

# House Calendar

---

Wednesday, March 20, 2013

71st DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

---

## TABLE OF CONTENTS

---

**Page No.**

### **ACTION CALENDAR**

#### **Unfinished Business of Tuesday, March 19 2013**

##### **Favorable with Amendment**

<b>H. 105</b> Adult protective services reporting requirements .....	614
Rep. Haas for Human Services	
<b>H. 178</b> Anatomical gifts .....	617
Rep. Donahue for Human Services	
<b>H. 242</b> Creating the Vermont Strong Scholars Program .....	620
Rep. Campion for Education	
<b>H. 280</b> Payment of wages.....	623
Rep. O’Sullivan for General, Housing and Military Affairs	
<b>H. 377</b> Neighborhood planning and development for municipalities with designated centers.....	623
Rep. Dickinson for Commerce and Economic Development	
<b>H. 405</b> Manure management and anaerobic digesters.....	644
Rep. Malcolm for Natural Resources and Energy	
<b>H. 406</b> Listers and assessors.....	645
Rep. Higley for Government Operations	

##### **Favorable**

<b>H. 510</b> The State’s transportation program and miscellaneous changes to the State’s transportation laws.....	645
Rep. Brennan for Transportation	
Rep. Masland for Ways and Means.....	645
Rep. Heath for Appropriations .....	645
Rep. Higley amendment .....	645

### **NEW BUSINESS**

#### **Third Reading**

<b>H. 2</b> The Governor’s Snowmobile Council.....	645
--	-----

<b>H. 99</b> Equal pay .....	646
<b>H. 107</b> Health insurance, Medicaid, and the Vermont Health Benefit Exchange .....	646
<b>H. 136</b> Cost-sharing for preventive services .....	646
<b>H. 299</b> Enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations .....	646
<b>H. 431</b> Mediation in foreclosure actions .....	646
<b>H. 511</b> “zappers” and automated sales suppression devices .....	646
<b>H. 515</b> Miscellaneous agricultural subjects.....	646

**Committee Bill for Second Reading**

<b>H. 518</b> Miscellaneous amendments to Vermont retirement laws..... Rep. Devereux for Government Operations	646
<b>H. 520</b> Reducing energy costs and greenhouse gas emissions..... Rep. Cheney for Natural Resources and Energy	646
<b>H. 522</b> Strengthening Vermont’s response to opioid addiction and methamphetamine abuse .....	646
Rep. Pugh for Human Services	
<b>H. 523</b> Jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping .....	647
Rep. Fay for Judiciary	
<b>H. 524</b> Making technical amendments to education laws .....	647
Rep. Christie for Education	

**Action Postponed Until March 21, 2013**

**Favorable with Amendment**

<b>H. 65</b> Limited immunity from liability for reporting a drug or alcohol overdose .....	647
<b>H. 95</b> Unclaimed life insurance benefits .....	649

**NOTICE CALENDAR**

**Favorable**

<b>H. 513</b> The Department of Financial Regulation .....	652
Rep. Botzow for Commerce and Economic Development	
Rep. Condon for Ways and Means.....	652

---

---

**ORDERS OF THE DAY**

---

---

**ACTION CALENDAR**

**Unfinished Business of Tuesday, March 19 2013**

**Favorable with Amendment**

**H. 105**

An act relating to adult protective services reporting requirements

**Rep. Haas of Rochester**, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) According to the 2012 Annual Report on Adult Protective Services, the Adult Protective Services program received 1,829 reports of abuse, neglect, and exploitation in 2012 and opened 872 investigations.

(2) Currently there are no data that explain why 957 reports received in 2012 were not investigated.

(3) Consistent data are not available that explain what referrals were made to assist or protect the alleged victims.

(4) According to an August 2012 report prepared by the Self-Neglect Task Force convened by the Department of Disabilities, Aging, and Independent Living, in 2010 the Department's Adult Protective Services program received 263 reports of self-neglect and investigated 42 of those reports.

(5) The Task Force report explains that although Adult Protective Services makes numerous referrals to law enforcement and other agencies, the available data do not identify the number of referrals that were made in response to allegations of self-neglect or to whom reporters or persons who were self-neglecting were referred.

(6) The Department of Disabilities, Aging, and Independent Living recently awarded grants to Vermont's five Area Agencies on Aging to support and enhance coordinated community responses to persons who are self-neglecting. The request for proposals for the grants acknowledges a lack of data at both the state and community levels to determine the scope of the problem of self-neglect.

Sec. 2. ADULT PROTECTIVE SERVICES DATA

(a) On or before July 15, 2013, and by each July 15, October 15, January 15, and April 15 through July 2015, the Commissioner of Disabilities, Aging, and Independent Living shall provide the information described in subsection (b) of this section to the General Assembly. When the General Assembly is in session, the Commissioner shall provide the information to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary. When the General Assembly is not in session, the Commissioner shall provide the information to the Health Care Oversight Committee. The Commissioner shall also post the information to the Department's website in order to make the information available to the public.

(b) The Commissioner shall provide the following information relating to the Department's adult protective services activities during the preceding calendar quarter:

(1) the number of unduplicated reports and the number of such reports assigned for investigation;

(2) the total number of cases currently open and under investigation;

(3) the number of reports assigned for investigation that were not substantiated;

(4) the number of cases that were not investigated pursuant to 33 V.S.A. § 6906 because:

(A) the report was based on self-neglect;

(B) the alleged victim did not meet the statutory definition of a vulnerable adult;

(C) the allegation did not meet the statutory definition of abuse, neglect, or exploitation;

(D) the report was based on "resident on resident" abuse;

(E) the alleged victim died; or

(F) for any other reason.

(5) for reports not investigated because the alleged victim did not meet the definition of a vulnerable adult, the relationship of the reporter to the alleged victim; and

(6) for reports not investigated pursuant to 33 V.S.A. § 6906, the services or agencies to which the reporter, alleged victim, or both were referred.

Sec. 3. 2005 Acts and Resolves No. 79, Sec. 12 is amended to read:

Sec. 12. REPORT

(a) ~~On~~ Notwithstanding the provisions of 2 V.S.A. § 20(d), on or before January 15, 2006 and on or before January 15 of each year thereafter, the ~~secretary of the agency of human services~~ Secretary of Human Services shall submit a report to the following committees: ~~the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare~~ House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare. The report shall include:

(1)(A) ~~The~~ For the preceding year, the number of reports of abuse, exploitation, and neglect:

(i) received by ~~adult protective services~~ Adult Protective Services (APS) within the ~~department of aging and independent living during the preceding year~~ Department of Disabilities, Aging, and Independent Living, and the total number of persons who filed reports.

(ii) investigated by APS ~~during the preceding year.~~

(iii) substantiated by APS ~~during the preceding year.~~

(iv) referred to other agencies for investigation by APS ~~during the preceding year,~~ including identification of each agency and the number of referrals it received.

(v) referred for protective services by APS ~~during the preceding year,~~ including a summary of the services provided.

