

Senate Calendar

TUESDAY, APRIL 14, 2015

SENATE CONVENES AT: 9:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF APRIL 9, 2015

Second Reading

Favorable with Recommendation of Amendment

- S.R. 7** Senate resolution relating to climate change
Natural Resources and Energy Report - Sen. Campion 767

UNFINISHED BUSINESS OF APRIL 10, 2015

Second Reading

Favorable with Proposal of Amendment

- H. 141** An act relating to the Organ and Tissue Donation Working Group
Health and Welfare Report - Sen. Ayer 768
- H. 304** An act relating to making miscellaneous amendments to Vermont's
retirement laws
Government Operations Report - Sen. Collamore 769

NEW BUSINESS

Third Reading

- H. 128** An act relating to the use of results-based accountability common
language in Vermont law..... 772
- H. 320** An act relating to technical corrections 772

Second Reading

Favorable

- H. 268** An act relating to approval of the adoption and the codification of
the charter of the Town of Franklin and of the merger of Franklin Fire
District No. 1 into the Town
Government Operations Report - Sen. Collamore 772

H. 310 An act relating to limited liability companies Econ. Dev., Housing and General Affairs Report - Sen. Mullin	772
H. 478 An act relating to approval of the adoption and codification of the charter of the Town of Royalton Government Operations Report - Sen. Collamore	772
J.R.S. 10 Joint resolution expressing deep concern over growing wealth and income inequality and the decline of family income in Vermont Econ. Dev., Housing and General Affairs Report - Sen. Baruth	773

Favorable with Proposal of Amendment

H. 98 An act relating to reportable disease registries and data Health and Welfare Report - Sen. McCormack	773
H. 270 An act relating to definitions for pretrial screenings and assessments Judiciary Report - Sen. Sears	773

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 488 An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation Transportation Report - Sen. Mazza	775
--	-----

ORDERED TO LIE

S. 137 An act relating to penalties for selling and dispensing marijuana.....	792
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ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, APRIL 9, 2015

Second Reading

Favorable with Recommendation of Amendment

S.R. 7.

Senate resolution relating to climate change.

Reported favorably with recommendation of amendment by Senator Campion for the Committee on Natural Resources & Energy.

The Committee recommends that the resolution be amended by striking out all after the title and inserting in lieu thereof the following:

Whereas, according to the United Nations Intergovernmental Panel on Climate Change, the “warming in the climate system is unequivocal,” and “human influence on the climate system is clear,” and

Whereas, heat-trapping particles in the atmosphere, also known as greenhouse gases, absorb heat and cause temperatures in the atmosphere to increase, and, according to the World Resources Institute, the combustion of fossil fuels (for uses including transportation, electricity, heat, industrial processes, cement production, oil refining, and more) accounts for 77 percent of the global greenhouse gas emissions by humans globally, and

Whereas, 10 V.S.A. § 578 explicitly sets forth the goal of the State of Vermont to reduce greenhouse gas pollution as follows:

It is the goal of the State to reduce emissions of greenhouse gases from within the geographic boundaries of the State and those emissions outside the boundaries of the State that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of greenhouse gases from the 1990 baseline by:

- (1) 25 percent by January 1, 2012;
- (2) 50 percent by January 1, 2028;
- (3) if practicable using reasonable efforts, 75 percent by January 1, 2050, and

Whereas, in 2013, the Department of Public Service reported to the General Assembly that as of 2011, Vermont’s greenhouse gas emissions were almost unchanged from the State’s 1990 emissions, and

Whereas, consequently, the State has already failed to meet its statutory goal of a 25 percent reduction in greenhouse gas pollution, and

Whereas, an analysis of state data from the National Climatic Data Center shows that in Vermont, during the years 1948–2011, there was an 84 percent increase in extreme precipitation, and

Whereas, extreme storms and so-called hundred-year floods have already caused hundreds of millions of dollars in damage in this decade alone, and University of Vermont researchers have said Tropical Storm Irene is a “harbinger of what’s to come,” and

Whereas, non fossil-fuel energy generation and conservation technologies reduce greenhouse gas emissions as well as help Vermonters save money and become more energy self-sufficient, and

Whereas, failure to identify accurately any problem precludes the development of effective solutions, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont recognizes that climate change is a real and present danger to health and well-being of all Vermonters, that human activities make a substantive contribution to climate change, and that it is imperative Vermont fulfill its stewardship responsibilities, as expressed in the State’s statutory goals for reduced greenhouse gas emissions, by taking steps now to reduce its reliance on fossil fuels, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

(Committee vote: 4-1-0)

UNFINISHED BUSINESS OF FRIDAY, APRIL 10, 2015

Second Reading

Favorable with Proposal of Amendment

H. 141.

An act relating to the Organ and Tissue Donation Working Group.

Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health & Welfare.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, subsection (f), by striking out “2017” and inserting in lieu thereof 2020.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 18, 2015, page 202.)

H. 304.

An act relating to making miscellaneous amendments to Vermont's retirement laws.

Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 11 to read as follows:

Sec. 11. 3 V.S.A. § 462 is amended to read:

§ 462. REEXAMINATION OF DISABILITY BENEFICIARY

* * *

(b) Should the medical board report and certify to the retirement board that any disability beneficiary has a residual functional capacity which might enable the beneficiary to return to work, and should the retirement board reasonably conclude that the beneficiary is engaged in or is, as a result of specific findings made by a certified vocational counselor, able to engage in a gainful occupation paying more than the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary's pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her, shall equal the beneficiary's average final compensation at retirement, adjusted for inflation each year following retirement on the same basis as for beneficiaries as provided in section 470 of this title. ~~Should the beneficiary's earning capacity be later changed, his or her pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his or her annuity, equals the beneficiary's average final compensation at retirement. For the purposes of this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title. provided that:~~

(1) The retirement board shall provide written notice and an opportunity to be heard to the beneficiary prior to any reduction of the beneficiary's pension under this subsection (b).

(2) If the beneficiary has engaged in a gainful occupation subsequent to receiving disability retirement, the retirement board in its discretion may reject in whole or in part a vocational assessment of the beneficiary's ability to engage in a more gainful occupation and may rely in whole or in part on evidence of the beneficiary's actual earnings in determining the amount

earnable by the beneficiary. In addition, if the retirement board's determination is based in whole or in part on a vocational assessment of ability to engage in a gainful occupation, the beneficiary shall be notified of his or her entitlement to the same reemployment rights as are available to State employees under the existing collective bargaining agreement entered into between the State and the applicable bargaining representative, or extension of such contractual benefits. Such rights shall commence as of the date of the determination and shall be based upon the reemployment rights the beneficiary would have had at the time he or she retired from State service. The reduction of pension amount will be held in abeyance until the reemployment rights have expired. In the event that the beneficiary is subsequently reemployed by the State, the beneficiary's retirement allowance shall cease, effective on the date when reemployment commences. In the event that the beneficiary is not subsequently reemployed by the State, the reduction of the beneficiary's pension shall commence the month following the month in which the beneficiary's reemployment rights expired.

(3) In the event that a beneficiary's pension has been reduced and should the beneficiary's earning capability later change, his or her pension may be further modified; provided that no reemployment rights shall be afforded to the beneficiary in connection with any later change and provided further that the new pension amount, together with the amount earnable by him or her, shall not exceed the beneficiary's average final compensation at retirement, adjusted for inflation.

(4) As used in this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title.

(c) Every recipient of disability benefits shall, annually on a date determined by the retirement board, file with the State Treasurer a statement certifying, under penalty of perjury and in such form as the retirement board shall prescribe, the full amount of his or her earnings from earned income during the preceding calendar year. The State Treasurer may request, and the beneficiary shall provide within 60 days of such request, additional financial information and records pertinent to the beneficiary's earned income. The beneficiary's statement and accompanying forms and schedules, and any other financial information and records provided by the beneficiary to the State Treasurer shall be confidential. In the event that a beneficiary fails to submit the certification or any required or requested financial information or records pertinent to the beneficiary's earned income, the beneficiary's retirement allowance shall be suspended until all such information and records have been submitted, and in the event that the failure continues for one year, all the beneficiary's rights in and to his or her pension and any pending reemployment rights under this section may be revoked by the board. Notwithstanding any

provision of this section to the contrary, if the beneficiary's earned income for the preceding year exceeded the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary shall refund the portion of the preceding year's retirement allowance that is equal to the amount of the reduction specified in subsection (b), and the refund amount may be offset against the beneficiary's monthly pension benefits. Prior to suspension or revocation of the beneficiary's retirement allowance, reemployment rights, or inception of any offset under this subsection (c), the retirement board shall provide the beneficiary with written notice and an opportunity to be heard.

Second: By inserting a new section to be Sec. 12 to read as follows:

Sec. 12. 3 V.S.A. § 463 is amended to read:

§ 463. REINSTATEMENT

(a) ~~Should a disability beneficiary be restored to service and should his or her annual earnable compensation then or at any time thereafter be equal to or greater than his or her average final compensation at retirement, or should any other beneficiary be restored to service, his or her retirement allowance shall cease, and the beneficiary shall again become a member of the retirement system, and he or she shall contribute thereafter at the same rate he or she paid prior to retirement.~~ Anything in this subchapter to the contrary notwithstanding, upon his or her subsequent retirement, he or she shall be credited with all the service creditable to him or her at the time of his or her former retirement. However, if such beneficiary is restored to membership after the attainment of ~~the age of 55 years~~ of age, his or her pension upon subsequent retirement shall not exceed the sum of the pension which he or she was receiving immediately prior to his or her last restoration to membership and the pension that may have accrued on account of membership service since his or her last restoration to membership, provided that the rate percent of his or her total pension on his or her subsequent retirement shall not exceed the rate he or she would have received had he or she remained in service during the period of prior retirement.

* * *

Third: By renumbering Sec. 11 (effective date) to be Sec. 13.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2015, page 426)

NEW BUSINESS

Third Reading

H. 128.

An act relating to the use of results-based accountability common language in Vermont law.

