

H.917: FY19 Transportation Bill—Summary of Senate Strike-all

Sec. 1 Transportation Program Adopted; Definitions

Sec. 1 adopts the Agency of Transportation's ("VTrans") proposed fiscal year 2019 Transportation Program except as the Program is amended in the bill. Sec. 1 also defines terms used throughout the bill.

Sec. 2 Federal Infrastructure Funding

Sec. 2 gives VTrans contingent authority to spend federal monies that may be received if a federal infrastructure bill is enacted that provides Vermont with additional federal funding for transportation-related projects.

More information if needed:

This spending authority:

- Is contingent on:
 - ❖ the federal monies being subject to a requirement that they be obligated or under contract by the State within a specified time period; and
 - ❖ the monies being spent on eligible projects included in the FY18 or FY19 Transportation Program or on additional town highway projects or activities. [See subdiv. (b)(1)]
- Does not authorize spending of State transportation monies. [See subdiv. (b)(2)]
- Authorizes spending of monies in FY18 and FY19. [see subdiv. (b)(1)]
- Expires on February 1, 2019. [See subsec. (a)]

Subsec. (c) requires prompt reporting of any exercise of the authority given under this section.

- VTrans recommended this section because of indications that a federal infrastructure bill may be enacted as soon as this spring and because of past experience with federal legislation that required quick spending by states of federal transportation monies.
- This section expires on February 1, 2019 because this section is aimed at giving authority to spend new federal monies outside the legislative session in case federal legislation is passed that requires quick spending of federal monies during the interim. The next General Assembly will be able to enact legislation by February 1, 2019 and thus the authority conferred in this section is not needed after this date.

Sec. 3 Infrastructure for Rebuilding America Grant

Sec. 3 authorizes VTrans to submit a grant application to the U.S. Department of Transportation (USDOT) if USDOT solicits grants under the Infrastructure for Rebuilding America (INFRA) grant program. If submitted, the grant application must be for bridge and culvert projects on Interstate 89 with a total cost of up to \$105 million.

Sec. 3 also directs VTrans:

- to identify Transportation Infrastructure Bonds as a possible source of State matching dollars if a grant application is filed; [see subdiv. (a)(2)]
- to provide prompt notice of the filing of a grant application; [see subdiv. (a)(2)] and

- if awarded a grant that requires work to begin during FY19, to include in its FY19 budget adjustment proposal any adjustments to FY19 appropriations and spending authority needed as a result of the grant.

More information if needed:

- INFRA is a federal discretionary grant program established in the 2015 federal transportation reauthorization bill (the FAST Act).

Sec. 4 Program Development—Traffic & Safety Operations

Sec. 4 adds a project to the candidate list of the Traffic & Safety Operations Program related to traffic signal upgrades in South Burlington off Exit 14 of Interstate 89.

More information if needed:

- This project was not included in VTrans' proposed Transportation Program because the request for the project came from the City of South Burlington on Jan. 12, 2018—after VTrans had already assembled its proposal.
- This project will involve signal improvements at 13 intersections, including signals at the former Sheraton Hotel, the Holiday Inn, and on Dorset St heading east from Exit 14.
- Adding this project to the “candidate list” of the Transportation Program without approving or designating a specific amount of monies to be expended on it means that monies may nonetheless be spent to start developing the project. Approximately \$900,000 in federal earmark funds are available for the project, the total cost of which is expected to be \$1.2 million, with 20% to come from the City of South Burlington and the remaining funding from the Federal Highway Administration.

Sec. 5 Program Development—Bike & Pedestrian Facilities

Sec. 5 increases spending authority for the New Awards program within the FY19 Bike-Ped Program by a total of \$300,000, which reflects an increase in spending authority of transportation funds by \$150,000 and by \$150,000 in local funds.

The New Awards program is also known as the “State Funded Small-Scale Construction Project Program,” which provides grants for construction of small-scale bicycle and pedestrian projects such as sidewalk construction, installation of pedestrian beacons, and crosswalk upgrades.

More information if needed:

- The State Funded Small-Scale Construction Project Program was created in FY16 to provide State aid for small-scale bike-ped construction projects. The Program requires a 50% local match and does not involve any federal monies or federal requirements, and thus enables projects to be constructed quickly.
- Eligible applicants include local governments; a school district or school; and a natural resource or public lands agency.

