

Journal of the Senate

FRIDAY, APRIL 19, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Alan Parker of Craftsbury.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, were severally referred to the Committee on Appropriations:

H. 99.

An act relating to equal pay.

H. 178.

An act relating to anatomical gifts.

Bill Referred

House bill of the following title was read the first time and referred:

H. 512.

An act relating to approval of amendments to the charter of the City of Barre.

To the Committee on Rules.

Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 510.

Senator Mazza, for the Committee on Transportation, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2014 transportation program appended to the Agency of Transportation's proposed fiscal year 2014 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Program Development – Funding Sources * * *

Sec. 1a. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified in accordance with this section. Among projects selected in the Secretary's discretion, the Secretary shall:

(1) reduce project spending authority in the total amount of \$3,827,500.00 in transportation funds;

(2) increase project spending authority in the total amount of \$2,087,500.00 in TIB bond proceeds on projects eligible under 32 V.S.A. § 972; and

(3) increase project spending authority in the total amount of \$1,740,000.00 in federal funds.

* * * Town Highway Bridge * * *

Sec. 2. TOWN HIGHWAY BRIDGE

The following modification is made to the town highway bridge program:

(1) Spending authority for the Mount Tabor project to replace bridge 2 on town highway 1 (VT FH 17-1(1)) is added to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	0	1,579,500	1,579,500
Total	0	1,579,500	1,579,500
<u>Sources of funds</u>			
State	0	0	0
TIB	0	0	0
Federal	0	1,579,500	1,579,500
Local	0	0	0
Total	0	1,579,500	1,579,500

* * * Maintenance * * *

Sec. 3. MAINTENANCE

(a) Total authorized spending in the maintenance program is amended as follows:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal services	39,744,134	39,744,134	0
Operating expenses	50,687,536	48,877,536	-1,810,000
Grants	75,000	75,000	0
Total	90,506,670	88,696,670	-1,810,000
<u>Sources of funds</u>			
State	79,961,670	78,151,670	-1,810,000
Federal	10,445,000	10,445,000	0
Interdep't transfer	100,000	100,000	0
Total	90,506,670	88,696,670	-1,810,000

(b) The reduction in authorized maintenance program spending under subsection (a) of this section shall be allocated among maintenance activities as specified by the Secretary.

* * * Paving * * *

Sec. 4. PROGRAM DEVELOPMENT – PAVING

(a) Spending authority for the statewide–district leveling activity within the program development–paving program is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,000,000	5,338,000	-662,000
Total	6,000,000	5,338,000	-662,000
<u>Sources of funds</u>			
State	6,000,000	5,338,000	-662,000

TIB	0	0	0
Federal	0	0	0
Total	6,000,000	5,338,000	-662,000

(b) Spending authority for the Bethel–Randolph Resurface VT 12 project (STP 2921()) is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	5,200,000	5,200,000	0
Total	5,200,000	5,200,000	0
<u>Sources of funds</u>			
State	1,585,563	983,840	-601,723
TIB	-601,723	0	601,723
Federal	4,216,160	4,216,160	0
Total	5,200,000	5,200,000	0

(c) Spending authority for the Bolton–Waterbury Resurface US 2 project (STP 2709(1)) is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,530,000	6,530,000	0
Total	6,530,000	6,530,000	0
<u>Sources of funds</u>			
State	0	601,723	601,723
TIB	1,235,476	633,753	-601,723
Federal	5,294,524	5,294,524	0
Total	6,530,000	6,530,000	0

(d) Spending authority on the Weathersfield Resurface VT 131 project (STP 2913(1)) within the program development – paving program is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	5,000,000	5,000,000	0
Total	5,000,000	5,000,000	0
<u>Sources of funds</u>			
State	946,000	696,000	-250,000
TIB	0	250,000	250,000
Federal	4,054,000	4,054,000	0
Total	5,000,000	5,000,000	0

* * * Rest Areas * * *

Sec. 5. REST AREAS

Spending authority on the Derby–Welcome Center project within the rest area program is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	50,000	0
Construction	2,500,000	0	-2,500,000
Total	2,550,000	50,000	-2,500,000
<u>Sources of funds</u>			
State	0	0	0
TIB	255,000	5,000	-250,000
Federal	2,295,000	45,000	-2,250,000
Total	2,550,000	50,000	-2,500,000

* * * Rail * * *

Sec. 6. RAIL

(a) The Secretary shall reduce by \$600,000.00 the spending of fiscal year 2014 state transportation funds on projects or activities within the rail program selected at his or her discretion.

