newark anti-wind person, but is generally supportive of solar.

- Have decided the best course of action to move the community solar model contract work forward is by contracting with VNRC for assisting with its development, distribution, and integration into their broader community solar guidance, and for Gravel & Shea to do the model with EAN as their client, with support from/coordination with VNRC.
- Finalized GMP energy storage project kickoff meeting date and time (May 8, 2 p.m., Dynapower) and sent meeting invitation and draft agenda to attendees, including GMP and Sandia.
- Integrated Clean Energy Finance Collaborative
 - Met with representatives of Energy Action Network to plan a meeting in June with representatives from the Coalition for Green Capital. CGC has indicated interest in helping the state's clean energy finance groups explore options for coordinating our activities.
 - Meeting set for June 18th to include VEDA, PSD, CEDF, ACCD, Treasurer's Office, EAN and Coalition for Green Capital
 - Staff provided input into the draft agenda
- Vermont Clean Energy Industry Report:
 - The draft report that was due on Friday will be submitted by contractor on Monday 4/28.

Renewable Energy Items

- Drafted letter of support for a DOE microgrid grant to which Northern Reliability is applying. NR has also approached BED about testing their proof of concept in a second phase of any grant they should receive at the Burlington airport, where BED and BTV are investigating microgrid. The morning of the Rutland storage project kickoff meeting with GMP, DOE, and Sandia (May 8), Sandia will visit the airport and meet with BED, BTV, and Hallam engineers to discuss a possible engineering study scope of work. Also, connected the company with Dynapower/GMP and as a result they have offered assistance in the Rutland storage project.

Net-metering

Net Metering Activity 4/20/14 -4/25/14

| | Registrations* | Applications | CPGs Granted |
|--------------------|----------------|--------------|--------------|
| Count | 18 | 1 | 2 |
| kWAC | 120.55 | 86 | 140.081 |
| Ave Size kW | 6.697 | 86 | 5.603 |

Cumulative Capacity of Registrations and Applications Submitted

| Year To Date | | Total Since 1999 | |
|---------------------|----------------|-------------------------|---------------------|
| 2013 kW | 2014 kW | 1999 – 2014 kW | % of 15% CAP |

| | | | |
|---------|---------|----------|---------|
| 2892.72 | 3641.64 | 42303.80 | ~ 28.2% |
|---------|---------|----------|---------|

Total Energy Study.

- Dunskey Energy Consulting presented draft results of modeling of carbon tax and TREES (Total Renewables and Energy Efficiency Standard) policy scenarios to meet Vermont's GHG and RE goals. Staff is reviewing the preliminary results; final modeling results will be complete by 5/12. Some key preliminary results include:
 - In the carbon tax scenario, the tax level necessary to meet the GHG goals varies greatly depending on whether a high or low price for biofuels (biodiesel in both transport and heating fuel) is used.
 - TREES scenario gets close to meeting the renewable energy goals, but not all the way to 90%. Hi biofuels prices lead to the scenario to meet both 2028 and 2050 GHG goals, while low biofuels prices (with a linear ramp rate of RE %) lead to the scenario not meeting the 2028 GHG goal and meeting the 2050 GHG goal.
 - Remaining major fossil emissions sources include the industrial sector. This sector was not modeled has having great opportunity for change.
 - Net present value of meeting close to our goals (in the 80's% renewables by 2050) is only 5-10% above current energy expenditures, not including secondary benefits. This is very good news.

Heating Fuel

- Attended BERC @ VEIC Stakeholder meeting. Discussion focused on the potential role for BERC in Vermont, now that it is housed at VEIC, in the context of the CEP, the Upper Austria MOU, and forest health and industry needs.

Transportation

- Met with interagency ZEV group 4/29 to discuss and assign responsibilities for implementing the ZEV MOU in Vermont. PSD will take the lead on utility-regulatory issues, including rate design and the ability to resell electricity on a per-kWh basis for use in vehicles without full PSB regulation as a utility.

Engineering

NRC Staff Assessment of VY's Seismic Walkdown Report

On March 12, 2012, the U.S. Nuclear Regulatory Commission (NRC) issued a request to power reactor licensees to provide further information to support the NRC staff's evaluation of regulatory actions to be taken in response to lessons learned from Japan's accident at the Fukushima Dai-ichi nuclear power plant. By letter dated November 27, 2012, as supplemented by letter dated July 3, 2013, Entergy submitted its Seismic Walkdown Report for Vermont Yankee. By letter dated November 22, 2013, Entergy provided a response to the NRC request for additional information for the staff to complete its assessments. The NRC Resident Inspectors independently performed walkdowns of a sample of seismic protection features, and indicated in an inspection report dated January 30, 2013, that no findings were identified. On April 23, 2014, the NRC issued a letter to Entergy indicating that NRC staff concludes that the Vermont

Yankee's implementation of seismic walkdown methodology meets the intent of the walkdown guidance. Furthermore, the NRC staff noted that no immediate safety concerns were identified.

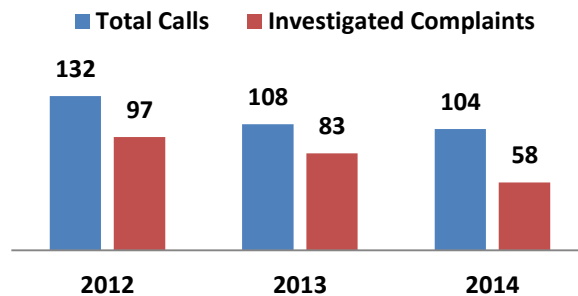
2014 Vermont Gas Systems Transmission Pipeline Construction

VGS has not yet selected contractor(s) to complete the remainder of last year's transmission looping project in St. Albans/Georgia, nor construct the Addison Natural Gas Pipeline project. The materials have been ordered and steel pipe segments have been manufactured. The company recently informed the department Gas Engineer that pipeline construction activities are not likely to begin until July. However preconstruction activities, such as establishment of construction offices and material storage yards, may occur in June. Engineering is preparing an RFP to locate additional resources for construction inspections of the Addison project.

