

H.494

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

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

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

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

Transportation Program appended to the Agency of Transportation's proposed fiscal year 2018 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" means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Traffic and Safety Operations Program * * *

Sec. 2. TRAFFIC AND SAFETY OPERATIONS PROGRAM

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

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

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

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

Sec. 3. REPEAL

2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail) is repealed.

* * * Transportation Alternatives Program * * *

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

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

* * *

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

(1) construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

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

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

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

(5) community improvement activities, including:

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

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

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

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

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

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

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

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

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

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

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

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

(2) In fiscal years 2020 and 2021, Grant Program funds shall be awarded for any eligible activity and in accordance with the priorities established in subdivision (4) of this subsection.

(3) Each In fiscal year 2022 and thereafter, \$1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than \$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.

(4) Regarding Grant Program funds awarded in fiscal years 2020 and 2021, and the balance of Grant Program funds not reserved for environmental mitigation projects in fiscal year 2022 and thereafter, 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.

* * *

* * * Maintenance Program * * *

Sec. 5. MAINTENANCE

For fiscal year 2018, authorized spending in the Maintenance Program is amended as follows:

<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

Sources of Funds

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

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

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

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

* * * State Aid for Town Highways * * *

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

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(c) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the Agency shall ~~distribute~~ expend these funds according to a the Transportation Program plan based upon applications submitted by the towns approved by the General Assembly. With the approval of the Agency, funds may be used for alternatives which eliminate the need for

a bridge or bridges, including construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access, and substitution of other means of access.

* * *

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

municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(i) ~~Monies~~ The Agency shall administer a Municipal Mitigation Assistance Program. The Program may be funded with federal transportation funds, monies from the Transportation Fund, and 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 and for establishment and operation of stormwater utilities.~~ Grants shall be provided to municipalities from the grant funds appropriated for the Program and shall be matched by local funds sufficient to cover 20 percent of the project costs, except that the Agency may issue grants to assist municipalities with the establishment or operation of stormwater utilities without requiring a local match. From the operating expenses appropriated for the Program, the Agency is authorized to pay costs billed to the Agency by municipal stormwater utilities.

* * *

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

(h) Class 2 Town Highway Roadway Program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. Each fiscal year,

the Agency shall approve qualifying projects with a total estimated State share cost of ~~\$7,248,750.00~~ \$7,648,750.00 at a minimum as new grants. The Agency's proposed appropriation for the Program shall take into account the estimated amount of qualifying invoices submitted to the Agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the Class 2 Town Highway Roadway Program exceed the amount appropriated, the Agency shall advise the Governor of the need to request a supplemental appropriation from the General Assembly to fund the additional project cost, provided that the Agency has previously committed to completing those projects. Funds received as grants for State aid under the Class 2 Town Highway Roadway Program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

* * * Transportation Program Terminology * * *

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

§ 10. DUTIES

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

* * *

(16) Inform the Joint Transportation Oversight Committee of any anticipated loss or reduction of federal funding for transportation purposes due

to either a lack of State funds for matching, or a decrease in federal funds for the ~~one-year capital program~~ Transportation Program.

* * *

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

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The Agency of Transportation shall annually present to the General Assembly a multiyear Transportation Program covering the same number of years as the Statewide Transportation Improvement ~~Plan~~ Program (STIP), consisting of the recommended budget for all Agency activities for the ensuing fiscal year and projected spending levels for all Agency activities for the following fiscal years. The Program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects that are not recommended for funding in the first fiscal year of the proposed Program but which are scheduled for construction during the time period covered by the STIP. The Program shall be consistent with the planning process established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in sections 10b–10f of this title, and the long-range systems

plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

* * *

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

§ 1512. UTILITY RELOCATIONS

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

(b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A. chapter 25, shall adopt rules setting standards for determining when and to what extent the authority granted by subsection (a) of this section may be exercised. These standards shall take into account the following:

* * *

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

* * * Automated Vehicle Technology Committee * * *

Sec. 13. AUTOMATED VEHICLE TECHNOLOGY COMMITTEE

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

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

(2) the Secretary of Transportation or designee;

(3) the Commissioner of Public Safety or designee;

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

(5) the Commissioner of Financial Regulation or designee;

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

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

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

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

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

(1) the Vermont Vehicle and Automotive Distributors Association;

(2) the Alliance of Automobile Manufacturers;

(3) the Vermont Truck and Bus Association;

(4) the Vermont Public Transportation Association;

(5) bicycle and pedestrian advocates;

(6) the Vermont Center for Independent Living;

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

(8) the Vermont chapter of AARP;

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

(10) the Vermont Police Association.

