

Journal of the Senate

WEDNESDAY, JUNE 24, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil

Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bill Referred to Committee on Appropriations

H. 960.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to miscellaneous health care provisions.

House Proposal of Amendment Concurred In with Amendment

S. 301.

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous telecommunications changes.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS
FACILITIES

* * *

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2023, no new applications for certificates of public good under this section may be considered by the Commission.

* * *

(q)(1) Emergency waiver. Notwithstanding any other provisions of this section, when the Governor has declared a state of emergency pursuant to 20 V.S.A. § 9 and for 180 days after the declared state of emergency ends, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of a

temporary telecommunications facility necessary for maintaining or improving access to telecommunications services. Waivers issued under this subsection shall be valid for a period not to exceed the duration of the declared emergency plus 180 days.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public Service and the Agency of Natural Resources. The Commission shall require that additional notice be provided to those listed in subsection (e) of this section and any affected communications union districts. Upon receipt of the petition, the Commission shall conduct an expedited preliminary hearing.

(3) An order granting a waiver may include terms, conditions, and safeguards to mitigate significant adverse impacts, including the posting of a bond or other security, as the Commission deems proper, based on the scope and duration of the requested waiver.

(4) A waiver shall be granted only when the Commission finds that:

(A) good cause exists due to an emergency situation;

(B) the waiver is necessary to maintain or provide access to wireless telecommunications services;

(C) procedures will be followed to minimize significant adverse impacts under the criteria specified in subdivision (c)(1) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

Sec. 2. REPORT ON CRITERIA

On or before February 1, 2021, the Public Utility Commission shall review the criteria used in awarding a certificate of public good under 30 V.S.A. § 248a and report to the Senate Committee on Finance and the House Committee on Energy and Technology any changes that should be made in light of the recent developments in telecommunications technology.

Sec. 3. EXTENSION OF SECTION 248a NOTICE PERIOD DURING COVID-19 STATE OF EMERGENCY

Notwithstanding any contrary provision of law, during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, when an applicant

provides notice that it will be filing an application for a certificate of public good under 30 V.S.A. § 248a, a municipal legislative body or a planning commission may request, and the Public Utility Commission shall grant, a 30 day extension to the original notice period for a total 90 day notice period. This extended notice period shall be available on any notice of application for a certificate of public good pursuant to 30 V.S.A. § 248a filed during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, except those for de minimis modifications.

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;
RULE; E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, ~~whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system~~ network failure, or an outage in the electric power system. The rule shall incorporate threshold criteria for outage reporting that reflect the sparsely populated rural nature of Vermont. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before ~~February 1, 2020~~ September 30, 2020.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Brock moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out Sec. 4 in its entirety and by inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;
RULE; E-911 BOARD

(a) The Contingent upon the event described in subsection (b) of this section, the E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain information about or be apprised of, in a timely manner,

system outages applicable to wireless service providers, to providers of facilities-based, fixed voice service that is not line-powered, and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, ~~whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure,~~ or an outage in the electric power system. ~~The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.~~

(b) When one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, § 4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate the rulemaking required under subsection (a) of this section and shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers into its proposed rule, which shall be filed with the Secretary of State pursuant to 3 V.S.A. § 838 not more than 60 days after the rulemaking has commenced. Subsequent reporting thresholds adopted or enacted outside Vermont shall not trigger a new rulemaking under this section.

Which was agreed to.

Bills Passed

S. 119.

Senate bill of the following title was read the third time and passed:

An act relating to a statewide use of deadly force policy for law enforcement.

S. 219.

Senate bill of the following title:

An act relating to addressing racial bias and excessive use of force by law enforcement.

Was read the third time and passed on a roll call, Yeas, 29, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Third Reading Ordered**H. 957.**

Senator Parent, for the Committee on Education, to which was referred House bill entitled:

An act relating to extending the deadline to test for lead in the drinking water of school buildings and child care facilities.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered**H. 954.**

Senator Pearson, for the Committee on Finance, to which was referred House bill entitled:

An act relating to miscellaneous tax provisions.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 4, property tax collection, in its entirety and inserting in lieu thereof:

Sec. 4. [Deleted.]

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. [Deleted.]

Third: By striking out Sec. 12, 32 V.S.A. § 9248, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes ~~shall~~ may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Fourth: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 5825a is amended to read:

§ 5825a. CREDIT FOR VERMONT HIGHER EDUCATION
INVESTMENT PLAN CONTRIBUTIONS

(a) A taxpayer of this State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont ~~higher education investment plan~~ Higher Education Investment Plan account under 16 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by the Vermont Student Assistance Corporation to the participant.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, ~~which distribution is not used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6),~~ up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72.

(c) Repayments under ~~this subsection (b) of this section~~ shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

* * *

§ 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

(1) “Beneficiary” means any individual designated by a participation agreement to benefit from payments for qualified postsecondary education costs ~~at an institution of postsecondary education.~~

(2) “Benefits” means the payment of qualified postsecondary education costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during the beneficiary’s attendance at an institution of postsecondary education from a participant’s investment plan account.~~

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Internal Revenue Code” means the federal Internal Revenue Code of 1986, as amended, together with the regulations promulgated ~~thereunder~~ pursuant to that Code.

(5) “Qualified postsecondary education costs” means the ~~qualified costs of tuition and fees and other expenses for attendance at an approved postsecondary education institution~~ costs of tuition and fees for attendance at an approved postsecondary education institution, and other qualified higher education expenses as provided under 26 U.S.C. § 529.

(6) “Approved postsecondary education institution” means a postsecondary education institution as defined in section 2822 of this title.

(7) “Vermont Higher Education Investment Plan” or “Investment Plan” means ~~the program~~ one or more plans created pursuant to this subchapter.