H. 320.

An act relating to technical corrections.

Second Reading

Favorable

H. 268.

An act relating to approval of the adoption and the codification of the charter of the Town of Franklin and of the merger of Franklin Fire District No. 1 into the Town.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(No House amendments)

H. 310.

An act relating to limited liability companies.

Reported favorably by Senator Mullin for the Committee on Economic Development, Housing & General Affairs.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 18, 2015, page 518 and March 19, 2015, page 607)

H. 478.

An act relating to approval of the adoption and codification of the charter of the Town of Royalton.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(No House amendments)

J.R.S. 10.

Joint resolution expressing deep concern over growing wealth and income inequality and the decline of family income in Vermont.

Reported favorably by Senator Baruth for the Committee on Economic Development, Housing & General Affairs.

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 98.

An act relating to reportable disease registries and data.

Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Health & Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 18 V.S.A. § 1129, in subsection (b), in the fourth sentence, by striking out the phrase “as defined in 16 V.S.A. § 1691a”.

Second: In Sec. 3, by inserting a new subsection to be subsection (g) to read as follows:

(g) As used in this section, “administrator” means an individual licensed under 16 V.S.A. chapter 5, the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a school system or school program. “Administrator” also means an individual employed by an approved or recognized independent school the majority of whose assigned time is devoted to those duties.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 18, 2015, page 451)

H. 270.

An act relating to definitions for pretrial screenings and assessments.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill by adding Secs. 2 and 3 to read as follows:

Sec. 2. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

* * *

(d)(1) In consideration of the assessment and screening, the court may order the person to comply with any of the following conditions:

(A) meet with a pretrial monitor on a schedule set by the court;

(B) participate in a clinical assessment by a substance abuse or mental health treatment provider; and

(C) comply with any level of treatment or recovery support recommended by the provider;

~~(D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and~~

~~(E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.~~

* * *

Sec. 3. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a ~~state's attorney~~ State's Attorney may summon a person who commits an offense to appear before a ~~district or superior court~~ District or Superior Court by a summons in such form as prescribed by the ~~court administrator~~ Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or ~~state's attorney~~ State's Attorney and delivered to the person.

(b) When an individual accepts a precharge services contract, the State's Attorney may issue a new citation ordering the individual to court in the event the individual fails to comply with the terms of the contract. The pretrial monitor may provide the citation to the individual at the time the individual accepts the precharge contract. This shall be considered effective service.

(c) A person so summoned shall appear at the time and place stated in the summons delivered to him or her. A person who does not so appear shall be fined not more than \$100.00 or be imprisoned not more than 90 days, or both.

~~(e)~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in ~~section~~ 23 V.S.A. § 2201 of Title 23 shall be fined not more than \$100.00.

And by renumbering the remaining section to be numerically correct

And that after passage the title of the bill be amended to read:

An act relating to pretrial screenings and assessments.

(Committee vote: 5-0-0)

(No House amendments)

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 488.

An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

Reported favorably with recommendation of proposal of amendment by Senator Mazza for the Committee on Transportation.

The Committee recommends 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:

* * * Transportation Program; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2016 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2016 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.

* * * Personnel-related Savings * * *

Sec. 2. FISCAL YEAR 2016 PERSONNEL-RELATED SAVINGS

In addition to all other reductions in spending authority under this act, overall fiscal year 2016 Transportation Program spending is reduced by \$1,500,000.00 in transportation funds, to be achieved through a combination of personnel, labor, or consultant cost savings identified by the Secretary.

* * * Program Development – Funding * * *

Sec. 3. PROGRAM DEVELOPMENT – FUNDING

(a) Spending authority in Program Development in fiscal year 2016 is modified in accordance with this section. Among projects selected in the Secretary’s discretion in accordance with subsection (b) of this section, the Secretary shall:

(1) increase project spending authority in the total amount of \$3,514,996.00 in transportation funds;

(2) reduce project spending authority in the total amount of \$6,600,000.00 in TIB funds; and

(3) reduce project spending authority in the total amount of \$12,340,016.00 in federal funds.

(b) In exercising his or her discretion to select projects on which spending will be reduced, the Secretary shall not delay a project that otherwise would proceed in fiscal year 2016, unless the full amount of the reduction required under subsection (a) of this section cannot be achieved from project savings or unforeseen delays that prevent a project from proceeding in fiscal year 2016. If a project that otherwise would have proceeded in fiscal year 2016 is delayed, the Secretary shall promptly notify:

(1) the House and Senate Committees on Transportation when the General Assembly is in session; or

(2) the Joint Transportation Oversight Committee and the Joint Fiscal Committee Office when the General Assembly is not in session.

* * * Contingent Spending Authority * * *

Sec. 3a. CONTINGENT SPENDING AUTHORITY; DELAYED PROJECTS AND PAVING PROGRAM PROJECTS OR ACTIVITIES

(a) As used in this section:

(1) The phrase “net balance” means an overall positive balance consisting of either the sum of any unreserved monies in the Transportation

Fund and TIB Fund remaining at the end of fiscal year 2015, or the overall positive balance in either Fund at the end of fiscal year 2015 after subtracting any deficit in the other Fund.