(vi) resulting in a written coordinated treatment plan pursuant to 33 V.S.A. § 6907(a) or a plan of care as defined in 33 V.S.A. § 6902(8).

(vii) for which an individual was placed on the abuse and neglect registry as the result of a substantiation.

(viii) referred to law enforcement agencies.

(ix) for which a penalty was imposed pursuant to 33 V.S.A. § 6913.

(x) for which actions for intermediate sanctions were brought pursuant to 33 V.S.A. § 7111.

(B) For each type of report required from APS by subdivision (1)(A) of this section, a statistical breakdown of the number of reports according to the type of abuse and to the victim's:

- (i) relationship to the reporter;
- (ii) relationship to the alleged perpetrator;
- (iii) age;
- (iv) disability or impairment; and
- (v) place of residency.

\* \* \*

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

( Committee Vote: 8-0-3)

**H. 178**

An act relating to anatomical gifts

**Rep. Donahue of Northfield**, for the Committee on **Human Services**, recommends the bill be amended as follows:

amended by renumbering Sec. 2 to be Sec. 6 and inserting new Secs. 2 through 5 to read as follows:

Sec. 2. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

\* \* \*

(8) any other individual willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the representative of the decedent's estate, after attesting in writing that a good faith but unsuccessful effort has been made to contact the individuals described in subdivisions (1) through (7) of this subsection or that those individuals have waived any interest in exercising their rights under this subchapter; ~~or~~

(9) the funeral director or crematory operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; ~~or~~

(10) the Office of the Chief Medical Examiner when it has jurisdiction and custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8)

of this subsection.

\* \* \*

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or crematory operator to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department for Children and Families shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(3) The cremated remains shall be returned to the Office of the Chief Medical Examiner. The Office shall retain the remains for three years, and if no interested party, as described in subdivisions (a)(1) through (8) of this section, claims the decedent's remains after three years, the Office shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

Sec. 3. 2012 Acts and Resolves No. 132, Sec. 4 is amended to read:

#### Sec. 4. ORGAN AND TISSUE DONATION

(a) Subject to available resources, the ~~commissioner of health~~ Commissioner of Health shall undertake such actions as are necessary and appropriate, in his or her discretion, to coordinate the efforts of public and private entities involved with the donation and transplantation of human organs and tissues in Vermont and to increase organ and tissue donation rates.

(b)(1) No later than ~~January 15, 2013~~ January 15, 2014, the ~~commissioner~~ Commissioner shall report to the ~~house committee on human services~~ House Committee on Human Services and the ~~senate committee on health and welfare~~ Senate Committee on Health and Welfare regarding the actions taken pursuant to subsection (a) of this section and any additional efforts that the ~~commissioner~~ Commissioner recommends but believes would require legislation.

(2) The report shall include a status report on behalf of the organ and tissue donation working group regarding the group's activities, findings, data on organ donations, and recommendations on how to increase live organ donations in Vermont.

#### Sec. 4. ORGAN AND TISSUE DONATION WORKING GROUP

(a) There is created an organ and tissue donation working group to make recommendations to the General Assembly and the Governor relating to organ and tissue donations.

(b) The members of the organ and tissue donation working group shall include:

(1) the Commissioner of Health or designee, who shall chair the working group;

(2) the Commissioner of Motor Vehicles or designee;

(3) a representative of the Vermont Medical Society;

(4) representatives from the federally designated organ procurement organizations serving Vermont; and

(5) other interested stakeholders.

(c) The working group shall develop recommendations regarding:

(1) coordination of the efforts of all public and private entities within the State that are involved with the donation and transplantation of human organs and tissues;

(2) the creation of a comprehensive statewide program for organ and tissue donations and transplants;

(3) the establishment of goals and strategies for increasing donation rates in Vermont of deceased and, when appropriate, live organs and tissues;

(4) issues related to health insurance and other relevant insurance types;

(5) issues related to employment, including sick time, for those persons willing to be live donors of organs and tissue; and

(6) other issues related to organ and tissue donation and transplantation.

(d) The working group shall receive administrative support from the Department of Health.

(e) The Commissioner of Health, on behalf of the working group, shall submit a status report on the group's activities, findings, data on organ donations, and recommendations on how to increase live organ donations in Vermont to the House Committee on Human Services and the Senate Committee on Health and Welfare as part of the Commissioner's report under 2012 Acts and Resolves No. 132, Sec. 4(b).

(f) The working group shall submit a final report on its findings and

recommendations to the House Committees on Human Services, on Health Care, and on Transportation, the Senate Committees on Health and Welfare and on Transportation, and to the Governor by January 15, 2015, after which time the working group shall cease to exist. The report shall include a recommendation about whether the Department of Health should establish an ongoing advisory council on organ and tissue donation.

Sec. 5. 18 V.S.A. § 5234 is added to read:

§ 5234. ORGAN DONATION SPECIAL FUND

There is created an Organ Donation Special Fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The Organ Donation Special Fund shall consist of any federal funds, grants, and private donations solicited by the Commissioner of Health for use within the Fund. The Organ Donation Special Fund shall be used for activities related to increasing organ donations in Vermont.

( Committee Vote: 10-0-1)

**H. 242**

An act relating to creating the Vermont Strong Scholars Program

**Rep. Champion of Bennington**, for the Committee on **Education**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. chapter 90 is redesignated to read:

CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS  
EDUCATION

Sec. 2. 16 V.S.A. § 2888 is added to read:

§ 2888. VERMONT STRONG SCHOLARS PROGRAM

(a) Program creation. There is created a Vermont Strong Scholars Program to repay a portion of a Vermont resident's postsecondary debt in order to encourage Vermonters majoring in fields that prepare them for employment in Vermont in targeted workforce areas upon earning a bachelor's or associate's degree from a Vermont public or independent postsecondary institution. The Secretary of Commerce and Community Development, in consultation with the Secretary of Education and the Commissioner of Labor, shall determine eligibility for the Program and develop all organizational details consistent with the purposes and requirements of this section.

(b) Fund creation.

(1) There is created a special fund to be known as the Vermont Strong

Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered solely for the purposes of this section. The Secretary of Commerce and Community Development may draw warrants for disbursements from the Fund in anticipation of receipts. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(2) The Fund shall consist of:

(A) sums appropriated or transferred from the General Fund from time to time by the General Assembly;

(B) interest earned from the investment of Fund balances; and

(C) any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary of Commerce and Community Development shall administer the Fund or may contract for its administration. The administrator may require certification of compliance with this section prior to making an award, including certification that the amount of the eligible individual's outstanding debt arising solely from postsecondary tuition exceeds the total amount to be paid under this section.

(c) Criteria.

(1) Tuition repayment awards shall be provided in exchange for a commitment from an eligible individual to work in Vermont following postsecondary graduation for the three- or five-year period of tuition repayment under this section.

