

1 H.740

2 **VTrans changes shown using track changes with comments in margin**

3 **Leg. counsel comments in italics and changes in bold**

4 Introduced by Representatives Bissonnette of Winooski and Ellis of
5 Waterbury

6 Referred to Committee on

7 Date:

8 Subject: Conservation and development; land use; natural resources;
9 transportation; Act 250; access permits

10 Statement of purpose of bill as introduced: This bill proposes to authorize the
11 District Commissions under 10 V.S.A. chapter 151 (Act 250) and the Agency
12 of Transportation through highway access permits to assess fees to fund
13 improvements to address the transportation impacts of development projects.

14 An act relating to transportation improvement fees

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. FINDINGS AND INTENT

17 (a) The General Assembly finds that:

18 (1) To issue a land use permit under 10 V.S.A. chapter 151 (Act 250), a
19 District Commission must make required findings, including that the proposed
20 ~~development~~land use project development and subdivision does not cause

1 unreasonable traffic congestion or unsafe traffic conditions and does not
2 materially interfere with or jeopardize the function, safety, and efficiency of
3 Vermont's public highway and transportation systems.

4 | (2) To ensure that the ~~developmentland-use project~~ **development** or
5 subdivision meets the statutory requirements related to transportation impacts,
6 District Commissions often require physical improvements or other measures
7 to mitigate those impacts.

8 | (3) Because the District Commissions address mitigation on a
9 case-by-case basis, the obligation to mitigate transportation impacts ~~often~~
10 ~~typically~~ **often** falls on the ~~developmentland-use project~~ **development** or
11 subdivision whose traffic impacts cause existing traffic conditions to become
12 unsafe or unreasonably congested.

13 | (4) This approach, often referred to as "last-one-in," can require an
14 applicant to bear the entire burden of installing mitigation measures that
15 benefit not only the applicant's project, but existing and future
16 ~~developmentland-use project~~ **developments** or subdivisions, as well as
17 regional and statewide through traffic. The potential for this outcome is high
18 in areas that are already developed and experiencing significant traffic
19 volumes.

20 | (5) Physical improvements to mitigate transportation impacts can be
21 costly and exceed the cost of a proposed ~~developmentland-use project~~

1 development and subdivision, particularly if the proposal is a small project in
2 an already developed area.

3 (b) In enacting this legislation, the General Assembly intends:

4 (1) to establish an alternative to “the last-one-in” approach that enables
5 the costs to mitigate transportation impacts to be allocated proportionally
6 among the State and the ~~development~~land use projects that have traffic impact
7 and that will benefit from the mitigation;

8 (2) to foster in-fill development, further Vermont’s planning goals set
9 forth in 24 V.S.A § 4302, and encourage economic growth by creating a
10 mechanism to apportion the cost of new transportation infrastructure in already
11 developed areas; and

12 (3) to encourage planning for the establishment of transportation
13 improvement districts in which the costs of transportation infrastructure are
14 allocated proportionally and thereby to support economic growth, the
15 construction of needed transportation improvements, and Vermont’s planning
16 goals.

17 COMMENT BY LEG. COUNSEL:

18 *Most of the changes to “land use project” proposed above are not accurate*
19 *and are not consistent with the definition of “land use project” used later in*
20 *the bill. The findings above relate to Act 250 jurisdiction, which applies to*
21 *“development” and “subdivision,” not “land use project.” The term land use*

1 *project is defined later in the bill to include not only developments and*
2 *subdivisions subject to Act 250, but also to land uses that require a highway*
3 *access permit, whether or not those projects need an Act 250 permit.*
4 *Also, the use of the word “typically” rather than “often” is not supported by*
5 *any statistical analysis submitted by the agencies.*

6 Sec. 2. 10 V.S.A. chapter 151, subchapter 5 is added to read:

7 Subchapter 5. Transportation Improvement Fees

8 § 6101. PURPOSE

9 The purpose of this subchapter is to provide a mechanism to allocate the
10 costs to mitigate the impacts of land use projects to the State transportation
11 system in a manner that is equitable and that supports the planning goals of
12 24 V.S.A. § 4302.

13 § 6102. DEFINITIONS

14 As used in this subchapter:

15 (1) “Agency” means the Agency of Transportation.