(2) The phrase “net increase” means an overall increase in forecasted revenues under the July 2015 consensus revenue forecast over the January 2015 consensus revenue forecast for fiscal year 2016, consisting of either the sum of forecasted increases in Transportation Fund and TIB Fund revenues, or an overall increase in forecasted revenues after subtracting a forecasted downgrade in either Fund.

(b) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if any net balance exists at the end of fiscal year 2015, or if there is a net increase in the July 2015 consensus revenue forecast, up to a total amount of \$3,000,000.00 of the net balance and the net increase, and up to a total amount of \$12,000,000.00 in matching federal funds, is authorized for expenditure and is hereby appropriated to be used on a project that otherwise would be required to be delayed under Sec. 3 of this act.

(c) If the full amount of any net balance and net increase is not expended under subsection (a) of this section, the remaining amount is authorized for expenditure and is hereby appropriated to advance Paving Program projects or to increase Statewide Paving Program activities in the Transportation Program adopted under this act.

(d) If the Agency expends funds under the authority of this section, it shall notify the House and Senate Committees on Transportation when the General Assembly is in session, or the Joint Transportation Oversight Committee when the General Assembly is not in session.

* * * Maintenance Program * * *

Sec. 4. MAINTENANCE PROGRAM

(a) Total authorized spending in the Maintenance Program is amended as follows:

<u>FY 16</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal services	43,784,445	43,784,445	0
Operating expenses	43,890,139	43,190,139	-700,000
Grants	95,000	95,000	0
Total	87,769,584	87,069,584	-700,000

Sources of funds

State	83,169,447	82,469,447	-700,000
Federal	4,500,137	4,500,137	0
Interdep't transfer	100,000	100,000	0
Total	87,769,584	87,069,584	-700,000

(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.

* * * Town Highway Structures * * *

Sec. 5. TOWN HIGHWAY STRUCTURES

Spending authority for Town Highway Structures Program is amended to read:

<u>FY 16</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	6,333,500	9,483,500	3,150,000
Total	6,333,500	9,483,500	3,150,000

Sources of funds

State	6,333,500	9,483,500	3,150,000
Federal	0	0	0
Total	6,333,500	9,483,500	3,150,000

* * * Town Highway Bridge Program * * *

Sec. 6. TOWN HIGHWAY BRIDGE PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project from the Town Highway Bridge Program candidate list: Fair Haven BO

1443() (scoping for BR2 on TH45).

* * * Rest Areas * * *

Sec. 7. REST AREAS PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following Rest Areas Program project: Derby IM 091-3(8) (expansion of Derby I-91 rest area).

Sec. 8. REST AREAS PROGRAM; PROJECT ADDITION

The following project is added to the candidate list of the Rest Areas Program within the fiscal year 2016 Transportation Program: Derby IM 091-3 () (rehabilitation of Derby I-91 rest area).

* * * Central Garage * * *

Sec. 9. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2016, the amount of \$162,504.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Transportation Funding Analysis * * *

Sec. 10. AGENCY ANALYSIS OF TRANSPORTATION FUNDING

(a) The Agency shall identify and evaluate funding sources, other than motor vehicle fuel taxes, that will be sufficient to maintain the State's transportation system, accounting for State and federal policies that have and will continue to reduce motor vehicle fuel consumption. In conducting this analysis, the Agency shall:

(1) review current State and federal transportation funding sources and policies, as well as policies and trends that have and will continue to reduce motor vehicle fuel consumption;

(2) review and expand on the funding options contained in the report on transportation funding required by 2012 Acts and Resolves No. 153, Sec. 40; and

(3) review the actions of other states and provinces that have reduced or eliminated motor vehicle fuel taxes and replaced them with other funding sources.

(b) The Agency also shall identify and evaluate funding sources, other than local property taxes, to support the local share of increasing costs or the expansion of public transportation services statewide.

(c) The Agency shall deliver a written report of its findings and any recommendations to the House and Senate Committees on Transportation on or before January 15, 2016.

* * * Study of Commuter Rail and Bus Service * * *

Sec. 11. STUDY OF MONTPELIER TO ST. ALBANS COMMUTER RAIL SERVICE, ALBANY TO BENNINGTON TO MANCHESTER BUS SERVICE

(a) The Agency shall study the financial and operational feasibility of a commuter rail service in the corridor between St. Albans, Essex Junction, and Montpelier, with connecting service to Burlington, and shall report its findings and any recommendations to the House and Senate Committees on Transportation on or before January 15, 2017.

(b) The Agency shall study the expected benefits and costs to the State of Vermont, implementation steps, and timeline associated with various models for initiating and operating an Albany to Bennington to Manchester bus service, and shall report its findings and any recommendations to the House and Senate Committees on Transportation on or before January 15, 2016.