(2) An individual shall be eligible for an award under this section if he or she:

(A) is a graduate of a Vermont public secondary school, a public school in another state that is designated as the public school for the student's district of residence, or an approved or recognized independent secondary school located in Vermont or was a home study student classified as a Vermont resident by the postsecondary institution from which he or she was graduated;

(B) is a graduate of a public or independent postsecondary institution in Vermont;

(C) was a first-time, full-time, degree-seeking student while enrolled in the postsecondary institution;

(D) was awarded an associate's or bachelor's degree in a field identified by the Secretary of Commerce and Community Development, the

Secretary of Education, and the Commissioner of Labor in a collaborative process that determines current and projected industry trends and identifies current and future workforce needs;

(E) completed the associate's degree within two years or the bachelor's degree within four years;

(F) was enrolled in the postsecondary institution from which the degree was awarded or was enrolled in both that institution and another Vermont postsecondary institution for the entire two- or four-year period; provided however, that an award shall be available on a prorated basis to an otherwise eligible individual who is enrolled in a postsecondary institution located outside of Vermont and who transfers to and is graduated from a Vermont postsecondary institution; and

(G) following graduation, is employed in a field or specific position identified by the collaborative process referenced in this subdivision (2).

(3) The Secretary of Commerce and Community Development shall make an award under this section to an eligible individual:

(A) in an amount equal to one semester of tuition at the Vermont State Colleges' in-state tuition rate for the second year of enrollment for an individual awarded an associate's degree, to be paid in installments during the three years following graduation; and

(B) in an amount equal to one year of tuition at the Vermont State Colleges' in-state tuition rate for the fourth year of enrollment for an individual awarded a bachelor's degree, to be paid in installments during the five years following graduation.

(4) Notwithstanding subdivision (3) of this subsection, an award to an eligible individual shall be adjusted so that it does not exceed the amount of the individual's debt arising solely from postsecondary tuition that is outstanding at the time of graduation.

(d) Reports.

(1) Participating postsecondary schools shall report annually in November to the Secretary of Commerce and Community Development regarding the number of enrolled first-time, full-time Vermont students with an eligible major who are expected to graduate within the required two- or four-year period.

(2) Notwithstanding 2 V.S.A. § 20(d), the Secretary of Commerce and Community Development shall report annually in January to the General Assembly regarding implementation of the Program, including the projected cost of making awards under this section during the then-current fiscal year

and each of the four years following.

(e) Rules. The Secretary of Commerce and Community Development shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement the Program created by this section.

#### Sec. 3. REPORTS

On or before January 15, 2014, the Secretary of Commerce and Community Development shall report to the General Assembly regarding implementation of the Program created in Sec. 2 of this act, including the projected cost of making awards under that section in fiscal year 2016 and after.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2013 and, pursuant to the terms of 16 V.S.A. § 2888, tuition repayment awards shall be available to Vermont students graduating from high school in 2013 and after.

**( Committee Vote: 9-0-2)**

### **H. 280**

An act relating to payment of wages

**Rep. O'Sullivan of Burlington**, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended as follows:

First: In Sec. 1, 21 V.S.A. § 341, in subdivision (2), by striking out “or agents of an employer”

Second: In Sec. 4, 21 V.S.A. § 345, by striking out “\$ 500.00” and inserting in lieu thereof “\$5,000.00”

Third: In Sec. 5, 21 V.S.A. § 345a, in subdivision (2), by striking out “\$500.00” and inserting in lieu thereof “\$5,000.00”

**( Committee Vote: 8-0-0)**

### **H. 377**

An act relating to neighborhood planning and development for municipalities with designated centers

**Rep. Dickinson of St. Albans Town**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 2790 is amended to read:

§ 2790. LEGISLATIVE POLICY AND PURPOSE

(a) The ~~general assembly~~ General Assembly finds that:

~~(1) economically~~ Economically strong downtowns are critical to the health and well-being of Vermont's communities; and that downtowns are the natural location for both small businesses, which represent the largest growth sector in Vermont's economy, and other uses that together constitute the diverse fabric of communities that define Vermont's quality of life; that downtowns enable residents and visitors to access services and business with minimal transportation needs, and thus benefit the environment. The general assembly further finds that downtowns represent a long term investment of public and private infrastructure, and that our scenic and historic downtowns are a natural attraction for tourists and contribute greatly to Vermont's overall quality of life. The general assembly further finds that a major factor inhibiting the vitality of downtown areas is lack of reasonable access to them by workers, residents and visitors, and that by this act it is the specific intent of the general assembly to improve access to downtown areas by providing assistance to municipalities for downtown transportation infrastructure, particularly parking facilities.

(2) Vermont's distinctive character of historic downtowns and villages surrounded by working landscapes is recognized worldwide. This character defines Vermont's image, economy, and sense of place as well as its community spirit and identity, which are enjoyed by residents and visitors alike. This distinctive character is among our most valuable assets, and investing in its health is a critical component of the State's overall economic well-being. The General Assembly recognizes the particular importance of Vermont's downtowns as historic regional centers providing services and amenities to nonresidents and further recognizes their need for targeted support in avoiding continued loss of commercial and residential land use to the surrounding area.

(3) Investments made to revitalize the State's historic downtowns and village centers, to encourage pedestrian-oriented development within and around the commercial core, and to build upon the State's traditional settlement patterns support statewide goals concerning energy conservation, the efficient use of transportation and other public infrastructure and services, the protection of the working landscape, and the promotion of healthy lifestyles.

(4) Strategies, programs, and investments that advance smart growth principles today will result in the long-term fiscal, economic, cultural, and environmental viability of the State.

~~(b) It is therefore the intent of the general assembly, by this act, to preserve and encourage the development of downtown areas of municipalities of the state; to encourage public and private investment in infrastructure, housing,~~

~~historic preservation, transportation including parking facilities, and human services in downtown areas; General Assembly to:~~

~~(1) support historic downtowns and villages by providing funding, training, and resources to communities designated under this chapter, to revitalize such communities, to increase and diversify economic development activities, to improve the efficient use of public investments, including water and sewer systems, and to safeguard working landscapes;~~

~~(2) improve the ability of Vermont's historic downtowns and villages to attract residents and businesses by enhancing their livability and unique sense of place; by expanding access to employment, housing, education and schools, services, public facilities, and other basic needs; and by expanding businesses' access to markets;~~

~~(3) coordinate policies and leverage funding to support historic downtowns and villages by removing barriers to collaboration among local downtown organizations, municipal departments, local businesses, and local nonprofit organizations and increasing accountability and effectiveness at all levels of government to revitalize communities and plan for future growth;~~

~~(4) promote healthy, safe, and walkable downtown and village neighborhoods for people of all ages and incomes by increasing investments in those locations; providing energy efficient housing that is closer to jobs, services, health care, stores, entertainment, and schools; and reducing the combined cost of housing and transportation;~~

~~(5) encourage investment in mixed use development and provide for diverse housing options within walking distance of historic downtowns and villages that reinforce Vermont's traditional settlement patterns and meet the needs of community members of all social and economic groups;~~

