March 16: Major Bills on Housing, Land Use, and Agriculture Make Friday 3/13 Crossover Deadline

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The critical crossover deadline fell on Friday the 13th, which was mostly lucky for VLCT as several critical bills moved out of committee despite some brewing controversy. The day started bright and early with final changes made to the year's land use bill, S.325, and a unanimous vote by the Senate Natural Resources committee. It ended late with the still very unsettled debate over municipal regulation of agriculture as the House Agriculture Committee reached a tentative agreement on their miscellaneous agriculture bill.

We did have one pleasant surprise: the productive House Committee on General Affairs and Housing had moved their major housing and labor bills a week prior, freeing up critical hearing time to consider and vote out a very short but important bill relating to municipal officers.

In this *Weekly Legislative Report*, we update you on some of the most important bills advancing this session on transportation, land use and housing, agriculture, and more.

New Proposal for PILOT Surplus Funds: Town Highway Boost

The early March thaw has brought along the first sign of spring: potholes. If you've taken a drive, a bus ride, or even a walk down a sidewalk lately, you know we have major repairs ahead of us this construction season.

We *wish* we could tell you, "Don't worry! the legislature and governor have plenty of town highway aid coming your way to fix those roads." However, the current FY27 transportation budget shortfall of $33 million across transportation fund programs puts $163 million of anticipated federal funding at risk *and* shorts the town highway programs by over $7 million, or -7.3%,

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from $96,665,344 in FY26 to $89,648,226 in FY27.

The House and Senate transportation committees are keenly aware of the need and the difficult political reality of raising new funds. For possible solutions, they are starting to think outside of the box of existing state-raised revenue.

Last week, the House Committee on Transportation continued its work on the FY27 transportation bill – which, as an appropriations bill, has an additional week to make crossover. In addition to lengthy testimony on establishing a mileage-based user fee program, the committee discussed a proposal(opens in a new tab) that would dedicate 50% of PILOT Special Fund surplus for the next three years to state aid for town highways.

This Town Meeting Day, 13 new municipalities voted to approve local option taxes, bringing the total statewide to 50 communities that will contribute 25% of their local revenues to the growing surplus in the PILOT Special Fund. **The state already raises about twice what is needed per year to fund its PILOT fee obligation.**

The Senate Transportation Committee's proposal(opens in a new tab) to dedicate PILOT Fund surplus funds to town highway aid is the first fair proposal the legislature has considered for this money. Remember, these funds are raised locally after a municipality adopts a local option tax and should be used to offset municipal – not state – expenses.

If the legislature and governor approve this new use of the surplus, 50% of the expected surplus revenues could more than close the gap between FY26 and FY27 town highway funding and could result in substantial increases to town highway aid in the future.

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Please let us know your thoughts at jhanford@vlct.org(opens in a new tab) and ssheehan@vlct.org(opens in a new tab) especially if your municipality has a local option tax!

S.325 Advances to House, Slows Down Act 181

Act 181 of 2024 created the Land Use Review Board (LURB), formerly the Act 250 Board, and directed it to make rules and implement sweeping, statewide land use policy changes.

Since the LURB was seated, members have been hard at work under three critical statutory deadlines created by to Act 181 Implementation for location-based jurisdiction of Act 250:

- **Tier 1A Approval Guidelines**: A finalized draft of the Tier 1A Applications Guidance will be considered by the Board on December 22. The guidelines shall take effect by January 2026.

- **Tier 2 Recommendations Report**: Due September 2026. Tier 2 encompasses all areas that are not Tier 1 or Tier 3.

- **Tier 3 Rulemaking & Report**: Report Due September 2026. Act 250 jurisdiction in Tier 3 areas will begin on December 31, 2026. The final rule will determine what parts of Vermont are subject to the new jurisdiction

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and whether any exemptions will apply – such as for septic systems, drinking water systems, improvements to existing structures, etc.

