

*Working Together  
for Vermont*

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## Commissioner's Message

*Patricia Moulton Powden, Commissioner*

### Older Workers in Greater Demand

As a follow-up to a previous article highlighting the services and mission of Vermont Associates, we look to some national perspectives.

According to the Robert Wood Johnson study titled "Wisdom at Work", the world is in the midst of a global "age quake", with the workforce turning gray and shrinking. One million people worldwide turn 60 years old each month. Life expectancy is increasing while fertility is decreasing.

The US population is also aging: people are living longer; life expectancy is now 77. This combined with a plummeting birthrate has resulted in the graying of both our population and our workforce. Between now and 2010, the number of United States workers ages 55 to 64 will grow by over 50 percent. At the same time, fewer younger workers are entering the workforce. The Employment Policy Foundation has predicted that the workforce will experience a significant shortfall of baccalaureate degree holders by 2012. Every facet of our society will be affected by these dramatic demographic changes that will challenge businesses, health service providers and policy-makers. It will also, however, redefine aging in general and the relationship of aging to work.

Although most pension plans encourage early retirement, it appears that many seniors want to or have to keep working. The baby boomers are more adventurous, healthier, more optimistic, and better educated than their predecessors. They may conceivably have 10-20 potential work years after normal retirement age. Needed for their skills and experience, experts are encouraging government and industry to look for ways to persuade baby boomers to remain on the job, or at the very least in the workforce. They are becoming the largest untapped source of potential labor in the economy.

Nationally, the American Association of Retired Persons (AARP) added three U.S. government agencies and six corporations to its list of employers looking to hire people 50 and older for a range of full-time, part-time, and seasonal jobs. The Internal Revenue Service, the Peace Corps, and the U.S. Small Business Administration's Office of Disaster Relief, are the first federal employers to join AARP's National Employer Team, the name given to the association's three-year-old partnership.

However, according to the Wisdom at Work report, "there is scant evidence that key leaders, institutional representatives, and policy-makers - much less society at large - are preparing for, or even fully grasp the implications of, these seismic demographic changes."

Of the two million people who work for the federal government, more than 25 percent are expected to leave over the next five years. In the next two years alone, The Partnership for Public Service estimates over 193,000 mission-critical positions will need filling.

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## The Edge

### 2008 Legislative Session

A few weeks ago the Legislature adjourned and left town. Before doing so it passed a number of bills that will impact the Department of Labor's programs and the businesses and workers it serves. This column provides information on some of the significant provision of key bills.

Workers' Compensation premium rates have been falling in Vermont, but costs remain high when compared to a number of states. The department asked the legislature to consider changes in law that would promote safety thereby reducing claims and costs as well as some direct cost reduction measures. After much debate the Legislature passed bill S.345 that included the following features:

- It allows the employer to pay the cost of "first-aid-only" injuries, up to a \$750, without reporting the injury to the insurance company. A "first aid only" injury is one that requires only one visit to a medical provider and the worker must return to work the following day. A first report of injury must be filed with the Department of Labor (VDOL). If the employer contests the claim, then a first report of injury shall be filed both with the VDOL and the insurer within five days.
- It requires insurers to offer workers' compensation policies with at least a \$500 deductible. Many large employers have access to deductible policies now. This will make these lower cost plans available to all employers. Insurers will adjust and pay claims and bill the employer for the deductible.

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# Commissioner's Message -

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More employers are becoming aware of the benefits of hiring older workers. "They recognize the fact that mature workers bring good experience and skills to the workplace", said Deborah Russell, AARP's director of workforce issues. "More importantly, some recognize this is a labor pool they will have to pull from", added Russell. These jobs are simply not appealing to younger workers.

Regretfully, there are also many myths about the older worker that have been addressed in a variety of publications (Pfizer Journal among them). In actuality, older workers tend to be more conscientious, emotionally stable and agreeable than younger workers. They value the opportunity to learn something new, including technology. Many employers, in both the private and the public sectors, have enjoyed lower turnover rates among their more mature workers. They also consume less sick time for short-term illnesses than younger workers.