(8) “Participant” means a person who has entered into a participation agreement pursuant to this subchapter intended for the ~~advance~~ payment of qualified postsecondary education costs on behalf of a beneficiary.

(9) “Participation agreement” means an agreement between a participant and the Corporation, pursuant to and conforming with the requirements of this subchapter.

§ 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN
CREATED

(a) There is created a program of the State to be known as the Vermont Higher Education Investment Plan and a trust for that purpose to be administered by the Vermont Student Assistance Corporation as an instrumentality of the State. The program may consist of one or more different investment plans, including one or more plans that may be offered to a participant only with the assistance of a qualified financial advisor.

(b) In order to establish and administer the Investment Plan, the Corporation, in addition to its other powers and authority, shall have the power and authority to:

* * *

(2) Enter into agreements with any ~~institution~~ of approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of the an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys monies~~ from the State; any unit of federal, State, or local government; or any other person, firm, partnership, or corporation for deposit contribution to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment ~~structures~~ options for participants.

(7) Make payments ~~to institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this subchapter and the rules ~~and regulations~~, policies, and procedures adopted by the Corporation.

(9) Make provision for the payment of costs of administration and operation of ~~the~~ an Investment Plan subject to the limitations on charges on participation agreements established in subdivision 2878(5) of this title.

(10) Adopt rules ~~and regulations~~, policies, and procedures to implement this subchapter and take all necessary action to ensure an Investment Plan is in conformance with the Internal Revenue Code and other applicable law.

* * *

§ 2878. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN

The Corporation shall have the authority to enter into Investment Plan participation agreements with participants ~~on behalf of beneficiaries~~ pursuant to the provisions of this subchapter, including the following terms and agreements:

(1) A participation agreement shall stipulate the terms and conditions of the Investment Plan ~~in~~ to which the participant makes ~~deposits~~ contributions.

(2) A participation agreement shall clearly specify the method for calculating the return on the ~~deposit made by the participant, which may be a variable or adjustable rate of return~~ various investment options available and shall reference the relevant expenses and other pertinent information about the account.

* * *

(4) A participation agreement shall clearly and prominently disclose to participants the risks associated with ~~depositing monies with the Corporation~~ the various investment options available under the applicable Investment Plan.

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. A participation agreement shall clearly and prominently disclose to participants that the Corporation, the State, and any other governmental entity are not liable for, nor guarantee the return of or on the participant's contributions to an Investment Plan. A participation agreement shall also clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration, operation, or services. No fee or similar charge may be imposed with regard to an investment managed by the Corporation. Any fee, load, or similar charge with regard to any investment not managed by the Corporation shall be no greater than the cost determined by the Corporation to be required to administer the investment. The cost of originating and servicing any education loans made or acquired pursuant to participation agreements shall not be considered as load charges or similar charges.

* * *

§ 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN;
INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing~~ contributing funds into an account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

§ 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be ~~deposited~~ credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, for payments to any institution of postsecondary education including for payments of qualified postsecondary education costs. The trust shall continue in existence as long as it holds any funds belonging to a participant.

* * *

§ 2879c. TAX EXEMPTION

* * *

(b) Contributions to an account held under ~~the~~ a Vermont Higher Education Investment Plan that is provided directly by the Corporation to a participant shall be eligible for a credit against Vermont income tax as provided under 32 V.S.A. § 5825a.

§ 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

The assets of the Vermont Higher Education Investment Plan shall at all times be held in trust for the benefit of the participant, shall not be commingled with any other funds of the Corporation or the State, shall be preserved, invested, and expended solely and only for the purposes set forth in this chapter and in accordance with the participation agreements, and no property rights therein shall exist in favor of the Corporation or the State. Amounts held in, or withdrawn from, a participant's Investment Plan account

under a participation agreement shall not be subject to liens, attachment, garnishment, levy, seizure, claim by creditors of the contributors, participants, or any beneficiary, or subject to any involuntary sale, transfer, or assignment by any execution or any other legal or equitable operation of law, including bankruptcy or insolvency laws.

* * *

Fifth: By inserting a Sec. 25a to read as follows:

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

Sixth: By striking out Sec. 27, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof Secs. 27–29 and their reader assistance headings to read as follows:

* * * Land Use Change Tax Lien Subordination * * *

Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

Sec. 109. REPEALS

(a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is repealed on July 1, 2020.

* * *

* * * Interest Rate; Overpayments and Underpayments * * *

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments that shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The ~~rates~~ rate established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 8, 32 V.S.A. § 5870 (use tax reporting), shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance?, Senators Pearson, Balint, Brock, Campion, Cummings, MacDonald and Sirotkin moved to amend the proposal of amendment of the Committee on Finance as follows:

First: After Sec. 10, noncollecting vendor reporting, by adding a new Sec. 10a to read as follows:

Sec. 10a. 32 V.S.A. § 9741(54) is added to read:

(54) Sales of recyclable paper carryout bags to customers pursuant to 10 V.S.A. § 6693, provided that sales of recyclable paper carryout bags to stores and food service establishments as defined under 10 V.S.A. § 6691 shall not be exempt under this subdivision and shall not be considered sales for resale under 32 V.S.A. § 9701(5).

Second: By striking out Sec. 29, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Sec. 10a, 32 V.S.A. § 9741(54) (sales and use tax exemption), shall take effect on July 1, 2020, provided that if the date of passage of this act is after July 1, 2020, then notwithstanding 1 V.S.A. § 214, Sec. 10a shall take effect retroactively on July 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Finance, as amended was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 959.