Sec. 6 Aviation Program

Sec. 6:

- Adjusts the sources of funds for the local match required for Federal Aviation Administration (FAA) grant awards for Burlington International Airport by reducing the

contribution of State transportation funds towards the match from \$750,000 to \$600,000 and by increasing the local share from \$500,000 to \$650,000.

- In the prior fiscal year, FY18, the State's contribution to the airport's local match was \$500,000. The effect of the change in this section is to reduce a proposed \$250,000 year-over-year increase in the State's contribution to be a \$100,000 year-over-year increase.

Sec. 7 Town Highway Bridge Program

Sec. 7 adds a project to the candidate list of the Town Highway Bridge Program related to scoping for replacement of Bridge 8 over the Otter Creek between the towns of Salisbury and Cornwall.

More information if needed:

- The former Bridge 8 was a covered bridge and was destroyed by fire in 2016. VTrans has installed a temporary bridge in its place.
- The bridge serves as a local bypass route between Rt 7 and Rt 30.
- Both the towns of Salisbury and Cornwall asked VTrans to add this project to the Transportation Program after VTrans had already finalized its proposed FY19 budget.
- This section authorizes scoping to begin in FY19, which will address whether the new bridge will be a covered bridge or another design. Construction on the project likely would not commence until 2022.

Sec. 8 Maintenance Program and District Leveling

Sec. 8 reduces FY19 spending authority in the transportation budget by a total of \$4 million in transportation funds to address the fact that a \$4 million lease payment from TDI New England in fiscal year 2019 that VTrans assumed would occur when it developed its proposed FY19 budget likely will not occur.

- Subsec. (b) *reduces* spending authority for the Statewide District Leveling activity in the Paving Program by \$2.4 million in transportation funds but *increases* spending authority by \$2.4 million in federal funds.
- Subsec. (c) reduces spending authority for operating expenses in the Maintenance Program by \$1.6 million in transportation funds.
- Subsecs. (d), (e), and (f) provide for the contingent restoration of the spending authority reduced in subsecs. (b) and (c) if certain events occur.¹

¹ Under subsec. (d), if TDI does make a payment to the State in FY18 or 19 pursuant to the Lease Option Agreement (or a renegotiation thereof), the Secretary of Transportation is directed to allocate the amount of the payment received in order to restore the cuts made in subsecs. (b) and/or (c).

Under subsec. (e), if TDI makes no payment or if a TDI payment is insufficient to restore the cuts, the Secretary of Transportation is directed to allocate any unreserved surplus that may exist in the Transportation Fund as of the end of the current fiscal year (FY18) as needed to restore the cuts made in subsecs. (b) and/or (c).

Under subsec. (f), if the contingent allocations under subsecs. (d) and (e) do not occur or are insufficient to restore the cuts, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of FY19 appropriations that may exist as needed to restore the cuts, but only if the appropriations are not needed for a project because of unforeseen delays or cost savings generated. In making any such appropriation transfer, reductions to town programs are to be avoided "to the extent possible" and if they do occur, such reductions must not affect the timing of reimbursements to towns or delay any projects or grants and must be replaced in FY20.

More information if needed:

- In December 2014, Champlain, VT LLC d/b/a TDI New England (“TDI”) filed a Section 248 Petition with the Vermont Public Service Board requesting permission to develop, construct, and operate the New England Clean Power Link, a proposed electric transmission line.
- On July 17, 2015, the State of Vermont entered into a Lease Option Agreement with TDI which, unless modified, expires no later than July 17, 2018.
- Under the Lease Option Agreement, TDI may exercise the option to lease certain property of the State specified in the agreement anytime during its term. If TDI exercises the option, the terms of a lease between the State and TDI will “automatically become effective” and TDI will be obligated to make annual payments to the State of \$4 million for the first 10 years of the lease, in full and in advance, with adjustments of 1.5% for each of the remaining years of the 40-year lease (unless the lease earlier terminates).
- In developing its proposed FY19 budget, VTrans assumed that TDI would exercise the lease option and that TDI would make the first \$4 million lease payment to the State in FY19.
- At this time, it appears that TDI will not exercise the lease option; thus, this section addresses the \$4 million shortfall in transportation funds.