(b) Authorized spending in the fiscal year 2014 rail program shall be reduced by \$200,000.00 in transportation funds, and \$500,000.00 in TIB funds, which were previously authorized in the fiscal year 2013 transportation program and appropriated in the 2013 appropriations bill.

Sec. 7. CANCELLATION OF RAIL PROJECTS

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following rail projects:

- (1) Salisbury-Middlebury – 05G342 – Rail Improvements;
- (2) White River Junction-Newport – 05G350 – Improve RR Bridges;
- (3) Proctor-New Haven – STRB(37) – 08G090 – Repair and/or Replace 6 Bridges;
- (4) Middlebury – WCRS() – 09G108 – Bridge 236;
- (5) Waterbury – STP 2036(10) – 09G364 – Crossing;
- (6) Rutland–Fair Haven – 09G372 – 2 Miles of CWR;
- (7) Rutland–Fair Haven – 11G254 – Crossings.

 Sec. 8. PITTSFORD BRIDGE 219 PROJECT

For the Pittsford Bridge 219 Project (HPP ABRB(9)), the estimate of total construction costs of \$10,350,000.00 is deleted and replaced with the amount of \$2,100,000.00, and the estimate of the total cost of all activities of \$11,863,814.00 is deleted and replaced with the amount of \$3,613,814.00.

* * * Amtrak Vermont Services; Fares * * *

Sec. 8a. AMTRAK VERMONT SERVICES; FARES

The Agency shall work with Amtrak and other states with which Vermont has agreements under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) to implement as soon as possible fares that maximize revenues for Vermont. The goal of the change in fares is to reduce by at least 20 percent the amount of the year-over-year increase in Vermont's subsidy to Amtrak required under PRIIA in fiscal year 2014.

* * * Aviation * * *

Sec. 9. AVIATION

(a) Spending authority on the Statewide-Airport Facilities Maintenance and Improvements project (AIR 04-3144) within the aviation program is amended to read:

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	1,850,758	1,710,758	-140,000
Total	1,850,758	1,710,758	-140,000
<u>Sources of funds</u>			
State	1,810,758	1,670,758	-140,000
TIB	0	0	0
Federal	40,000	40,000	0
Total	1,850,758	1,710,758	-140,000

(b) The Secretary shall reduce the spending of state transportation funds on activities within the Statewide-Airport Facilities Maintenance and Improvements project selected at his or her discretion in the amount specified in subsection (a) of this section.

* * * Fiscal Year 2014 Transportation Infrastructure Bonds * * *

Sec. 10. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the State Treasurer is authorized to issue transportation infrastructure bonds up to a total amount of \$11,700,000.00 for the purpose of funding:

- (1) the spending authorized in Sec. 11 of this act;
- (2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and
- (3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 11. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of \$10,387,500.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2014 on eligible projects as defined in 32 V.S.A. § 972(d) on projects in the State's fiscal year 2014 program development program.

* * * Transportation Alternatives Grant Program* * *

Sec. 12. 19 V.S.A. § 38 is amended to read:

§ 38. ~~TRANSPORTATION ENHANCEMENT~~ ALTERNATIVES GRANT PROGRAM

(a) ~~The Vermont transportation enhancement grant committee~~ Transportation Alternatives Grant Committee is created and shall be comprised of:

- (1) the ~~secretary of transportation~~ Secretary of Transportation or his or her designee;
- (2) a representative from the ~~division of historic preservation~~ Division of Historic Preservation appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development;
- (3) one member ~~to be~~ appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development to represent the tourism and marketing industry;
- (4) a representative of the ~~agency of natural resources~~ Agency of Natural Resources appointed by the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources;
- (5) three municipal representatives appointed by the governing body of the Vermont ~~league of cities and towns~~ League of Cities and Towns;
- (6) one member representing and appointed by the governing board of the Vermont ~~association of planning and development agencies~~ Association of Planning and Development Agencies;

~~(7)~~ two members from the ~~house~~ House designated by the ~~speaker,~~ Speaker; and

~~(8)~~ two members from the ~~senate~~ Senate designated by the ~~committee on~~ Committee on Committees.