Senator Pearson, for the Committee on Finance, to which was referred House bill entitled:

An act relating to education property tax.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 3, interfund loans; borrowing; State Treasurer, in subsection (a), after “appropriation of sufficient revenue to” by striking out the word “support” and inserting in lieu thereof the word repay

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Rules Suspended; Third Reading Ordered

H. 943.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to approval of amendments to the charter of the City of St. Albans.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Third Reading Ordered

H. 946.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to approval of the adoption of the charter of the Town of Elmore.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 942.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

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

Was taken up for immediate consideration.

Senator Ashe, for the Committee on Transportation, to which the bill was referred, reported recommending 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 Adopted as Amended;
Intent; Reports; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; INTENT; REPORTS;
DEFINITIONS

(a) Transportation program adopted. The Agency of Transportation's proposed fiscal year 2021 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2021 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) Intent.

(1) It is the intent of the General Assembly that the Agency's top priority should be the transportation program adopted under subsection (a) of this section, including preserving all funding to municipalities.

(2) In response to the unprecedented challenges posed by the COVID-19 pandemic, the General Assembly acknowledges that continued funding of infrastructure will help boost our local economy and support the health and welfare of Vermonters. Accordingly, it is the intent of the General Assembly that the projects funded in this act, including under Secs. 2 and 3 of this act, will serve to support and help drive growth in Vermont's economy during this uncertain time.

(3) In light of the long-term and ongoing climate change emergency, it is the intent of the General Assembly to continue to invest in and prioritize measures that will directly contribute to the reduction of greenhouse gas emissions consistent with the State's 2016 Comprehensive Energy Plan.

(c) Reports.

(1) The Agency shall, on or before September 1, 2020, file a written report with the Joint Transportation Oversight Committee and the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(2) The Agency shall, on or before February 15, 2021, file a written report with the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(d) Definitions. As used in this act, unless otherwise indicated:

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

(2) "Electric vehicle supply equipment" has the same meaning as in 30 V.S.A. § 201 and is abbreviated "EVSE."

(3) "Federal COVID-19 legislation" includes any federal infrastructure bills or other federal legislation that provide the State with additional federal funding for transportation-related projects in fiscal year 2021 or was enacted as a result of COVID-19.

(4) "Plug-in electric vehicle," "plug-in hybrid electric vehicle," and "battery electric vehicle" have the same meanings as in 23 V.S.A. § 4(85) as amended by this act and are abbreviated "PEV," "PHEV," and "BEV."

(5) "Secretary" means the Secretary of Transportation.

(6) "TIB funds" means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

(7) The table heading "As Proposed" means the proposed 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 terms "change" or "changes" in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

* * * Summary of Transportation Investments * * *

Sec. 1a. FISCAL YEAR 2021 TRANSPORTATION INVESTMENTS
INTENDED TO REDUCE TRANSPORTATION-RELATED
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State's fiscal year 2021 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and to satisfy the Executive and Legislative Branches' commitments to the Paris Agreement climate goals. In fiscal year 2021, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$5,580,568.00, which will fund five park and ride construction projects and the design of four additional facilities scheduled for construction in fiscal year 2022. This year's park and ride program will create 330 new State-owned spaces and result in the installation of 43 level 1 EVSE charging ports. Specific additions and improvements include:

- (A) Williston—Construction of 142 new spaces;
- (B) Royalton—Construction of 91 new spaces;
- (C) Cambridge—Improvements to existing spaces;
- (D) Thetford—Construction of 42 new spaces;
- (E) Berlin (Exit 6)—Design for 65 spaces;
- (F) Berlin (Exit 7)—Design for 75 spaces;
- (G) Manchester—Design for 50 spaces; and
- (H) Williamstown—Construction of 55 new spaces.

(2) Bike and Pedestrian Facilities Program. This act, in concert with the Capital Construction Act, provides for a fiscal year expenditure of \$18,230,970.00, which will fund 39 bike and pedestrian construction projects, and 12 bike and pedestrian design, right-of-way, or design and right-of-way projects for construction in fiscal year 2021. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared use paths, bike paths, and cycling lanes. Projects are funded in Arlington, Bennington, Burlington, Chester, Colchester-Essex, Dover, East Montpelier, Enosburg Falls, Fairfield, Hardwick, Hartford, Hinesburg, Jericho, Johnson, Lake Champlain causeway, Middlebury, Milton, Montpelier-Berlin, Moretown, Pittsford, Plainfield, Proctor, Richford, Rochester, Rutland City,

Shelburne, South Burlington, Springfield, St. Albans City, St. George, St. Johnsbury, Swanton, Underhill, Waitsfield, Waterbury, West Rutland, Williston, and Wilmington.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$2,763,408.00, which will fund 16 transportation alternatives construction projects and 22 design, right-of-way, or design and right-of-way projects. Of these 38 projects, 22 involve environmental mitigation related to clean water, stormwater, or both clean water and stormwater concerns, and the remaining 15 involve bicycle and pedestrian facilities. Projects are funded in Bennington, Bridgewater, Bridport, Castleton, Chester, Colchester, Derby, Duxbury, East Montpelier, Enosburg, Essex, Essex Junction, Fair Haven, Franklin, Granville, Hartford, Hyde Park, Jericho, Middletown Springs, Montgomery, Newfane, Norwich, Pittsford, Rutland City, Shelburne, South Burlington, St. Albans, St. Johnsbury, Thetford, Vergennes, Warren, Wilmington, and Winooski.

(4) Public Transit Program. This act authorizes \$37,852,845.00 in funding for public transit uses throughout the State, which is a 30.4 percent increase over fiscal year 2019 levels. An additional \$3,000,000.00 flows through the State directly to the Green Mountain Transportation Authority. Included in the authorization are:

(A) Go! Vermont with an authorization of \$858,434.00. This authorization supports the promotion and use of carpools and vanpools.

