

1 H.494

2 Introduced by Committee on Transportation

3 Date:

4 Subject: Transportation; environmental mitigation projects; park and rides;
5 public transit; utilities

6 Statement of purpose as introduced: This bill proposes to adopt the State's
7 annual Transportation Program and make miscellaneous changes to laws
8 related to transportation.

9 An act relating to the Transportation Program and miscellaneous changes to
10 transportation-related law

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

12 * * * Transportation Program Adopted as Amended; Definitions * * *

13 Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

14 (a) The Agency of Transportation's proposed fiscal year 2018

15 Transportation Program appended to the Agency of Transportation's proposed
16 fiscal year 2018 budget, as amended by this act, is adopted to the extent
17 federal, State, and local funds are available.

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

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

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

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

8 (4) “TIB funds” means monies deposited in the Transportation
9 Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

10 * * * Traffic and Safety Operations Program * * *

11 Sec. 2. TRAFFIC AND SAFETY OPERATIONS PROGRAM

12 The fiscal year 2018 Program Development – Traffic and Safety Operations
13 Program is modified as follows:

14 (1) A new project is added for the construction of a roundabout at the
15 intersection of VT 67A, Matteson Road, Silk Road, and College Drive.

16 (2) The Agency shall expend up to \$50,000.00 of federal funds on
17 development and evaluation of the project added under subdivision (1) of this
18 section, to the extent such funds become available as a result of the
19 unanticipated delay of projects approved in the fiscal year 2018 Program
20 Development Program or cost savings on such projects, or both.

1 * * * Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail * * *

2 Sec. 3. REPEAL

3 2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities
4 Program; Lamoille Valley Rail Trail) is repealed.

5 * * * Transportation Alternatives Program * * *

6 Sec. 4. 19 V.S.A. § 38 is amended to read:

7 § 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

8 * * *

9 (c) The Transportation Alternatives Grant Program is created. The Grant
10 Program shall be administered by the Agency, and shall be funded in the
11 amount provided for in 23 U.S.C. § ~~213(a)~~ 133(h), less the funds set aside for
12 the Recreational Trails Program ~~as specified in 23 U.S.C. § 213(f)~~. Awards
13 shall be made to eligible entities as defined under 23 U.S.C. § ~~213(e)(4)~~
14 133(h), and awards under the Grant Program shall be limited to the following
15 ~~activities described at 23 U.S.C. § 213(b) other than Recreational Trails~~
16 ~~Program grants~~ and as provided in subsection (f) of this section:

17 (1) construction, planning, and design of on-road and off-road trail
18 facilities for pedestrians, bicyclists, and other nonmotorized forms of
19 transportation, including sidewalks, bicycle infrastructure, pedestrian and
20 bicycle signals, traffic calming techniques, lighting and other safety-related

1 infrastructure, and transportation projects to achieve compliance with the
2 Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

3 (2) construction, planning, and design of infrastructure-related projects
4 and systems that will provide safe routes for nondrivers, including children,
5 older adults, and individuals with disabilities, to access daily needs;

6 (3) conversion and use of abandoned railroad corridors for trails for
7 pedestrians, bicyclists, or other nonmotorized transportation users;

8 (4) construction of turnouts, overlooks, and viewing areas;

9 (5) community improvement activities, including:

10 (A) inventory, control, or removal of outdoor advertising;

11 (B) historic preservation and rehabilitation of historic transportation
12 facilities;

13 (C) vegetation management practices in transportation rights-of-way
14 to improve roadway safety, prevent against invasive species, and provide
15 erosion control; and

16 (D) archaeological activities relating to impacts from implementation
17 of a transportation project eligible under this title;

18 (6) any environmental mitigation activity, including pollution
19 prevention and pollution abatement activities and mitigation to:

1 (A) address stormwater management, control, and water pollution
2 prevention or abatement related to highway construction or due to highway
3 runoff; or

4 (B) reduce vehicle-caused wildlife mortality or to restore and
5 maintain connectivity among terrestrial or aquatic habitats;

6 (7) Safe Routes to School Program projects described in Sec. 1404 of
7 Pub. L. 109–59 (SAFETEA–LU); or

8 (8) planning, designing, or constructing boulevards and other roadways
9 largely in the right-of-way of former Interstate System routes or other divided
10 highways.