~~(b)~~ Municipal and legislative members ~~of the~~ Transportation Alternatives Grant Committee shall serve concurrently for two-year terms and the initial appointments of these members shall be made in a manner which allows for them to serve a full legislative biennium. In the event a municipal or legislative member ceases to serve on the ~~committee~~ Committee prior to the full term, the appointing authority shall fill the position for the remainder of the term. The ~~committee~~ Committee shall, to the greatest extent practicable, encompass a broad geographic representation of Vermont.

~~(b)(c)~~ The ~~Vermont transportation enhancement grant program~~ Transportation Alternatives Grant Program is created. The ~~grant program shall be funded as provided in subsection (e) of this section and~~ Grant Program shall be administered by the ~~agency~~ Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a), less the funds set aside for the Recreational Trails Program as specified in 23 U.S.C. § 213(f). ~~The grant program Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(c)(4), and awards under the Grant Program shall be limited to enhancement the activities as defined in described at 23 U.S.C. § 401(a)(35) which are sponsored by municipalities, nonprofit organizations, or political subdivisions of the state other than the agency 213(b) other than Recreational Trails Program grants.~~

~~(d)~~ Eligible ~~applicants~~ entities awarded a grant must provide all funds required to match federal funds awarded for an ~~enhancement~~ transportation alternatives project. All grant awards shall be decided and awarded by the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(e)~~ The following federal aid highway program funds received by the state under the federal aid highway reauthorization act, and succeeding reauthorization acts, that succeed the Transportation Equity Act for the 21st Century (Public Law 105-178 as amended) shall be exclusively reserved to cover the costs of enhancement projects awarded grants under the Vermont transportation enhancement grant program with respect to federal fiscal years 2004 and thereafter:

~~(1)~~ at a minimum, four percent of the state's apportionment of surface transportation funds received by the state under 23 U.S.C. § 104(b)(3) over the life of the applicable federal reauthorization act; and, if greater,

~~(2) at a maximum, the state's apportionment of federal aid highway program funds that are exclusively reserved for transportation enhancement activities under 23 U.S.C. § 133(d)(2) received by the state over the life of the applicable federal reauthorization act.~~

~~(d) For each fiscal year starting with fiscal year 2005, the agency shall determine or estimate as required:~~

~~(1) the state's apportionment of surface transportation program funds which the state expects to receive under 23 U.S.C. § 104(b)(3) with respect to the equivalent federal fiscal year; and~~

~~(2) the state's pro rata apportionment of federal aid highway program funds which are exclusively reserved for transportation enhancement activities under 23 U.S.C. 133(d)(2). To determine the pro rata amount, the agency shall estimate the total amount of exclusively reserved funds expected to be received by the state over the life of the applicable federal reauthorization act, subtract the total amount of enhancement grants awarded under this section with respect to prior federal fiscal years of the applicable federal reauthorization act, and divide the resulting sum by the number of years remaining in the life of the applicable federal reauthorization act. The agency shall adjust the amounts determined under subdivisions (1) and (2) of this subsection to account for any differences between estimates made, actual appropriations received, and enhancement grants awarded with respect to applicable prior federal fiscal years.~~

~~(e)(1) For each fiscal year starting with fiscal year 2005, the state's enhancement grant program for the fiscal year shall be at the discretion of the secretary:~~

~~(A) at a minimum, four percent of the adjusted amount ascertained by the agency under subdivision (d)(1) of this section; and~~

~~(B) at a maximum, the adjusted amount ascertained by the agency under subdivision (d)(2) of this section.~~

~~(2) The agency shall plan its budget accordingly and advise the general assembly in its recommended budget:~~

~~(A) if sufficient information is available to determine a sum certain, of the amount of the enhancement grant program; or~~

~~(B) if sufficient information is not available to determine a sum certain, of the range within which the agency estimates the size of the enhancement grant program will be.~~

~~(f)(e) Enhancement Transportation alternatives grant awards shall be announced annually by the ~~transportation enhancement grant committee~~~~

Transportation Alternatives Grant Committee not earlier than December and not later than the following March ~~of the federal fiscal year of the federal funds being committed by the grant awards.~~

~~(g)(f)~~ Each year, ~~up to~~ \$200,000.00 of the grant program or such lesser sum if all eligible applications amount to less than \$200,000.00 shall be reserved for municipalities for eligible salt and sand shed projects. Grant awards for eligible projects shall not exceed \$50,000.00 per project. Regarding the balance of grant program funds, in evaluating applications for ~~enhancement transportation alternatives~~ grants, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(h)(g)~~ The ~~agency~~ Agency shall develop an outreach and marketing effort designed to provide information to communities with respect to the benefits of participating in the ~~enhancement program~~ Transportation Alternatives Grant Program. The outreach and marketing activities shall include apprising municipalities of the availability of grants for salt and sand sheds. The outreach effort should be directed to areas of the ~~state~~ State historically underserved by this program.