Employers are demonstrating an increased interest in older workers for their stability and experience. Unable to find younger workers to handle the less-exciting jobs, we anticipate even more employers turning to older workers. However, we must call for the removal of barriers to retaining and hiring older workers, including eliminating age discrimination, encouraging multiple work options for both workers and businesses, and providing increased access to education and training for older workers.

## Contact VDOL

If your address has changed or to discontinue your subscription, please email: [sally.redpath@state.vt.us](mailto:sally.redpath@state.vt.us)

Information from: The Herman Group, Inc., "The Herman Trend Alert," by Roger Herman and Joyce Gioia, Strategic Business Futurists. (800) 227-3566 or <http://www.hermangroup.com>. And "Wisdom at Work", Robert Wood Johnson Foundation.



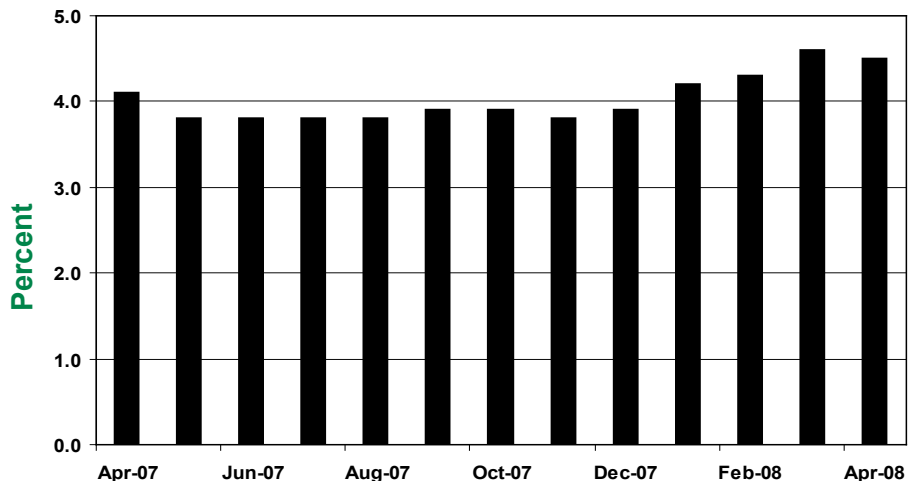
## The Edge - (continued from front page)

- It directs VDOL to adopt rules requiring mediation of certain disputed workers' compensation claims.
- It expands the time period used to calculate the worker's average weekly wage from 12 to 26 weeks.
- It requires insurance companies to review every claim for temporary total disability after 104 weeks and to evaluate the medical status of the claimant.
- It requires the department and others to study the proposal to give employers with certified safety programs a discount and to report back to the Legislature.
- It also creates a task force to study and recommend legislation and other changes on ways to reduce the misclassification of employees and the miscoding of occupations.
- The bill also amended Vermont's insurance fraud law to include workers' compensation insurance. The existing law excluded workers' compensation.
- The bill requires the department and others to study workers' compensation and safety of the agriculture and logging industries and the effectiveness of referral systems to vocational rehabilitation services and the effectiveness of those services.

The appropriations bill, H.891, always has important features. This year, in addition to providing level funding for the department's basic activities, 72 percent of which is from federal grants, the bill provided funding to continue the Next Generation Initiative. Closely following the Governor's recommendation, the bill provides \$1.55 million to the department for the Workforce Education and Training Fund (WETF) Program skills training and internship activities. It also provides \$450,000 to support the career information and alternative education activities for at-risk youth. The bill continues support for adult technical

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## Vermont Seasonally Adjusted Unemployment Rate



## Vermont Unemployment Estimates Statewide *(Seasonally Adjusted)*

	Apr. '08	Mar. '08	Apr. '07	Changes from:	
				Mar. '08	Apr. '07
<b>TOTAL LABOR FORCE<sup>1</sup></b>	352,100	352,000	354,600	100	-2,500
<b>EMPLOYED</b>	336,400	335,900	340,100	500	-3,700
<b>UNEMPLOYED</b>	15,700	16,100	14,500	-400	1,200
<b>RATE (%)</b>	4.5	4.6	4.1	-0.1	0.4

<sup>1</sup>Includes proprietors, professionals, and unpaid family workers.