(B) Barre Transit Expansion with an authorization of \$275,000.00. This authorization increases service available through Barre Transit.

(C) Capital Commuters with an authorization of \$100,000.00. This program provides discounted bus passes to those commuting to work in Montpelier.

(D) Vermont Kidney Association Grant with an authorization of \$50,000.00. This authorization supports the transit needs of Vermonters in need of dialysis services.

(E) Transportation Demand Management and Micro-Transit Innovations Grant Program with an authorization of \$500,000.00. Sec. 16 of this act creates the Transportation Demand Management and Micro-Transit Innovations Grant Program, to be administered by the Agency of Transportation, that will provide grant funding to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives that improve mobility and access for transit-dependent Vermonters, reduce greenhouse gas emissions, or both.

(5) Rail Program. This act authorizes \$30,815,640.00 for intercity passenger rail service and rail infrastructure throughout the State, including modifications to the Burlington Vermont Rail Systems railyard to accommodate overnight servicing to facilitate New York City-Burlington rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, added 44 additional hybrid vehicles to the fleet in fiscal year 2020. In fiscal year 2021, the Department of Buildings and General Services expects to add 24 additional PHEVs and three additional BEVs to the fleet. The Capital Construction Act authorizes \$75,000.00 for the installation of EVSE in State-owned parking lots under the jurisdiction of the Department of Buildings and General Services. This will increase the number of charging stations by eight to 10 stations, with 16 to 20 charging ports in total and is in addition to the following EVSE that will be installed by the Department of Buildings and General Services during the first two months of fiscal year 2021:

(A) Rutland Parking Garage—four stations, with eight charging ports in total;

(B) 134–136 State Street, Montpelier—seven stations, with 12 charging ports in total;

(C) Southern State Correctional Facility—one station, with two charging ports in total; and

(D) Newport Emory Hebard Office Building—one station, with two charging ports in total.

(7) Electric vehicle supply equipment. In furtherance of the State’s goal to have a direct current (DC) fast-charging station within 30 miles of every residence in Vermont, the Capital Construction Act authorizes \$750,000.00 to the VW EVSE Grant Program.

(8) Vehicle incentive programs. Sec. 14 of this act authorizes an additional \$50,000.00 to support administrative costs associated with MileageSmart, which is the State’s used high fuel efficiency vehicle incentive program, and to ensure that the State’s emissions repair program is operational not later than July 1, 2021. Secs. 3 and 5 of this act also authorize the Secretary of Transportation to expend additional monies on the New PEV Incentive Program and MileageSmart if such funding becomes available.

* * * Federal Funding * * *

Sec. 2. FEDERAL INFRASTRUCTURE AND CAPITAL FUNDING

(a) If federal COVID-19 legislation is enacted, the Secretary is authorized

to:

(1) exceed federal spending authority in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program and to obligate and expend the federal monies, as practicable, on the following federally eligible projects, with a priority placed on projects, such as the purchase of PEV buses for public transit and the construction of bicycle and pedestrian facilities and EVSE, that will directly contribute to the reduction of greenhouse gas emissions consistent with the State's 2016 Comprehensive Energy Plan and projects that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance:

(A) projects in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program;

(B) additional town highway projects; and

(C) activities that meet federal eligibility and readiness criteria;

(2) notwithstanding any provision of Title 19 of the Vermont Statutes Annotated to the contrary, waive any Title 19 match requirements for projects funded under federal COVID-19 legislation; and

(3) require that municipalities meet nonfederal match requirements for projects not authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program funded under federal COVID-19 legislation.

(b) The Agency shall promptly report the obligation or expenditure of monies under the authority of subsection (a) of this section in writing to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

(c) Nothing in this section shall be construed to authorize the Secretary to obligate or expend State Transportation Funds, General Funds, or TIB funds above amounts authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program.

(d) Subsections (a) and (b) of this section shall continue in effect until February 1, 2021.

* * * Additional Agency Spending; Redirection * * *

Sec. 3. AGENCY SPENDING; AUTHORITY TO REDIRECT; REPORT

(a) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59,

Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following activities that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

- (1) bridge maintenance;
- (2) paving and surface maintenance;
- (3) clearing of trees and brush in rights-of-way;
- (4) ledge and slope remediation;
- (5) culvert repair and replacement; and

(6) any other maintenance activities that are expected to provide an economic stimulus in Vermont communities.

(b) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following greenhouse gas emissions reduction efforts in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

(1) funding for a grant program for the installation of EVSE that builds upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation;

- (2) PEV buses for public transit;
- (3) PEVs for the State motor vehicle fleet; and

(4) funding, not to exceed \$1,000,000.00, for the New PEV Incentive Program created pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by the act.

(c) If the expenditure of monies pursuant to subsection (a) or (b) of this section will not significantly delay the planned work schedule of a project in the fiscal year 2020 and 2021 Transportation Programs, the Secretary may enter into a contract for the activity or proceed with the expenditure and shall give prompt notice of the contract or expenditure to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office and the Joint

Transportation Oversight Committee when the General Assembly is not in session.

(d) If the expenditure of monies pursuant to subsection (a) or (b) of this section will significantly delay the planned work schedule of a project, the Secretary may enter into a contract for the activity or proceed with the expenditure but shall give advance notice of at least 10 business days prior to executing the contract or making the expenditure to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee when the General Assembly is not in session.

(e) The Secretary of Administration shall, on or before July 31, 2020, file a written report listing all expenditures made during fiscal year 2020 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee.

(f) The Secretary of Administration shall, on or before July 31, 2021, file a written report listing all expenditures made during fiscal year 2021 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee.