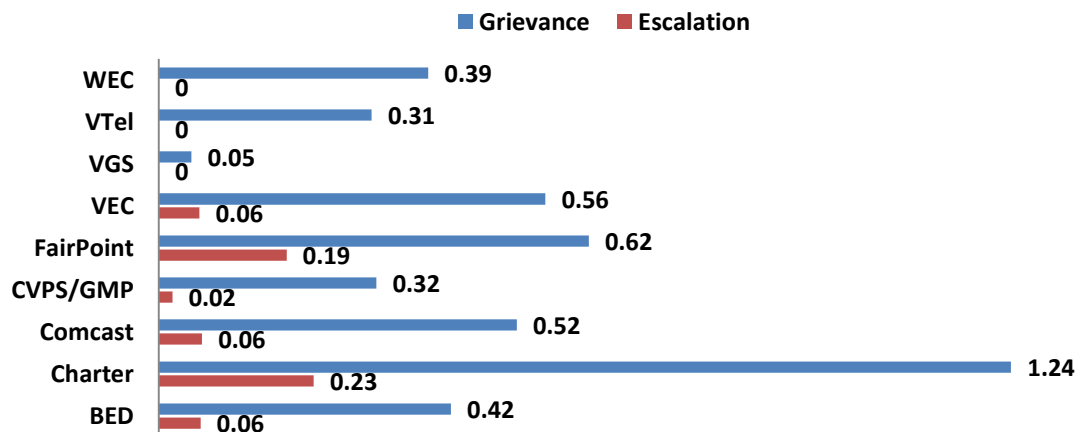
CAPI

CALL DATA

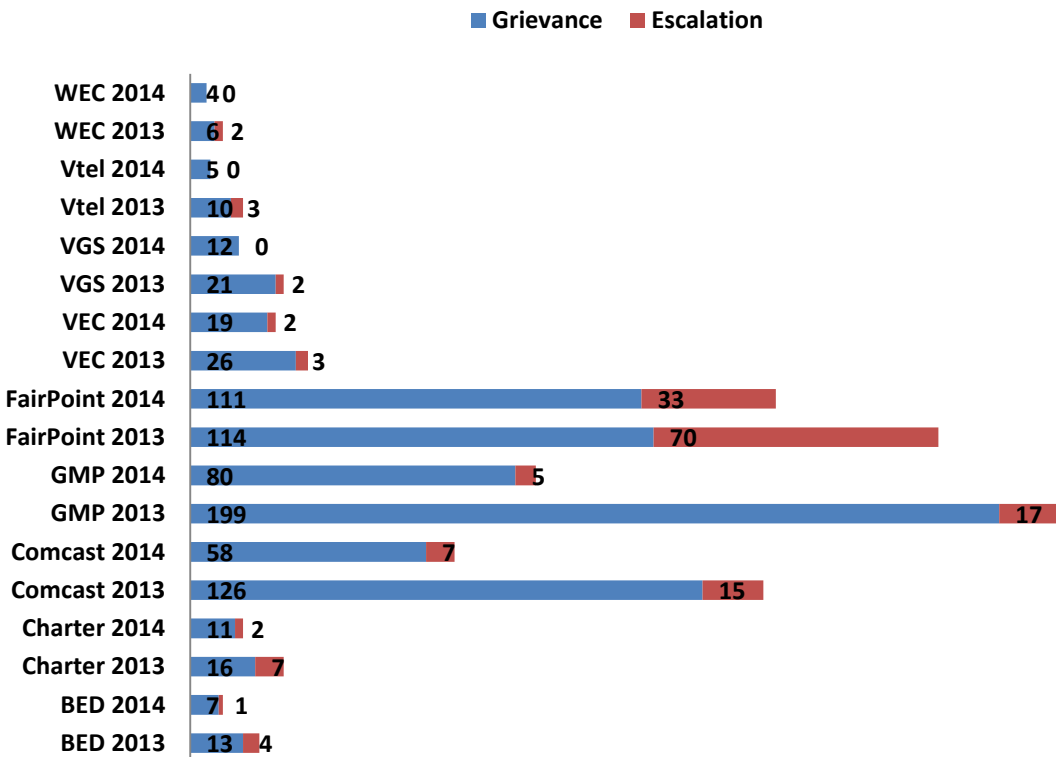
Calls to CAPI
Same 7 days each year



**Complaints Investigated, by Company,
per 1000 Customers
January 1 - present, 2014**



Number of Complaints Investigated, by Company YTD 2013 and 2014



POST CPG WIND COMPLAINTS

- Green Mountain Community Wind, (1), for noise
- First Wind, (3), from 2 different residents, with a total of 2 health-related and 2 noise-related.

CAPI is compiling aggregate data on all wind complaints received, to share with DPS staff and contracted sound experts.

OTHER DIVISION ACTIVITY

Charter CPG renewal focus groups: CAPI has finalized the dates and times for the two focus groups, which will be conducted to assess community communication needs within Charter service territories. Both will take place on May 20th. There will be one in Barre at noon, with lunch provided (billed back to Charter) and one in St. Johnsbury at 4pm, with snacks. CAPI is engaged in ongoing outreach to encourage as much participation as possible, and has been in contact with PEG AMOs and Charter regarding content and scheduling. CAPI will also be developing the focus group discussion questions over the next few weeks, in collaboration with the Telecom division.

Telephone Relay Service:

- VTRS RFP bid submissions: CAPI has received and begun review of the RFP bid responses for the Vermont Telecommunications Relay Service.

- CAPI was contacted by our current TRS provider (Sprint), wanting to clarify no conflict, in light of Sprint's bid for our upcoming contract, with CAPI staff attendance, next week, at a Sprint-sponsored conference for current TRS contracts. After consultation with Public Advocacy, we believe there is no conflict: our current contract and our recent RFP stated that the contractor will pay for CAPI to attend a yearly conference.

