

**In this issue:**

- **Commissioner's Comments: PSRW**
- **Legislative Update**
- **"Mooo...ve Vermont" Kick-off Events**
- **Legal Corner**
- **Diabetes Care Guide**

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*With comments, suggestions, or ideas for future OUTLOOK articles*

## Commissioner's Comments: Public Service Recognition Week

During my two decades of state service, I have been consistently amazed by the hard work, dedication, and tenacity of the public employees I have had the good fortune to work beside. As Commissioner of Human Resources, I have gained an even greater understanding and appreciation of the myriad challenges state employees face and overcome on a daily basis to ensure the provision of needed services to the residents of our state. And I am proud to be counted among you.

It is my hope that during the upcoming Public Service Recognition Week, May 1—5, 2006, all state employees will take the time to reflect upon the significance of the work we do and the vital role we play in the well-being of our fellow Vermonters. I also hope you will take the time to appreciate the people who work with you. By working together and supporting one another, we are able to deliver the highest quality customer service.

From my civil rights background I have learned to appreciate how the unique talents, skills, and perspectives of each individual contribute to the success of any group. So, I encourage you to acknowledge one another's contributions to the workplace and celebrate your successes together during Public Service Recognition Week. And, I encourage managers and supervisors to take time to appreciate your staff, without them the work of state government doesn't get done.

This year, I am again looking forward to joining Governor Douglas as he presents awards to our outstanding individuals and teams at the statewide Public Service Recognition Award Ceremony and Luncheon on Monday, May 1st.

*(Continued on page 2)*



Linda McIntire

## Legislative Update

by the Commissioner

Thank you for your positive responses to the last Outlook and your expression of appreciation for information of interest to all state workers. Again, you can find the text to any legislative bills by visiting the legislative web site and inserting the bill number on the bill tracking system at <http://www.leg.state.vt.us/>.

Please take a moment to read S.34, a bill that would change a law that was passed in 2000. That law, Chapter 14 of Title 3, set standards that apply to state government when entering into personal services contracts and, in particular, what is known as "privatization" contracts. At present, state government is prohibited from entering into any personal services contract for over \$10,000 unless strict, carefully designed tests are met. In addition, the "privatization" provisions of the law provide even stricter rules that further limit the state from entering contracts when doing so will result in the RIF of even one permanent, classified employee. When a contract "privatizes" a function (that is, an employee may lose his or her job),

*(Continued on page 2)*

## "Mooo..ve Vermont" Kick-off Events

This year over 3,400 state employees have signed up for the 3rd annual Spring Activity (formerly Walking) program "**Kick it up for Wellness: Mooo...ve Vermont!**"

Kick-off events will be held statewide on April 18 at noon as follows:

**Main Event**— Montpelier on the State House lawn with Governor Douglas. (Rain site —the Cedar Creek Room)

**Bennington**—The state office building at 200 Veteran's Memorial Drive.

**Burlington**—The state office building at 108 Cherry Street.

**Colchester**—VTrans District 5 Office at Fort Ethan Allen. (Rain site—conference room or garage.)

**Montpelier**—The National Life Building.

**Newport**—Emory Hebard Building at 100 Main Street.

**Rutland**—The Asa Bloomer Building atrium.

**St. Albans**—The state office building at 10 Houghton Street.

**St. Johnsbury**—The state office building at 67 Eastern Avenue.

**Springfield**—The state office building at 100 Mineral Street.

**Waterbury**—The state complex auditorium.

**White River Junction**—Veteran's Memorial Park.

If you have any questions, please contact the Wellness Program at 828-5484 or [dvanderbush@per.state.vt.us](mailto:dvanderbush@per.state.vt.us).

We hope to see you there! Come on—let's get mooo...ving!

## Legal Corner

### College Student Continuation in State Employees' Medical Plan:

The State and VSEA recently signed a side-letter of agreement which makes two changes in benefit eligibility for dependent children covered under the State Employees' Health Care Plan. From a benefits administration perspective, here is what this means:

1. Under current plan rules, children can be covered dependents under the State Employees' Health Care Plan until they reach their 19<sup>th</sup> birthday. Full-time students enrolled in an accredited school, can continue to be a covered dependent until the age of 23. In the

*(Continued on page 2)*

**Commissioner's Comments** (Continued from page 1)

The enthusiastic response from agencies and departments is a strong confirmation that state employees are indeed doing great work.

Thank you again for working together to preserve our Vermont way of life.

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**Legal Corner** (Continued from page 1)

past, if a dependent college student became ill/injured to the extent that a medical leave of absence from school was necessary, health care coverage ceased because the person no longer qualified as a full-time student. The student could then remain covered only by enrolling under COBRA and paying the full COBRA premium rates. The newly negotiated side-letter will now allow such students to maintain their dependent status in the health plan for up to one year (or until reaching age 23, whichever comes first), while they are on a medically necessary leave of absence from school. COBRA coverage could then begin upon termination of the leave, or at age 23 if that occurs first. To establish entitlement for this continuation provision, the student's treating physician should submit documentation of the medical necessity of a leave of absence from school to the health plan administrator in a timely manner.