(g) The reports required pursuant to subsections (e) and (f) of this section shall be in addition to the report required pursuant to 19 V.S.A. § 10g(e).

* * * Amtrak; Burlington Rail Yard Realignment * * *

Sec. 4. ADDITION OF BURLINGTON RAIL YARD REALIGNMENT FOR AMTRAK PROJECT

The following project is added to the development and evaluation list of Rail within the Agency's Fiscal Year 2020 Transportation Program, as adopted pursuant to 2019 Acts and Resolves No. 59, Sec. 1, and the development and evaluation list of Rail within the Agency's Proposed Fiscal Year 2021 Transportation Program: Burlington – Railyard Realignment for Amtrak.

* * * Highway Maintenance * * *

Sec. 5. HIGHWAY MAINTENANCE

(a) Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Maintenance, authorized spending is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,757,089	45,757,089	0
Operating Expenses	52,896,134	52,296,134	-600,000
Grants	240,200	240,200	0
Total	98,893,423	98,293,423	-600,000
<u>Sources of funds</u>			
State	96,415,636	95,815,636	-600,000
Federal	2,377,787	2,377,787	0
Interdepart. Transfer	100,000	100,000	0
Total	98,893,423	98,293,423	-600,000

(b) If, as of June 30, 2021, the Agency of Transportation has expended less on Maintenance Operating Expenses in fiscal year 2021 than it did in fiscal year 2020 then:

(1) authorized spending in the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Maintenance is further amended by decreasing Operating Expenses by the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, and

(2) the Secretary shall authorize the expenditure of the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, in equal proportions, on the New PEV Incentive Program and MileageSmart established pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by this act.

* * * Aviation * * *

Sec. 5a. CLARENDON SRE BUILDING

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Clarendon AV-FY20-001 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	20,000	0	-20,000
Construction	575,000	0	-575,000
Total	595,000	0	-595,000

Sources of funds

State	595,000	0	-595,000
Total	595,000	0	-595,000

Sec. 5b. MORRISTOWN FUEL FARM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Morristown AV-FY21-015 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	150,000	345,000	195,000
Total	150,000	345,000	195,000
<u>Sources of funds</u>			
State	150,000	345,000	195,000
Total	150,000	345,000	195,000

* * * Transportation Buildings * * *

Sec. 5c. LUNENBURG GARAGE

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Transportation Buildings, authorized spending for Transportation Buildings Lunenburg is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	25,000	25,000	0
Construction	350,000	0	-350,000
Total	375,000	25,000	-350,000
<u>Sources of funds</u>			
State	375,000	25,000	-350,000
Total	375,000	25,000	-350,000

* * * Program Development * * *

* * * Roadway * * *

Sec. 6. PROGRAM DEVELOPMENT; ROADWAY

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Roadway, authorized spending for Burlington MEGC M 5000(1) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	8,000,000	6,420,000	-1,580,000
Total	8,000,000	6,420,000	-1,580,000
<u>Sources of funds</u>			
TIB	240,000	192,600	-47,400

Federal	7,600,000	6,099,000	-1,501,000
Local	160,000	128,400	-31,600
Total	8,000,000	6,420,000	-1,580,000

* * * Safety and Traffic Operations * * *

Sec. 7. PROGRAM DEVELOPMENT; SAFETY AND TRAFFIC OPERATIONS

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Safety and Traffic Operations, authorized spending for Colchester HES NH 5600(14) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000
<u>Source of funds</u>			
Federal	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000

* * * Bicycle and Pedestrian Facilities * * *

Sec. 7a. PROGRAM DEVELOPMENT; BICYCLE AND PEDESTRIAN GRANT PROGRAM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bicycle and Pedestrian Facilities, authorized spending for Statewide State-Aid Construction Projects is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	468,500	868,500	400,000
Total	468,500	868,500	400,000
<u>Sources of funds</u>			
State	234,250	434,250	200,000
Local	234,250	434,250	200,000
Total	468,500	868,500	400,000

* * * Public Transit * * *

Sec. 8. PUBLIC TRANSIT; FARE-FREE

It is the intent of the General Assembly that public transit operated by transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, in the State shall be operated on a fare-free basis with monies for public transit from the Coronavirus Aid, Relief, and Economic

Security Act, Pub. L. No. 116-136 (CARES Act) as practicable.

Sec. 9. PUBLIC TRANSIT; ADDITION OF INCREASED PUBLIC TRANSIT FOR FISCAL YEAR 2021

(a) The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Public Transit: Increased Public Transit for Fiscal Year 2021.

(b) Spending authority for Increased Public Transit for Fiscal Year 2021 is authorized as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	500,000	500,000
Total	0	500,000	500,000
<u>Sources of funds</u>			
State	0	500,000	500,000
Total	0	500,000	500,000

(c) To the extent that the Agency is able to secure additional unobligated federal funds for Increased Public Transit for Fiscal Year 2021, the spending authority for Increased Public Transit for Fiscal Year 2021 is increased by that same amount in federal funds.

(d) The Agency shall increase public transit initiatives in fiscal year 2021 in conformance with the implementation plan in the Agency of Transportation’s 2019 Public Transit Policy Plan (PTPP) and findings of the Report on Methods to Increase the Use of Public Transit in Vermont prepared pursuant to 2019 Acts and Resolves No. 59, Sec. 20. Additional initiatives may include:

- (1) adding new local and regional service connections to improve rural ridership;
- (2) providing support for technology improvements for transit;
- (3) expanding access to available seats in transit vehicles; and
- (4) marketing and engaging with the public to increase awareness of public transit options.