11 (d) Eligible entities awarded a grant must provide all funds required to
12 match federal funds awarded for a Transportation Alternatives project. All
13 grant awards shall be decided and awarded by the Transportation Alternatives
14 Grant Committee.

15 (e) Transportation Alternatives grant awards shall be announced annually
16 by the Transportation Alternatives Grant Committee not earlier than December
17 and not later than the following March.

18 (f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be
19 reserved for municipalities for environmental mitigation projects relating to
20 stormwater and highways, including eligible salt and sand shed projects.

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,558,652	43,638,652	-1,920,000
Operating Expense	45,265,393	45,265,393	0
Grants	421,780	421,780	0
Total	91,245,825	89,325,825	-1,920,000
<u>Sources of Funds</u>			
State	87,376,083	87,376,083	0
Federal	3,769,742	1,849,742	-1,920,000
Interdept. Transfer	100,000	100,000	0
Total	91,245,825	89,325,825	-1,920,000

*** Central Garage ***

Sec. 6. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2018, the amount of \$1,296,047.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

*** Future Transportation Fund Appropriations ***

Sec. 7. 2016 Acts and Resolves No. 158, Sec. 5 is amended to read:

Sec. 5. FUTURE APPROPRIATIONS TO TOWN HIGHWAY CLASS 2
ROADWAY PROGRAM AND TO DEPARTMENT OF PUBLIC
SAFETY; LEGISLATIVE INTENT

The General Assembly intends that:

1 ~~(1)~~ At least \$400,000.00 of the \$900,000.00 reduction in the amount of
2 transportation funds appropriated to the Department of Public Safety ~~scheduled~~
3 ~~to occur~~ under 19 V.S.A. § 11a(a)(4) ~~in fiscal year 2018~~ shall be used to fund:

4 (1) in fiscal years 2018 and 2019, an increase of at least \$400,000.00 in
5 transportation funds appropriated to the Municipal Mitigation Assistance
6 Program, above the \$1,240,000.00 in transportation funds appropriated to the
7 Program in fiscal year 2017; and

8 (2) starting in fiscal year 2020, a permanent increase of at least
9 \$400,000.00 in transportation funds appropriated to the Town Highway Class 2
10 Roadway Program, above the \$7,248,750.00 in transportation funds
11 appropriated to the Town Highway Class 2 Roadway Program in prior fiscal
12 years.

13 ~~(2) The Agency shall propose a fiscal year 2018 Transportation Program~~
14 ~~that assumes \$400,000.00 of transportation funds will be appropriated to the~~
15 ~~Department of Public Safety for costs related to State Police vehicles, in~~
16 ~~addition to transportation funds appropriated to the Department of Public~~
17 ~~Safety in fiscal year 2018 pursuant to 19 V.S.A. § 11a(a)(4).~~

1 * * * State Aid for Town Highways * * *

2 Sec. 8. 19 V.S.A. § 306 is amended to read:

3 § 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

4 * * *

5 (c) State aid for town highway bridges. There shall be an annual
6 appropriation for town bridge engineering services and for aid in maintaining
7 or constructing bridges having a span of six feet or more on class 1, 2, and 3
8 town highways. Annually the Agency shall ~~distribute~~ expend these funds
9 according to a the Transportation Program plan based upon applications
10 ~~submitted by the towns~~ approved by the General Assembly. With the approval
11 of the Agency, funds may be used for alternatives which eliminate the need for
12 a bridge or bridges, including construction or reconstruction of highways,
13 purchase of parcels of land that would be landlocked by closure of a bridge or
14 bridges, payment of damages for loss of highway access, and substitution of
15 other means of access.

16 * * *

17 (h) Class 2 Town Highway Roadway Program. There shall be an annual
18 appropriation for grants to municipalities for resurfacing, rehabilitation, or
19 reconstruction of paved or unpaved class 2 town highways. Each fiscal year,
20 the Agency shall approve qualifying projects with a total estimated State share
21 cost of ~~\$7,648,750.00~~ \$7,248,750.00 at a minimum as new grants. The

1 Agency's proposed appropriation for the Program shall take into account the
2 estimated amount of qualifying invoices submitted to the Agency with respect
3 to project grants approved in prior years but not yet completed as well as with
4 respect to new project grants to be approved in the fiscal year. In a given fiscal
5 year, should expenditures in the Class 2 Town Highway Roadway Program
6 exceed the amount appropriated, the Agency shall advise the Governor of the
7 need to request a supplemental appropriation from the General Assembly to
8 fund the additional project cost, provided that the Agency has previously
9 committed to completing those projects. Funds received as grants for State aid
10 under the Class 2 Town Highway Roadway Program may be used by a
11 municipality to satisfy a portion of the matching requirements for federal
12 earmarks, subject to subsection 309b(c) of this title.