~~(6) develop safe, reliable, and economical transportation options in historic downtowns and villages to decrease household transportation costs, promote energy independence, improve air quality, reduce greenhouse gas emissions, and promote public health; and~~

~~(7) reflect Vermont's traditional settlement patterns, and to minimize or avoid strip development or other unplanned development throughout the countryside on quality farmland or important natural and cultural landscapes.~~

~~(c) While it is the intent of the general assembly by this act to rehabilitate and preserve the vitality of historic downtown areas of the state, the general assembly also recognizes the equal importance of providing incentives to communities with no historic downtown areas in order to assist those communities to plan and develop their emerging downtowns. Accordingly, the~~

~~commissioner of housing and community affairs is directed to consult with municipal officials in such communities and recommend to the general assembly on or before January 1, 1999 appropriate means and incentives to encourage the development and planning of emerging downtown centers which serve the purpose of a central district of the community and the center for socio-economic interaction, with a cohesive core of commercial and mixed use buildings, with appropriate density to minimize or avoid strip development.~~

(d) The ~~general assembly~~ General Assembly finds that Vermont's communities face challenges as they seek to accommodate growth and development while supporting the economic vitality of the ~~state's~~ State's downtowns, village centers, and new town centers and maintaining the rural character and working landscape of the surrounding countryside. While it is the intention of the ~~general assembly~~ General Assembly to give the highest priority to facilitating development and growth in downtowns and village centers whenever feasible, when that is not feasible, the ~~general assembly~~ General Assembly further finds that:

(1) A large percentage of future growth should occur within duly designated growth centers that have been planned by municipalities in accordance with smart growth principles and Vermont's planning and development goals pursuant to section 4302 of this title.

\* \* \*

Sec. 2. 24 V.S.A. § 2791 is amended to read:

§ 2791. DEFINITIONS

As used in this chapter:

\* \* \*

(3) "Downtown" means the traditional central business district of a community; that has served as ~~the center for a regional focus of~~ socio-economic interaction in the community, characterized by a cohesive core of commercial and ~~mixed use~~ mixed use buildings, some of which may contain mixed use spaces, often interspersed with civic, religious, ~~and~~ residential, and industrial buildings and public spaces, typically arranged along a main street and intersecting side streets that are within walking distance for residents who live within and surrounding the core and that are served by public infrastructure such as sidewalks and public transit. Downtowns are typically larger in scale than village centers and are characterized by a development pattern that is consistent with smart growth principles.

\* \* \*

(10) "Village center" means the core of a traditional ~~center of the~~

~~community settlement~~, typically comprised of a cohesive ~~core~~ mix of residential, civic, religious, ~~and~~ commercial, and mixed use buildings, arranged along a main street and intersecting streets that are within walking distance for residents who live within and surrounding the core. Industrial uses may be found within or immediately adjacent to these centers. Village centers are typically smaller in scale than downtowns and are characterized by a development pattern that is consistent with smart growth principles.

\* \* \*

(16) "Neighborhood planning area" shall have the same meaning as under section 2793e of this title.

(17) "Neighborhood development area" shall have the same meaning as under section 2793e of this title.

(18) "Department" means the Vermont Department of Economic, Housing and Community Development.

(19) "District coordinator" means a district environmental coordinator attached to a district commission established under 10 V.S.A. chapter 151.

(20) "Infill" means the use of vacant land or property within a built-up area for further construction or development.

Sec. 3. 24 V.S.A. § 2792 is amended to read:

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

(a) A ~~"Vermont downtown development board~~ Vermont Downtown Development Board," also referred to as the ~~"state board~~ State Board," is created to administer the provisions of this chapter. The ~~state board~~ State Board shall be composed of the following members or their designees:

(1) the ~~secretary of commerce and community development~~ Secretary of Commerce and Community Development;

(2) the ~~secretary of transportation~~ Secretary of Transportation;

(3) the ~~secretary of natural resources~~ Secretary of Natural Resources;

(4) the ~~commissioner of public safety~~ Commissioner of Public Safety;

(5) the ~~state historic preservation officer~~ State Historic Preservation Officer;

(6) a person appointed by the ~~governor~~ Governor from a list of three names submitted by the Vermont Natural Resources Council, ~~and the Preservation Trust of Vermont, and Smart Growth Vermont;~~

(7) a person appointed by the ~~governor~~ Governor from a list of three

names submitted by the Association of Chamber Executives;

(8) three public members representative of local government, one of whom shall be designated by the Vermont League of Cities and Towns, and two shall be appointed by the ~~governor~~ Governor;

(9) a member of the ~~Vermont planners association~~ Vermont Planners Association (VPA) designated by the ~~association~~ Association;

(10) the ~~chair~~ Chair of the ~~natural resources board~~ Natural Resources Board or a representative of the ~~land use panel~~ Land Use Panel of the ~~natural resources board~~ Natural Resources Board designated by the ~~chair~~ Chair; and

(11) a representative of a regional planning commission designated by the ~~Vermont association of regional planning and development agencies~~ Vermont Association of Planning and Development Agencies (VAPDA) and an alternate representative designated by VAPDA to enable all applications to be considered by a representative from a regional planning commission other than the one of which the applicant municipality is a member. The alternate designated by VAPDA may vote only when the designated representative does not vote.

~~(b) In addition to the permanent members appointed pursuant to subsection (a) of this section, there shall also be two regional members from each region of the state on the downtown development board; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the board of applications from their respective regions. Regional members designated to serve on the downtown development board under this section, may also serve as regional members of the Vermont economic progress council established under 32 V.S.A. § 5930a. [Repealed.]~~

~~(c) The state board~~ State Board shall elect its a chair and vice chair from among its membership.

~~(d) The department of economic, housing, and community development~~ Department shall provide staff and administrative support to the ~~state board~~ State Board and shall produce guidelines to direct municipalities seeking to obtain designation under this chapter.

~~(e) On or before January 1, 1999, the state board shall report to the general assembly on the progress of the downtown development program. [Repealed.]~~

~~(f) [Deleted.]~~

Sec. 4. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

(a) A municipality, by its legislative body, may apply to the ~~state board~~ State Board for designation of a downtown area within that municipality as a downtown development district.

(1) For applications filed on and after July 1, 2014, the intention to apply for designation under this section shall be included in the plan of the municipality, and the plan shall explain how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff to review the program requirements and to preliminarily identify possible designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application by a municipality shall contain a map that accurately delineates the district and is consistent with the guidelines produced by the Department under section 2792(d) of this title. The application shall also include evidence that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply, evidence that the municipality has published notice of its application in a local newspaper of general circulation within the municipality, and information showing that the district meets the standards for designation established in subsection (b) of this section. Upon receipt of an application, the ~~state board~~ State Board shall provide written notice of the application to the ~~natural resources board~~ Natural Resources Board. The ~~natural resources board~~ Natural Resources Board and interested persons shall have 15 days after notice to submit written comments regarding the application before the ~~state board~~ State Board issues a written decision that demonstrates the applicant's compliance with the requirements of this chapter.