* * * Lamoille Valley Rail Trail * * *

Sec. 10. LAMOILLE VALLEY RAIL TRAIL

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, authorized spending for Swanton-St. Johnsbury LVRT () is amended as follows:

	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>FY21</u>			
Other	2,500,000	7,030,000	4,530,000
Total	2,500,000	7,030,000	4,530,000
<u>FY22</u>			
Other	3,500,000	7,000,000	3,500,000
Total	3,500,000	7,000,000	3,500,000
<u>FY23</u>			
Other	4,500,000	0	-4,500,000
Total	4,500,000	0	-4,500,000
<u>FY24</u>			
Other	3,500,000	0	-3,500,000
Total	3,500,000	0	-3,500,000
<u>Sources of funds FY21</u>			
State	0	0	0
Other	500,000	1,430,000	930,000
Federal	2,000,000	5,600,000	3,600,000
Total	2,500,000	7,030,000	4,530,000
<u>Sources of funds FY22</u>			
State	0	0	0
Other	0	1,400,000	1,400,000
Federal	0	5,600,000	5,600,000
Total	0	7,000,000	7,000,000

(b) In the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, “Other funds of \$500,000 are General Obligation Bond proceeds appropriated in the capital bill for the Lamoille Valley Rail Trail” is struck, and “Other funds of \$2,830,000 are General Obligation Bond proceeds appropriated in the capital construction act for the Lamoille Valley Rail Trail, but if matching federal funds are not available or if federal funds do not require a state match, the funds shall be used for projects in a future capital construction act” is inserted in lieu thereof.

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c)(1), in fiscal year 2021, the amount of \$1,605,358.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

Sec. 12. CENTRAL GARAGE EQUIPMENT

In fiscal year 2021, the amount of \$8,668,094.00 is authorized for replacement equipment pursuant to 19 V.S.A. § 13(b) and, of this amount, a minimum of \$250,000.00 shall be dedicated for the replacement of Department of Motor Vehicles enforcement fleet vehicles.

* * * Plug-In Electric Vehicle Definitions * * *

Sec. 13. 23 V.S.A. § 4(85) is amended to read:

(85) “Plug-in electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system, such as from storage batteries or other portable electrical energy storage devices provided that the vehicle can draw recharge energy from a source off the vehicle such as electric vehicle supply equipment. A “plug-in electric vehicle” includes both a “battery electric vehicle” and a “plug-in hybrid electric vehicle” where:

(A) “battery electric vehicle” means a motor vehicle that can only be powered by an electric motor drawing current from a rechargeable energy storage system; and

(B) “plug-in hybrid electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system but also has an onboard combustion engine.

* * * Programs and Incentives to Foster Efficient Vehicle Adoption * * *

Sec. 14. 2019 Acts and Resolves No. 59, Sec. 34 is amended to read:

Sec. 34. VEHICLE INCENTIVE AND EMISSIONS REPAIR PROGRAMS

(a) Vehicle incentive and emissions repair programs administration.

(1) ~~The Agency of Transportation (Agency), in consultation with the Agency of Natural Resources, the Agency of Human Services, the Department of Environmental Conservation and of Public Service, Vermont electric distribution utilities that are offering incentives for PEVs, and the State’s network of community action agencies, shall establish and administer the programs described in subsections (b) and (c) of this section.~~

(2) The Agency is authorized to spend \$2,000,000.00 as appropriated in the fiscal year 2020 budget, \$50,000.00 in Transportation Fund monies, and any additional monies as appropriated in the fiscal year 2021 budget or Transportation Fund monies authorized to be expended by the Secretary of Transportation pursuant to Secs. 3 and 5 of this act, or both, on the two programs described in subsections (b) and (c) of this section. Notwithstanding

any other provision of law and subject to the approval of the Secretary of Administration, appropriations for the programs described in subsections (b) and (c) of this section remaining unexpended on June 30, 2021 shall be carried forward and designated for expenditure on these programs in the subsequent fiscal year.

(3) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the ~~two programs and up to~~ Up to \$150,000.00 of program funding may be set aside for this purpose for the programs described in subsection (c) of this section in fiscal year 2020 and \$50,000.00 of program funding shall be set aside for this purpose for the programs described in subsection (c) of this section in fiscal year 2021 and to ensure that the emissions repair program is operational not later than July 1, 2021. In fiscal year 2021, the Agency is authorized to spend up to \$200,000.00 in program funding to continue and expand the Agency's public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State through technical and consumer assistance; auto dealer education; outreach and incentive program management, including marketing, consumer support, record keeping and reporting, program development and modification, and general program administration for the program described in subsection (b) of this section; and PEV promotional efforts. The Agency shall develop, in consultation with the Departments of Environmental Conservation and of Public Service, a scope of work for funding the Agency's grants to Drive Electric Vermont pursuant to this section.

(4) The Agency shall administer the program described in subsection (b) of this section through no-cost contracts with the State's electric distribution utilities.

(5) The Agency shall annually evaluate the ~~two~~ programs to gauge effectiveness and submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committee on Finance on or before the 31st day of ~~December~~ January in each year following a year that an incentive or repair voucher ~~is~~ was provided through one of the programs. Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive or repair voucher is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

(b) Electric vehicle incentive program. A new PEV purchase and lease incentive program for Vermont residents shall structure PEV purchase and lease incentive payments by income to help ~~all~~ Vermonters benefit from

electric driving, including Vermont's most vulnerable. The program shall be known as the New PEV Incentive Program. Specifically, the program New PEV Incentive Program shall:

(1) apply to both purchases and leases of new PEVs with an emphasis on creating and matching incentives for ~~exclusively electric powered vehicles that do not contain an onboard combustion engine~~ BEVs;

(2) provide ~~incentives not more than one incentive of \$1,500.00 for a PHEV or \$2,500.00 for a BEV to Vermont households with low and moderate income at or below 160 percent of the State's prior five-year average Median Household Income (MHI) level:~~

(A) an individual domiciled in the State whose federal income tax filing status is single or head of household with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00;

(C) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00; or

(D) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(3) provide not more than one incentive of \$3,000.00 for a PHEV or \$4,000.00 for a BEV to:

(A) an individual domiciled in the State whose federal income tax filing status is single, head of household, or surviving spouse with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(B) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$50,000.00; or

(C) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(4) apply to manufactured PEVs with a Base Manufacturer's Suggested Retail Price (MSRP) of \$40,000.00 or less; and

~~(4)~~(5) provide ~~no~~ not less than \$1,100,000.00, of the initial \$2,000,000.00 authorization, and up to an additional \$2,050,000.00 in fiscal year 2021 in PEV purchase and lease incentives.