13 (i) ~~Monies~~ The Agency shall administer a Municipal Mitigation Assistance
14 Program. The Program may be funded with federal transportation funds,
15 monies from the Transportation Fund, and monies disbursed from the Clean
16 Water Fund established in 10 V.S.A. § 1388 for municipalities for
17 environmental mitigation projects related to stormwater and highways ~~shall be~~
18 ~~administered by the Agency through the Municipal Mitigation Grant Program~~
19 and for establishment and operation of stormwater utilities. Grants shall be
20 provided to municipalities from the grant funds appropriated for the Program
21 and shall be matched by local funds sufficient to cover 20 percent of the

1 project costs, except that the Agency may issue grants to assist municipalities
2 with the establishment or operation of stormwater utilities without requiring a
3 local match. From the operating expenses appropriated for the Program, the
4 Agency is authorized to pay costs billed to the Agency by municipal
5 stormwater utilities.

6 * * *

7 Sec. 9. 19 V.S.A. § 306(h) is amended to read:

8 (h) Class 2 Town Highway Roadway Program. There shall be an annual
9 appropriation for grants to municipalities for resurfacing, rehabilitation, or
10 reconstruction of paved or unpaved class 2 town highways. Each fiscal year,
11 the Agency shall approve qualifying projects with a total estimated State share
12 cost of ~~\$7,248,750.00~~ \$7,648,750.00 at a minimum as new grants. The
13 Agency's proposed appropriation for the Program shall take into account the
14 estimated amount of qualifying invoices submitted to the Agency with respect
15 to project grants approved in prior years but not yet completed as well as with
16 respect to new project grants to be approved in the fiscal year. In a given fiscal
17 year, should expenditures in the Class 2 Town Highway Roadway Program
18 exceed the amount appropriated, the Agency shall advise the Governor of the
19 need to request a supplemental appropriation from the General Assembly to
20 fund the additional project cost, provided that the Agency has previously
21 committed to completing those projects. Funds received as grants for State aid

1 under the Class 2 Town Highway Roadway Program may be used by a
2 municipality to satisfy a portion of the matching requirements for federal
3 earmarks, subject to subsection 309b(c) of this title.

4 * * * Transportation Program Terminology * * *

5 Sec. 10. 19 V.S.A. § 10 is amended to read:

6 § 10. DUTIES

7 The Agency shall, except where otherwise specifically provided by law:

8 * * *

9 (16) Inform the Joint Transportation Oversight Committee of any
10 anticipated loss or reduction of federal funding for transportation purposes due
11 to either a lack of State funds for matching, or a decrease in federal funds for
12 the ~~one-year capital program~~ Transportation Program.

13 * * *

14 Sec. 11. 19 V.S.A. § 10g is amended to read:

15 § 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

16 ADVANCEMENTS, CANCELLATIONS, AND DELAYS

17 (a) The Agency of Transportation shall annually present to the General
18 Assembly a multiyear Transportation Program covering the same number of
19 years as the Statewide Transportation Improvement ~~Plan~~ Program (STIP),
20 consisting of the recommended budget for all Agency activities for the ensuing
21 fiscal year and projected spending levels for all Agency activities for the

1 following fiscal years. The Program shall include a description and year-by-
2 year breakdown of recommended and projected funding of all projects
3 proposed to be funded within the time period of the STIP and, in addition, a
4 description of all projects that are not recommended for funding in the first
5 fiscal year of the proposed Program but which are scheduled for construction
6 during the time period covered by the STIP. The Program shall be consistent
7 with the planning process established by 1988 Acts and Resolves No. 200, as
8 codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of
9 policy set forth in sections 10b–10f of this title, and the long-range systems
10 plan, corridor studies, and project priorities developed through the capital
11 planning process under section 10i of this title.