Public Advocacy

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – GMP filed its rebuttal testimony in the rate case on April 18. The main issues at this point involve the level of documentation needed to support proposed additions to plant, the extent to which certain generation projects not yet constructed or permitted meet the known and measurable test, and the cost of capital. The Department has filed discovery on GMP in both the rate case and the alternative regulation case. Initial Department testimony in the alternative regulation case and surrebuttal testimony in the rate case are due on May 13.

On April 24, the Board issued an order (captioned in both the rate case and the merger docket) that requires a review of GMP's actual O&M costs prior to the rate design proceeding (currently scheduled for this fall). Although actual O&M costs will not affect the current rate case (given that the amount of "base" O&M costs was already established in the merger proceeding), the Board felt that it was important to base the rate design on actual costs. This is consistent with the Department's recommendation. The parties have another week to discuss the procedural aspects of this review.

Winooski One Rule 4.100 Proceeding – Docket No. 8010 – This case has sat dormant for almost a year at this point, and parties are awaiting a Board order on the appropriate scope. Winooski One filed a letter asking for a status conference to discuss next steps. The Department filed a letter supporting the request for a status conference. Continued uncertainty about the Rule 4.100 PURPA program (engendered by the lack of action in this proceeding) is concerning and may invite federal litigation. Department staff is fielding calls about the program from developers seeking PURPA contracts.

Addison Expansion—Docket 7970—In connection with the ongoing negotiations with Monkton landowners concerning easement acquisitions, a meeting is in the planning stages for the week of May 5, which will include VGS, counsel for the PSD and a spokesperson for the homeowner group. PSD counsel is also working with VGS and counsel for one of the Old Stage Road homeowners to coordinate post-CPG process regarding land impacts- an informal site visit is planned. Appellant Kristin Lyons filed her docketing statement with the Vermont Supreme Court.

Addison Expansion Phase 2—Docket 8180- The Department's meeting with the Shoreham Selectboard went well. Fewer than 10 members of the public attended, and while the group was hostile toward the Selectboard, no criticism was directed at the PSD. The town is still negotiating an MOU with VGS, which it will share with the citizens when final; the citizens will not be entitled to vote on approval of the MOU. VGS served responses to the first round of discovery on April 25; staff is reviewing. A second round of requests will be made on May 9. The site visit and first public hearing is scheduled for May 7. A special Selectboard meeting was held in Middlebury this week to discuss landowner issues. PSD counsel attended and participated in a

panel discussion. Overall, the attendees were negative about the expansion. VPIRG and Solar Haven Farm have filed objections to the Protective Agreement which VGS filed for Board approval. The Department supports the Agreement.

Burlington Telecom – Docket 7044 – The Board held a prehearing conference on April 30. It ordered BT to respond in the form of testimony to a series of questions the PSB had posed prior to the prehearing, and expressed a strong desire to have access to correspondence and records of discussions leading to the development of the BT/Citibank Settlement agreement that are currently shielded from Board review by nondisclosure agreements. The parties agreed to a May 29, 2014 deadline to file final financing documents, supporting testimony, and schedule for the remainder of the proceeding. The parties hope to schedule a technical hearing sometime in July, 2014.

General Sound Investigation – Docket 8187 – The Board held the first of three workshops in the Docket focusing on the physics of sound. Two of the Department's sound experts made presentations at the workshop, along with three other presenters. The workshop went smoothly and was generally well received by the Board and the others in attendance. The next workshop will focus on the experience of residents near noisy generation facilities and will be held on May 13 in Morrisville.

Sheffield Wind – Docket 7156 – One of the Department's sound experts has reviewed a sound complaint filed by Paul Brouha, and an accompanying outdoor-to-indoor noise attenuation report at the Brouha residence prepared by Les Blomberg. The Brouha/Blomberg filing alleges that the attenuation report, when compared with Vermont Wind's own sound monitoring data, shows violations of the CPG's 30dBA indoor sound limit at the Brouha residence. The Department's expert was unable to draw definite conclusions from and found some deficiencies with the Blomberg report, but nonetheless found merit in the report's claims. The expert recommends that additional testing be conducted at or near the Brouha residence. The Commissioner is reviewing this report now. The Department must file comments/recommendation to the Board by May 9, 2014.

Kingdom Community Wind – Docket 7628 – The Department has received from its sound expert a draft continuous sound monitoring proposal crafted after last week's meeting with all parties interested in the issue. It is reviewing the proposal with the expectation of seeking approval from all parties. A representative of a group of landowners has proposed monitoring being conducted by Steven Ambrose and Robert Rand; the proposal is premised on the Board hiring those individuals. The Department has sought an extension to file an agreed-upon monitoring proposal to May 14, 2014, though it appears that the parties are unlikely to agree.

Cold River Solar – Docket 8188 – The Department is reviewing first round discovery responses from petitioner. Of particular note is that petitioner included a \$74,000 decommissioning fund estimate with its petition for the 2.3MW facility. This is a low number. In response to discovery requests, petitioner provided a detailed breakdown of the decommissioning fund that included "netting out" of expected salvage value for the facility hardware. This netting out is not allowed under established Board rules. The actual decommissioning fund calculated for the project is approximately \$170,000 once salvage value is removed from the calculation – a very high

number for a facility of this size relative to projects in the past. Second round discovery requests are due by May 2, 2014.

GMP Low Income Program-Docket 7535-In response to GMP's filing, which set out its plans for use of the excess funds, the Board has issued a series of questions. GMP is circulating proposed answers for comment from the other parties, with a filing deadline of May 7.

Hill Farmstead / Hardwick Dispute – No Docket – A long-running dispute currently exists between Hill Farmstead (a brewery in Greensboro) and Hardwick Electric over upgrades needed to Hardwick's system that may (to some extent) be attributable to Hill. The Department is seeking additional information in order to form an opinion about what studies and/or upgrades may be needed and what a fair apportionment of costs would be. We then plan to have the parties in for a discussion to attempt to resolve the matter in a way that is fair to Hill, the utility, and Hardwick's other ratepayers.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The PSD has reviewed and edited the petitioner's PFD. There may be no further process since the petitioner has requested the Board waive the requirement for a technical hearing.