(b) Within 45 days of receipt of a completed application, the ~~state board~~ State Board shall designate a downtown development district if the ~~state board~~ State Board finds; in its written decision; that the municipality has:

(1) demonstrated a ~~planning~~ commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in sections 4414(1)(E) and (F) of this title, or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title;

(2) provided a community reinvestment agreement that has been executed by the authorized representatives of the municipal government, business and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and that contains the following provisions:

(A) a delineation of the area that meets the requirements set forth in subdivision 2791(3) of this title and that is part of or contains a district that is listed or eligible for listing on the National Register of Historic Places pursuant to 16 U.S.C. § 470a;

(B) a capital ~~improvement plan~~ budget and program pursuant to section 4430 of this title to improve or preserve public infrastructure within the district, including facilities for public transit, parking, pedestrian amenities, lighting, and public space;

(C) a source of funding and resources necessary to fulfill the community reinvestment agreement, demonstrated by a commitment by the legislative body of the municipality to implement at least one of the following:

(i) a special assessment district created to provide funding to the downtown district;

(ii) authority to enter into a tax stabilization agreement for the purposes of economic development in a downtown district;

(iii) a commitment to implement a tax incremental financing district pursuant to subchapter 5 of chapter 53 of this title; or

(iv) other multiple-year financial commitments among the parties subject to the approval of the ~~state board~~ State Board;

(D) an organizational structure necessary to sustain a comprehensive long-term downtown revitalization effort, including a local downtown organization as defined under subdivision 2791(5) of this title that will collaborate with municipal departments, local businesses, and local nonprofit organizations:

(i) to enhance the physical appearance and livability of the downtown district by implementing local policies that promote the use and rehabilitation of historic and existing buildings, by developing pedestrian-oriented design requirements, by encouraging new development and infill that satisfy such design requirements, and by supporting long-term planning that is consistent with the goals set forth in section 4302 of this title;

(ii) to build consensus and cooperation among the many groups and individuals who have a role in the planning, development, and revitalization process;

(iii) to market the assets of the downtown district to customers, potential investors, new businesses, local citizens, and visitors;

(iv) to strengthen, diversify, and increase the economic activity within the downtown district;

(v) to recognize and incorporate the map of the designated downtown district into the next update of the municipal plan; and

(vi) to measure annually progress and achievements of the revitalization efforts as required by Department guidelines developed pursuant to subsection 2792(d) of this title;

(E) evidence that any private or municipal sewage system and private or public water supply serving the proposed downtown district is in compliance with the requirements of 10 V.S.A. chapters 47 and 56; and ~~that the municipality has dedicated a portion of any unallocated reserve capacity of the sewage and public water supply for growth within the proposed downtown district~~ adequately demonstrated an intent to reserve sufficient wastewater and water allocations to serve the future needs of the designated areas. Any municipality proposing a municipal sewage system and public water supply to serve the proposed downtown district shall provide evidence to the ~~state board~~ State Board of a commitment to construct or maintain such a system and supply in compliance with requirements of 10 V.S.A. chapters 47 and 56, or a commitment to construct, as applicable, a permittable potable water supply, wastewater system, indirect discharge, or public water supply within no more than ten years. A commitment to construct does not relieve the property owners in the district from meeting ~~the any applicable regulations of the agency of natural resources statute, rule, or bylaw~~ regarding wastewater systems, potable water supplies, public water supplies, indirect discharges, and the subdivision of land. ~~In the event that a municipality fails in its commitment to construct a municipal sewage system and public water supply, the state board shall revoke designation, unless the municipality demonstrates to the state board that all good faith efforts were made and continue to be made to obtain the required approvals and permits from the agency of natural resources, and failure to construct was due to unavailability of state or federal matching loan funds;~~

(3) a planning process confirmed under section 4350 of this title.

(c) The ~~state board~~ State Board shall review a community's designation every five years and may review compliance with the designation requirements at more frequent intervals. On and after July 1, 2014, any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that

depicts the boundary of the designated district. If at any time the ~~state board~~ State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

- (1) ~~Require~~ require corrective action-;
- (2) ~~Provide~~ provide technical assistance through the ~~Vermont downtown program~~ Vermont Downtown Program-;
- (3) ~~Limit~~ limit eligibility for the benefits established in section 2794 of this chapter without affecting any of the district's previously awarded benefits-; or
- (4) ~~Remove~~ remove the district's designation without affecting any of the district's previously awarded benefits.

Sec. 5. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

(a) A town that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title may apply to the ~~state board~~ State Board for designation of one or more of its village centers. If an incorporated village of a town has an approved municipal plan and a planning process independently confirmed in accordance with section 4350 of this title, the incorporated village shall be the applicant for designation of its village center.

(1) For applications filed on and after July 1, 2014, the intention to apply for designation under this section shall be included in the plan of the municipality, and the plan shall explain how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff to review the program requirements and to preliminarily identify possible designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application for designation under this section must include a map that delineates the boundaries of the village center consistent with the definition of "village center" provided in subdivision 2791(10) of this title and evidence that notice has been given to the regional planning commission and the regional development corporation of the intent to apply for this designation. The map shall be consistent with the guidelines produced by the Department under subsection 2792(d) of this title.

\* \* \*

(d) The ~~state board~~ State Board shall review a village center designation every five years and may review compliance with the designation requirements at more frequent intervals. On and after July 1, 2014, any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the ~~state board~~ State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

(1) ~~Require~~ require corrective action-;

(2) ~~Provide~~ provide technical assistance through the ~~Vermont downtown program~~ Vermont Downtown Program-;

(3) ~~Limit~~ limit eligibility for the benefits pursuant to subsection (c) of this section without affecting any of the village center's previously awarded benefits-; or

(4) ~~Remove~~ remove the village center's designation without affecting any of the village center's previously awarded benefits.

Sec. 6. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

\* \* \*

(g) Termination of program; transition. Notwithstanding subsections (a)–(f) of this section:

(1) On and after July 1, 2013, the State Board shall not grant a municipality a designation under this section unless the municipality filed a complete application for such a designation prior to July 1, 2013. Any such complete application filed prior to July 1, 2013 shall be approved or denied based on the requirements of this section.

(2) On and after July 1, 2013, a Vermont neighborhood designated under this section shall be eligible for benefits pursuant to subsections 2793e(f) and (g) of this title.

(3) On and after July 1, 2013, when the State Board reviews a Vermont neighborhood designated under this section either for purposes of renewal or on its motion, the State Board shall apply the requirements of section 2793e of this title. If the Board finds that those requirements are met, the Vermont neighborhood shall be redesignated as a neighborhood development area under section 2793e of this title. If the Board does not find that those requirements are met, the area shall have no designation under this section or section 2793e

of this title.

#### Sec. 7. PROSPECTIVE REPEAL

24 V.S.A. §§ 2791(15) (definitions; Vermont neighborhood) and 2793d (designation of Vermont neighborhoods) shall be repealed on July 1, 2018. On such repeal, the Office of Legislative Council, in its statutory revision capacity under 2 V.S.A. § 424, shall be authorized to remove references in the statutes to Vermont neighborhoods designated under 24 V.S.A. § 2793d and replace them, as appropriate, with references to neighborhood development areas designated under 24 V.S.A. § 2793e.