16 (2) “Capacity” means each of the following:

17 (A) the number of vehicles per hour accommodated by transportation
18 infrastructure;

19 (B) the ability of transportation infrastructure to provide ~~and~~
20 connectivity for pedestrians and cyclists; and

Comment [j1]: DEC will be able to determine proportionate share for impacts to municipal roads per § 6104

1 (C) the number of people that can be accommodated by bus at levels
2 of service specified for each mode of travel.

3 (3) “Capital Transportation Program” means the multiyear
4 transportation program under 19 V.S.A § 10g as established each year by the
5 General Assembly.

6 (4) “Capital transportation project” means:

7 (A) a physical improvement to the State transportation system or to a
8 municipal highway, right-of-way, or transportation facility; and

9 (B) a study or survey requested or commissioned by a District
10 Commission or the Agency relating to any physical improvement of one or
11 more of the following:

12 (i) the State transportation system; and

13 (ii) a municipal highway, right-of-way, or transportation
14 improvement or facility.

15 (5) “District Commission” shall have the same meaning as under section
16 6001 of this title except that the term also shall include the Board in exercising
17 its authority to make findings of fact and conclusions of law.

18 (6) “Land use project” means any activity requiring a permit under this
19 chapter or 19 V.S.A. § 1111.

20 (7) “Municipality” means a city, town, incorporated village or
21 unorganized town or gore.

1 (8) “Pass-by trips” means existing traffic attracted that is present on a
2 roadway adjacent to a proposed land use project from an adjacent
3 roadway for reasons other than accessing the project and that enters the
4 project.

Comment [J2]: Referred to in Section § 6106 related to how the fee is calculated and adjusted

5 COMMENT BY LEG. COUNSEL:

6 *The language proposed here needs work and suggestions are made above in*
7 *bold. The proposed phrase “existing traffic” is ambiguous because it could*
8 *refer to traffic in existence when the bill passes, in existence before the project*
9 *is built, or that would exist regardless of the project. The use of the word*
10 *“attracted” is not precise; someone could be “attracted” to a project without*
11 *actually turning their vehicle into it. The term “proposed land use” should be*
12 *“land use project” because that is a defined term for the proposed subchapter*
13 *and makes sense in this location.*

14 (98) “Performance standards” means quantitative or qualitative indicia
15 of the ability of transportation infrastructure to achieve an objective such as
16 reducing major crashes or accommodating a volume of traffic at a specified
17 average delay per vehicle. The term includes indicia that are specific to the
18 area in which transportation infrastructure is or is to be located.

19 (10) “Regional Planning Commission” shall have the same meaning as
20 under ~~section 4303 of title 24.~~ 24 V.S.A. § 4303.

21 (119) “Secretary” means the Secretary of Transportation or designee.

1 ~~(1240)~~ “State transportation system” means the highways, rights-of-
2 way, and transportation facilities under the jurisdiction of the Agency or any
3 other agency of the State and does not include highways, rights-of-way, and
4 transportation facilities under the jurisdiction of a municipality.

5 ~~(1344)~~ “Transportation Demand Management “ or “TDM” means
6 measures that reduce vehicle trips or redistribute vehicle trips to non-peak
7 times or other areas. Examples include telecommuting, incentives to carpool
8 or ride public transit, and staggered work shifts.

9 ~~(1442)~~ “Transportation fee” means an **impact** fee that is assessed to a
10 land use project as a condition of a permit issued under this chapter or a State
11 highway access permit under 19 V.S.A. § 1111 and is used to support any
12 portion of the costs of an **completed or planned** capital transportation project
13 **that will benefit or is attributable to the land use project.**

14 COMMENT BY LEG. COUNSEL:

15 *Defining “transportation fee” as an “impact fee” does not appear to add*
16 *anything to the bill and, since the term is not defined, could invite differing*
17 *interpretations and litigation.*

18 *The language “that will benefit or is attributable to the land use project” is not*
19 *itself problematic but it is not the same as language used later in the bill that*
20 *would need to be changed to match up. See comments and suggested changes*
21 *re §§ 6104 and 6106.*

Comment [j3]: Per §6105 (e) the fee remains in place as long as the capital project on which the fee is based has capacity (still meets the performance standards). Therefore, it is possible for a capital project to be completed or planned.