NextSun Solar – Park Street – Docket 8194 – GMP and Allco Renewable Energy Limited have filed motions to intervene. PSD objected to Allco's intervention request on the basis that it did not demonstrate a substantial interest in the outcome of the proceeding. In a letter to the PSB, the petitioner communicated its intent to object to Allco's intervention. Based on the site visit and public hearing, the Department is retaining Jeanne Vissering to review the aesthetics of the project.

NextSun Solar – Main Street – Docket 8195 – GMP and Allco Renewable Energy Limited have filed motions to intervene. PSD objected to Allco's intervention request on the basis that it did not demonstrate a substantial interest in the outcome of the proceeding. In a letter to the PSB, the petitioner communicated its intent to object to Allco's intervention. Based on the site visit and public hearing, the Department is retaining Jeanne Vissering to review the aesthetics of the project.

GMP Stafford Hill Solar in Rutland – Docket 8098 – The PSD, ANR and GMP entered into an MOU and agreed upon the language of a PFD, both were filed with the Board. The cover letter requested a technical hearing be scheduled as soon as possible.

Middle Road Ventures Middlebury Solar – Docket 8060 – Petitioner filed a Renewed Motion to Amend Certificate of Public Good. Back in October, the petitioner (supported by the PSD) put forth an exhaustive effort to have the PSB allow the project's system rated capacity be based on the aggregate AC nameplate capacity of the project's inverters. The motion reviews the PSB denial of the petitioner's efforts based on the § 219a(a)(3)(A) definitions of net metering and kW and goes on to state that allowing the project's system rated capacity be based on the aggregate AC nameplate capacity of the project's inverters is consistent with the newly amended § 219a(a)(1) definitions contained in Act 99 (signed into law on April 1st by Governor Shumlin).

Finance and Economics

Summary of Key Finance and Economics Division Activity:

Electric

GMP--Docket 7535 Investigation into the petition of AARP, regarding proposal for use of excess funds collected to cover discounts for reduced rates for GMP's low-income consumers. On March 28, 2014, GMP filed a Proposal for the use of the excess EAP Funds on behalf of GMP, the PSD, AARP, and IBM. The Board has now requested the parties to address the division of excess EAP funds between arrearage forgiveness and outreach programs, a rationale for selecting a limited enrollment period, and a rationale for not depositing excess EAP funds in an interest bearing account. The parties are scheduled to submit responses by May 7, 2104.

Hardwick - 219a Net Metering Tariff: Hardwick: filed a tariff change on 4/16/14 to bring its net metering tariff into compliance with the provisions in H.702. The tariff is currently in effect. Staff reviewed and has requested additional clarifying information and is now waiting for revised copies of tariff sheets. No recommendation deadline has been set within PSD or with the PSB.

Morrisville - 219a Net Metering Tariff: Morrisville filed a tariff change on 4/16/14 to bring its net metering tariff into compliance with the provisions in H.702. The tariff is currently in effect. Staff reviewed and has requested additional clarifying information and is now waiting for revised copies of tariff sheets. No recommendation deadline has been set within PSD or with the PSB.

VEC - 219a Net Metering Tariff Filing 8496: VEC filed a tariff change to bring its net metering tariff into compliance with the provisions in H.702. Staff is reviewing the changes. The Department recommendation is due May 9th.

Gas

VGS- Customer Complaint 216875: St. Michael's (SMC) filed a complaint against Vermont Gas stating that VG did not adhere to its contracted price for supplying gas. Staff has reviewed the complaint and all of the related documentation and agrees with St. Michael's that VGS has not met its contracted price obligations. Staff has provided VGS with suggestions on how it may clarify the tariff going forward. (See below on new tariff filing). At this time a resolution and a Department recommendation date has not been established.

Energy Efficiency Utilities

There has been an issue of cost recovery of the costs distribution utilities have incurred to establish a system for transferring AMI information to VEIC for Efficiency Vermont purposes. VEIC sent a MOU for payments to VEC and Stowe electric. The proposed MOU is not consistent with the agreed upon approach. Staff is working with the PA division to resolve this issue.

Telecommunications

Comcast/Time Warner Merger and Potential Vermont Changes – It was announced earlier this week that Comcast has reached an agreement with Charter that if the Comcast/Time Warner Merger is approved, then Comcast would divest itself of some number of customers and would trade some service territories with Charter. Should the merger be approved, it is expected that all

Charter service territories in New England, including Vermont, would become Comcast. This would require approval by the Public Service Board.

Comcast Pole Attachments and Green Mountain Power – Comcast initiated a rulemaking with the Board on 02/02/2014 for a default one foot rate for all attaching entities. On 04/09/2014 the Board denied the petition but stated that it would initiate further investigation though no time frame was given. This week Comcast met with GMP and is seeking to enter a contract with GMP for its attachments pursuant to Board rule 3.704, at a rate less than what it currently pays. Comcast has indicated it would like to enter a settlement with GMP regarding past pole attachment billings at the two foot rate. As GMP moves forward with its negotiations it will keep the PSD informed. Such a contract would require Board approval under 30 V.S.A. § 229.

Telecommunications Plan – In the past week, several steps were taken toward the completion of the Telecommunications Plan. Staff completed a final draft of the Plan's executive summary section. The executive summary outlines the major events and issues facing the state in the provision of telecommunications, video, and broadband services. PSD also finalized its contract with Castleton Polling Institute, and they have begun working on the survey instrument. Staff also reached out to the new director of telecommunications at DII, John Welch, and he has agreed to begin working on the state telecommunications section. Staff has begun drafting other parts of the plan, with a goal of having a draft ready for comment by summer.