* * * Review of Transportation Service Programs * * *

Sec. 12. REVIEW OF TRANSPORTATION SERVICE PROGRAM

(a) The Agency, in consultation with the Agency of Human Services and interested stakeholders, shall review the Elders and Persons with Disability Transportation Program (E&D Program). In carrying out its review, the Agency shall analyze:

(1) the gap between current and projected E&D Program resources and needs over a 10-year time frame, on regional and statewide levels;

(2) regional transportation service delivery models and their adequacy in meeting E&D Program participant needs;

(3) opportunities to achieve efficiencies by coordinating E&D Program and other human services transportation programs, and obstacles to achieving such efficiencies;

(4) challenges that exist for partner organizations to raise local matching funds for transportation services;

(5) the current and expected impact of Medicaid waiver programs on the E&D Program; and

(6) existing and emerging technology and the potential role it could play in increasing service to elders and persons with disabilities.

(b) The Agency shall submit a written report of its findings and any recommendations to the House and Senate Committees on Transportation on or before January 15, 2016.

* * * Authority of the Agency and Secretary * * *

Sec. 13. 5 V.S.A. § 204 is amended to read:

§ 204. POWERS OF AGENCY GENERALLY

(a) To carry out the purposes of this part, the Agency of Transportation shall have power, subject to subsection (b) of this section:

(1) To contract in the name of the State with individuals, firms, or corporations, with officials of a town, city, or village, with officials of a group of either or both of such governmental units, with officials of another state, or with officials or agencies of the federal government to carry out the purposes of this part.

(2) To receive, manage, use, or expend, for purposes directed by the donor, gifts, grants, or contributions of any name or nature made to the State for the promotion or development of aeronautics or for aeronautics facilities. The authority granted in this subdivision shall be subject to the provisions of 32 V.S.A. § 5.

* * *

Sec. 14. 5 V.S.A. § 206 is amended to read:

§ 206. ~~COOPERATION WITH UNITED STATES;~~ FEDERAL AND OTHER ~~MONEYS~~ MONIES RECEIVED; DEPOSIT, DESIGNATION, APPROPRIATION, AND DISBURSEMENT

(a) The ~~agency~~ Agency is authorized to cooperate with the government of the United States in the acquisition, construction, improvement, maintenance, and operation of airports and other navigation facilities in this ~~state~~ State, and to comply with the provisions of the laws or regulations of the United States for the expenditure of federal ~~moneys~~ monies upon airports and other air navigation facilities.

(b) ~~¶~~ The Agency is authorized to accept, receive, and receipt for federal ~~moneys~~ monies and other ~~moneys~~ monies, either public or private, for and in behalf of this ~~state~~ State, appropriated to the Agency or that have been approved for receipt pursuant to 32 V.S.A. § 5 or 511.

(c) All ~~moneys~~ monies accepted for disbursement by the ~~agency~~ Agency pursuant to subsection (b) of this section shall be deposited in the ~~state treasury~~ State Treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the ~~moneys~~ monies were made available, and held by the ~~state~~ State in trust for such purposes. All ~~moneys are hereby appropriated for the purposes for which they were made available, to~~ monies shall be expended

for the purposes for which they were made available and in accordance with federal laws and regulations and with this chapter. The ~~agency~~ Agency is authorized, whether acting for this ~~state~~ State or as the agent of any of its municipalities, or when requested by the ~~United States~~ U.S. government or any agency or department of the ~~United States~~ U.S. government, to disburse such ~~moneys~~ monies for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Sec. 15. 19 V.S.A. § 1502 is amended to read:

§ 1502. COOPERATION WITH COMPLIANCE WITH FEDERAL GOVERNMENT REQUIREMENTS; USE OF FEDERAL AID MONEY

(a) To effect the purposes of section 1501 of this title, the ~~agency~~ Agency may comply with federal rules and regulations, and may use so much of the funds appropriated to the Agency, or available to it pursuant to 32 V.S.A. § 5 or 511, for highway purposes as shall be necessary to secure aid from the federal government under the federal act specified in section 1501; and in addition may use ~~further~~ such sums as may be necessary for surveys, plans, specifications, estimates, and assistance necessary to carry out the provisions of this chapter.

(b) To carry out the transportation planning process required by the Intermodal Surface Transportation Efficiency Act of 1991 (the Act), ~~Pub. L. No. 102-240, § 1024, 105 Stat. 1914, 1955 (1991) (now codified at 23 U.S.C. § 134), as may be amended,~~ the ~~governor~~ Governor shall designate a metropolitan planning organization for any urbanized area of more than 50,000 population and may take other action necessary to ensure the ~~state's~~ State's compliance with the ~~federal act~~ Act and any federal regulations pertaining to the ~~act~~ Act. A designation of a metropolitan planning organization shall remain in effect until revoked by the ~~governor~~ Governor.

Sec. 16. 19 V.S.A. chapter 1 is amended to read:

CHAPTER 1. STATE HIGHWAY LAW; GENERAL TRANSPORTATION PROVISIONS

* * *

§ 7. SECRETARY; POWERS AND DUTIES

(a) The Agency shall be under the direction and supervision of a Secretary, who shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor.