Sec. 8. 24 V.S.A. § 2793e is added to read:

#### § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF NEIGHBORHOOD DEVELOPMENT AREAS

(a) Purpose. This section is intended to encourage a municipality to plan for new and infill housing in the area including and immediately encircling its designated downtown, village center, new town center, or within its designated growth center in order to provide needed housing and to further support the commercial establishments in the designated center. To support this goal, this section sets out a two-component process.

(1) The first component is the automatic delineation of a study area, defined in this section as a neighborhood planning area, that includes and encircles a municipality's designated downtown, village center, or new town center or, in the case of a designated growth center, is within the designated center. The process established by this section allows a municipality with a designated center to identify those locations within a neighborhood planning area that are suitable primarily for residential development.

(2) The second component is the application by a municipality for the designation of locations within this study area as neighborhood development areas that are suitable for residential development and will receive the benefits provided by this section.

(3) The Department shall provide municipalities with designated downtowns, village centers, new town centers, and growth centers with grants, as they become available, and technical assistance to help such municipalities apply for and receive neighborhood development area designations.

#### (b) Definitions.

(1) "Neighborhood planning area" means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying

locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality and shall be determined:

(A) for a municipality with a designated downtown, by measuring out a half mile from each point around the entire perimeter of the designated downtown boundary;

(B) for a municipality with one or more designated village centers, by measuring out a quarter mile from each point around the entire perimeter of the designated village center boundary;

(C) for a municipality with a designated new town center, by measuring out a quarter mile from each point around the entire perimeter of the designated new town center boundary; and

(D) for a municipality with a designated growth center, as the same boundary as the designated growth center boundary.

(2) "Neighborhood development area" means a location within a neighborhood planning area that is suitable for new and infill housing and that has been approved by the State Board for designation under this section and associated benefits.

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

(1) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title and has adopted bylaws and regulations in accordance with sections 4414, 4418, and 4442 of this title.

(2) A preapplication meeting with Department staff was held to review the program requirements and to preliminarily identify possible neighborhood development areas.

(3) The proposed neighborhood development area is within a neighborhood planning area or such extension of the planning area as may be approved under subsection (d) of this section.

(4) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are generally within walking distance from the municipality's downtown, village center, or new town center designated under this chapter or from locations within the municipality's growth center designated under this chapter that are planned for higher density

development.

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In the process of choosing the proposed neighborhood development area, the municipality gave consideration to:

(A) Avoiding “important natural resources” as defined in subdivision 2791(14) of this title. If an important natural resource is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, and describe any anticipated disturbance to such resource.

(B) How the neighborhood development area is compatible with and will reinforce the character of adjacent National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

(A) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

(B) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) Ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential density and building heights;

(C) minimize the required lot sizes, setbacks, and parking and street widths; and

(D) require conformance with “complete streets” principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

(9) Residents hold a right to utilize household energy conserving devices.

(10) The application includes a map or maps that, at a minimum, identify:

(A) “important natural resources” as defined in 24 V.S.A. § 2791(14);

(B) existing slopes of 25 percent or steeper;

(C) public facilities, including public buildings, public spaces, sewer or water services, roads, sidewalks, paths, transit, parking areas, parks, and schools;

(D) planned public facilities, roads, or private development that is permitted but not built;

(E) National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government;

(F) designated downtown, village center, new town center, or growth center boundaries as approved under this chapter and their associated neighborhood planning area in accordance with this section; and

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department’s guidelines under section 2792 of this title.

(d) Designation process. Within 45 days of receipt of a complete application for designation of a neighborhood development area, the State Board, after opportunity for public comment, shall approve a neighborhood development area if the Board determines that the applicant has met the requirements of this section.

(1) When approving a neighborhood development area, the State Board may change the boundaries of the proposed area.

(2) A neighborhood development area may include one or more areas of land extending beyond the delineated neighborhood planning area, provided that the members of the State Board unanimously find that:

(A) including the extended area beyond the neighborhood planning area is consistent with the goals of section 4302 of this title;

(B) residential development opportunities within the neighborhood planning area are limited due to natural constraints and existing development;

(C) the extended area represents a logical extension of an existing compact settlement pattern and is consistent with smart growth principles; and

(D) the extended area is adjacent to existing development.

(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

(1) The State Board, on its motion, may review compliance with the designation requirements at more frequent intervals.

(2) If the underlying downtown, village center, new town center, or growth center designation terminates, the neighborhood development area designation also shall terminate.

(3) If at any time the State Board determines that the designated neighborhood development area no longer meets the standards for designation established in this section, it may take any of the following actions:

(A) require corrective action within a reasonable time frame;

(B) remove the neighborhood development area designation; or

(C) prospectively limit benefits authorized in this chapter.

(4) Action taken by the State Board under subdivision (3) of this subsection shall not affect benefits already received by the municipality or a land owner in the designated neighborhood development area.

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to 24 V.S.A. § 2793d, any proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review the density requirements set forth in

subsection (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met. These benefits are:

(1) The application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D).

(2) The application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).

(3) The exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

(g) Neighborhood development area incentives for municipalities. Once a municipality has a designated neighborhood development area, it may receive:

(1) priority consideration for municipal planning grant funds; and

(2) training and technical assistance from the Department to support an application for benefits from the Department.

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. On grant of neighborhood development area designation under this subsection, the applicant may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain the benefits granted to neighborhood development areas.

Sec. 9. 24 V.S.A. § 2798 is added to read:

§ 2798. DESIGNATION DECISIONS; NONAPPEAL

The designation decisions of the State Board under this chapter are not subject to appeal.

Sec. 10. 3 V.S.A. § 2822(j)(4)(D) is amended to read:

(D) Notwithstanding the other provisions of this subdivision, when a project is located in a Vermont neighborhood or neighborhood development area, as designated under 24 V.S.A. chapter 76A, the fee shall be no more than \$50.00 in situations in which the application has received an allocation for sewer capacity from an approved municipal system. This limitation shall not apply in the case of fees charged as part of a duly delegated municipal

program.

Sec. 11. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

When used in this chapter:

\* \* \*

(3)(A) “Development” means:

\* \* \*

(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of ~~any combination of~~ mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793c or entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, “development” means:

(I) Construction of mixed income housing with 200 or more housing units or a mixed use project with 200 or more housing units, in a municipality with a population of 15,000 or more.

(II) Construction of mixed income housing with 100 or more housing units or a mixed use project with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.

(III) Construction of mixed income housing with 50 or more housing units or a mixed use project with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.

(IV) Construction of mixed income housing with 30 or more housing units or a mixed use project with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.

(V) Construction of mixed income housing with 25 or more housing units or a mixed use project with 25 or more housing units, in a municipality with a population of less than 3,000.