Sec. 12a. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10e(c), 10g, 11f(i), 12a, and 12b(d), and 38(e)(2) of this title shall be preserved absent specific action by the ~~general assembly~~ General Assembly repealing the reports or reporting requirements.

Sec. 13. TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES; CONFORMING AMENDMENTS

2012 Acts and Resolves No. 153, Sec. 24 is amended to read:

Sec. 24. ~~ENHANCEMENT~~ TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § ~~38(g)~~ 38(f), in evaluating applications for ~~enhancement transportation alternatives~~ grants in fiscal years 2013, 2014, and 2015, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting

to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the ~~agency of natural resources~~ Agency of Natural Resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management Agency. The degree of preferential weighting afforded shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

* * * Central Garage * * *

Sec. 14. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2014, the amount of \$1,120,000.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * State Highways; Relinquishment to Municipal Control * * *

Sec. 15. 19 V.S.A. § 15 is amended to read:

§ 15. CHANGES IN THE STATE HIGHWAY SYSTEM

(a) Highways Except as provided in subsection (b) of this section, highways may be added to or deleted from the state highway system by:

(1) ~~legislative action~~ an act of the General Assembly; or

(2) a proposal by the ~~agency~~ Agency which is accepted by the legislative body of the affected municipality and approved by an act of the general assembly General Assembly.

(b) Upon entering into an agreement with the affected municipality, the Secretary may relinquish to municipal control segments of state highway rights-of-way that have been replaced by new construction and are no longer needed as part of the state highway system. Upon their relinquishment to municipal control, the segments shall become class 3 town highways, and may be reclassified by the municipality in accordance with chapter 7 of this title.

* * * State Highway System; Town of Clarendon * * *

Sec. 15a. STATE HIGHWAY SYSTEM; TOWN OF CLARENDON

Pursuant to 19 V.S.A. § 15, the General Assembly approves the addition to the state highway system of a segment of Airport Road (TH #7) in the Town of Clarendon extending from its intersection with Vermont Route 103 to the main entrance of the Rutland–Southern Vermont Regional Airport. The existing 35 miles per hour speed limit on this segment of Airport Road shall remain in force after its transfer to the state highway system, unless and until the Traffic Committee alters the speed limit pursuant to 23 V.S.A. § 1003.

* * * Transportation Board; Small Claims Against the Agency * * *

Sec. 16. 19 V.S.A. § 20 is amended to read:

§ 20. SMALL CLAIMS FOR INJURY OR DAMAGE

~~When a claim is~~ The Board shall have exclusive jurisdiction over claims of \$5,000.00 or less made for personal injuries or property damage, or both, sustained as the result of the negligence of any employee of the agency, the board Agency. The Board may hear all parties in interest and may award damages not to exceed \$2,000.00 \$5,000.00. When the Board awards damages are awarded, the board, it shall certify its findings decision to the commissioner of finance and management who Commissioner of Finance and Management. Upon the disposition of any appeal or the expiration or waiver of all appeal rights, the Commissioner of Finance and Management shall issue his or her warrant for the amount of the award, with payment in the manner prescribed by 12 V.S.A. § 5604.