Sec. 9 Contingent Addition to State Highway System

Sec. 9 proposes to add to the State Highway System a new segment of road in the town of Brattleboro that will connect to a new bridge that New Hampshire is constructing across the Connecticut River, if the Town of Brattleboro enters into a maintenance agreement with VTrans. If this contingency is satisfied, the new road segment will be added to the State Highway System after its construction and construction of the new bridge is substantially completed.

More information if needed:

- This section of the bill was requested by the Town of Brattleboro, and subsequently recommended by VTrans. Brattleboro’s Town Manager noted that the request was unusual, but explained that the new bridge will pose an unusually great financial burden to the town because of its height and the corresponding length of the bridge structure in Vermont, and that it will not serve any business or residence in the town.
- The road segment being constructed and added to the State Highway System is approximately 400 feet long, and will serve to connect a north-south road (VT Route 142) to the new bridge.
- The new bridge is being constructed by New Hampshire south of an existing bridge that will be closed to all but pedestrian traffic.

Sec. 10 Abandoned Aircraft

Sec. 10 creates a new subchapter of law to create a process for addressing abandoned aircraft and aircraft components left on airport property.

More information if needed:

§ 221 adds definitions of “airport manager” and “storage operator” that are used in the new subchapter.

§ 222

- Gives an airport manager authority to take custody of an aircraft or component that is “apparently abandoned”—or without a currently effective registration certificate—and to arrange for it to be secured and stored at its current location or to be removed and stored elsewhere. [See subsec. (a)] This authority may only be exercised after the airport manager attempts to give the owner and lienholder advance notice. [See subsec. (b)]
- Limits the liability of airport managers and storage operators for damages to the aircraft or aircraft component incurred while in the manager’s custody, or during its subsequent removal or storage; however, liability is not limited for “intentionally inflicted damages.” [See subsec. (c)]

§ 223 provides that:

- all reasonable storage, removal, and other costs necessarily incurred by an airport manager or a storage operator after the notice requirements are fulfilled will be a lien on the aircraft or component held by the person who incurred the costs; [see subsec. (a)]
- the owner or lienholder may contest the reasonableness and necessity of these costs. [See subsec. (b)]

§ 224 gives the owner or lienholder the right to reclaim the aircraft or aircraft component prior to any sale by paying the outstanding storage, removal, and other costs necessarily incurred.

§ 225 gives an airport manager authority to sell the aircraft or aircraft component in a commercially reasonable manner if advance notice requirements are fulfilled.

§ 226 provides that the balance of the proceeds of any sale, after payment of liens and the reasonable expenses of the sale, are to be paid to the owner or lienholder of the aircraft or aircraft component if claimed at any time within one year from the date of the sale. If the sale proceeds are not claimed within a year, they will belong to the airport manager.

Secs. 11–12 Abandoned Vessels

Sec. 11 creates a new subchapter of law to:

- prohibit the abandonment of vessels on public waters or on immediately adjacent land;
- require the Secretary of ANR to remove abandoned vessels; and
- provide for the transfer of title to abandoned vessels 60 days after certain notice requirements are satisfied.

Sec. 12 amends ANR’s environmental enforcement authority to include enforcement of abandoned vessel matters.

More information if needed:

- Under the status quo, the authority of ANR to remove abandoned vessels is contingent and requires an expensive and time-consuming enforcement process; further, ANR is not required to exercise its authority.

Subsec. (a) defines terms used in the new subchapter:

- (1) *Abandon*
- (2) *Commissioner* [of DMV]

- (3) *Law enforcement officer*
- (4) *Public waters*
- (5) *Secretary [of ANR]*
- (6) *Storage operator*
- (7) *Vessel*

Subsec. (b) provides that the authority conferred—and penalties established—in the section are in addition to authority granted and penalties establishes elsewhere in law.

Subdiv. (c)(1) establishes a civil violation for abandoning a vessel on public waters or immediately adjacent land, which ANR may enforce using its standard environmental enforcement authority.

Subdiv. (c)(2) establishes a criminal violation if a person *knowingly* abandons a petroleum-powered vessel or *knowingly* abandons a vessel that poses an imminent threat to navigation or to public health or safety, which is punishable by a fine of up to \$10,000.

Subdiv. (d)(1) requires the Secretary of ANR to cause the removal and safe storage of an abandoned vessel at the request of law enforcement officer (or on his or own initiative).

Subdiv. (d)(2) makes the vessel owner responsible for reasonable costs associated with removal and storage of the abandoned vessel and provides that the costs are a lien on the vessel held by the person who incurred the costs.