(VI) Historic Buildings. Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the ~~state or national register of historic places~~ State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the ~~division for historic preservation~~ Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse

effect provided that specified conditions are met; or, will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(ii) Mixed Income Housing Jurisdictional Thresholds.

Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing and is located entirely within a Vermont neighborhood, ~~but outside a growth center designated pursuant to 24 V.S.A. § 2793c and outside a downtown development district designated pursuant to 24 V.S.A. § 2793~~ designated pursuant to 24 V.S.A. § 2793d or a neighborhood development area as defined in 24 V.S.A. § 2791(16), “development” means:

(I) Construction of mixed income housing with 200 or more housing units, in a municipality with a population of 15,000 or more.

(II) Construction of mixed income housing with 100 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.

(III) Construction of mixed income housing with 50 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.

(IV) Construction of mixed income housing with 30 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.

(V) Construction of mixed income housing with 25 or more housing units, in a municipality with a population of less than 3,000.

(VI) Historic Buildings. Construction of 10 or more units of mixed income housing where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the ~~state or national register of historic places~~ State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the ~~division for historic preservation~~ Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or will have an adverse effect, but that adverse effect will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(C) For the purposes of determining jurisdiction under subdivisions (3)(A) and (3)(B) of this section, the following shall apply:

(i) Incentive for Growth Inside Designated Areas.

Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~ shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~.

(ii) Five-Year, Five-Mile Radius Jurisdiction Analysis. Within

any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~ shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~ to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~ and within a five-mile radius in accordance with subdivision (3)(A)(iv) of this section.

(iii) Discrete Housing Projects in Designated Areas and Exclusive

Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19) of this section, jurisdiction shall be determined exclusively by counting housing units constructed by a person within a designated downtown development district, designated growth center, ~~or designated Vermont neighborhood, or designated neighborhood development area~~, provided that the housing units are part of a discrete project located on a single tract or multiple contiguous tracts of land.

\* \* \*

Sec. 12. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

\* \* \*

(d) ~~Vermont Neighborhood Fees~~ Neighborhood development area fees.

Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to ~~24 V.S.A. § 2793d~~ 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section, ~~with 50 percent due with the application, and 50 percent due.~~ The

fee shall be paid within 30 days after the permit is issued or denied.

\* \* \*

Sec. 13. 32 V.S.A. § 10002(p) is amend to read:

(p) Also excluded from the definition of “land” is a transfer of undeveloped land in a Vermont neighborhood or neighborhood development area designated under 24 V.S.A. chapter 76A which is the first transfer of that parcel following the original designation of the Vermont neighborhood or neighborhood development area.

Sec. 14. REVIEW OF THE GROWTH CENTER AND NEW TOWN CENTER PROGRAMS

On or before June 15, 2013, the Commissioner of the Department of Economic, Housing and Community Development shall begin examining ways to improve and strengthen the growth center and new town center designation process designed to promote compact development and the efficient use of resources. The Commissioner shall consider: reviewing and modifying the designation process; the unique circumstances of different municipalities; how best to include communities of all sizes and growth pressures; additional incentives for all the designation programs, including the downtown, village center, new town center, and growth center programs; the potential integration of industrial parks and rural development; and the protection of natural resources. The Department will form a working group and consult stakeholders including state agencies and independent departments, municipal officials, environmental organizations, developers, and representatives from the manufacturing, business, housing, historic preservation, agricultural, silviculture, and planning communities in its process to develop legislative and policy recommendations and proposed statutory revisions to make the Program more efficient and effective. The Department will report its findings, legislative and policy recommendations, and proposed statutory revisions to the General Assembly on or before December 15, 2013.

Sec. 15. EFFECTIVE DATE

This section and Sec. 14 (review of the growth center program) shall take effect on passage. The remaining sections of this act shall take effect on July 1, 2013.

**( Committee Vote: 11-0-0)**

## H. 405

An act relating to manure management and anaerobic digesters

**Rep. Malcolm of Pawlet**, for the Committee on **Natural Resources and Energy**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

\* \* \*

(q)(1) A certificate under this section for a plant using methane derived from an agricultural operation shall be required only for the equipment used to generate electricity from biogas, the equipment used to refine biogas into natural gas, the structures housing such equipment used to generate electricity or refine biogas, and the interconnection to electric and natural gas distribution and transmission systems. The certificate shall not be required for the methane digester, the digester influents and effluents, the buildings and equipment used to handle such influents and effluents, or the on-farm utilization of heat and exhaust produced by the generation of electricity.

(2) Notwithstanding 1 V.S.A. § 214 and Board Rule 5.408, if the Board issued a certificate to a plant using methane derived from an agricultural operation prior to July 1, 2013, such certificate shall require an amendment only when there is a substantial change, pursuant to Board Rule 5.408, to the equipment used to generate electricity from biogas, the equipment used to refine biogas into natural gas, the structures housing such equipment used to generate electricity or refine biogas, or the interconnection to electric and natural gas distribution and transmission systems. The Board's jurisdiction in any future proceedings concerning such a certificate shall be limited pursuant to subdivision (1) of this subsection.

(3) This subsection shall not affect the determination, under section 8005a of this title, of the price for a standard offer to a plant using methane derived from an agricultural operation.

(4) As used in this section, "biogas" means a gas resulting from the action of microorganisms on organic material such as manure or food processing waste.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

( Committee Vote: 11-0-0)

## H. 406

An act relating to listers and assessors

**Rep. Higley of Lowell**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

amended in Sec. 4, 17 V.S.A. § 2651c, in subdivision (b)(1), in the second sentence, after “the selectboard shall contract with”, by inserting “or employ”

( **Committee Vote: 10-1-0**)

## Favorable

## H. 510

An act relating to the State’s transportation program and miscellaneous changes to the State’s transportation laws.

(**Rep. Brennan of Colchester** will speak for the Committee on **Transportation**.)

**Rep. Masland of Thetford**, for the Committee on **Ways and Means**, recommends the bill ought to pass.

(**Committee Vote: 10-1-0**)

**Rep. Heath of Westford**, for the Committee on **Appropriations**, recommends the bill ought to pass.

(**Committee Vote: 9-2-0**)

### **Amendment to be offered by Rep. Higley of Lowell to H. 510**

Rep. Higley of Lowell moves that the bill be amended as follows:

First: In Sec. 24, in subdivision (a)(1)(A), by striking “, plus the cumulative total of the inflation adjustments required under subdivision (2) of this subsection”

Second: In Sec. 24, by striking subdivision (a)(2) in its entirety and renumbering the remaining subdivisions of subsection (a) to be numerically correct

## NEW BUSINESS

### Third Reading

## H. 2

An act relating to the Governor’s Snowmobile Council

**H. 99**

An act relating to equal pay

**H. 107**

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange

**H. 136**

An act relating to cost-sharing for preventive services

**H. 299**

An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations

**H. 431**

An act relating to mediation in foreclosure actions

**H. 511**

An act relating to “zappers” and automated sales suppression devices

**H. 515**

An act relating to miscellaneous agricultural subjects

**Committee Bill for Second Reading**

**H. 518**

An act relating to miscellaneous amendments to Vermont retirement laws.