(c) The Committee shall study and develop recommendations on legal and policy issues related to automated vehicle technology and the operation of automated vehicles (AVs) on Vermont highways, including:

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

(2) AV operator education and training;

(3) insurance and liability issues;

(4) enforcement of laws governing AV operation;

(5) inspections of AVs;

(6) a program to authorize testing of AVs in Vermont;

(7) emergency response practices in relation to AVs;

(8) infrastructure needs associated with the rollout of AVs; and

(9) social, economic, and environmental consequences of the rollout of AVs.

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

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

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

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

* * * Park and Rides * * *

Sec. 14. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE

HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for State

highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

* * *

(4) "Highway" shall include park and rides.

* * *

* * * Distribution of Public Transit Program Funds * * *

Sec. 15. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

(a) The Secretary of Transportation, within the annual budget setting process, shall meet with the Public Transit Advisory Council and representatives of public transit systems to establish the level of State funds needed by public transit systems in Vermont, and shall consider this level in formulating the Agency of Transportation's ~~State Budget request~~ proposed Transportation Program.

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

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

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

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

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

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

(3) additional payments, if necessary, shall occur only if actual costs exceed the previous payments and if funds are available.

* * *

* * * Highways; Utility Facilities * * *

Sec. 16. 19 V.S.A. § 1111 is amended to read:

§ 1111. PERMITTED USE OF THE RIGHT-OF-WAY; RELOCATION OR ADJUSTMENT ORDERS

(a) Permits; relocation or adjustment orders.

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

(2) Except in emergencies, the Agency or the municipality shall seek input and consider input received from affected utilities before issuing a utility relocation or adjustment order. In specifying the times for utility relocation or adjustment work, the Agency or the municipality shall allocate to each a reasonable time for its role in the relocation or adjustment work after taking into account:

(A) the season of the year; and

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

(3) When the Agency or a municipality issues a utility relocation or adjustment order in accordance with law in connection with highway maintenance or construction activities, and a utility fails to move or adjust its line or other facility within the time specified in the order, that utility shall be liable to the State or to the municipality for damages that the State or the municipality is required to pay a contractor for delay caused by the failure. However, a utility shall not be liable for such damages if its failure to move or adjust the line or facility is for reasons beyond its control, including: emergency restoration activities; inclement weather; timing restrictions imposed by law or permits; terms of collective bargaining agreements; or the failure of another utility to complete its assigned responsibilities for the installation, transfer, or retirement of its facilities. If the Agency or the selectboard cannot agree with a utility as to whether the utility is liable or as to the amount of damages under this subdivision (a)(3), the Agency or selectboard may bring an action in accordance with subsection (h) of this section.

* * *

(g) Permit suspension. In addition to any other enforcement powers that may be provided for by law, the Secretary or his or her designated representative, on behalf of the Agency or the legislative body, or designee on behalf of a municipality, may suspend any permit under this section until

compliance is obtained. If there is continued use or activity after suspension, the Secretary, on behalf of the Agency, or the legislative body, on behalf of a municipality, may physically close the driveway or access point if, in the opinion of the Secretary or the legislative body, the safety of highway users is or may be affected.

(h) Restraining prohibited acts; damages. Whenever the Secretary believes that any person is in violation of the provisions of this chapter, he or she may also bring an action in the name of the Agency in a court of competent jurisdiction against the person to collect civil penalties as provided for in subsection (j) of this section ~~and~~, for damages, and to restrain by temporary or permanent injunction the continuation or repetition of the violation. The selectboard shall have the same authority for town highways. The Court may issue temporary or permanent injunctions without bond, and any other relief as may be necessary and appropriate for abatement of any violation. An action, injunction, or other enforcement proceeding by a municipality relating to the failure to obtain or comply with the terms and conditions of any permit issued by a municipality pursuant to this section shall be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date on which the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

* * *

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

* * *

* * * 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.