(c) High fuel efficiency vehicle incentive and emissions repair ~~program~~ programs. ~~A used~~ Used high fuel efficiency vehicle purchase incentive and emissions repair ~~program~~ programs for Vermont residents shall structure high fuel efficiency purchase incentive payments and emissions repair vouchers by income to help all Vermonters benefit from more efficient driving, including Vermont's most vulnerable. Not less than \$750,000.00 shall be provided in point-of-sale and point-of repair vouchers.

(1) ~~Specifically, the~~ The high fuel efficiency vehicle incentive program shall be known as MileageSmart and shall:

~~(1)~~(A) apply to purchases of used high fuel-efficient motor vehicles, which for purposes of this program shall be pleasure cars with a combined city/highway fuel efficiency of at least 40 miles per gallon or miles per gallon equivalent as rated by the Environmental Protection Agency when the vehicle was new, ~~and repairs of certain vehicles that failed the on-board diagnostic (OBD) systems inspection;~~

~~(2)~~(B) provide point-of-sale vouchers through the State's network of community action agencies and base eligibility for the ~~point-of-sale~~ voucher on the same criteria used for income qualification for weatherization services through the Weatherization Program ~~and eligibility for the point-of-repair vouchers on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(3)~~(C) provide ~~one of the following to qualifying individuals:~~

~~(A)~~ a point-of-sale voucher of up to \$5,000.00 to assist in the purchase of a used high fuel-efficient motor vehicle that may require that a condition of the voucher be that if the individual is the owner of either a motor vehicle that failed the OBD systems inspection or a motor vehicle that is more than 15 years old and has a combined city/highway fuel efficiency of less than 25 miles per gallon as rated by the Environmental Protection Agency when the vehicle was new that the vehicle will be removed from operation and either donated to a nonprofit organization to be used for parts or destroyed; ~~or~~

~~(B)~~(2) The emissions repair program, which shall be operational on or before July 1, 2021, shall:

(A) apply to repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;

(B) provide point-of-repair vouchers through the State's network of community action agencies and base eligibility for voucher on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and

(C) provide a point-of-repair voucher to repair a motor vehicle that was ready for testing, failed the OBD systems inspection, requires repairs that are not under warranty, and will be able to pass the State's vehicle inspection once the repairs are made provided that the point-of-repair voucher is commensurate with the fair market value of the vehicle to be repaired and does not exceed \$2,500.00, with \$2,500.00 vouchers only being available to repair vehicles with a fair market value of at least \$5,000.00.

* * *

* * * Class 2 Town Highway Roadway Program * * *

Sec. 15. 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. However, municipalities that have no State highways or class 1 town highways within their borders may use the grants for such activities with respect to both class 2 and class 3 town highways. Each fiscal year, the Agency shall approve qualifying projects with a total estimated State share cost of \$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 Demand Management and
Micro-Transit Innovations Grant Program * * *

Sec. 16. TRANSPORTATION DEMAND MANAGEMENT AND MICRO-
TRANSIT INNOVATIONS GRANT PROGRAM

(a) The Agency shall establish and administer a transportation demand management and micro-transit innovations grant program within the Public Transit Program to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives.

(b) The Agency shall distribute \$500,000.00 in grant awards, with each recipient only eligible to receive up to \$100,000.00 in grant awards.

(c) Grant awards may be used for one or more of the following: matching funds for other grant awards; program delivery costs; or for the extension of existing programs.

(d) Grant awards shall be distributed not later than November 30, 2020 and shall incentivize innovative strategies that improve both mobility and access for transit-dependent Vermonters, reduce the use of single occupancy vehicles for work trips, and reduce greenhouse gas emissions.

* * * All-Terrain Vehicles * * *

Sec. 17. 23 V.S.A. §§ 3501 and 3502 are amended to read:

§ 3501. DEFINITIONS

As used in this chapter:

(1) ~~“Commissioner” means the Commissioner of Motor Vehicles unless otherwise stated.~~

(2) ~~“Department” means Department of Motor Vehicles unless otherwise stated.~~

(3) ~~“Operate” includes an attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be at motion or rest.~~

(4) ~~“Secretary” means the Secretary of Natural Resources.~~

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having ~~no~~ not less than two low pressure tires (10 pounds per square inch, or less), not wider than 64 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway

shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (AAA); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

(2) “Department” means the Department of Motor Vehicles unless otherwise stated.

(3) “Direct supervision” means that the supervisor shall be sufficiently close and able to control, by communicating visually or orally, the operation of an ATV by an operator under 16 years of age, taking into account the noise created by an ATV and protective headgear worn by the operator.

(4) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming.

(5) “Forestry operation” has the same meaning as in 10 V.S.A. § 2602.

(6) “Secretary” means the Secretary of Natural Resources.

(7) “State lands” means land owned, leased, or otherwise controlled by the State.

(6)(8) “Club or association” means an all-terrain vehicle club or “VASA” means the Vermont ATV Sportsman’s Association, a statewide association of ATV clubs.