* * * Limited Access Facilities; Fair Market Value Rent * * *

Sec. 17. 19 V.S.A. § 26a is amended to read:

§ 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING OR LICENSING STATE-OWNED PROPERTY UNDER THE AGENCY'S JURISDICTION

(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the ~~agency~~ Agency under 5 V.S.A. §§ 204 and 3405 and ~~section sections 26 and 1703(d)~~ of this title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the ~~agency~~ Agency may lease or license state-owned property under its jurisdiction for less than fair market value when the ~~agency~~ Agency determines that the proposed occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

* * *

* * * Emergency Repairs; Condemnation Authority * * *

Sec. 18. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) For purposes of this section, the term "minor alterations to existing facilities" means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as “categorical exclusions” under 23 C.F.R. § 771.117(e) and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347, ~~and do not require a permit under 10 V.S.A. chapter 151 (Act 250);~~ or

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge ~~or~~ culvert, highway, or state-owned railroad, even ~~though~~ if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause; ~~provided, however, that the activities do not require a permit under 10 V.S.A. chapter 151 (Act 250).~~ Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the ~~agency~~ Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. If an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

* * * Secretary’s Authority with Regard to Junkyards * * *

Sec. 19. 19 V.S.A. § 7(f) is amended to read:

(f) The ~~secretary~~ Secretary may:

* * *

(7) organize, reorganize, transfer, or abolish sections and staff function sections within the ~~agency~~ Agency; except however, the ~~secretary~~ Secretary may not alter the number of highway districts without legislative approval; ~~and~~

~~(8) adopt rules regarding the operation of junkyards.~~

* * * State Highway Closures * * *

Sec. 20. 19 V.S.A. § 43 is amended to read:

§ 43. STATE HIGHWAY CLOSURES

(a) For purposes of this section, the phrase “planned closure of a state highway” means the closure of a state highway for more than 48 hours for a project that is part of the State’s annual transportation program. The phrase does not include emergency projects, or closures of 48 hours or less for maintenance work.

(b) Before the planned closure of a state highway, the ~~agency~~ Agency shall:

(1) contact the legislative body of any municipality affected by the closure to determine whether the legislative body wishes to convene a regional

public meeting for the purpose of ~~listening to~~ hearing public concerns.—~~The agency regarding the planned closure; and~~

(2) conduct a regional public meeting if requested by the legislative body of a municipality affected by the closure.

(c) To address concerns raised at a meeting held pursuant to subsection (b) of this section or otherwise to reduce adverse impacts of the planned closure of a state highway, the Agency shall consult with other state agencies and departments, regional chambers of commerce, regional planning commissions, local legislative bodies, emergency medical service organizations, school officials, and area businesses to develop mitigation strategies to reduce the impact of the planned closure on the local and regional economies.

~~(b)~~(d) In developing mitigation strategies, the ~~agency~~ Agency shall consider the need to provide a level of safety for the traveling public comparable to that available on the segment of state highway affected by the planned closure. If the ~~agency~~ Agency finds town highways unsuitable for a signed detour, the ~~agency~~ Agency will advise local legislative bodies of the reasons for its determination.

* * * Taxation of Diesel and Motor Fuels * * *

Sec. 21. 23 V.S.A. § 3003 is amended to read:

§ 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~\$0.25~~ \$0.27, a fee of \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.03 motor fuel transportation infrastructure assessment, which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

* * *

Sec. 22. 23 V.S.A. § 3003 is amended to read:

(a) A tax of ~~\$0.27~~ \$0.29, a fee of \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.03 motor fuel transportation infrastructure assessment which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

* * *

Sec. 23. 23 V.S.A. § 3106 is amended to read:

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this ~~state~~ State, which sales shall be exempt from the ~~tax and from the motor fuel transportation infrastructure assessment taxes and assessments authorized under this section, in all cases not unless~~ exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the ~~commissioner~~ Commissioner:

(A) a tax of ~~\$0.19~~ \$0.115 upon each gallon of motor fuel sold by the distributor; and

(B) the following assessments, which shall be levied on the tax-adjusted retail price of gasoline as defined herein:

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor, ~~exclusive of: all federal and state taxes, the petroleum distributor licensing fee established by 10 V.S.A. § 1942, and the motor fuel transportation infrastructure assessment authorized by this section. The retail price shall be based upon the average retail prices for regular gasoline determined and published by the department of public service. The retail price applicable for the January-March quarter shall be the average of the retail prices published by the department of public service the prior October, November, and December; and the retail price applicable in each succeeding calendar quarter shall be equal to the average of the retail prices published by the department of public service in the preceding quarter; and~~

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) \$0.134 per gallon; or

(II) four percent of the tax-adjusted retail price or \$0.18 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

(2) For the purposes of subdivision (1)(B) of this subsection, the retail price applicable for a quarter shall be the average of the monthly retail prices for regular gasoline determined and published by the Department of Public Service for the three months of the preceding quarter. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of: all federal and state taxes and assessments, and the petroleum distributor licensing fee

established by 10 V.S.A. § 1942, at the rates applicable in the preceding quarter.