12 * * *

13 Sec. 12. 19 V.S.A. § 1512 is amended to read:

14 § 1512. UTILITY RELOCATIONS

15 (a) When relocation of a utility is required by a project for the
16 improvement, construction, or reconstruction of a highway under the
17 provisions of this chapter, the ~~agency~~ Agency or a municipality, or both, may
18 pay for some or all of the cost of the relocation.

19 (b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A.
20 chapter 25, shall adopt rules setting standards for determining when and to

1 what extent the authority granted by subsection (a) of this section may be
2 exercised. These standards shall take into account the following:

3 * * *

4 (4) the overall effect on the ~~state's transportation capital program~~ State's
5 Transportation Program of using available highway construction funds for
6 utility relocation purposes.

7 * * * Automated Vehicle Technology Committee * * *

8 Sec. 13. AUTOMATED VEHICLE TECHNOLOGY COMMITTEE

9 (a) The Automated Vehicle Technology Committee is created, which shall
10 be composed of the following members:

11 (1) the Commissioner of Motor Vehicles or designee, who shall be the
12 Chair of the Committee;

13 (2) the Secretary of Transportation or designee;

14 (3) the Commissioner of Public Safety or designee;

15 (4) the Commissioner of Information and Innovation or designee;

16 (5) the Commissioner of Financial Regulation or designee;

17 (6) a representative designated by the Vermont Driver and Traffic
18 Safety Education Association;

19 (7) a representative of the Governor's Highway Safety Program;

20 (8) a representative of the Vermont Bar designated by the Vermont Bar
21 Association; and

1 (9) a representative of the Vermont League of Cities and Towns.

2 (b) The Committee shall gather input from citizens and stakeholders as
3 appropriate, including:

4 (1) the Vermont Vehicle and Automotive Distributors Association;

5 (2) the Alliance of Automobile Manufacturers;

6 (3) the Vermont Truck and Bus Association;

7 (4) the Vermont Public Transportation Association;

8 (5) bicycle and pedestrian advocates;

9 (6) the Vermont Center for Independent Living;

10 (7) the Commissioner of Disabilities, Aging, and Independent Living or
11 designee;

12 (8) the Vermont chapter of AARP;

13 (9) the Vermont Association of Planning and Development
14 Agencies; and

15 (10) the Vermont Police Association.

16 (c) The Committee shall study and develop recommendations on legal and
17 policy issues related to automated vehicle technology and the operation of

18 automated vehicles (AVs) on Vermont highways, including:

19 (1) the licensing of AV operators and the registration of AVs;

20 (2) AV operator education and training;

21 (3) insurance and liability issues;

- 1 (4) enforcement of laws governing AV operation;
2 (5) inspections of AVs;
3 (6) a program to authorize testing of AVs in Vermont;
4 (7) emergency response practices in relation to AVs;
5 (8) infrastructure needs associated with the rollout of AVs; and
6 (9) social, economic, and environmental consequences of the rollout
7 of AVs.

8 (d) The Committee shall meet at the call of the Chair, and shall meet no
9 fewer than two times in calendar year 2017 and no fewer than three times per
10 year until 2022.

11 (e) The Committee shall have the administrative, technical, and legal
12 assistance of the Agency of Transportation.

13 (f) Annually, on or before January 15, starting in 2018 and continuing until
14 2022, the Committee shall submit a written report summarizing its activities
15 and recommendations to the House and Senate Committees on Transportation.

16 The Committee shall cease to exist on January 15, 2022.

17 (g) Members of the Committee who are not employees of the State of
18 Vermont and who are not otherwise compensated or reimbursed for their
19 attendance shall be entitled to per diem compensation and reimbursement of
20 expenses pursuant to 32 V.S.A. § 1010 for not more than five meetings
21 per year.

1 representatives of public transit systems to establish the level of State funds
2 needed by public transit systems in Vermont, and shall consider this level in
3 formulating the Agency of Transportation's ~~State Budget request~~ proposed
4 Transportation Program.

5 (b) State funds authorized by the ~~Legislature~~ General Assembly as grant
6 assistance for the operation of public transit services shall be eligible for use as
7 a matching source for federal funds.

8 (c) The same fiscal accountability requirements and regulatory standards
9 shall apply to all grantees of funds as provided by rule of the Secretary of
10 Transportation.

11 (d) Rideshare, capital, contracted services, and transportation brokerage
12 services are not to be considered as operating funds under this section.