## Labor Market Areas By Residence *(Not Seasonally Adjusted)*

AREA	Total Labor Force	Number Employed	Number Unemployed	Apr.-08 Rate (%)	Mar.-08 Rate (%)	Apr.-07 Rate (%)
Barre-Montpelier	28,100	26,550	1,550	5.5	6.2	5.0
Bennington	12,650	12,050	600	4.8	5.2	4.1
Bradford	4,650	4,400	300	6.1	7.0	5.1
Brattleboro	23,000	22,050	1,150	5.0	4.8	4.7
Burlington-South Burlington	110,950	106,450	4,500	4.1	4.4	3.6
Hartford	19,050	18,400	650	3.4	3.4	3.0
Manchester	11,550	10,900	650	5.6	5.1	5.5
Middlebury	18,050	17,150	850	4.8	5.5	4.2
Morristown-Stowe	19,650	18,350	1,300	6.7	6.5	6.0
Newport	13,750	12,600	1,150	8.3	9.1	7.9
Randolph	8,900	8,400	500	5.5	5.8	4.9
Rutland	28,200	26,650	1,550	5.6	5.6	4.9
Springfield	11,900	11,300	600	5.0	4.5	5.1
St. Johnsbury	14,700	13,850	850	5.8	6.0	5.0
Swanton-Enosburg	14,250	13,300	950	6.6	7.4	6.3
Warren-Waitsfield	3,600	3,450	150	4.1	3.5	3.7
Woodstock	3,350	3,250	150	4.0	3.7	3.4
<b>Vermont Total</b>	<b>348,650</b>	<b>331,100</b>	<b>17,550</b>	<b>5.0</b>	<b>5.3</b>	<b>4.6</b>

### AREAS FROM ADJOINING STATES INCLUDING VERMONT TOWNS *(Not Seasonally Adjusted)*

Colebrook, NH-VT	3,500	3,250	250	7.6	5.7	8.3
Lebanon, NH-VT	45,900	44,550	1,350	2.9	3.0	2.8
Littleton, NH-VT	14,700	14,000	700	4.9	4.6	4.3
North Adams, MA-VT	16,900	16,050	850	5.0	6.2	5.9

Monthly estimates are preliminary and subject to revision. Detail may not add to totals due to rounding.

# Vermont Seasonally Adjusted Nonfarm Employment in Thousands

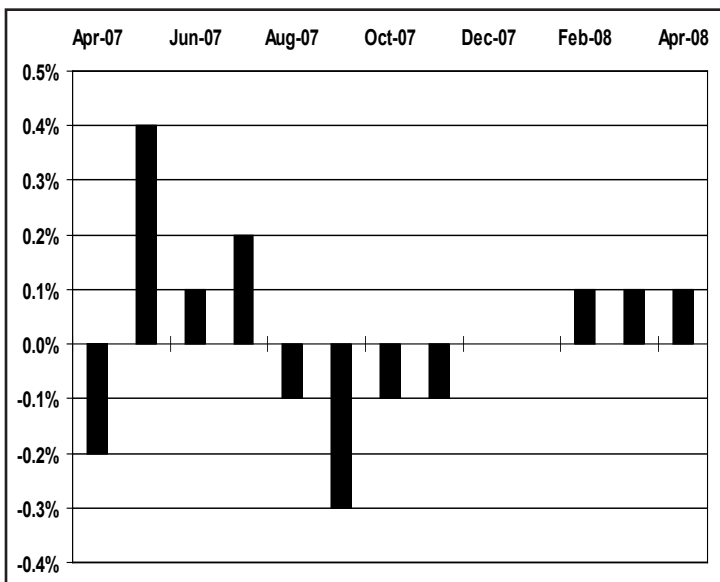
BY NAICS	Prelim.	Revised	Revised	Changes From:	
	Apr. '08	Mar. '08	Apr. '07	Mar. '08	Apr. '07
Total - All Industries	306.8	308.2	306.5	-1.4	0.3
Private Industries	252.6	254.1	252.5	-1.5	0.1
Construction	15.7	16.3	16.4	-0.7	-0.7
Manufacturing	35.7	35.6	36.1	0.1	-0.4
Durable Goods	26.0	25.8	26.2	0.2	-0.2
Non-Durable Goods	9.7	9.8	9.9	-0.1	-0.2
Trade, Transportation & Utilities	58.4	58.8	58.8	-0.4	-0.4
Retail Trade	39.6	39.8	39.9	-0.2	-0.3
Trans., Warehousing & Utilities	8.6	8.7	8.5	-0.1	0.1
Financial Activities	13.3	13.3	13.3	0.0	0.0
Professional & Business Services	22.4	22.3	22.3	0.1	0.1
Professional., Scientific & Technical	13.4	13.3	13.2	0.1	0.2
Administrative Support & Waste	8.8	8.7	8.6	0.1	0.2
Education & Health Services	57.5	57.4	56.5	0.1	1.0
Private Ed. Services	12.5	12.5	12.7	0.0	-0.2
Health Care & Social Assistance	45.0	44.9	43.8	0.1	1.2
Leisure & Hospitality	33.0	33.2	32.7	-0.2	0.3
Arts, Entertainment & Recreation	4.0	4.1	3.9	-0.1	0.1
Accommodation & Food Services	29.0	29.1	28.8	-0.1	0.2
Other Services	9.8	10.0	9.8	-0.2	0.0
Total Government	54.2	54.1	54.0	0.1	0.2
State Government	18.4	18.3	18.1	0.1	0.3
Local Government	29.9	29.9	29.9	0.0	0.0