(3) The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same amounts Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the state State by him or her.

* * *

Sec. 24. MOTOR FUEL ASSESSMENTS: MAY 1, 2013–
SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § 3106(a)(1)(B) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be \$0.0656 per gallon, and the fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be \$0.134 per gallon.

* * * DUI Special Enforcement Fund * * *

Sec. 25. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI enforcement special fund shall consist of:

(1) receipts from the surcharges assessed under section 206 and subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and 1210(k) of this title;

(2) beginning in fiscal year 2000 and thereafter, the first \$150,000.00 of revenues collected from fines imposed under subchapter 13 of chapter 13 of this title pertaining to DUI related offenses;

(3) beginning ~~in fiscal year 2000~~ May 1, 2013 and thereafter, ~~two percent~~ \$0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title; and

(4) any additional funds transferred or appropriated by the ~~general assembly~~ General Assembly.

* * * Transfer of Position * * *

Sec. 26. TRANSFER OF POSITION

Effective May 1, 2013, one position (080134) and any funds related thereto are transferred from the Department of Taxes to the Department of Motor Vehicles.

* * * Appropriation of Transportation Funds * * *

Sec. 27. 19 V.S.A. § 11a is amended to read:

§ 11a. **TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY**

No transportation funds shall be appropriated for the support of government other than for the ~~agency of transportation~~ Agency, the ~~transportation board~~ Board, transportation pay act funds, construction of transportation capital facilities ~~used by the agency of transportation~~, transportation debt service, the ~~department of buildings and general services~~ operation of information centers by the Department of Buildings and General Services, and the ~~department of public safety~~ Department of Public Safety. The amount of transportation funds appropriated to the ~~department of public safety~~ Department of Public Safety shall not exceed:

- (1) \$25,250,000.00 in fiscal year 2014;
- (2) \$22,750,000.00 in fiscal year 2015; and
- (3) \$20,250,000.00 in fiscal year 2016 and in succeeding fiscal years.

* * *

* * * Electric Vehicles; Contribution to Transportation Fund; Study * * *

Sec. 28. **STUDY OF CHARGES ON ELECTRICITY USED TO POWER PLUG-IN ELECTRIC VEHICLES**

(a) The Commissioner of Public Service or designee and the Commissioner of Taxes or designee (collectively, the "Commissioners"), in consultation with the Public Service Board, the Commissioner of Motor Vehicles or designee, the Joint Fiscal Office, and any other persons or entities the Commissioners deem appropriate, shall study the feasibility, alternative implementation mechanisms, and timeline for replacing, in whole or in part, motor fuel tax revenues not collected from operators of plug-in hybrid and all-electric vehicles. The Commissioners shall develop recommendations as to the most reasonable and efficient mechanisms, and a realistic time frame, to charge operators of plug-in hybrid and all-electric vehicles for their use of transportation infrastructure so as to contribute to the Transportation Fund.

(b) On or before December 15, 2013, the Commissioners shall submit a written report of their findings and recommendations to the House and Senate Committees on Transportation. The Commissioners' report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * Propane and Natural Gas-Powered Vehicles; Study * * *

Sec. 29. PROPANE AND NATURAL GAS-POWERED VEHICLES;
STUDY

(a)(1) In Act 153 of 2012, the General Assembly required that effective on July 1, 2013, the sales and use tax on natural gas used to propel a motor vehicle be allocated to the Transportation Fund. The applicable sales and use tax rate is six percent. Act 153 did not address propane used to propel motor vehicles.

(2) In a November 5, 2012 report submitted pursuant to 2012 Acts and Resolves No. 153, Sec. 39, the Vermont Energy Investment Corporation found that the six percent sales and use tax rate on natural gas would be insufficient to replace motor fuel or diesel tax revenues not collected from operators of motor vehicles propelled by natural gas. The report did not address motor vehicles propelled by propane.