248a Petitions – 248a applications continue to come in at a high volume. Staff spoke with attorneys at Downs Rachlin Martin, who said that applications will taper off by the summer. Staff also raised a couple of issues with AT&T about its de minimis applications. One issue dealt with AT&T's method of calculating the area of the faces of the equipment. AT&T has agreed to send amendments to all applications where the area was miscalculated. Staff has had a couple of communications with VTel regarding a particular site in St. Albans. The outstanding issue concerns a road to the proposed facility which will be further developed by the land owner. VTel asserts that this road should not be included in the calculation for earth disturbance. The Department has taken the position that it should be included. VTel has agreed to work with the Department to come to a resolution on the road. Staff members also drafted a contract for an aesthetics expert to review two proposed towers in Richmond. These towers are likely to be contested and the Department should be proactive in asserting a position on these towers. While the Department keeps two aesthetics experts on retainer, staff believes that these sites require the expertise of a particular expert who is not on retainer, and thus is seeking a one-time contract with this other expert.

Regional Policy

Winter Reliability Program

- During the winter of 2013/2014, ISO-NE spent approximately \$67 million on fuel oil reserves and some limited demand response out of concerns that there would be insufficient natural gas available for generation. (The original price tag was approximately \$78 million; however, the program included penalties for being unavailable, or otherwise not abiding by the requirements of the program). According to

ISO-NE, the winter reliability program was crucial to maintaining sufficient resources during this past winter.

- At the time ISO-NE filed the winter reliability program for approval at FERC, ISO-NE stated that the program was a one-time event. ISO-NE now states that there must be some reliability program during the next four winters to address natural gas constraints during cold weather. ISO-NE is proposing an out-of-market winter reliability program for the winter of 2014/2015, with potential market changes to address the following winters. ISO-NE is predicting that a winter reliability program is needed only for the next four years because it believes that the New England Governors' Infrastructure Initiative will result in a gas pipeline in place in 2018; additionally, ISO-NE expects that changes to the Forward Capacity market that it filed at FERC, which would take effect in 2018, would also help address the natural gas issue (however, ISO-NE's proposal – the Performance Incentive or Pay for Performance program – was strongly opposed by NEPOOL and many of the New England states).
- ISO-NE understands that there are concerns at NEPOOL and FERC regarding an out-of-market program, but will be proposing one in early May due to continuing concerns. ISO-NE also stated that it will not propose the same program as was implemented last winter.
- According to ISO-NE, there were 3 GW of gas-fired generation available during the coldest days of this past winter, while during an average summer day there is typically 18 GW of gas-fired generation available. ISO-NE expects that, due to increase gas expansion for heating and industrial purposes, there will be less gas available in coming winters. In addition, there will be retirements of non-gas-fired generation, including Vermont Yankee and the remaining portions of Salem Harbor (for comparison, the amount of non-gas-fired generation retiring before next winter is equivalent to the amount of oil purchased through last winter's reliability program).
- ISO-NE is considering the following components for a winter reliability program:
 - Requiring testing of dual-fuel facilities to ensure that gas-fired generation with oil-fuel back-up can respond quickly if dispatched.
 - Include opportunities for demand response. Last winter, the DR product purchased was for 18-hour durations, which resulted in limited participation by DR providers. For this coming winter, ISO-NE expects to propose an RFP for DR products of 6 or 8 hour duration.
 - ISO-NE will also look at mitigating the risk of unused fuel oil to see if that will result in greater participation and lower bids.
 - ISO-NE will also look at incorporating Liquid Natural Gas imports into the winter reliability program, although it states that it is difficult to determine the cost effectiveness of this approach given the limited LNG facilities.
 - One concern that ISO-NE expressed is that FERC had required ISO-NE to public the supply curve after it accepted bids for the last winter program. Given that

potential bidders knew what the bid prices were last winter, it is expected that bid prices will increase for any new program.

Infrastructure Initiative.

- At the April 29 NEPOOL Planning Advisory Committee, ISO-NE presented an update of gas availability for the winter of 2014/2015. The report states that there will be less gas available for generation due in part to increasing use of gas for industrial processes and heating. In addition, the Canaport LNG facility has significantly reduced its firm delivery of LNG imports; while the facility is still operational, it will likely only import LNG during periods of very high gas prices. The Canaport reduction will be offset somewhat by production of off-shore gas from Eastern Canada (Deep Panuke); however, this resource is expected to provide only 300 MMcf/day, and the production will be intermittent.

Distributed Generation

- The April 29 NEPOOL PAC meeting included an update the resource adequacy component of the 2014 Regional System Plan (the RSP describes the condition of the New England transmission system and resources needed to meet reliability requirements, and is updated every year.
- ISO-NE indicated that there will be insufficient resources to meet system needs for the next few years. However, ISO-NE's assessment of resource adequacy did not take into account its forecast of distributed PV generation. ISO-NE continues to insist that it cannot rely on solar PV until its concerns regarding the interconnection standards have been sufficiently addressed. If the PV forecast was included, it would address the shortfall for the first year and significantly reduce resource needs for the later years.



State of Vermont
Department of Public Safety
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To: The Honorable Peter Shumlin
From: Keith Flynn, Commissioner of Public Safety
Date: May 2, 2014
Subject: Weekly Report

Emergency Management/Homeland Security

Issues/Updates:

DEMHS dealt with the death of former (resigned in January) employee Kryn Miner this week. The State Police Member Assistance Support Team (MAST) was brought in to assist.

DEMHS Director requested the Director of the Vermont Criminal Justice Training Council (VT Police Academy) transfer the Homeland Security Training Coordinator (funded by DEMHS) back to headquarters at the close of this funding cycle (8/31/14). More to follow.

The Deputy Director represented DEMHS at the White House's Council on Environmental Quality during their visit to Vermont.

We requested FEMA add 3 counties to the Preliminary Damage Assessment (PDA) review for the flooding of April 15-18 in addition to the 4 counties already identified earlier last week.

The FEMA PDA teams arrived and have 5 field teams have commenced Joint Preliminary Damage Assessments across 7 counties.

The FEMA Corps team also arrived in Vermont. The purpose of the FEMA Corps team is to work with the American Red Cross to conduct shelter survey assessments on approximately 400 shelters statewide.

Ben Rose was nominated to represent Region 1 as representative on the FEMA PA Steering Committee. The nominations were sought by the National Emergency Management Association. NEMA will advise on their decision. Director discussed requirements on cross-border resource movement with Acting Customs and Border Protection Port Director Jim McMillan. Director is working the US side of the border issue to integrate seamless awareness from the NY/QC border eastward across, VT, NH and ME to the Atlantic Provinces.