Total - All Industries estimate is seasonally adjusted independently. All seasonal adjustment performed with X12-ARIMA. Seasonal factors available from VDOL/LMI on request.

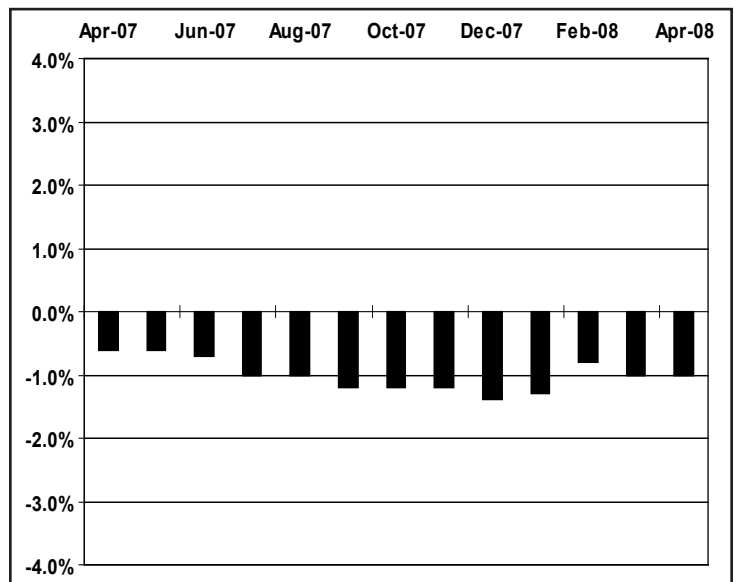
Produced by the Vermont Department of Labor in cooperation with the U.S Bureau of Labor Statistics, unless otherwise noted.

## Vermont Annual Job Growth Not Seasonally Adjusted Data

### All Industries



### Manufacturing



# Nonfarm Employment In Vermont *(Not Seasonally Adjusted)*

Compiled by the Vermont Department of Labor in cooperation with the Bureau of Labor Statistics, U.S. Department of Labor