**(Rep. Devereux of Mount Holly will speak for the Committee on Government Operations.)**

**H. 520**

An act relating to reducing energy costs and greenhouse gas emissions.

**(Rep. Cheney of Norwich will speak for the Committee on Natural Resources and Energy.)**

**H. 522**

An act relating to strengthening Vermont’s response to opioid addiction and methamphetamine abuse.

**(Rep. Pugh of South Burlington will speak for the Committee on Human Services.)**

### H. 523

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

(Rep. Fay of St. Johnsbury will speak for the Committee on Judiciary.)

### H. 524

An act relating to making technical amendments to education laws.

(Rep. Christie of Hartford will speak for the Committee on Education.)

### Action Postponed Until March 21, 2013

#### Favorable with Amendment

### H. 65

An act relating to limited immunity from liability for reporting a drug or alcohol overdose

**Rep. Lippert of Hinesburg**, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. INTENT

It is the intent of the General Assembly to encourage a witness or victim of a drug overdose to seek medical assistance in order to save the life of an overdose victim by establishing a state policy of protecting the witness or victim from prosecution and conviction for certain crimes.

Sec. 2. 18 V.S.A. chapter 84, subchapter 3, which shall include §§ 4249–4254, is added to read:

#### Subchapter 3. Miscellaneous

\* \* \*

#### § 4254. IMMUNITY FROM LIABILITY

(a) As used in this section:

(1) “Drug overdose” means an acute condition resulting from or believed to be resulting from the use of a regulated drug which a layperson would reasonably believe requires medical assistance. For purposes of this section, “regulated drug” shall include alcohol.

(2) “Medical assistance” means professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under state law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for

a person experiencing a drug overdose.

(3) “Seeks medical assistance” shall include providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.

(b) A person who, in good faith, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under age 21 pursuant to 7 V.S.A. § 658(a)–(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under age 21 pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under age 21 pursuant to 7 V.S.A. § 658(a)–(c).

(d) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order) for a violation of chapter 84 of this title or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of chapter 84 of this title or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(f) The act of seeking medical assistance for or by someone who is experiencing a drug overdose shall be considered a mitigating circumstance at sentencing for a violation of any other offense.

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person’s seeking medical assistance for a drug overdose, and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(h) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of

subchapter 2 of this chapter concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(i) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage and shall apply only to a person who seeks medical assistance for a drug overdose in accordance with 18 V.S.A. § 4254 on or after the date of passage.

and that, after passage, the title of the bill be amended to read: “An act relating to limited immunity from liability for reporting a drug overdose”

( Committee Vote: 9-1-1)

## H. 95

An act relating to unclaimed life insurance benefits

**Rep. Kitzmiller of Montpelier**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 27 V.S.A. § 1244a is added to read:

### § 1244a. UNCLAIMED LIFE INSURANCE BENEFITS

(a) As used in this section:

(1) “Contract” means an annuity contract. It shall not include an annuity used to fund an employment-based retirement plan or program in which the insurance company is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) “Death Master File” means the U.S. Social Security Administration’s Death Master File or any other database or service that is at least as comprehensive as the Death Master File for determining that a person has reportedly died.

(3) “Death Master File Match” or “match” means a search of the Death Master File that results in a match between a person on the Death Master File and the Social Security Number or name and date of birth of an insured, annuity owner, or retained asset account holder.

(4) “Insurance” shall have the same meaning as in 8 V.S.A. § 3301a.

(5) “Life insurance” shall have the same meaning as in 8 V.S.A. § 3301.

(6) "Policy" means any policy or certificate of life insurance that provides a death benefit. It shall not include any policy or certificate of life insurance that provides a death benefit under:

(A) an employee benefit plan:

(i) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, as may be amended; or

(ii) under any federal employee benefit program;

(B) any policy or certificate of life insurance used to fund a preneed funeral contract or prearrangement; or

(C) any policy or certificate of credit life or accidental death insurance.

(b) An insurance company shall perform a comparison of its insureds' in-force life insurance policies, contracts, and retained asset accounts against a Death Master File, on at least a semiannual basis, to identify potential matches. For those potential matches, the insurance company shall:

(1) within 90 days of identifying the match:

(A) complete a good faith effort, which shall be documented by the insurance company, to confirm the death of the insured or retained asset account holder against other available records and information; and

(B) determine whether benefits are due in accordance with the applicable policy or contract; and, if benefits are due in accordance with the applicable policy or contract:

(i) use good faith efforts, which shall be documented by the insurance company, to locate the beneficiary or beneficiaries; and

(ii) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and

(2) with respect to group life insurance, confirm the possible death of an insured as required in subdivision (1) of this subsection when the insurance company maintains at least the following information of those covered under a policy or certificate:

(A) Social Security Number or name and date of birth;

(B) beneficiary designation information;

(C) coverage eligibility;

(D) benefit amount; and

(E) premium payment status.

(c) To the extent permitted by law, the insurance company may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurance company reasonably believes may be able to assist the insurance company locate the beneficiary or a person otherwise entitled to payment of claims proceeds.

(d) An insurance company or its service provider shall not charge insureds, account holders, or beneficiaries for any fees or costs associated with a search or verification conducted under this section.

(e) The benefits from a life insurance policy or a retained asset account, plus any applicable interest accrued in accordance with 8 V.S.A. § 3665 shall first be payable to the designated beneficiaries or owners and, in the event the beneficiaries or owners cannot be found, shall escheat to the State as unclaimed property under section 1247 of this chapter.

(f) Upon the expiration of the statutory time period for escheat, an insurance company shall notify the Vermont State Treasurer that:

(1) a life insurance policy beneficiary or retained asset account holder has not submitted a claim with the insurance company; and

(2) the insurance company has complied with subsection (b) of this section and has been unable, after good faith efforts documented by the insurance company, to contact the retained asset account holder, beneficiary, or beneficiaries.

(g) Upon such notice, an insurance company shall immediately submit the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the Vermont State Treasurer.

(h) The Vermont State Treasurer shall notify the Commissioner of Financial Regulation if he or she has reason to believe an insurance company has failed to meet any requirement of this act. The Commissioner shall determine whether such failure constitutes an unfair claim settlement practice under 8 V.S.A. § 4724(9).

## Sec. 2. EFFECTIVE DATE; RETROACTIVE APPLICATION

This act shall take effect on passage and, notwithstanding 1 V.S.A. § 214(b), shall apply to all life insurance policies, annuity contracts, and retained asset accounts in force on or after the effective date.

**( Committee Vote: 8-3-0)**

**NOTICE CALENDAR**

**Favorable**

**H. 513**

An act relating to the Department of Financial Regulation.

**(Rep. Botzow of Pownal will speak for the Committee on Commerce and Economic Development.)**

**Rep. Condon of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass.**

**(Committee Vote: 8-0-3)**