(b) The Secretary shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency in accord with the

transportation policies established ~~by the Agency under section 10b~~ of this title.

(c) The Secretary may, with the approval of the Governor, transfer classified positions between the Department, Divisions, and other components of the Agency, subject only to personnel laws and rules.

(d) The Secretary shall determine the administrative, operational, and functional policies of the Agency and be accountable to the Governor for these determinations. The Secretary shall exercise the powers and shall perform the duties required for the Agency's effective administration.

(e) In addition to other duties imposed by law, the Secretary shall:

- (1) administer the laws assigned to the Agency;
- (2) coordinate and integrate the work of the Agency;
- (3) supervise and control all staff functions; and

(4) whenever the Agency is developing preliminary plans for a new or replacement maintenance facility or salt shed, first conduct a review of all previously developed building plans and give priority to utilizing a common, uniform, preexisting design.

(f) The Secretary may, within the authority of relevant State and federal statutes and regulations:

(1) ~~within the authority of relevant State and federal statutes and regulations~~, transfer appropriations or parts of appropriations within or between the department, divisions, and sections;

(2) cooperate with the appropriate federal agencies and receive federal funds in support of programs within the Agency;

(3) submit plans and reports, and in other respects comply with federal laws and regulations which pertain to programs administered by the Agency;

(4) make rules consistent with the law for the internal administration of the Agency and its programs;

(5) create advisory councils or committees as he or she deems necessary within the Agency, and appoint the members for a term not exceeding his or hers. Councils or committees created pursuant to this subdivision may include persons who are not officers or employees of the Agency;

(6) provide training and instruction for ~~any~~ employees of the Agency at the expense of the Agency, and provide training and instruction for employees of Vermont municipalities. Where appropriate, the Secretary may provide training and instruction for municipal employees at the expense of the Agency;

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

(8) ~~[Deleted.]~~ [Repealed.]

* * *

* * * Middlebury Rail Tunnel Project * * *

Sec. 17. MIDDLEBURY RAIL TUNNEL PROJECT

Notwithstanding 5 V.S.A. § 3670(a) and (b), the Middlebury WCRS(23) Project (to replace the existing Merchants Row and Main Street bridges over the Vermont Railway line and to lower the grade of the Vermont Railway line) may be constructed without the prior approval of the Transportation Board to provide a minimum vertical clearance of 21' 0" over the highest track elevation, but only if the Agency, Vermont Railway, Inc., and any affected municipality agree in writing to the 21' 0" minimum vertical clearance.

* * * Potable Water Supply and Wastewater Systems Permits * * *

Sec. 18. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

* * *

(7) the subdivision of an unimproved or improved lot or campground where the subdivision results from a transfer of property for a highway or other transportation project that is authorized under the State's enacted Transportation Program or is an emergency project within the meaning of 19 V.S.A. § 10g(h), regardless of whether the State or the municipality has commenced any condemnation proceedings in connection with the project.

* * * Highway Division Director * * *

Sec. 19. 19 V.S.A. § 9(a) is amended to read:

(a) A director shall administer each division created within the ~~agency~~ Agency. The ~~secretary~~ Secretary shall appoint the directors, who shall be exempt from the classified service. The Director of the Highway Division shall be licensed as a professional engineer.

* * * Clean Water * * *

Sec. 20. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

* * *

(f) Each year, ~~\$200,000.00~~ \$1,100,000.00 of ~~the~~ Grant Program funds, or such lesser sum if all eligible applications amount to less than ~~\$200,000.00~~ \$1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including 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 Transportation Alternatives grants, the 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 Alternatives Grant Committee.

* * *

Sec. 21. 19 V.S.A. § 306(i) is added to read:

(i) Monies disbursed from the Clean Water Fund established in 10 V.S.A. § 1388 for municipalities for environmental mitigation projects related to stormwater and highways shall be administered by the Agency through the Municipal Mitigation Grant Program. Grants provided to municipalities under the Program shall be matched by local funds sufficient to cover 20 percent of the project costs.

* * * State Highway Bridge Program; Causeway Scoping Study * * *

Sec. 22. STATE HIGHWAY BRIDGE PROGRAM

(a) The following project is added to the State Highway Bridge Program: Missisquoi Bay Causeway Scoping Study.

(b) Spending authority for the Missisquoi Bay Causeway Scoping Study is authorized as follows:

<u>FY 16</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	125,000	125,000
Construction	0	0	0
Total	0	125,000	125,000

Sources of funds

State	0	0	0
TIB	0	0	0
Federal	0	100,000	100,000
Special	0	25,000	25,000
Total	0	125,000	125,000

* * * Motor Fuel Transportation Infrastructure Assessment * * *

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, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt 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:

(A) a tax of \$0.121 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~~ that is the greater of:

(I) \$0.0396; or

(II) two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor; 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.

* * *

* * * Welcome Center and Airport Namings * * *

Sec. 24. 29 V.S.A. § 821(a) is amended to read:

(a) State buildings.