INDUSTRY BY NAICS	Prelim.	Revised	Revised	Changes From:	
	Apr. '08	Mar. '08	Apr. '07	Mar. '08	Apr. '07
<b>TOTAL NONFARM</b>	<b>303,400</b>	<b>307,050</b>	<b>303,100</b>	<b>-3,650</b>	<b>300</b>
<b>TOTAL PRIVATE</b>	<b>246,900</b>	<b>250,550</b>	<b>246,700</b>	<b>-3,650</b>	<b>200</b>
<b>GOODS PRODUCING</b>	<b>50,950</b>	<b>49,950</b>	<b>51,950</b>	<b>1,000</b>	<b>-1,000</b>
MANUFACTURING	35,400	35,350	35,750	50	-350
Durable Goods	25,850	25,700	26,050	150	-200
Computer & Electrical Equipment Mfg.	9,450	9,450	9,450	0	0
Fabricated Metal Products Mfg.	3,000	3,000	2,950	0	50
Non-Durable Goods	9,550	9,650	9,700	-100	-150
Food Mfg.	3,700	3,750	3,650	-50	50
CONSTRUCTION	14,650	13,750	15,350	900	-700
NATURAL RESOURCES & MINING	900	850	850	50	50
<b>SERVICE-PROVIDING</b>	<b>252,450</b>	<b>257,100</b>	<b>251,150</b>	<b>-4,650</b>	<b>1,300</b>
TRADE, TRANSPORTATION AND UTILITIES	57,450	57,750	57,800	-300	-350
Wholesale Trade	10,250	10,250	10,300	0	-50
Retail Trade	38,750	38,900	39,000	-150	-250
Food & Beverage Stores	9,300	9,350	9,350	-50	-50
General Merchandise Store	2,850	2,900	2,750	-50	100
Transportation, Warehousing and Utilities	8,450	8,600	8,500	-150	-50
Utilities	1,700	1,700	1,750	0	-50
Transportation & Warehousing	6,750	6,900	6,750	-150	0
INFORMATION	5,950	6,000	5,900	-50	50
FINANCIAL ACTIVITIES	13,100	13,150	13,150	-50	-50
Finance & Insurance	9,850	9,850	9,900	0	-50
Real Estate, Rental & Leasing	3,250	3,300	3,250	-50	0
PROFESSIONAL AND BUSINESS SERVICES	22,250	21,750	22,100	500	150
Professional, Scientific and Technical	3,350	13,250	13,350	100	0
Administrative, Support and Waste	8,550	8,150	8,400	400	150
EDUCATIONAL AND HEALTH SERVICES	57,850	57,750	56,600	100	1,250
Educational Services	13,050	13,050	13,000	0	50
College, Universities and Professional	7,400	7,350	7,250	50	150
Health Care and Social Assistance	44,800	44,700	43,600	100	1,200
Ambulatory Health Care Services	16,000	16,050	15,650	-50	350
Hospitals	12,050	11,900	11,650	150	400
Nursing and Residential Care Facilities	6,850	6,800	6,750	50	100
LEISURE AND HOSPITALITY	29,600	34,400	29,450	-4,800	150
Arts, Entertainment and Recreation	3,350	3,600	3,350	-250	0
Accommodation and Food Services	26,250	30,800	26,100	-4,550	150
Accommodations	8,800	12,700	8,700	-3,900	100
Hotel & Motels	8,050	11,850	7,900	-3,800	150
Food Services and Drinking Places	17,450	18,100	17,400	-650	50
OTHER SERVICES	9,750	9,800	9,750	-50	0
<b>GOVERNMENT</b>	<b>56,500</b>	<b>56,500</b>	<b>56,400</b>	<b>0</b>	<b>100</b>
Federal Government	5,900	5,900	5,850	0	50
State Government Education	9,000	9,300	8,950	-300	50
Local Government Education	24,850	24,550	24,850	300	0
Other State Government	9,900	9,700	9,850	200	50
Other Local Government	6,850	7,050	6,900	-200	-50

NOTE: DATA COMPILED IN COOPERATION WITH THE U.S. BUREAU OF LABOR STATISTICS. ESTIMATES ARE PRELIMINARY AND SUBJECT TO REVISION. SEE ANNUAL SUMMARY FOR DETAILS.



# **WORKERS' COMPENSATION:**

## **Is my employee entitled to Vocational Rehabilitation Services?**

A primary goal of Vermont's workers' compensation law is to get injured workers back to work in their old jobs as soon as medically reasonable and appropriate. Nevertheless, some disabled workers simply cannot perform the functions required for their positions.

Are they entitled to vocational rehabilitation (V.R.) services under Vermont Workers' Compensation law? And how is an entitlement determination made? This article attempts to address these questions for employers and in a subsequent article we will address other aspects of vocational rehabilitation services.