- **Road Rule Guidelines**: There is a fourth new trigger for Act 250 jurisdiction which takes effect this coming July called **"the road rule"**. The road rule will trigger Act 250 permit review for any construction that happens more than 800 feet from an existing road, or where a combined 2,000 or more feet of new road and new driveway is required. The LURB has indicated that guidelines would be published this month.

Together, the road rule and Tier 3 could dramatically expand Act 250 jurisdiction. The breadth of this new authority and the estimated area affected by the new jurisdiction have raised serious concerns among stakeholders related to equity, transparency, and whether the draft rule supports the intent of Act 181 to encourage a density of new housing along existing public infrastructure (such as roads).

Following weeks of testimony and joint hearings, on Friday morning the Senate Natural Resources Committee passed bill S.325(opens in a new tab), which would substantially extend the current statutory deadlines and implementations date in Act 181 and make changes to parts of Title 24 requested by the Vermont Association of Planning and Development Agencies (VAPDA) that are intended to improve the regional mapping process for Tier 1A and Tier 1B eligible areas, among other changes.

In its current form, S.325 would:

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- Extend road rule implementation to January 1, 2030.

- Extend Tier 3 implementation to January 1, 2030. The final Tier 3 Rule would be due June 30, 2028.

- Extend Act 250 exemptions for Priority Housing Projects to January 1, 2028. This would apply to proposed projects within Tier 1B eligible area regardless of whether Tier 1B exemption has been requested or approved.

- Extend Act 250 exemption for ADUs and commercial conversions up to 29 units of housing to January 1, 2030.

- Extend Act 250 exemption for all housing in and around existing designated areas (up to 75 units) and within one quarter (¼) mile (up to 50 units) until January 1, 2030.

- Direct the LURB in the Tier 3 rule and for the road rule to "determine which and under what circumstances criteria under 10 V.S.A. § 6086(a)(1)–(10) should be part of Tier 3 area review". This means there could be less than a full Act 250 permit review: the LURB could, for example, exempt criteria related to school impact or archaeology.

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- Eliminate the requirement for municipalities to enforce existing Act 250 permits in Tier 1A areas and create a process by which municipalities could create or amend a municipal permit with appropriate Act 250 permit conditions considered.

- Make several miscellaneous changes to sections of existing law that create and describe the Future Land Use areas that will be eligible for Tier 1A or Tier 1B. The changes are intended to provide more flexibility and to allow for new town centers or planned growth areas.

This bill as passed by the Senate committee largely reflects VLCT legislative priorities(opens in a new tab) related to Act 181 and land use planning, and **VLCT will eagerly support its passage**. Without S.325, the road rule will create sweeping new Act 250 jurisdiction statewide beginning this July.

That said, the long extensions in the bill fall short of any substantive policy changes to improve upon Act 181 and do not include Governor Scott's priority to repeal the road rule(opens in a new tab) entirely. As awareness of Act 181 and the draft Tier 3 rule(opens in a new tab) has reached more and more rural communities across Vermont, confusion, outrage, and the call for further legislative intervention has intensified.

The Senate first heard testimony on Act 181 mapping and rulemaking in early February, and **the House still has not held a single hearing**. This bill goes farther than most advocates anticipated or hoped for just a few short weeks ago, but it may not go far enough to earn the support of the governor or Vermont land and property owners who anticipate falling into the new

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jurisdictional areas.

Labor Law Fix for Elected and Appointed Municipal Officials

Some lobbyists fondly refer to the highly anticipated crossover week as "Christmas". That is because the fast pace of committee hearings, late proposed strikes and edits, floor amendments, and difficult votes can sometimes result in "presents".

We got one very welcome present from the House Committee on General and Housing, which holds jurisdiction over both labor and housing policy. The committee passed two notable housing bills and some labor bills that required collaboration with the commerce or finance committees. This means that the committees' major policy bills were drafted and advanced well before crossover week.