Subdiv. (d)(3) limits the liability of the Secretary of ANR to the owner or lienholder of an abandoned vessel for damages to the vessel incurred during its removal or storage, or as a result of actions taken to eliminate risks to public health or safety caused by the condition of the vessel.

Subdiv. (e)(1) requires a storage operator to send notice to DMV within 3 business days after the removal of an abandoned vessel with certain information about the vessel and its removal and contact information for how the vessel can be reclaimed.

Subdiv. (e)(2) requires the Commissioner of DMV to post and maintain on DMV's website a listing of vessels that have been removed under the authority of this section.

Subsec. (f) provides that:

- Within 30 days after the date of removal of an abandoned vessel, the storage operator must cause a “notice of intent” regarding the abandoned vessel to be published in ANR’s environmental notice bulletin, and must mail the notice to the address of the owner and of any lienholder if the address can be ascertained.
- If the owner or lienholder does not reclaim the vessel and pay the authorized costs within 60 days from the later of the publication or mailing of the notice of intent (if the address is ascertained), ownership will pass to the storage operator free of all claims.

Subsec. (g) gives the owner and lienholder rights to contest the removal, transfer of ownership, or other disposition of a vessel, and the necessity or reasonableness of costs, in a contested case before ANR, with a right of appeal to the Civil Division of Superior Court.

Secs. 13–15 Railroads; Vegetation Control

Sec. 13 repeals a law that requires towns to carry out duties of railroads annually to cut and destroy thistles and noxious weeds growing within the railroad right-of-way if the railroad fails

to fulfill this duty. The remedy for noncompliance by railroads with this duty is addressed in Sec. 15 of the bill.

Sec. 14 repeals an existing requirement that a railroad operator destroy trees, shrubs, and bushes for a distance of 80 rods (1/4 mile) in each direction from all public grade crossings, and replaces it with an obligation of railroads instead to control vegetation so that it does not obstruct a highway user's view of traffic control devices or of a train approaching the crossing.

Sec. 15 repeals language that requires towns to carry out duties of railroads that fail to control vegetation near crossings, and replaces it with language that:

- authorizes towns or the Agency of Transportation to apply to the Transportation Board for an order requiring the railroad to carry out vegetation control work; and
- establishes a civil penalty of \$100 against the railroad for each day that it fails to comply with the Board's order.

More information if needed:

- VTrans recommended these sections because Vermont's current laws regarding railroad vegetation management are inconsistent with current federal regulations and actual practice. The standard in federal regulation with regard to grade crossings is to require only that vegetation be controlled to avoid obstructing visibility of railroad signs and signals. [See 49 C.F.R. § 213.37(b)]
- Current Vermont law requires a quarter mile to be cleared in all directions at a railroad crossing, which is beyond the distance needed to address concerns about a highway user's view at the crossing and could result in removing screening adjacent to properties next to rail lines without an offsetting benefit.

Sec. 16 Penalties for Furnishing Alcoholic Beverages to Minors

Sec. 16 expands the scope of an existing penalty enhancement for violating the law that prohibits furnishing alcohol to persons under the age of 21.

Under existing law, the penalty enhancement applies when the underage person to whom alcohol is furnished operates a motor vehicle on a public highway and death or serious bodily injury results from the operation. This section expands the circumstances when the enhancement applies in order to include death or serious bodily injury resulting from operation by the underage person of a snowmobile, vessel, or ATV in specified locations.

More information if needed:

- Without the penalty enhancement, the penalty for furnishing alcohol to minors is a misdemeanor punishable by a fine of not less than \$500 and not more than \$2,000 or the possibility of imprisonment for not more than two years, or both.
- With the enhancement, the penalty is a felony punishable by a fine of not more than \$10,000 or the possibility of imprisonment for not more than five years, or both.
- "Vessel" includes most nonmotorized and motorized watercraft.

Sec. 17 President Calvin Coolidge State Historic Site; Supplemental Guide Signs

Sec. 17:

- Amends Vermont's sign law to authorize VTrans to install signs at two interstate highway interchanges for the President Calvin Coolidge State Historic Site. These signs otherwise are not authorized because the Historic Site is more than 15 miles from the interstate exits.
- Makes other technical and organizational changes to the provision in the sign law that governs supplemental guide signs in order to improve its clarity.