1 ~~(1513)~~ “Transportation Improvement District” or “TID” means a
2 ~~discreet~~ **discrete** geographic area that ~~is served~~ includes and will benefit from
3 ~~by~~ one or more capital transportation projects included in the Capital
4 Transportation Program and for which the Agency has established a
5 transportation fee under this subchapter.

6 ~~(1614)~~ “Vehicle trips” means the number of trips by motorized
7 conveyance generated by a proposed land use project measured at a specific
8 place and for a specific duration. The ownership of and number of persons
9 within the conveyance shall be irrelevant.

10 § 6103. AUTHORITY

11 A District Commission ~~or~~ and the Agency may assess a transportation fee in
12 accordance with this subchapter.

13 COMMENT BY LEG. COUNSEL:

14 *It would be better to use “or” here, as originally written, than “and,” because*
15 *“and” could be read to mean that a transportation fee may not be assessed*
16 *unless both the District Commission and the Agency agree on the fee, while the*
17 *rest of the bill indicates that the agencies each may do so through their*
18 *respective permit processes.*

19 *In the alternative, § 6103 could be deleted because it is redundant with the*
20 *authority given in §§ 6104 and 6105. Subsequent sections and cross-*
21 *references would need to be renumbered.*

1 § 6104. TRANSPORTATION FEE; DISTRICT COMMISSION

2 (a) A District Commission may require payment of a transportation fee in
3 accordance with section 6106 of this title to fund, in whole or in part, capital
4 improvements **that are necessary** to mitigate the transportation impacts of a
5 proposed ~~developmentland-use-project~~ **development** or subdivision **or that**
6 **benefit the proposed development or subdivision.** The Agency shall review
7 the application and recommend to the District Commission whether to require
8 mitigation of the transportation impacts of the ~~developmentland-use-project~~
9 **development** or subdivision. The District Commission may require an
10 applicant to pay the entire cost of a capital transportation project.

11 COMMENT BY LEG. COUNSEL:

12 *Earlier, VTrans proposes that a transportation fee can be assessed for a*
13 *project benefits or is attributable to a project. If this is the intent, then*
14 *language on the “benefit” concept also should be included here.*

15 (b) A District Commission may require an applicant for a
16 ~~developmentland-use-project~~ **development** or subdivision within a TID to
17 pay the transportation fee established by the Secretary if the Commission
18 determines that the fee will fund, in whole or in part, improvements ~~to that~~
19 mitigate transportation impacts of the ~~developmentland-use-project~~
20 **development** or subdivision **or that benefit the development or subdivision.**

1 (c) The authority granted to the District Commissions under this subchapter
2 is in addition to their other authority.

3 COMMENT BY LEG. COUNSEL:

4 *Again, Act 250 jurisdiction, applies to “development” and “subdivision,” not*
5 *“land use project.” The term land use project is defined in the bill to include*
6 *not only developments and subdivisions subject to Act 250, but also to land*
7 *uses that require a highway access permit, whether or not those projects need*
8 *an Act 250 permit. This section, however, relates solely to projects requiring*
9 *an Act 250 permit.*

10 § 6105. TRANSPORTATION IMPROVEMENT DISTRICT AND FEE:

11 AGENCY OF TRANSPORTATION

12 (a) The Secretary may establish a TID and transportation fee in accordance
13 with this section and section 6106 of this title if one or more capital
14 transportation projects in the most recent Capital Transportation Program will
15 provide capacity that benefits one or more ~~future~~ land use projects ~~within a~~
16 ~~discreet~~ **discrete** geographic area or will provide capacity for future land use
17 projects identified by a regional planning commission or municipality within a
18 ~~defined-discreet~~ geographic area.

19 (b) To establish a TID and transportation fee, the Secretary shall cause the
20 Agency to issue a proposed TID and transportation fee.

1 (1) In preparing the proposal, the Agency shall consult with each
2 regional planning commission~~commission, municipality and the public in~~
3 which the TID will be located on the geographic extent of the TID, the land
4 use assumptions to be used, the performance standards and the consistency of
5 the proposal with each applicable municipal and regional plan.

