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## Smarter Handling of Excavated Soils from Projects Located in Designated Downtowns and Village Centers

### H. 269 Bill Summary

Development and redevelopment projects located in downtowns and village centers frequently require the excavation and offsite disposal of soils for foundations and footers, parking garages, stormwater control measures, grading, and other reasons. Excavated soils frequently contain low levels of polycyclic aromatic hydrocarbons (“PAHs”), select metals, or other potentially hazardous materials. The source of these PAHs, metals and other potentially hazardous materials often is due to area-wide atmospheric deposition of exhaust products from the incomplete combustion of hydrocarbons including wood, oil, coal, gasoline, and garbage. As a result, PAHs and select metals are often found in soils associated with downtowns or village centers at concentrations that exceed the current Vermont soil screening standards. Therefore, under existing Vermont environmental rules, these soils are legally considered a “solid waste,” and are almost always required to be shipped for disposal at a certified landfill (i.e. Coventry). In fact, the State imposed requirements on Coventry limit their ability to utilize most of this mildly impacted development soil as daily cover, which alone would be a more cost effective disposal option than is currently available.

The shipping costs, district charges, and tipping fees for these soils is expensive and add hundreds of thousands and millions of dollars to project costs. Under existing Vermont rules, in most cases, the costs are unavoidable, and frequently incurred by projects financed with Vermont and federal tax dollars, including Tax Increment Financing, state and federal grants and loans, and other public sources of funds. A change to the Vermont rules could significantly reduce or even eliminate these costs, while maintaining the protection of human health and the environment. H. 269 requires the Department of Environmental Conservation (“DEC”) to promulgate rules to set a process through which suitable alternative locations for these excavated development soils are identified and authorizes the deposit of soils at these locations. Here is how it would work:

1. The excavated development soils are tested by a qualified environmental professional following accepted testing methodologies.
2. The soils at the receiving site are tested by a qualified environmental professional following accepted testing methodologies.
3. If the excavated development soils have comparable contamination concentrations to the proposed receiving site, then the soils can be moved there, after notice is given to DEC. DEC would have a period of time to review the notice, and stop the shipment if it raised significant concerns about human health or the environment.
4. The receiving site would then employ DEC approved measures to mitigate exposure risk associated with said development soils. These methods may include isolation and/or institutional controls.

DEC has previously approved this methodology for the “temporary” stockpiling of excavated development soils, but cannot approve the permanent relocation of soils due to the inflexibility of its existing soil management rules. H. 269 would solve this problem, save taxpayer money, reduce the carbon footprint from large truck travel transporting soils to Coventry, preserve limited landfill capacity, and maintain environmental protections.