* * *

(11) “Senator James M. Jeffords Welcome Center” shall be the name of the Welcome Center in Bennington.

(12) “Northeast Kingdom International Airport” shall be the name of the Newport State Airport in Coventry.

* * * Process for Naming of Transportation Facilities * * *

Sec. 25. 10 V.S.A. § 152 is amended to read:

§ 152. AUTHORITY TO NAME ROADS AND GEOGRAPHIC LOCATIONS

The ~~board of libraries~~ Board of Libraries is hereby designated the ~~state~~ State agency to name ~~roads and~~ geographic locations including ~~but not limited to~~ mountains, streams, lakes, and ponds upon petition signed by not less than 25 interested persons or by petition of an administrative department of the ~~state~~ State.

Sec. 26. 10 V.S.A. § 153 is amended to read:

§ 153. PROCEDURE

When the ~~board~~ Board receives a petition to act under section 152 of this title it shall give reasonable notice to each administrative department of the ~~state~~ State having jurisdiction of the ~~road or~~ location to be named, and to each town in which the ~~road or~~ location lies of the time and place when it will hear all interested parties.

Sec. 27. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

(a) The regulatory and quasi-judicial functions relating to transportation shall be vested in the ~~transportation board~~.

~~(b) Notwithstanding subsection (a) of this section, Board, except that the duties and responsibilities of the commissioner of motor vehicles~~ Commissioner of Motor Vehicles in Titles 23 and 32, including all quasi-judicial powers, shall continue to be vested in ~~that individual~~ the Commissioner.

(b)(1) Except as otherwise authorized by law, the Board is the sole authority responsible for naming transportation facilities owned, controlled, or maintained by the State, including highways and the bridges thereon, airports, rail facilities, rest areas, and welcome centers. The Board shall exercise its naming authority only upon petition of the legislative body of a municipality of the State, of the head of an Executive Branch agency or department of the State, or of 50 Vermont residents.

(2) The Board shall hold a public hearing for each facility requested to be named. The Board shall adopt rules governing notice and conduct of hearings, the standards to be applied in rendering decisions under this subsection, and any other matter necessary for the just disposition of naming requests. The Board shall issue a decision, which shall be subject to review on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Board may delegate the responsibility to hold a hearing to a hearing officer or a single Board member, subject to the procedure of subsection (c) of this section, but shall not be bound by 3 V.S.A. chapter 25 in carrying out its duties under this subsection.

(c) The ~~board~~ Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single ~~board~~ Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25 of Title 3, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single ~~board~~ Board member so appointed shall report his or her findings of fact in writing to the ~~board~~ Board. Any order resulting therefrom shall be rendered only by a majority of the ~~board~~ Board. Final orders of the ~~board~~ Board may be reviewed on the record by ~~the superior court~~ a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

* * *

* * * Byways Advisory Council; Scenic Roads and Byways * * *

Sec. 28. REPEAL

10 V.S.A. § 425 (Byways Advisory Council) is repealed.

Sec. 29. 19 V.S.A. chapter 25 is amended to read:

CHAPTER 25. SCENIC ROADS

§ 2501. STATE SCENIC ROADS AND BYWAYS; DESIGNATION AND DISCONTINUANCE

(a) On the recommendation of the ~~Byways Advisory Council~~ of the municipalities through which a proposed or existing State Scenic Road or

Byway passes and of the regional planning commissions that serve such municipalities, the Transportation Board may designate or discontinue any State highway, or portion of a State highway, as a State Scenic Road or Byway, in accordance with standards adopted by the Board by rule. The Board shall hold a public hearing on the recommendation, giving notice thereof to the municipalities and regional planning commissions, the Secretary, and the Commissioner of Tourism and Marketing, and shall submit a copy of its findings and decision ~~together with its findings to the Byways Advisory Council~~ to these parties within 60 days after receipt of the recommendation. The hearing shall be held in the vicinity of the proposed ~~scenic highway~~ State Scenic Road or Byway.

(b) [Repealed.]

(c) A State Scenic Road or Byway shall not be reconstructed or improved unless the reconstruction or improvement is conducted in accordance with the Agency of Transportation's Vermont Design Standards, as amended. Signs along State Scenic Roads and Byways shall comply with the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended.

§ 2502. TOWN SCENIC ROADS; DESIGNATION AND DISCONTINUANCE

(a) On recommendation of the planning commission of a municipality, or on the initiative of the legislative body of a municipality, a legislative body may, after one public hearing warned for the purpose, designate or discontinue any town highway or portion of a town highway as a town scenic ~~highway~~ road. Such action by the legislative body may be petitioned by the registered voters of the municipality pursuant to the provisions of 24 V.S.A. § 1973.

(b) A town scenic road may be reconstructed or improved in a manner consistent with the ~~agency of transportation's~~ Agency's Vermont Design Standards, as amended. A class 1, 2, or 3 scenic ~~highway~~ road shall still be eligible to receive aid pursuant to the provisions of this title. Signs along town scenic roads shall comply with the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended.

(c) [Repealed.]