Sec. 18 Central Garage

Sec. 18:

- eliminates an existing formula that governs the amount of the annual transfer from the Transportation Fund to the Central Garage Fund and replaces it with a minimum transfer of \$1,318,442 starting in FY19 that must be adjusted annually for inflation;
- eliminates the requirement for a separate appropriation to a special account within the Central Garage Fund for the purchase of new or replacement highway maintenance equipment; and
- reorganizes and updates the language in the section to improve its clarity.

More information if needed:

Monies in the Central Garage Fund are used:

- to furnish equipment on a rental basis to VTrans districts and other sections of VTrans for use in construction, maintenance, and operation of highways or other transportation activities; and
- to provide general equipment repair and major overhaul services and to furnish necessary supplies for the operation of the equipment.

Sec. 19 Town Highway Aid

Sec. 19 changes the formula governing the Town Highway Aid Program budget. Under existing law, the appropriation for the Program increases or decreases based on prior year Transportation Fund appropriations. This section eliminates the possibility of a decrease to the Program based on application of the formula, and amends the formula to provide that the Program appropriation will increase by the lesser of:

- A. the year-over-year increase in the prior fiscal year Transportation Fund appropriations; or
- B. the year-over-year increase in the State's total appropriations in the previous fiscal year of General Fund, Education Fund, and State Health Care Resources Fund monies.

More information if needed:

- The formula in existing law is notwithstanding every year in the Big Bill.
- The Town Highway Aid Program budget has not been increased since FY13 (when it was raised from \$24,982,744 in FY12 to \$25,982,744).

Secs. 20–21 Transportation Public-Private Partnerships

Sec. 20 creates a new subchapter in Title 19 to establish a pilot project and parameters governing VTrans' use of public-private partnerships (P3) in carrying out transportation projects.

Sec. 21 sunsets VTrans' P3 authority, and the provision governing legislative approval of P3 proposals, *effective July 1, 2023* (i.e., after 5 years).

More information if needed:

In Sec. 20:

§ 2611:

- establishes a time-limited pilot program to authorize VTrans to receive solicited and unsolicited proposals and to enter into P3 agreements if certain conditions are met; [*see* (a)(1)]
- expresses the General Assembly's intent to review use of this P3 authority prior to its expiration and to determine whether the authority should terminate, be extended, or be amended; [*see* subsec. (b)] and
- makes clear that P3 agreements lawfully entered into prior to termination of the authority will continue in effect after termination. [*See* subsec. (c)]

§ 2612 defines terms used in the new subchapter, making clear that its scope extends only to capital development of transportation infrastructure.

§ 2613:

- authorizes VTrans to receive unsolicited proposals or to solicit proposals to undertake a project as a P3; [*see* subsec. (a)]
- directs VTrans to develop criteria to review and evaluate P3 proposals to determine if they are in the public interest and to review and evaluate all proposals received in accordance with these criteria; [*see* subsec. (a)]
- authorizes VTrans to enter into a P3 agreement with respect to a proposal that it has determined is in the public interest:
 - ❖ without legislative approval if the project is in the most recently adopted Transportation Program and total estimated State funding over the lifetime of the project will be less than \$2 million; **OR**
 - ❖ only with specific legislative approval if the project is not in the most recently adopted Transportation Program or if total estimated State funding over the lifetime of the project is \$2 million or more.

§ 2614 specifies the information that VTrans must provide the General Assembly when seeking legislative approval for a P3 proposal.

§ 2615 establishes annual reporting requirements related to P3 agreements that VTrans enters into.

Sec. 22 Gasoline Assessments; Calculations; Data Retention

Sec. 22 requires:

- the Department of Public Service to determine the tax-adjusted retail price for regular gasoline to three decimal places and to retain its quarterly calculations on its website permanently; [*see* subdiv. (2)(A)] and
- the Department of Motor Vehicles to calculate gasoline tax assessment amounts to four decimal places and to retain permanently records of its calculations, any corrections to them, and the data that are the basis for the calculations. [*See* subdiv. (2)(B)]

More information if needed:

- The Department of Public Service is required under existing law to determine and publish the tax-adjusted retail price for regular gasoline every quarter. This calculation in turn is used by DMV to calculate amounts of gasoline assessments that may apply.
- This section is added to codify methodology that has been used to calculate the average retail price and the assessments in order to ensure consistency and transparency.