(b) The Commissioner of Motor Vehicles or designee ("Commissioner"), in consultation with the Commissioner of Taxes or designee, the Joint Fiscal Office, and any other persons or entities the Commissioner deems appropriate, shall study mechanisms to charge operators of motor vehicles propelled by natural gas or by propane for their use of the transportation system, so as to replace, in whole or in part, motor fuel or diesel tax revenues not collected from such operators. The Commissioner shall formulate recommendations on the most reasonable and efficient mechanisms to charge such operators and identify implementation steps required.

(c) On or before December 15, 2013, the Commissioner shall submit a written report of his or her findings and recommendations to the House and Senate Committees on Transportation. The Commissioner's report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * State Facilities Served by Town Highways * * *

Sec. 30. STATE FACILITIES SERVED BY TOWN HIGHWAYS

(a) The General Assembly finds that access to state parks and other state facilities is critical for the State and its economy. For state parks and state facilities that are primarily accessible by class 3 and 4 town highways, no state funding source other than general town highway aid exists to assist municipalities with the maintenance and rehabilitation of these highways.

(b) A Study Committee is established consisting of:

- (1) the Secretary of Transportation or designee, who shall chair the committee;
- (2) the Commissioner of Forests, Parks and Recreation or designee;
- (3) the Commissioner of Buildings and General Services or designee;
- (4) a member designated by the Vermont League of Cities and Towns.

(c) The Study Committee shall examine the condition of class 3 and 4 town highways that serve as primary access roads to state parks and other state facilities used by the public, alternative mechanisms for the State to assist municipalities with the maintenance or rehabilitation of such town highways, the appropriate municipal share for projects to maintain or rehabilitate such highways and whether a cap on any state assistance is appropriate, and the potential fiscal impact to the State of the alternative mechanisms reviewed by the Committee. The Committee shall formulate recommendations for consideration by the General Assembly as to whether and how the State should assist municipalities in maintaining and rehabilitating the town highways described in this subsection.

(d) On or before December 15, 2013, the Study Committee shall submit a written report of its findings and recommendations to the House and Senate Committees on Transportation.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), and Sec. 15a (addition to state highway system) of this act shall take effect on passage.

(b) Secs. 23–26 of this act shall take effect on May 1, 2013.

(c) Sec. 22 (taxation of diesel at \$0.29 per gallon) of this act shall take effect on July 1, 2014.

(d) All other sections of this act shall take effect on July 1, 2013.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment of the Committee on Transportation was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator MacDonald, moved that the proposal of amendment be amended as follows:

First: By adding a new section to be number Sec. 30a to read as follows:

Sec. 30a. SCHOOL BUS PILOT PROGRAM

(a) Definitions. As used in this section, the term "person" shall have the same meaning as in 1 V.S.A. § 128, and the term "Type II school bus" shall have the same meaning as in 23 V.S.A. § 4(34)(C).

(b) Pilot program. Upon application, the Commissioner of Motor Vehicles shall approve up to three persons who satisfy the requirements of this section to participate in a pilot program. Pilot program participants shall be authorized to operate on Vermont highways Type II school buses registered in this State that are retrofitted with an auxiliary fuel tank to enable the use of biodiesel, waste vegetable oil, or straight vegetable oil, provided the school bus has passed inspection in accordance with subdivision (c)(3) of this section and the bus and its auxiliary tank comply with the Federal Motor Vehicle Safety Standards applicable to Type II school buses. If more than three persons apply to participate in the pilot program, the Commissioner shall give priority to applicants who seek to install the auxiliary fuel tank in connection with a student-led or student-generated school project.

(c) Documentation; requirements. The Commissioner may prescribe that applicants furnish information necessary to implement the pilot program. After an applicant furnishes such information and is approved, the Commissioner shall provide the person with documentation of the person's selection under the pilot program and the expiration date of the program. If the approved person is a municipality or another legal entity, the Commissioner's documentation shall list the specific individuals authorized to operate the Type II school bus. The Commissioner's documentation shall:

(1) be carried in the school bus while it is operated on a highway;

(2) constitute and be recognized by enforcement officers in Vermont as a waiver, until expiration of the pilot program, of those provisions of 23 V.S.A. §§ 4(37), 1221, and 1283(a)(6) and of any rule that would prohibit school buses retrofitted with auxiliary fuel tanks from lawfully operating on Vermont highways; and

(3) be recognized by authorized inspection stations as a waiver of the prohibition on auxiliary or added fuel tanks, and of the requirement that buses only be equipped with such motor fuel tanks as are regularly installed by the manufacturer, specified in the School Bus Periodic Inspection Manual (“Inspection Manual”); provided, however, that no school bus equipped with an auxiliary or added fuel tank shall pass inspection unless all other requirements of the Inspection Manual regarding fuel systems are satisfied.