13 (e) State funds shall be paid ~~on a semi-annual payment basis~~ to eligible
14 grantees ~~with the first payment paid immediately upon approval of the contract~~
15 ~~and the second payment to occur at the start of the third quarter of the State~~
16 ~~fiscal year~~ as follows:

17 (1) the first payment of 50 percent of the estimated annual fiscal year
18 total shall be paid immediately upon execution of the grant;

19 (2) subsequent payments shall be paid quarterly based on projected need
20 determined by current fiscal year spending and availability of funds;

1 adjustment work, the Agency or the municipality shall allocate to each a
2 reasonable time for its role in the relocation or adjustment work after taking
3 into account:

4 (A) the season of the year; and

5 (B) the respective duties and responsibilities of the pole or conduit
6 owner and the involved utilities, including the need to install, transfer, or retire
7 individual components in a specific sequence.

8 (3) When the Agency or a municipality issues a utility relocation or
9 adjustment order in accordance with law in connection with highway
10 maintenance or construction activities, and a utility fails to move or adjust its
11 line or other facility within the time specified in the order, that utility shall be
12 liable to the State or to the municipality for damages that the State or the
13 municipality is required to pay a contractor for delay caused by the failure.

14 However, a utility shall not be liable for such damages if its failure to move or
15 adjust the line or facility is for reasons beyond its control, including:

16 emergency restoration activities; inclement weather; timing restrictions
17 imposed by law or permits; terms of collective bargaining agreements; or the
18 failure of another utility to complete its assigned responsibilities for the
19 installation, transfer, or retirement of its facilities. If the Agency or the
20 selectboard cannot agree with a utility as to whether the utility is liable or as to
21 the amount of damages under this subdivision (a)(3), the Agency or

1 selectboard may bring an action in accordance with subsection (h) of this
2 section.

3 * * *

4 (g) Permit suspension. In addition to any other enforcement powers that
5 may be provided for by law, the Secretary or his or her designated
6 representative, on behalf of the Agency or the legislative body, or designee on
7 behalf of a municipality, may suspend any permit under this section until
8 compliance is obtained. If there is continued use or activity after suspension,
9 the Secretary, on behalf of the Agency, or the legislative body, on behalf of a
10 municipality, may physically close the driveway or access point if, in the
11 opinion of the Secretary or the legislative body, the safety of highway users is
12 or may be affected.

13 (h) Restraining prohibited acts; damages. Whenever the Secretary believes
14 that any person is in violation of the provisions of this chapter, he or she may
15 also bring an action in the name of the Agency in a court of competent
16 jurisdiction against the person to collect civil penalties as provided for in
17 subsection (j) of this section ~~and~~, for damages, and to restrain by temporary or
18 permanent injunction the continuation or repetition of the violation. The
19 selectboard shall have the same authority for town highways. The Court may
20 issue temporary or permanent injunctions without bond, and any other relief as
21 may be necessary and appropriate for abatement of any violation. An action,

1 injunction, or other enforcement proceeding by a municipality relating to the
2 failure to obtain or comply with the terms and conditions of any permit issued
3 by a municipality pursuant to this section shall be instituted within 15 years
4 from the date the alleged violation first occurred and not thereafter. The
5 burden of proving the date on which the alleged violation first occurred shall
6 be on the person against whom the enforcement action is instituted.

7 * * *

8 (j) Civil penalty. Any person who violates the provisions of this chapter or
9 the terms of an order issued by a court under this chapter shall forfeit and pay
10 to the State a civil penalty of not less than \$100.00 and not more than
11 \$10,000.00 for each violation; provided however, where violation of an order
12 is of a continuing nature, each day during which the violation continues after
13 the date fixed by the court for the correction or termination of the violation
14 shall constitute an additional separate and distinct offense except during the
15 time an appeal from the order may be taken or is pending. For the purposes of
16 this subsection, the court issuing the injunction on petition of the Secretary
17 shall retain jurisdiction for purposes of awarding the civil penalty.

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* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES AND RETROACTIVITY

(a) This section and Sec. 13 (automated vehicle technology committee)
shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 7 (future appropriations) shall
apply retroactively to July 1, 2016.

(c) Sec. 9 (amending 19 V.S.A. § 306(h)) shall take effect on July 1, 2019.

(d) All other sections shall take effect on July 1, 2017.