Legislative Contacts:

Communicated with congressional staffers following their conversation with FEMA HQ Hazard Mitigation staff. In that conversation, FEMA indicated that they will accept letters of intent in lieu of complete HMGP applications by May 1 (2nd), and are therefore granting to May 30 to develop mutually-agreed timelines for completing the remaining HMGP applications, even if additional time beyond May 30 is required. This is a hard-won victory for our Hazard Mitigation effort!

Fire Safety

Issues / Updates:

The Division received \$16.5 million in new plan review construction valuation collecting \$94,000 in permit fee revenue.

We have hired two new inspectors (1 electrical and 1 fire) with start dates. This is good news for the field staff and the regional offices.

Our Fire Safety Building Engineer will be inspecting major construction projects this summer. This will be the first summer we have been able to provide this level of interaction and validation of compliance to the engineering community.

Legislative:

This week has been quite other than the resolution at the House recognizing first responders (Police, EMS, Fire).

Legislative Issues Generally;

H. 295 - money has been directed to the newly formed Crime Research Group from the Joint Fiscal Office through Department of Corrections to perform evaluations contained in this bill. It appears that DPS will not have to provide any funds.

H. 735 Fee Bill – The following language is problematic.

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 \$25,000.00 in subsequent years that do not require a biennial audit and \$20,000.00 in subsequent years that require a biennial audit.

This reduces the fee for marijuana dispensaries from the current \$30,000 per year to \$25,000 per year except for those years were an audit is performed. This reduces the revenue that is planned in the program. We have communicated with Senator Ashe on this issue.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: May 2, 2014
SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Issue Updates:

Mylan Update:

Finalizing the 20 Houghton Street Transaction: We have reached an apparent impasse in our negotiations with Mylan because of two issues: environmental liability/request for indemnity and due diligence beyond code/regulation requirements. We feel that it is necessary to engage Mylan in a conversation about each of these and consider each from a common-sense, practical perspective. That is, we appreciate what our respective attorneys are doing to ensure that each client enters into this PSA with little risk, but we may be at a point to have a discussion about how these two issues may be resolved at a different level, perhaps between Jeb/Gov and Robert/Rajiv/Heather. It is also worth noting that this deal is atypical in that it has been structured where Mylan's deposit/payment is non-refundable and there is no ability to terminate (aside from title defects). This aspect of the deal is the basis for Mylan's position that there should be an obligation of the State's to cure deficiencies/defects, as the standard remedies for due diligence defects (termination or reduction in purchase price) are not available here.

Environmental:

Issue: Mylan is asking the State to indemnify Mylan against haz-mat issues.

Response: The use of this property has not changed since the state took ownership. It has been a very traditional office building with no environmental releases of which the State is presently aware. Mylan has extensive experience in dealing with property in downtown St. Albans and presumably had to deal

with environmental issues given the previous use of the properties - including railcar storage and maintenance. The difference here is that the 20 Houghton Street Property is being sold by the state and with that comes some limitations on what can be offered to a buyer. Specifically, it is the position of the AGO that no agency of the State can indemnify an individual or entity without legislative authorization—but Mylan's legal has identified the indemnity language as critical. Having said that, a prospective purchaser will likely have a Phase I environmental study done on the site to satisfy lenders, et. al. We are confident that the Phase I will reveal that there are no issues with the site. However, following the due diligence period and post-sale, the state cannot offer indemnity to the buyer in the event that there is an environmental issue found. To our knowledge, this building was not constructed on a brownfield site and is far from the usual "urban" contaminants found in downtowns.

Due Diligence:

Issue: With regard to the due diligence “cure obligations” referenced above, the State proposed defining “defect or deficiency” as a violation of applicable law, regulation, or building code. Mylan is asking in addition that we pay for any defects/deficiencies beyond code/regulatory ones and has proposed a liability cap at 50% of the purchase price (\$4million).

Response: They have had the ability to review all of the documentation that BGS has on the building, including O&M records, structural plans, etc. They have also walked through the facility several times to inspect things like staircases, HVAC penthouse, etc. Again, this is a very vanilla office building that has been very well maintained by the state. It isn't a former railroad shed or historic machine tool facility. The issue for the State on this is primarily a monetary one. We quite simply don't have a funding source to pay for such deficiencies, nor does BGS have the authority to obligate itself in this way beyond its existing expenditure authority.

Recommendation: Our strong preference is that we get Mylan to understand what our constraints are in terms of the limits of BGS's authority and source of funds, and to appreciate the fact that this transaction involves a property that is of good quality and is low-risk (and assume that they will send in their own teams for confirmation), though we note that this is slightly different than a "normal" real estate transaction for both sides because of the state's limits as a seller and the non-refundable nature of the deposit and the lack of contingencies in the contract (aside from title defect). Accordingly, the preference is to hold to the State's last proposed language, which limits the State's obligation to cure due diligence defects to issues that are violations of law/regulation/code and utilizes the AGO's suggested approach on environmental liability (to acknowledge liability of the State that may otherwise exist under Vermont law). If there is inflexibility from Mylan on either of these issues, we have a couple of ideas on how this could be tackled that we can discuss.

Legislative Issues/Contacts:

- Weekly meeting with Speaker Smith to touch base on proposed amending of H. 864 with mini Bacon-Davis elements. Rep. Alice Emmons is very concerned about the prospect and may force the Capital Bill to move to a Committee of Conference.
- Met with Rep. Leigh Larocque to discuss the progress of the Waterbury project. It was primarily a social call initiated by Rep. Larocque.

- Meeting with the House Conferees, Wanda Minoli, Michael Clasen and Kate Duffy, on H. 885 to discuss the inclusion of BGS in the Pilot Positions Program.
- Personally invited State House notables (Speaker, Lt. Governor, etc.) to the Waterbury groundbreaking ceremony on Tuesday, May 6th.