Comment [j4]: Requires consultation with municipalities as well as RPCs, and includes performance standards in the list of issues for consultation

6 (2) The Agency shall prepare a transportation infrastructure plan that
7 identifies highway, transit, ~~bike~~ bicycle and pedestrian infrastructure needs of
8 a proposed TID.

Comment [j5]: Added requirement to develop TID extent and fee based on a transportation infrastructure plan. This will allow for peer review of geographic extent of district, fee calculation.

9 COMMENT BY LEG. COUNSEL:

10 *The Agency-created TID and transportation fee are only authorized under the*
11 *bill for capital transportation projects in the Capital Transportation Program.*
12 *The introduction of a separate “transportation infrastructure plan” seems at*
13 *odds with that concept.*

14 The Agency’s proposal shall identify the recommended ~~discreet~~ geographic
15 extent of the TID, the proposed performance standards within the TID, and the
16 proposed transportation fee in accordance with §6106. The infrastructure plan
17 shall be prepared following sound follow generally accepted planning and
18 engineering standards, and will demonstrate that the Agency’s proposal
19 satisfies rational nexus and proportionality principles. The proposed fee
20 shall reflect a reasonable relationship between the needs that the
21 transportation infrastructure plan is designed to meet and the benefits

1 **that will be provided to or the impacts attributable the proposed land use**
2 **projects to which the fee will be assessed.** The performance standard for a
3 TID shall be suitable for the area in which the TID is located.

4 COMMENT BY LEG. COUNSEL:

5 *The proposal to have the infrastructure plan meet “sound” standards*
6 *could invite litigation on whether the district and fee should be invalidated*
7 *because the standards were unsound, thereby substituting the court’s judgment*
8 *for the Agency’s. An alternative suggestion is “generally accepted”*
9 *standards.*

10 *The proposal that the infrastructure plan meet “rational nexus and*
11 *proportionality principles” is problematic in at least two respects. First, the*
12 *described principles would apply to a fee not to an infrastructure plan.*
13 *Second, to date, the Vermont Supreme Court has not adopted the rational*
14 *nexus test, declining to address it in the context of a municipal impact fee.*
15 *Ropes v Town of Hartford, 161 Vt 187 (1993).*

16 *Therefore, alternative language is suggested that the fee should bear a*
17 *reasonable relationship between the needs to be addressed and the benefits*
18 *provided to or impacts of the project.*

19 (3) On issuance of the proposal, the Agency shall provide notice of a
20 public hearing on the proposal before the Secretary. The notice shall include
21 the date and location of the hearing, a description of the TID including the

1 capital transportation infrastructure project or projects, the TID's geographic
2 extent, and the proposed transportation fee. The Agency shall provide the
3 notice to each property owner within the TID, the municipal legislative body
4 and municipal and regional planning commissions for the area in which the
5 TID is located, and shall publish the notice on its web page and in a newspaper
6 of general circulation in the geographic area of the TID. The date of the public
7 hearing shall be not less than 30 days after issuance and publication of the
8 notice.

9 (4) The Secretary shall hold a public hearing and take testimony on the
10 Agency's proposal. The Secretary shall provide an opportunity for members
11 of the public and affected property owners to testify.

12 (5) After completing the public hearing, the Secretary may approve,
13 approve with revisions, or deny the Agency's proposal. The Secretary's
14 approval shall establish the proposed TID and transportation fee, with any
15 revisions required by the Secretary.

16 (c) The Secretary shall consider the following to establish ~~The~~ the
17 boundaries of ~~the~~ TID: ~~shall include~~:

18 (1) the existing and planned pattern of development as set forth in the
19 municipal, regional , or related transportation plans.;

20 QUESTION BY LEG. COUNSEL:

21 *What is a "related" transportation plan?*

Comment [j6]: Strengthens requirement for consistency with RPC and municipal plans

1 | (12) the future land use projects to be served by the capital
2 | transportation projects that the TID will fund; and

3 | (23) each land use project having transportation impacts that are
4 | mitigated by a capital transportation project to serve the TID.

5 | (d) The Agency may assess a transportation fee to each land use project
6 | within a TID for which a State highway access permit is required under
7 | 19 V.S.A. § 1111. This ~~subsection shall not apply to a development land~~
8 | ~~use project~~ **development** or subdivision requiring a permit under section 6081
9 | of this title.