§ 2503. REGISTER

The ~~agency of transportation~~ Agency may annually publish a register containing a listing of all ~~state~~ State and locally designated scenic roads and byways. Any listing shall include the mileage of each road or byway and any special, natural, historical, or scenic attractions on the road or byway.

§ 2504. ADDITIONAL FUNDS

The ~~agency~~ Agency, and any qualifying municipality, ~~shall have~~ within the authority to ~~of State and federal law,~~ may accept and spend any funds made available to them for the purpose of enhancing or establishing designated scenic roads or byways.

§ 2505. RIGHTS OF ADJACENT LANDOWNERS

Nothing in this chapter shall preclude the rights of a landowner from developing property adjacent to a designated scenic road or byway, so long as the development is in accordance with existing law or ordinance.

* * * Utility Transmission System Plans; Notification of Public Meetings * * *

Sec. 30. 30 V.S.A. § 218c(d)(2) is amended to read:

(2) Prior to the adoption of any Transmission System Plan, a utility preparing a Plan shall host at least two public meetings at which it shall present a draft of the Plan and facilitate a public discussion to identify and evaluate nontransmission alternatives. The meetings shall be at separate locations within the State, in proximity to the transmission facilities involved or as otherwise required by the Board, and each shall be noticed by at least two advertisements, each occurring between one and three weeks prior to the meetings, in newspapers having general circulation within the State and within the municipalities in which the meetings are to be held. Copies of the notices shall be provided to the Public Service Board, the Department of Public Service, any entity appointed by the Public Service Board pursuant to subdivision 209(d)(2) of this title, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, ~~the Byways Advisory Council~~, the Agency of Transportation, the Attorney General, the chair of each regional planning commission, each retail electricity provider within the State, and any public interest group that requests, or has made a standing request for, a copy of the notice. A verbatim transcript of the meetings shall be prepared by the utility preparing the Plan, shall be filed with the Public Service Board and the Department of Public Service, and shall be provided at cost to any person requesting it. The Plan shall contain a discussion of the principal contentions made at the meetings by members of the public, by any State agency, and by any utility.

* * * Notice of Hearing on Petition for Certificate of Public Good * * *

Sec. 31. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the ~~chairperson~~ chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. ~~At the time of filing its application with the Board, the petitioner shall give the Byways Advisory Council notice of the filing.~~

* * *

* * * Property Transfer Tax Return; Exemption * * *

Sec. 32. 32 V.S.A. § 9606(d) is amended to read:

(d) The property transfer tax return shall not be required of properties qualified for the exemption stated in subdivision 9603(17) of this title, or qualified for the exemption stated in subdivision 9603(2) of this title if the transfer is of an interest in property for highway purposes and the consideration for the transfer is \$10,000.00 or less. ~~A public utility~~ An entity acquiring such properties shall notify the listers of a municipality of the grantors, grantees, consideration, date of execution, and location of the ~~easement~~ property when it files for recording a deed ~~transferring a utility line easement~~ that does not require a transfer tax return under this subsection.

* * * Tax on Gains from the Sale or Exchange of Land; Exemption * * *

Sec. 33. 32 V.S.A. § 10002(q) is added to read:

(q) Also excluded from the definition of "land" is a transfer of property to the State of Vermont or a municipality for a project that is authorized under the State's enacted Transportation Program or for an emergency project within the meaning of 19 V.S.A. § 10g(h), regardless of whether the State or the municipality has commenced any condemnation proceedings.

* * * Evaluation of Adopt a Park and Ride Program * * *

Sec. 34. EVALUATION OF ADOPT A PARK AND RIDE PROGRAM

The Agency shall evaluate the merits of implementing an Adopt a Park and Ride Program, whereby organizations volunteer to clean up litter at State Park and Ride facilities with permission of the Agency. On or before January 15, 2016, the Agency shall either begin to implement such a Program or report

back to the House and Senate Committees on Transportation on the reasons it does not recommend implementing a Program.

* * * Effective Dates * * *

Sec. 35. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except that:

(1) Sec. 21 (administration of certain Clean Water Fund monies through the Municipal Mitigation Grant Program) shall take effect if and when the Clean Water Fund is established; and

(2) Secs. 25–27 (naming of State transportation facilities) shall take effect on March 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 25, 2015, page 643)

ORDERED TO LIE

S. 137.

An act relating to penalties for selling and dispensing marijuana.

PENDING ACTION: Committee Bill for Second Reading

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Frederick Kenney, II of Jericho - Executive Director of the Vermont Economic Progress Council – By Sen. Mullin for the Committee on Econ. Dev., Housing and General Affairs. (4/14/15)

Stephan Morse of Newfane – Member of the Vermont Economic Progress Council – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (4/14/15)

Shawn Staffin of West Burke – Member of the Vermont Economic Progress Council – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (4/14/15)

REPORTS ON FILE

Reports 2015

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following report is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont Legislative webpage.

1. Working Lands Enterprise Initiative Annual Report: Fiscal Year 2014. (Vermont Agency of Agriculture, Food and Markets) (March 2015)