Testimony:

House Committee on Corrections & Institutions: **H. 864 - An act relating to capital construction and State bonding budget adjustment** (*Amendment regarding the Pittsford gravel pit*)

Legislative counsel presented a draft amendment and explained the previous legislative authorization for the mineral lease that is the subject of the amendment. She also gave an outline of the draft amendment and explained that it is written as legislative intent that the Commissioner re-examine the mineral lease. She expressed some concern over separation of powers issues if the language were more specific. There was some discussion among the committee and with BGS over the status of the lease. The committee took a vote and the proposed amendment passed.

Press/Media Notes:

Received a call from Dominic Poli of *The Reformer* newspaper in Brattleboro RE: Grants program; specifically a regional economic grant that was awarded to Bellows Falls, Green Island Project (Sustainable Valley Group). BGS forwarded the message to Bill Botzow, Kevin Mullin and Kiersten Bourgeois asking them to follow up due to conflict of interest.

Significant Events/Meetings:

- Vermont Bid System (EBB) with Commissioner Gosselin, Robin Miller, Shelley Pembroke, David Metraux, Alex Ibey and Deb Damore to discuss whether the e-procurement system will be capable of replacing the current Vermont bid system which we believe it will. Commissioner Gosselin expressed concerns that funding for the VT bid system is going away. So ideally, e-procurement will resolve this issue, however, we will still need to maintain the current system in the interim. Commissioner Gosselin will identify to BGS what the anticipated costs will be to maintain the system for the next two years. She has asked about fast tracking the e-procurement system.
- Met with Wayne Lamberton and Randy Lague regarding a PPP relationship to provide traveler services to the public at Exit 7, I89. Emily Montgomery is working on a legal opinion requested by the Secretary.
- Middlesex VSARA Print Postal Complex meeting to assess the needs of the Secretary of State vs. print/postal. Dave Burley will put together a back of envelope estimate to move and isolate print/postal from Secretary of State activities.
- Met with Michael Clasen, Bill Frasier, Jessie Baker and Erik Hoekstra and Larry Williams of Redstone to discuss the possibility of a garage structure at 2 Taylor Street in which the State of Vermont participates via contribution of consideration equal to the Carr Lot lease Redstone to present options.

- The Federal DOE was on site Wednesday and Thursday to review the financials of the Heat plant – Joe Aja and Wanda Minoli are taking the lead for the State of Vermont. DOE is auditing the federal agreement.

FINANCE AND MANAGEMENT

Issues Update:

Internal Control staff prepared and gave a presentation to the Extended Cabinet on Monday, April 28 on the importance of internal controls.

The Senate passed their version of H.885 that the House did not concur with. The conference committee met briefly today to discuss the schedule and plans to meet tomorrow and next week. Commissioner Reardon delivered a memo containing the Administration's concerns to the conference committee. In addition, a memo containing technical amendments to H.885 was sent to the Joint Fiscal Office.

HEALTH CARE REFORM

Status of Governor's Priorities:

GMC Planning: Robin Lunge is reviewing the MMIS Core Services RFP to ensure that the language is consistent with planning for Green Mountain Care and adequately explains the reuse of the system for GMC. They will alert if there are potential concerns.

GMC Financing: Discussions are heating up between the Administration and Partners for Health Care Reform, moving beyond our initial discussion of the UMASS/Wakely report to a frank discussion of what the future might look like under Green Mountain Care. Specifically, our provider reimbursement workgroup agreed to a tentative set of findings regarding the information that ought to be included in the 2015 financing report and began to discuss provider reimbursement mechanisms. A key question is how to link Green Mountain Care Board to this discussion, as they will ultimately design the provider reimbursement mechanism and set provider reimbursement rates.

JFO is publishing an advertisement for a health care economist, or consulting firm, to help lead their health care reform efforts. Their goal is to find their equivalent of my position. As you likely know, this means the end of the Ken Thorpe era. Furthermore, JFO informed Michael Costa on Thursday that they cannot do a joint RFP with us regarding health care financing. They will publish an independent RFP next week to study health care incidence, i.e. who pays for health care in the current system. They would still prefer to work collaboratively with us on that project, but it is imperative to them that they be considered independent and not be linked to future finance proposals. We will now proceed with our own RFP for micro-simulation and economic modeling services.

Financial modeling continues in preparation of the next Governor's Health Care Finance Business Advisory Council meeting on May 12th. At that meeting, we will ask the council to provide direct feedback on three big picture questions.

- Do we need another big concept?
- How do we adjust current concepts?
- Is tax reform viable?

SIM Grant: Vermont submitted its quarterly report to CMMI on April 30th. This report highlighted Vermont's progress towards the year one goals including: launching the Medicaid and Commercial Shared Savings Accountable Care Organization Programs, awarding \$2.6 million in sub-grants to providers throughout Vermont and making significant investment in our Health Information Exchange infrastructure supporting payment and delivery system reforms. This report is available here: http://healthcareinnovation.vermont.gov/sites/hcinnovation/files/SOV_Y1_Q2_Report_to_CMMI_4.30.14.pdf. The SIM team also convened its Quality and Performance Measures Work Group this week focusing on criteria for evaluation of quality measures related to the Shared Savings Accountable Care Organization Programs. SIM will be convening its Health Information Exchange Work Group next week focusing on telemedicine, telemonitoring and telehealth. Medicaid is continuing its conversations with CMS about the Medicaid Shared Savings ACO Program State Plan Amendment.

Legislative Issues/Contacts:

S.252 is on the House floor this week and is expected to pass with amendments. There is nothing of concern in the House version of the bill. We are expecting a conference committee to be appointed.