10 | (e) The TID and transportation fee shall expire after the Secretary
11 | determines that the associated capital transportation project or projects no
12 | longer meet the approved performance standards.

13 | § 6106. TRANSPORTATION FEE; FORMULA

14 | (a) When assessing a transportation fee to a land use project, the Secretary
15 | shall apply a formula that reflects the performance standards for the TID, and
16 | the District Commission shall apply a formula that reflects those performance
17 | standards or the mitigation that the Commission determines is required to
18 | address the transportation impacts of the ~~development land-use project~~
19 | **development** or subdivision. In either case, the formula shall account for each
20 | of the following:

1 ~~(1) the vehicle trips generated by the land use project estimated pursuant~~
2 ~~to a **reasonably** **generally** accepted methodology the estimated vehicle trips~~
3 ~~generated by the land use project;~~

4 COMMENT BY LEG. COUNSEL:

5 *It is not clear what a “reasonably” accepted methodology would be – the*
6 *phrase could suggest that there are accepted methodologies that are*
7 *nonetheless unreasonable. An alternative suggestion is “generally” accepted.*

8 ~~(2) the capital costs of **highway infrastructure, pedestrian and bicycle**~~
9 ~~**facilities, public transportation, and other transportation infrastructure**~~
10 ~~**the capital transportation project or projects that benefit or** mitigate the~~
11 ~~transportation impacts of the land use project;~~

12 COMMENT BY LEG. COUNSEL

13 *§§ 6104 and 6105 authorize transportation fees to support capital*
14 *transportation projects and the terminology should be consistent. If the*
15 *definition of capital transportation project is intended to include all of the*
16 *items listed above, that could be made clear in the definition.*

17 ~~(3) the planning and administration costs related to administration of~~
18 ~~the transportation fee and, if established, the TID; and~~

19 ~~(43) conditions not attributable to the transportation impacts of the land~~
20 ~~use project including forecasted growth in background traffic and existing~~
21 ~~infrastructure and capacity deficiencies. the capacity necessary to meet the~~

Comment [J7]: clarifies that developer is not responsible to fix existing issues, or the cost to provide capacity for background growth, traffic from development outside the TID and traffic from development inside a TID that does not pay the fee (not subject to Act 250 or require a state access permit)

1 ~~performance standards under existing conditions, including background traffic~~
2 ~~not related to the land use project~~

3 ~~(4) the proportional share of the capital costs of each capital~~
4 ~~transportation infrastructure project that provides benefit to or is attributable~~
5 ~~to the transportation impacts of the land use project, and determined pursuant~~
6 ~~to a reasonably generally accepted methodology; and~~

Comment [j8]: added to strengthen proportional and rational nexus principles

7 COMMENT BY LEG. COUNSEL:

8 *Earlier, VTrans proposes that a transportation fee can be assessed for a*
9 *project benefits or is attributable to a project. If this is the intent, then*
10 *language on the “benefit” concept also should be included here.*

11 ~~(5) other funding sources available to finance the capital transportation~~
12 ~~project.~~

Comment [j9]: added to allow the calculation of fee to take into consideration other available funding sources

13 (b) When determining a transportation fee under this section for a land use
14 project, the Secretary or the District Commission may adjust the result of the
15 formula to account for one or more of the following:

Comment [j10]: added to clarify that this section guides adjustments for specific land use projects to the overall TID fee determined in Section 6106 (a).

16 (1) a traffic allocation, if any, set for the land use project by a prior
17 permit;

18 (2) the net change in vehicle trip generation of a proposed land use
19 project considering existing traffic and pass-by-trips

20 QUESTIONS BY LEG. COUNSEL:

1 1. Why is this placed here under adjustments in subsection (b)(1)?

2 Should it not be placed in subsection (a)(1) regarding vehicle trips generated?

3 2. What is meant by “existing traffic?” Traffic that would be present
4 regardless of the land use project?

5 (23) municipal traffic impact fees paid by the applicant to the extent that
6 those fees fund improvements on which the transportation fee is based;

7 (4) the fair market value of dedications of land, interests in land or
8 transportation infrastructure improvements provided by the developer to
9 mitigate offsite traffic impacts also being addressed by the capital
10 transportation project which the fee is designed to support;

11 COMMENT BY LEG. COUNSEL:

12 VTrans suggests this language to give the developer credit for “related” offsite
13 improvements, but the language proposed does not require that they be
14 “related.” Language is therefore suggested to ensure there is a relationship.