In March of 2007, the Vermont Department of Labor significantly amended its Workers' Compensation Vocational Rehabilitation Rules (Rules) to provide greater clarity concerning who should receive V.R. services, how a determination of eligibility shall be made, and how services will be delivered, consistent with recent statutory amendments. Both the enabling statute, 21 V.S.A. §641, and Rule 50.0000 (formerly Rule 30) contemplate that V.R. services shall be provided to a worker when, because of the work injury, s/he is unable to return to suitable employment for which s/he has prior training or experience relevant to currently available suitable employment. The services provided include retraining and job placement, as may be reasonably necessary to restore the employee to suitable employment. The benefits provided are specifically tied to restoration of earning skills and not tied to providing specific employment. The statute (21 V.S.A. §641) envisions a collaborative process between a worker and the employer/insurer to develop and implement an appropriate plan. The Commissioner of Labor may order such rehabilitation, treatment or training necessary and appropriate to render the worker fit for a remunerative occupation, but a plan that is arrived at through the cooperative efforts of the employer/insurer and injured employee is preferable for all concerned.

The law requires that a worker who requests V.R. services or who has received more than 90 days of continuous temporary total disability (TTD) benefits receives a timely and cost-effective screening to determine eligibility for V.R. services. Consistent with 2007 legislation, screenings are now performed by qualified V.R. professionals employed by the Vermont Department of Aging and Independent Living's (DAIL) Division of Vocational Rehabilitation (DVR), rather than by certified Vermont V.R. counselors in the private sector. This ensures an impartial recommendation as the DAIL staff does not develop, and therefore has no vested interest in, a V.R. plan and they do not provide V.R. services. Absent extenuating circumstances, the assigned DAIL screeners must complete each screening 10 days from the date they receive a referral from the Department of Labor. See Rule 53.1500.

If the DAIL screener recommends a full entitlement assessment, and this determination is not contested, then the actual assessment and subsequent delivery of V.R. services are provided by a certified V.R. counselor. See Rule 53.5000. The Department of Labor maintains a list of these individuals and

the employer/insurer has the right and obligation to designate a counselor from this list.\* The V.R. counselor conducting the entitlement assessment must contact the employer and the employee to discuss the possibility of the employee's potential for return to work with the employer, including discussion of any opportunity for light duty work, job modifications or any other possibility of return to suitable employment.\*\* An assessment as to the entitlement for V.R. services shall be made and a report must be filed with the Department of Labor within 30 days of the filing of the V.R. referral, unless an extension of 30 days is granted. The written report must include, at a minimum, the following: (1) a summary of current medical status including physical capabilities, secondary conditions affecting recovery, treatment, prognosis and estimate of time frames if possible; (2) a vocational profile that includes an educational background and work history; (3) a summary of positive and negative indicators for return to work; and (4) the V.R. counselor's conclusion regarding the employee's entitlement to V.R. services. Rule 54.2100-54.2400.

Should a worker undergo an entitlement assessment and be found "Entitled" to V.R. services, then the employer/insurer bears responsibility for payment of V.R. benefits, but the cost of services is controlled by a fee schedule. In the event a worker undergoes an entitlement assessment and is found "Not Entitled" to V.R. services, then the employer/insurer bears no responsibility for payment or provision of further V.R. benefits. Rule 54.3000. An employer/insurer who wishes to contest an entitlement recommendation must file a written denial, with supporting

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evidence. The written denial must be filed within 21 days of receiving the V.R. counselor's entitlement assessment. Rule 54.5000. The Commissioner of Labor shall review the evidence upon which the denial is based and if the evidence does not reasonably support the denial, the Commissioner may order that V.R. services be provided. See 21 V.S.A. §662 (b).

Should the V.R. counselor determine that the employee is unable to return to suitable work and therefore entitled to V.R. services, or the Commissioner so orders, then the counselor must proceed to work with the injured worker to develop a plan within 45 days of the completion of the entitlement assessment. This plan is known as a Return To Work Plan Rule 55.1000. The plan must be developed in consultation with the worker and the employer/insurer. The plan must also identify a specific vocational goal or goals and contain a plan of action for achieving that goal. The plan should identify the specific skills, training or expertise that will result in the employee's return to suitable employment. The plan must clearly establish steps and a time table for attainment of the objective. The faster an employee is returned to the work force, the better it is for the employee, the employer, and society in general. Studies consistently demonstrate that the quicker an injured worker returns to suitable employment, the lower the workers' compensation costs.