(d) Expiration. The pilot program established and the waivers granted under this section shall expire on September 1, 2015.

Second: In Sec. 31, in subsection (a), by striking out the word “and” before “Sec. 15a” and after “(addition to state highway system)” by adding the following: , and Sec. 30a (school bus pilot program)

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Cummings moved to amend the proposal of amendment by striking out Secs. 22, 23 and 24.

Thereupon, pending the question, Shall the proposal of amendment be amended as proposed by Senator Cummings?, Senator Cummings requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 23, Nays 5.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Flory, Fox, Galbraith, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Snelling, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Cummings, Doyle, *McCormack, Pollina, Starr.

Those Senators absent and not voting were: French, Hartwell.

*Senator McCormack explained his vote as follows:

“With great respect for the Transportation Committee and its good work, I reluctantly vote no. We must maintain our transportation infrastructure and so we must tax ourselves to pay for it. But we should tax according to ability to pay. A gas tax, while admirable from an environmental perspective is regressive.”

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Message from the House No. 47

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 73. An act relating to the moratorium on home health agency certificates of need.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

H. 511. An act relating to “zappers” and automated sales suppression devices.

And has severally concurred therein.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 105. House concurrent resolution congratulating the 2013 Proctor High School Phantoms Division IV championship girls’ basketball team.

H.C.R. 106. House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship boys’ soccer team.

H.C.R. 107. House concurrent resolution congratulating The Palms Restaurant on its 80th anniversary.

H.C.R. 108. House concurrent resolution commemorating the 60th anniversary of the Korean War Armistice Agreement.

H.C.R. 109. House concurrent resolution commemorating the sestercentennial anniversary of the town of Newbury.

H.C.R. 110. House concurrent resolution designating April 24, 2013 as National Walk@Lunch Day in Vermont.

H.C.R. 111. House concurrent resolution commemorating the sestercentennial anniversary of the Town of Essex.

H.C.R. 112. House concurrent resolution designating April 26 as Long-Term Care Ombudsman Day in Vermont.

H.C.R. 113. House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team.

H.C.R. 114. House concurrent resolution congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School.

H.C.R. 115. House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 22. Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday.

S.C.R. 23. Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day.

And has adopted the same in concurrence.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

By Senators Doyle, Cummings and Pollina,

S.C.R. 22.

Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday.

By Senators Campbell and Mullin,

By Representative Juskiewick of Cambridge,

S.C.R. 23.

Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Potter and others,

H.C.R. 105.

House concurrent resolution congratulating the 2013 Proctor High School Phantoms Division IV championship girls' basketball team.

By Representative Potter and others,

H.C.R. 106.

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship boys' soccer team.

By Representative Russell and others,

By Senators Flory, French and Mullin,

H.C.R. 107.

House concurrent resolution congratulating The Palms Restaurant on its 80th anniversary.

By Representative Canfield and others,

By Senators Ashe, Ayer, Baruth, Benning, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman and White,

H.C.R. 108.

House concurrent resolution commemorating the 60th anniversary of the Korean War Armistice Agreement.

By Representative Conquest,

H.C.R. 109.

House concurrent resolution commemorating the sescentennial anniversary of the town of Newbury.

By Representative Frank and others,

H.C.R. 110.

House concurrent resolution designating April 24, 2013 as National Walk@Lunch Day in Vermont.

By Representative Myers and others,

H.C.R. 111.

House concurrent resolution commemorating the sescentennial anniversary of the Town of Essex.

By Representative Pugh and others,

H.C.R. 112.

House concurrent resolution designating April 26 as Long-Term Care Ombudsman Day in Vermont.

By Representative Lenex and others,

By Senators Fox, Lyons and Snelling,

H.C.R. 113.

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team.

By Representative Lenex and others,

By Senators Fox, Lyons and Snelling,

H.C.R. 114.

House concurrent resolution congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School.

By Representative Lenes and others,

By Senators Lyons, Fox and Snelling,

H.C.R. 115.

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 23, 2013, at nine o'clock in the forenoon pursuant to J.R.S. 26.