15 (35) TDM programs offered by the applicant that reduce vehicle trips;

16 (46) the siting of a proposed land use project in a downtown, village
17 center, new town center, growth center, Vermont neighborhood, or
18 neighborhood development area designated under 24 V.S.A. chapter 76A; and

19 ~~(5) any other factor that the Agency or District Commission finds~~
20 ~~appropriate.~~

Comment [j11]: Gives developers credit for related offsite improvement they make

1 (c) A transportation fee for one or more capital transportation projects in a
2 TID shall not exceed the portion of the cost of each capital transportation
3 project that is required to mitigate the transportation impacts of the land use
4 project and shall not include costs attributable to the operation, administration,
5 or maintenance of the capital transportation project.

6 (d) An applicant may choose to fund the entire cost of a capital
7 transportation project.

8 (e) In assessing a transportation fee to an applicant under this subchapter,
9 the Agency or District Commission shall require the applicant to pay the
10 transportation fee prior to commencement of construction of the applicant's
11 land use project and shall not require the applicant to delay commencement of
12 construction of that project until construction of each capital transportation
13 project for which the fee was assessed, unless the Agency or District
14 Commission determines that the capital transportation project must first be
15 built to address a transportation safety issue caused or exacerbated by the land
16 use project.

17 § 6107. TRANSPORTATION IMPROVEMENT DISTRICT FUND

18 (a) There is created a special fund within the transportation fund known as the
19 Transportation Improvement District Fund.~~The Transportation Improvement~~
20 ~~District Fund is created as a special fund in the State treasury.~~ The Agency

Comment [j12]: VTrans recommended in 2/12 testimony to HTC

1 shall deposit into the Fund each transportation fee it receives under this
2 subchapter. The Agency shall administer the Fund.

3 (b) Balances in the Fund shall be expended only for the purposes
4 authorized in this subchapter and shall not be used for the general obligations
5 of government. All balances in the Fund at the end of any fiscal year shall be
6 carried forward and remain ~~part of~~within the Fund. Interest earned by the
7 Fund shall be deposited in the Fund.

8 (c) The Agency shall provide an annual accounting to the Treasurer of each
9 transportation fee showing the source, amount collected, and each project that
10 was funded or that will be funded with the fee. **Within 15 years from the**
11 **date of fee payment, the Agency shall spend the fee on the capital**
12 **transportation project or projects in the appropriate TID or on the**
13 **appropriate capital transportation project for which the fee was paid. If**
14 **the Agency does not spend all or portion of the fee collected on the**
15 **appropriate capital transportation project or projects, the applicant or its**
16 **successors may apply to the Agency for a refund of the proportionate**
17 **share of that fee within one year of the date on which the applicant's right**
18 **to claim the refund accrued.**

19 COMMENT BY LEG. COUNSEL:

20 *It may be advisable to move the bolded language above to replace § 6109*
21 *below, which Vtrans proposes to strike, and make it applicable to all*

1 *transportation fees assessed under this subchapter, and not just those paid to*
2 *the Agency. The bill currently does not have a time limit or refund provision*
3 *for transportation fees assessed by District Commissions that may be used to*
4 *support, for example, municipal projects.*

5 § 6108. PAYMENT OF FEES

6 (a) An applicant shall pay a transportation fee assessed under this
7 subchapter shall be paid to the Agency, except that a District Commission may
8 direct an applicant to pay a transportation fee to a municipality another fund if
9 the impacts of the applicant's developmentland use project or subdivision
10 impacts are limited to municipal highways and rights-of-way or other
11 municipal transportation facilities. The Agency may require payment of a
12 transportation fee prior to issuance of a State highway access permit under 19
13 V.S.A. § 1111. A District Commission may require payment of a
14 transportation fee prior to issuance of a land use permit under this chapter.