*\* See the Department web site at <http://www.labor.vermont.gov/> and click on "Workers' Compensation" under the yellow "Businesses" bar, and under "Related Links" click "Vocational Rehabilitation in Vermont Workers' System." If an employer/insurer does not designate a rehabilitation counselor within 15 days of receiving the screener's report, the employee may choose a counselor by filing a Form V.R.-8. Rule 53.5100.*

*\*\* An employee may subsequently select another counselor upon written notice to the employer/insurer of the reasons for dissatisfaction with the designated provider and the name and address of the new V.R. counselor. 21 V.S.A. §641(a)(1).*

*\*\*\* "Suitable work" or "suitable employment" refers to work for which the worker has the necessary physical capacities, knowledge, skills and abilities to perform. The work should also be located where the worker customarily worked, or within a reasonable commute. The pay goal is the worker's average weekly wage or at least 80% of that.*

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## **The Edge -**

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education at the \$450,000 level. The bill also provides that if state revenues are higher than projected, additional resources will be available to support the WETF.

The appropriations bill also contains provisions of the Governor's Economic Growth Initiative which Vermont employers should be aware of. Among other items, the Governor's Economic Growth Initiative includes homeownership and mortgage assistance programs, investments in transportation jobs, job creation tax credits, very low interest capital for small businesses and startups, investments in downtown development and the Governor's New Neighborhoods affordable home construction initiative. In total, the Governor's package has the potential to generate more than \$200 million in direct economic activity and millions of dollars more in indirect economic multipliers. For more information, contact the Vermont Department of Economic Development at 802-828-3211 or 1-866 WE DO BIZ.

A new requirement is that VDOL's Workforce Education and Training Fund (WETF) and the Department of Economic Development's Vermont Job Training program must begin collecting the social security numbers of trainees to cross-match them with VDOL's wage files in order to measure the success of these programs. The law also contains provisions to protect confidentiality of any information about individuals and businesses. For more information on the WETF and other workforce development programs please see our web site at [www.labor.vermont.gov](http://www.labor.vermont.gov).

A number of these changes will require the department to develop new rules. Please watch our website over the summer where we will post draft rules for your comments.



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## VERMONT SAFETY TRAINING

**OSHA Recordkeeping and Workers' Compensation Claims** hosted by Northwestern Occupational Health - June 5th 12:30 pm - 4:30 pm; Northwestern Medical Center, St. Albans Conference Room 2; \$50.00; please register at: [NOHinfo@nmcinc.org](mailto:NOHinfo@nmcinc.org) or call 802-524-1223.

**Partnership in Safety** - May 30, Waterbury – Small Business Safety Management Systems, 1:00 pm to 4:30 pm Free; Green Mountain Coffee Roasters', 81 Demeritt Place, Waterbury. Pre-registration for this no-cost program is requested, please email: [pcrawford@vtc.edu](mailto:pcrawford@vtc.edu)

**Vermont Safety & Health Council Spring Topic Seminar & Meeting @ IBM, Essex Jct., June 11, 2008** - An overview of IBM's environmental programs with a focus on the on-site treatment processes for wastewaters generated at the Essex Junction facility. Following the presentation, there will be a tour of the treatment facilities. More information will be at: [www.vshc.org](http://www.vshc.org)

**Prevention Strategies for Electrical Hazards** - June 23rd, 8:30 am - 3:30 pm; Vermont Technical College, Williston, VT. Course fee covered by Susan B Harwood Grant. Call 1-800-834-6472 or send an email with your name, company and phone number to [bethd@shcne.org](mailto:bethd@shcne.org) to register or request more information.

***Any Vermont Safety Trainings can be found at the new Vermont Safety & Health Council's "Upcoming Events" page at: [www.vshc.org](http://www.vshc.org)***

**Equal Opportunity is the Law** - The State of Vermont is an Equal Opportunity/Affirmative Action Employer. Applications from women, individuals with disabilities, and people from diverse cultural backgrounds are encouraged. Auxiliary aids and services are available upon request to individuals with disabilities. 711 (TTY/Relay Service) or 802-828-4203 TDD (Vermont Department of Labor).