Secs. 23–24 Green Mountain Transit Authority; Name Update

Secs. 23–24 replace the name “Chittenden County Transit Authority” with the name “Green Mountain Transit Authority” in statute in order to reflect that CCTA and the former Green Mountain Transit Agency (GMTA) became a single unified organization in 2011 and the unified organization became Green Mountain Transit in 2016.

Sec. 25 Electric Vehicles; Public Service

Sec. 25 [[Aaron’s description](#)]

Sec. 26 All-terrain Vehicles; Enforcement

Sec. 26 authorizes law enforcement officers to conduct safety inspections:

- on ATVs stopped for other ATV violations on the Trail System of the Vermont ATV Sportsman’s Association (VASA); and
- in a designated area warned by blue lights.

More information if needed:

- The language in this section is modeled after parallel language in the snowmobile law.

Sec. 27 All-terrain Vehicles; Operation Along Highways

Sec. 27 authorizes the operation of an ATV along a public highway if the ATV:

- is being used by an employee or agent of an electric transmission or distribution company for utility purposes; and
- is operated along the edge of the roadway and yields to other vehicles.

More information if needed:

- Under Title 23, “edge of the roadway” is defined as “the extreme right-hand limit of any improved area within the right-of-way of the highway.”

Secs. 28-29 All-terrain Vehicles; Allocation of Fees and Penalties

Sec. 28 increases from 85 to 90 the percentage of ATV fees and penalties that is allocated to ANR for use by VASA for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services, and eliminates a \$7,000 set-aside for ANR from these fees and penalties.

Sec. 29 sunsets the increase in the allocation for VASA—reducing it from 90 percent back to 85 percent of ATV fees and penalties—effective July 1, 2023 [*See Sec. 41(c)*, eff. dates].

More information if needed:

- The increase in the allocation to ANR for use by VASA is expected to total about \$29,000.
- These sections were recommended by the Commissioner of Fish and Wildlife, who stated an intent to use the increased allocation for law enforcement services, and who recommended the sunset in order provide for a look-back of the effectiveness of the increased allocation for law enforcement.

Secs. 30–31 Default Weight Limits on Town Highways

Secs. 30–31 eliminate a contradiction in current law:

- One provision in existing law, shown in Sec. 30, provides for a 24,000 pound default weight limit for vehicles operating on class 2, 3, and 4 town highways *in towns, incorporated villages, and cities*.
- Another provision in existing law provides for class 2, 3, and 4 town highway weight limits in *incorporated villages and cities* to be the same as the weight limits on the State Highway System which, depending on the vehicle’s number of axles and axle configuration, may be up to 80,000 pounds (or even higher with an annual permit).
- Secs. 30 and 31 eliminate the conflict in these two laws by specifying that the default weight limits on class 2, 3, and 4 town highways in incorporated villages is 24,000 pounds, whereas the default weight limit in cities is the same as on the State Highway System.
- These weight limits are only defaults, and the legislative body of the municipality may vote to establish weight limits that vary from these defaults.

Sec. 32 Signs Indicating Weight Limits

Sec. 32 provides that if the legal load limit of a class 2, 3, or 4 town highway leading off a class 1 town highway differs from the legal load limit on the class 1 town highway, the Secretary of Transportation must furnish a sign to the municipality where the class 1 town highway is located, as needed to indicate the legal load for each town highway leading from the class 1 town highway that has a different legal load. The sign must be furnished at no cost to the municipality, but the municipality is responsible for erecting the sign.

Secs. 33–39 Aircraft Fuel Taxes

Secs. 33–39 make miscellaneous conforming and other changes related to bringing Vermont’s taxation of aircraft fuels into compliance with restrictions of federal law imposed in connection with the Federal Aviation Administration’s (FAA) Airport Improvement Program.