15 ~~(b) A District Commission or the Agency respectively may authorize the~~
16 ~~payment of a transportation fee on installment at the rate of interest established~~
17 ~~pursuant to 9 V.S.A. § 41a or such other rate as the Treasurer may approve.~~

18 ~~(c) A District Commission or the Agency respectively may require a letter~~
19 ~~of credit or other security to guarantee future payment of a transportation fee or~~
20 ~~otherwise guarantee the construction of a capital transportation project.~~

21 ~~§ 6109. UNUSED PORTION REFUNDED~~

Comment [j13]: VTrans recommended deletion during testimony on 2/12 to HTC . Too cumbersome to track loan payments.

1 ~~The Agency shall proportionally refund the unexpended portion of~~
2 ~~transportation fees collected for a capital transportation project within one year~~
3 ~~of the completion of the project's construction if the actual expense incurred~~
4 ~~by the State on the capital transportation project is less than the fees collected~~
5 ~~for the project.~~

6 COMMENT BY LEG. COUNSEL:

7 *Pls see above comment under § 6107.*

8 § 6110. APPEALS

9 (a) A person aggrieved by a decision of the Secretary regarding the
10 establishment of a TID or the transportation fee for the TID may appeal to the
11 Civil Division of the Superior Court under Rule 74 of the Vermont Rules of
12 Civil Procedure.

13 (b) A permit issued by the Agency under 19 V.S.A. § 1111 may be
14 appealed in accordance with 19 V.S.A. § 5.

15 (c) Appeal of an act or decision of a District Commission under this
16 subchapter shall be pursuant to section 6089 of this title.

17 § 6111. RULEMAKING

18 The Board and the Agency may adopt rules to implement the provisions of
19 this subchapter.

20 Sec. 3. 19 V.S.A. § 1111(a) is amended to read:

Comment [j14]: VTrans recommended deletion during testimony on 2/12 to HTC It is very unlikely there will be unused funds for transportation projects that are constructed to justify the admin burden of tracking this over many years.

1 (a) Permits. Permits must be obtained by anyone or any corporation
2 wishing to use as described in this section any part of the highway right-of-way
3 on either the ~~state~~ State or town system. Notwithstanding any other statutory
4 requirement, a permit shall be required for any use of any highway
5 right-of-way, consistent with the provisions of this section. In issuing a permit
6 under this section for a use of a State highway right-of-way, the Secretary may
7 require a transportation fee in accordance with 10 V.S.A. chapter 151,
8 subchapter 5. ~~The~~ Except for this transportation fee authority of the Secretary,
9 the authority given to the ~~board~~ Board, the ~~secretary~~ Secretary, and the
10 ~~attorney general~~ Attorney General under this section shall also apply to the
11 legislative bodies of towns, or their designees.

12 ~~Sec. 4. STUDY; TRANSPORTATION IMPROVEMENT DISTRICTS;~~

13 ~~—REPORT~~

14 ~~(a) Creation. The Working Group on Transportation Improvement Districts~~
15 ~~(the Working Group) is created to study and report to the General Assembly on~~
16 ~~the role of regional planning commissions (RPC) in the establishment of~~
17 ~~transportation improvement districts (TID) and on other issues related to TIDs~~
18 ~~as set forth in this section.~~

19 ~~(b) Membership. The Working Group shall be composed of the following~~
20 ~~15 members:~~

Comment [j15]: VTrans recommended deletion during testimony on 2/12 to HTC. Not necessary with language that requires consultation with RPCs and municipalities on TID and fee in § 6105 (b)(1)

- 1 ~~(1) the Secretary of Transportation or designee, who shall chair the~~
2 ~~committee;~~
- 3 ~~(2) the Secretary of Commerce and Community Development or~~
4 ~~designee;~~
- 5 ~~(3) the Commissioner of the Department of Housing and Community~~
6 ~~Development or designee;~~
- 7 ~~(4) the Chair of the Natural Resources Board or designee;~~
- 8 ~~(5) two members of the Vermont Planning and Development~~
9 ~~Association appointed by the Association;~~
- 10 ~~(6) a member designated by the Vermont League of Cities and Towns;~~
- 11 ~~(7) two current members of the House of Representatives appointed by~~
12 ~~the Speaker of the House;~~
- 13 ~~(8) two current members of the Senate appointed by the Committee on~~
14 ~~Committees;~~
- 15 ~~(9) two persons engaged in the business of land development appointed~~
16 ~~by the Governor;~~
- 17 ~~(10) one member appointed by the Governor to represent environmental~~
18 ~~and smart growth organizations; and~~
- 19 ~~(11) one member designated by the Vermont Chamber of Commerce.~~
- 20 ~~(c) Powers and duties. The Working Group shall study the role of RPCs in~~
21 ~~establishing TIDs and associated transportation performance standards and~~