2. Currently, certain unmarried incapacitated children can also maintain dependent coverage under the State Employees' Health Care Plan, if, prior to age 19, they are incapable of self-sustaining employment by reason of mental retardation, cerebral palsy, epilepsy, or physical handicap. The newly negotiated side-letter changes the list of conditions that define an "incapacitated child" to include mental or physical disabilities that would meet the same eligibility criteria for federal Medicaid and SSDI benefits.

Any specific questions should be directed to Anne Carver at 828-0648, or Stephanie Tomlin at 828-0709, in the Employee Benefits Division, Department of Human Resources, 144 State Street, Montpelier, VT 05620-5601. The email addresses are: [acarver@per.state.vt.us](mailto:acarver@per.state.vt.us) or [Stephanie.tomlin@per.state.vt.us](mailto:Stephanie.tomlin@per.state.vt.us).

**28 VLRB 138** (March 15, 2006) - The Board dismissed an appeal filed by a State Department of Education probationary employee contending that the employer violated 3 V.S.A. Section 1001 by dismissing her in retaliation due to her complaining of gender discrimination. The Board concluded that such a claim by a probationary employee does not constitute a valid cause of action pursuant to the prohibition of discrimination

"on account of their . . . sex" contained in 1001(a). Instead, the Board determined that a probationary employee making such a claim must file an unfair labor practice charge pursuant to the unfair labor practice section prohibiting an employer from interfering with, restraining or coercing employees in the exercise of their rights guaranteed by law.

**28 VLRB 165** (March 21, 2006) - The Board upheld the dismissal of a dispatcher for the Vermont Department of Public Safety. The Board determined that the dispatcher had not demonstrated that the employer dismissed her as a result of discrimination and retaliation against her due to grievance or whistleblowing activities, or because of her disability. The Board further concluded that just cause existed for her dismissal due to her insubordination and repeated dishonesty.

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## SEI UPDATE

The Strategic Enterprise Initiative (SEI) Steering Committee met on Friday, March 24<sup>th</sup>, and endorsed a proposal by the Agency of Commerce and Community Development (ACCD) to purchase a grants management system, *IntelliGrants Solutions*, from Agate Software. In addition to bringing ACCD's Department of Housing up to Federal HUD reporting compliance standards, the project also will become an SEI pilot program. SEI has established a grants management sub-committee to explore the enterprise possibilities for this system. Each year state agencies award hundreds of grants to organizations across the state and grants management systems represent a great opportunity for enterprise wide systems.

**The Vermont Blueprint for Health's new single-page Guide for Diabetes Care summarizes the recommended office visits, laboratory tests, and self-management tasks for people who have diabetes. Free copies for employees (or their family members and friends) are available by calling (802) 863-7330**

**Legislative Update** (Continued from page 1)

the state must notify the union in advance and give the union an opportunity to discuss alternatives - and the state cannot enter into the contract unless there will be at least a ten-percent savings over the cost of doing the same function with state employees. Because "privatizing" a function results in the loss of a job for a valuable state employee, we believe these standards are reasonable and state government has not been unduly constrained by this law.

If passed, S.34 will change the privatization provisions. Most importantly, it will change the definition of privatization contracts to include not only those situations in which an employee loses his or her job, but also those situations in which a vacant position goes unfilled or is eliminated. Expanding the privatization requirements in this way will prohibit state government from contracting in order to provide urgently needed services, even though no state employee would lose his or her job. For example, at times, psychiatric nursing positions at the Vermont State Hospital go unfilled, despite diligent recruitment efforts. When such staff shortages become critical, there can be a need to contract with specialized agencies that meet short-term staffing requirements. If passed, S.34 will prevent that. The Vermont State Hospital is not the only example of managers having occasional difficulty filling unfilled positions. State and federal family leave laws, the Americans with Disabilities Act, our collective bargaining agreements, and military reservist activations all give rise to situations in which managers face a need to fill a void for a few month to a year or more. It is often difficult to find qualified applicants in such situations and from time to time, especially where there may already be unfilled positions, there is a need to enter contracts for services rather than hiring. It is difficult to anticipate every situation in which contracts may be necessary and one or more positions go unfilled, but S.34 could create circumstances in which vitally needed services are not provided.

As of this writing, no examples or facts have been offered to show that the balance between state employment and contracting is off balance. To the contrary, state employment has grown at a rate that is greater than the rate of the growth of the population of Vermont. Moreover, this growth has occurred at a time while the number of contracts has been on the decline. We certainly are not "blaming" state employees for the growth of government (as has been suggested by advocates and proponents of this bill). These figures simply demonstrate that the state has not been favoring contracts over expanding state government.