They used some of the available hearing time last week to pick up H.556, an act relating to exceptions to applicability of state minimum wage(opens in a new tab). This bill was sponsored by Representative Michael Marcotte and reflects work done between VLCT and the State Department of Labor over the summer and fall to identify an existing conflict in state law and propose a legislative solution.

Under current law, municipal officers are not exempted from minimum wage. This is a problem because the vast majority of elected and appointed municipal officials in Vermont are volunteers, and generally their compensation is established by the authority of voters at the annual meeting

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during the adoption of the budget. State law is also in conflict with federal law, which allows the exemption.

Representative Marcotte had introduced H.556 early in the session, but there had been no testimony or discussion since then. The bill as introduced would have only exempted members of the municipal legislative body.

At the invitation of Vice Chair Ashley Bartley, Josh testified on March 11 and asked for an amendment to include all elected and appointed municipal officials. The bill was amended and voted out unanimously the next day and was noticed on the House calendar on Friday March 13.

VLCT thanks the House General and Housing Committee members for their swift work on H.556 and looks forward to supporting its passage in the Senate.

The Debate Over Municipal Authority for Farming Will Continue

Just in time to make crossover, both the House and Senate agriculture committees passed their own versions of bills designed to rein in the municipal regulation of agriculture. This is in response to the Vermont Supreme Court Case from Essex Junction(opens in a new tab) which upended conventional wisdom and granted municipalities authority to regulate agriculture through zoning or bylaws, except for required agriculture practices to protect water quality.

VLCT Advocacy has consistently advocated for this VLCT-approved policy: **“To reduce conflicts with state, regional, and local goals for housing**

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development, municipalities should have the authority to regulate agricultural operations in approved Tier 1A and Tier 1B areas or areas where municipalities have voted to support a state designation. Municipalities support a state-led regulatory approach to agriculture outside of these areas."

Simply put: exempt agricultural activity from municipal regulation, except in areas exempted by Act 250.

VLCT has also worked with farm groups and the Agency of Agriculture, Food, and Markets this session to enshrine the right to grow food regardless of whether the property owner meets the criteria to be a commercial farm. And, without getting too far into the weeds (pun intended), VLCT has supported various drafts and proposals that would prevent a ban on farming in any tier while still allowing some appropriate regulation for common issues like siting, setbacks, parking, and traffic. Municipalities must have the ability to regulate farming in densely developed areas with competing and sometimes incompatible land uses.

Despite many months of negotiations and several rounds of testimony before the agriculture and environment committees, VLCT is unable to support the current version of either chamber's bill.

The bills as passed by both the Senate Agriculture Committee(opens in a new tab) and the House Agriculture Committee could undermine the ongoing efforts of Essex Junction and the Town of Barton(opens in a new tab) as they seek relief for their residents and property owners. The Vermont Supreme Court ruling granted these municipalities the authority to address long-standing and troubling situations(opens in a new tab) which the state, with its

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regulatory authority through the Required Agricultural Practices(opens in a new tab) (RAPs), neglected to resolve.

The Senate bill largely reflects the Agency of Agriculture's proposed solution, which is to restrict municipal authority over farms to only those of less than one acre, with other changes to the RAPs that are not supported by farming advocates. This would provide slightly less authority than municipalities had before the recent court ruling and would not provide any new tools for municipalities seeking to prevent future land use conflicts in their densest neighborhoods.

The House bill is much closer to VLCT's position. It would grant municipal authority for farming in Tier 1A, but only for a narrow set of zoning issues, and would exempt farms and farm structures that exist before July 2026. It also introduces new language and concepts into Title 24 that we find too novel and confusing – and too ripe for future legal challenge.

That said, we interpret the committee's votes this week as an opportunity to dig in and keep working. Because each chamber has passed some version of language addressing municipal authority, the debate can continue.

Without further changes, these bills could put in jeopardy the progress made by some municipalities to address the predictable land use conflicts that arise when intensive commercial-scale farming happens inside dense residential neighborhoods and downtowns. Agriculture is highly valued by Vermonters and Vermont municipalities, but without balanced and fair remedies for municipalities to use when these conflicts arise, what is the solution? Ask your legislator, because this session's lawmakers don't want municipalities to solve these problems.