1 ~~transportation fees and other issues related to TIDs, including each of the~~
2 ~~following:~~

3 ~~(1) the statutes applicable to RPCs and the administrative~~
4 ~~responsibilities and technical capabilities of RPCs in relation to the planning~~
5 ~~and administrative requirements necessary to establish and manage a TID and~~
6 ~~associated transportation fees;~~

7 ~~(2) the requirements and procedures associated with municipal~~
8 ~~development review and impact fees under 24 V.S.A. chapters 117 and 153~~
9 ~~and how RPCs could assist with coordinating between these local land use~~
10 ~~permitting activities and the establishment of TIDs by the State;~~

11 ~~(3) the appropriate scale, size, and performance standards for TIDs; and~~

12 ~~(4) potential incentives to encourage development in a TID in~~
13 ~~accordance with the goals of 24 V.S.A. § 4302.~~

14 ~~(d) Assistance. The Working Group shall have the administrative,~~
15 ~~technical, and legal assistance of the Agencies of Transportation and of~~
16 ~~Commerce and Community Development and of the Natural Resources Board.~~

17 ~~(e) Report. On or before December 1, 2014, the Working Group shall~~
18 ~~submit a written report to the House Committees on Commerce and Economic~~
19 ~~Development, on Natural Resources and Energy, and on Transportation, and~~
20 ~~the Senate Committees on Economic Development, Housing, and General~~
21 ~~Affairs, on Natural Resources and Energy, and on Transportation with the~~

1 ~~Working Group's findings and any recommendations for legislative action.~~

2 ~~This report shall include recommendations for consideration by the General~~

3 ~~Assembly on the role of RPCs and municipalities in the planning and~~

4 ~~establishment of TIDs and associated transportation performance standards and~~

5 ~~transportation fees and any additional capabilities, resources, and statutory~~

6 ~~changes the Working Group concludes would be necessary to support the~~

7 ~~recommended role.~~

8 ~~(f) Meetings.~~

9 ~~(1) The Secretary of Transportation shall call the first meeting of the~~

10 ~~Working Group to occur on or before July 1, 2014.~~

11 ~~(2)(A) A majority of the members of the Working Group shall be~~

12 ~~physically present at the same location to constitute a quorum.~~

13 ~~(B) A member may vote only if physically present at the meeting~~

14 ~~location.~~

15 ~~(C) Action shall be taken only if there is both a quorum and a~~

16 ~~majority vote of the members physically present and voting.~~

17 ~~(3) The Working Group shall cease to exist on February 15, 2015.~~

18 ~~(g) Reimbursement.~~

19 ~~(1) For attendance at meetings during adjournment of the General~~

20 ~~Assembly, legislative members of the Working Group shall be entitled to per~~

1 ~~diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406~~
2 ~~for no more than four meetings.~~

3 ~~(2) Other members of the Working Group who are not employees of the~~
4 ~~State of Vermont and who are not otherwise compensated or reimbursed for~~
5 ~~their attendance shall be entitled to per diem compensation and reimbursement~~
6 ~~of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings. The~~
7 ~~costs of compensation and reimbursement under this subdivision (2) shall be~~
8 ~~allocated equally to the Agencies of Transportation and of Commerce and~~
9 ~~Community Development and of the Natural Resources Board.~~

10 Sec. ~~4~~ 5. EFFECTIVE DATES

11 ~~(a) This section and Sec. 4 (study; regional planning commissions;~~
12 ~~transportation improvement districts; report) shall take effect on passage.~~

13 ~~(b) The remainder of this~~ act shall take effect on July 1, 2014.

14 COMMENT BY LEG. COUNSEL:

15 *If Sec. 4 is deleted, then none of the act needs to take effect on passage.*

Comment [j16]: VTrans F&A would like more time to establish fee collection and management protocols