More information if needed:

- VTrans receives FAA funding for the improvement of State Airports, and pass-through funding for improvements to the Burlington International Airport.
- These FAA funds come with certain compliance requirements, as provided in 49 U.S.C. § 47133 (“Restriction on Use of Revenues”), which with certain exceptions restricts the use of taxes on aviation fuel for any purpose “other than the capital or operating costs of:
 - (1) the airport;
 - (2) the local airport system, or
 - (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.”
- If the State does not comply with these restrictions, airports in the State risk losing FAA funding, which has averaged approximately \$19 million per year in recent years.
- In early 2017, the FAA requested that VTrans certify its compliance with these restrictions. On December 21, 2017 the FAA requested additional documentation regarding the enactment of legislation to ensure that the State’s use of aviation fuel tax revenues was consistent with the restrictions. In consultation with the Tax Department, VTrans determined that the State was not fully in compliance because of collection of Local Option Sales Taxes (LOT) on jet fuel. In addition, the set aside of a portion of the motor fuel tax on aviation gasoline for the DUI Enforcement Special Fund, and for distribution to the Fish and Wildlife Fund and the Department of Forests, Parks and Recreation, is inconsistent with 49 U.S.C. § 47133.
- Two main categories of aircraft fuel are distributed in Vermont: *jet fuel* and *aviation gasoline*.
 - ❖ *Jet fuel* currently is taxed under the sales and use tax chapter of law (32 V.S.A. ch. 233), resulting in the application of LOT to jet fuel in communities that have adopted the one percent sales tax LOT, which includes the city of South Burlington. Jet fuel currently is not subject to the \$0.01 per gallon petroleum distributor license fee.
 - ❖ *Aviation gasoline* is currently taxed under the general motor fuel tax chapter of law, 23 V.S.A. ch. 28, and is subject to the \$0.01 per gallon petroleum distributor license fee.

Sec. 33 amends numerous provisions in the chapter of law governing taxation of motor fuels.

§ 3101 clarifies that the phrase “aircraft fuel” includes aviation gasoline.

§ 3105 amends an existing provision that governs record keeping in order to require motor fuel distributors and dealers to keep separate records of the sale, use, consignment, or importation of aviation gasoline.

§ 3106

- Requires that revenues from the tax on aircraft fuel be spent in accordance with the federal restrictions noted above.
- Provides that a portion of the tax collected on aviation gasoline shall not be transferred to the Fish and Wildlife Fund or to the Department of Forests, Parks and

Recreation. According to VTrans, the combined impact on the Fund and on the Department will be approximately \$1,100.

§ 3108 amends an existing provision governing forms that must be submitted to DMV by motor fuel distributors to require separate reporting on the sale and use of aviation gasoline.

Sec. 34 amends a provision that governs the revenues deposited into the DUI Enforcement Special Fund in order to prevent deposit into the Fund of any proceeds from the motor fuel tax on aviation gasoline. According to VTrans, the impact on the Fund will be approximately \$1,120.

Sec. 35 requires that all monies appropriated from any tax on aircraft fuel be spent exclusively for aviation purposes consistent with federal restrictions.

Sec. 36 requires that with respect to local option taxes (LOT) on jet fuel sales:

- jet fuel returns will be exempt from the per return administrative fee;
- revenues will be allocated 70% to the municipality and 30% to the Transportation Fund, with all such revenues to be used consistent with federal restrictions.

Sec. 37 amends the section of law that lists the sources of monies deposited into the Transportation Fund to include the local option tax allocation specified in Sec. 36.

Sec. 38 codifies the status quo, which is that releases of petroleum eligible for a disbursement from the Petroleum Cleanup Fund include releases of aviation gasoline.

Sec. 39 states that a municipality which receives airport-related grants from the State must meet conditions that the Secretary of Transportation must establish to require the municipality to assist the State in identifying vendors that distribute, sell, or use aircraft jet fuel in the State in connection with the airport.

Sec. 40 Passing Motor Vehicles and Vulnerable Users

In Sec. 40:

Subsec. (b) is amended to specify that exercising due care in connection with approaching or passing a vulnerable user includes reducing speed.

Subsec. (c) is added to require the operator of a motor vehicle approaching or passing a stationary sanitation, maintenance, utility, or delivery vehicle with flashing lights to exercise due care to pass the vehicle safely.

Sec. 41 Effective Dates

In Sec. 41:

Subsec. (a) provides for several sections to take effect on passage.

Subsec. (b) provides for the town highway weight limit and signage sections, as well as several of the aircraft fuel tax-related sections, to take effect on January 1, 2019, in order to allow time for implementation.

Subsec. (c) provides an effective date of July 1, 2023, for the sunset of the shift in the allocation of ATV fees and penalties.

Subsec. (d) provides for the remaining sections of the bill to take effect on the standard effective date of July 1, 2018.