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Vermont Supreme Court Sides with Municipalities in Legal Trails Ruling

Vermont cities and towns currently maintain authority over 547 legal trails statewide with an average of two miles per town. Legal trails provide critical access to state, municipal, and federal public lands throughout Vermont. Many legal trails connect to larger multi-use trail networks that are the backbone of our rural outdoor recreation economy. Vermonters and visitors alike use legal trails for hunting, fishing, hiking, back country skiing, mountain biking, and more. These are vital public venues for outdoor recreation of all kinds, and many have been on town highway maps for hundreds of years.

The future of legal trails in Vermont was jeopardized when, last October, in a case of widespread municipal importance (Echeverria et al v. Town of Tunbridge, 2026 VT 5, No. 25-AP-244(opens in a new tab)), two owners of a property in Tunbridge appealed an Orange County Superior Court ruling that the town has the sole legal authority to determine whether and how to maintain and repair the legal municipal trails located on their property. In concert with the town's legal counsel, VLCT submitted an Amicus Curiae brief (Amicus) supporting Tunbridge and a municipality's authority to maintain its legal trails. **On appeal, the Vermont Supreme Court recently agreed and decisively reaffirmed a municipality's authority to maintain its public rights-of-way such as its legal trails.**

In addition to supporting the Town of Tunbridge with an Amicus in this case, VLCT, along with a coalition of outdoor recreation and trails groups, advocated for legislative action last session to protect municipal authority to maintain trails. In the miscellaneous Department of Motor Vehicles bill, Act 66

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of 2024, the legislature included the language "It is the intent of the General Assembly to clarify municipalities' authority to exclusively or cooperatively maintain legal trails under the provisions of 19 V.S.A. chapter 3", which is effective April 1, 2026. Act 66 clarifies that legal trails "lie along public rights-of-way that were once town highways and are governed by the provisions of 19 V.S.A. chapter 3".

You can read more about the recent, consequential court decision here(opens in a new tab).

We sincerely thank the Town of Tunbridge for fighting this case to the end and thank legislative leaders and the Transportation committees for siding with cities and towns to clarify existing municipal authorities.

What We're Reading

Here are some recently released reports and news stories related to top issues for local government.

- Anger Over Act 181 Bubbles Up as Lawmakers Consider Postponing Its Implementation(opens in a new tab), Vermont Public
- Road Rule Can Kicked Down the Road(opens in a new tab), Vermont Daily Chronicle

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- Road Rule 'Not Going Anywhere,' Key Senator Says(opens in a new tab), Vermont Daily Chronicle

- Stowe Tax Hike Could Face Tough Future in Legislature(opens in a new tab), VTDigger

- Gov. Scott Signs Vermont's Midyear Budget Increase of $111 Million (opens in a new tab), VTDigger

Get Involved

With work in the State House underway, the **most important key to our success is your input and participation** in VLCT's advocacy work. Don't forget to register to attend our Advocacy Chats to learn what mid-session progress has been made on the issues that matter most to local government. Also, hear what your municipal colleagues from around the state have to say about the hot topics and share your concerns for the legislature. You can register here to join us on Monday, March 23 at 1 PM(opens in a new tab).

- Check out our town meeting week advocacy guide here(opens in a new tab).

- You can find (and share) this legislative preview, last month's advocacy update, and future reports and alerts on our main Advocacy webpage (opens in a new tab).

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- Before you visit the State House, check VLCT's Effective Testimony Guide for Municipal Officials(opens in a new tab) for best practices and answers to frequently asked questions.

- To support VLCT's advocacy work; participate in policy development, testimony, and legislative actions; or just learn more, reach out to Josh and Samantha by email at jhanford@vlct.org(opens in a new tab) and ssheehan@vlct.org(opens in a new tab).

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