Significant Events/Meetings:

Bradford School District: There are 2 schools in Bradford School District that inadvertently lost "grandfathered" status under the ACA. Because they both have less than 50 employees, they are small employers and need to purchase insurance through Vermont Health Connect. Their contracts expire June 30th, but the school districts anticipate that they will be unable to finalize the new contracts by July 1, and thus the new insurance choice until the fall. In the past, the district would continue their old insurance plan through VEHI pending finalization of negotiations. The district would like to handle the situation this way and VEHI is amenable. This means the 2 schools would technically be out of compliance with state law until January when they bought a new VHC plan, however, given the bargaining timeline and challenges, this seems like the best way to ensure that the employees stay insured and the schools have an orderly transition into a new VHC plan. DFR does not feel that it has jurisdiction over the issue, so the Commissioner's initial preference is to remain silent. I think there is arguable jurisdiction under the provision in Act 79 allowing for an orderly transition into VHC. Robin has a call pending with the Commissioner to finalize action, but her preference is to figure out a way for the districts to extend their current coverage due to the pending negotiations and have them transition in January.

HUMAN RESOURCES

No new information to report.

INFORMATION AND INNOVATION

Legislative Issues/Contacts:

Catherine Benham from JFO contacted Richard for additional information on two projects listed in DII's annual report. The questions were around DCF's mainframe maintenance and AHS&AOA's refresh of desktops and laptops. DII provided a breakdown and justification for both.

Significant Events/Meetings

A widespread Internet Explorer vulnerability was identified on 4/28. The vulnerability is severe and the U.S. and U.K. governments released statements urging people not to use Internet Explorer. The state worked quickly to mitigate the problem with a fix and has applied it to the majority of state owned/issued equipment.

DII met with the Department of Taxes as members of the VTax project oversight committee. This project will accomplish many objectives including consolidating all taxes and associated functions into a single integrated tax system (ITS). The project is proceeding as planned, meeting or exceeding timelines and expectations.

LIBRARIES

Significant Meetings/Events:

Wallace Nolen Lawsuit Trial Next Week: Three VTLIB employees (Christine Frieese, Paul Donovan and Marty Reid) will participate in the trial next week (Thursday/Friday), as individuals being sued by Wallace Nolen. We are working with David Cioffi in the AG's office.

American Library Association (ALA) National Library Legislation Day: Marty Reid will be in Washington next week to attend ALA briefings, visit the 3 congressional offices, and attend the Spring COSLA (Chief Officers of State Library Agencies) meeting. She must return to VT Wednesday night to attend the Nolen trial the next day, so will miss a meeting with folks from the Aspen Institute and an invitation to the White House ceremony honoring libraries and museums winning medals from the Institute of Museum and Library Services. (Darn!)

TAXES

Legislative Update:

Miscellaneous Tax Bill/Education Rate Bill - Floor Action: Second reading relatively quiet. Amazingly, no questions or comments on the employer assessment or the estate tax. There was predictable debate on amendments to strip the ed tax rate piece from the bill, as well as to hold rates at this year's level – both were withdrawn. Sen. Pollina had three different amendments to fund weatherization (bottle deposit, temporary income tax, fuel gross receipts) that predictably failed. Sen. Rogers noted opposition to the removal of the Wood Manufacturer's Credit, with Sen. Starr, he sponsored amendments for a study and reinstatement for third reading. Also on third reading is the perennial Hartwell/Sears amendment to expand local option tax to all towns, and a committee technical amendment to allow the tax exemption for privately leased municipal garages only in TIF areas.

Likely Conference Issues on Revenue

House e-cigs versus Senate employer assessment

House R&D cut (and disclosure), Wood Manufacturer's Credit

Senate Estate Tax (our analyst continues to discuss "revenue neutrality" with JFO)

Likely Conference Issues on Ed Rate

House increase on income sensitivity rate, extension of the slope and cap

House decrease in renter rebate

House buy down of residential rates*

*The latest JFO Outlook comparing the results in 2016 of the two alternative plans is complex. Although the Senate plan does not have to make up one-time money, income sensitivity is more expensive for next year because they apply a lower income percentage against a higher property rate

Current Use: Senate Natural Resources (with 3 members also on Finance) had stripped the Ag Committee bill, now Finance added a few innocuous pieces back in (mostly forest provisions, and a recommendation on the taxation of methane digesters). Then the Committee stalled on the issue of whether there needs to be more review of farmers in the program. The Department pointed to the follow up it does when it has information on a transfer, discontinuance of a farming lease or diversification of uses on the property - and also offered a possible compromise of collecting annual certifications by farmers that they continue to meet the program requirements, so that there would be education and data to review. The committee briefly flirted with Sen. Galbraith's idea of kicking farmers out for simply failing to return the certification, but finally passed the bill out. Sen. MacDonald is the reporter, ready to battle with Sen. Starr on the Land Use Change Tax.

Operations:

Tax Season Wrap-Up: Revenue results aside, our processing and accounting units are re-organized under new leadership and operated much more smoothly this season. We are well positioned to implement further improvements with our new IT system. At this point, we are at over 80% electronic filing for the first time (although the percentage will fall as later returns tend to be on paper). Fraud was the biggest issue. The phony refund requests using doctor identities nationwide is now being widely reported - we first started seeing this last year, with some identities used multiple times (lists of social security numbers are sold). Last week we stopped over \$180,000 in phony returns; over \$660,000 total. By last week we were getting rudimentary fraud that our staff could spot; earlier it was more sophisticated electronic filings that we could never have stopped without our data warehouse software.

VTax Project: Our inter-departmental oversight committee met yesterday. The project continues to hit all its milestones.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: May 2, 2014
Re: Weekly Report

Status of Governor's Priorities: Nothing to report.

Legislative Issues/Contacts/Updates:

- S299: would allow for licensees to serve flights of various products for comparison purposes. The bill was passed out of Senate and is in House General.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business.
- House General Committee has consolidated these three bills into one: S299 on behalf of the late Sen. Sally Fox as she originally introduced S299.
- Senate Econ Development added some language to S299 for a study regarding the recent national news blitz on a Powdered Alcohol product called "Palcohol".
- H884 Miss Tax Bill: Made some adjustments on spirits taxes that will help instate manufacturers.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 05/07/2014 - Enforcement Hearings.

Evolving Issues:

- ERP/POS Project underway.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in May.

Summary of Key Department Activity:

- April final sales were +3.41% over last year. Up +\$2 million year to date over this time last year.

Commissioner's Commentary: Have a great weekend.