§ 3502. REGISTRATION AND TRAIL ACCESS DECAL (TAD)
REQUIRED; EXCEPTIONS

(a)(1) An all-terrain vehicle may not be operated Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this chapter or any other section of this title by the State of Vermont and unless the all-terrain vehicle or in accordance with subsection (e) of this section; and

(B) displays a valid Vermont ATV Sportsman’s Association (VASA) VASA Trail Access Decal (TAD) when operating on a VASA trail, except when operated;

(1)(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

~~(A)~~ On the property of the owner of the ~~all-terrain vehicle~~. ATV;

~~(2)(B)~~ Off the highway, In in a ski area while being used, off the highway, for the purpose of grooming snow, maintenance, or in rescue operations;

~~(3)(C)~~ For for official use by a federal, State, or municipal agency and only if the ~~all-terrain vehicle~~ ATV is identified with the name or seal of the agency in a manner approved by the Commissioner; or

~~(4)(D)~~ Solely on privately owned land when the operator is specifically invited to do so by the owner of that the property and has on his or her person carries the written consent of the owner.

~~(5)(3)~~ By a person who Notwithstanding subdivision (1) of this subsection, an operator may operate an ATV without a TAD displayed if the operator possesses a completed TAD form processed electronically and within the prior 10 days that is either printed out or displayed on a portable electronic device. The printed or electronic TAD form shall be valid for 10 days after the electronic transaction. Use of a portable electronic device to display a completed TAD form does not in itself constitute consent for an enforcement officer to access other contents of the device.

* * *

(c) The possession of a valid TAD or registration of an all-terrain vehicle ATV does not constitute a license to cross or operate an ~~all-terrain vehicle~~ ATV on public or private lands, even if temporarily while crossing the public or private lands.

(d) An all-terrain vehicle which ATV that does not comply with the provisions of this chapter may shall not be registered by the Commissioner.

(e) An all-terrain vehicle ATV owned by a person who is a resident of any other state or province shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides. An operator who is a resident of any other state or province shall be subject to the provisions of this chapter while operating an ATV within this State, including possessing a valid TAD in the same circumstances that a resident of this State is required to possess a valid TAD.

Sec. 18. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION; PROHIBITED ACTS; FINANCIAL RESPONSIBILITY; HEADGEAR

(a) A person shall only operate an ATV, or permit an ~~all-terrain vehicle~~

ATV owned by him or her or under his or her control to be operated, in accordance with this chapter.

(b) An ~~all-terrain vehicle~~ ATV shall not be operated:

(1) Along a public highway except if one or more of the following applies:

(A) ~~the highway is not being maintained during the snow season;~~

~~(B) the highway has been opened to all-terrain vehicle ATV travel by the selectboard or trustees or local governing body legislative body of the municipality where the town highway is located or, for State highways, the Secretary of Transportation and is so posted by the municipality;~~

~~(C)(B) the all-terrain vehicle ATV is being used for agricultural purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm; or~~

(C) the ATV is being use for forestry purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the forestry operation; or

~~(D) the all-terrain vehicle ATV is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the all-terrain vehicle ATV shall be operated along the edge of the roadway and shall yield to other vehicles.~~

(2) Across a public highway ~~unless~~ except if all of the following conditions are met:

(A) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; ~~and~~

(B) the operator brings the ~~all-terrain vehicle~~ ATV to a complete stop before entering the ~~travelled~~ traveled portion of the highway; ~~and~~

(C) the operator yields the ~~right-of-way~~ right of way to motor vehicles and pedestrians using the highway; ~~and~~

(D) the operator is 12 years of age or older; ~~and that~~

(E) in the case of an operator under 16 years of age, must be the operator is under the direct supervision of a person an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(3) On any privately owned land or privately owned body of private water unless either:

(A) the operator is the owner, or member of the immediate family of the owner of the land; ~~or~~

(B) the operator ~~has, on his or her person,~~ carries the written consent of the owner or lessee of the land or the land surrounding the privately owned body of water to operate an ~~all-terrain vehicle~~ ATV in the specific area and during specific hours ~~and/or~~ or days, or both in which the operator is operating; ~~or~~;

(C) the ~~all-terrain vehicle~~ ATV displays a valid ~~TAD decal~~ VASA Trail Access Decal (TAD) as required by subsection 3502(a) of this title that serves as proof that the ~~all-terrain vehicle~~ ATV and its operator, by virtue of the TAD, are members of a ~~VASA-affiliated club to which such~~ VASA and consent has been given orally or in writing to operate an ~~all-terrain vehicle~~ ATV in the area ~~in which~~ where the operator is operating; or

(C)(D) the owner of the land ~~has~~ or the land surrounding the privately owned body of water designated the area for use by ~~all-terrain vehicles~~ ATVs by posting the area in a manner approved by the Secretary to give reasonable notice that use is permitted.

(4) On any ~~public land~~ municipal lands unless opened to ATV travel by the legislative body of the municipality where the land is located or on any State lands, body of public water, or natural area established under the provisions of 10 V.S.A. § 2607 unless ~~the Secretary has designated the area by the Secretary~~ for use by ~~all-terrain vehicles pursuant to~~ ATVs in rules promulgated adopted under provisions of 3 V.S.A. chapter 25.

(5) By ~~a person~~ an individual under 12 years of age unless he or she is wearing on his or her head protective headgear of a type approved by the Commissioner while operating the ATV or riding as a passenger on the ATV and either:

(A) he or she is on land owned by his or her parents, family, or guardian;

(B) he or she has written permission of the landowner or lessee; or

(C) he or she is under the direct supervision of ~~a person at least an~~ individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(6) In any manner ~~intended or that could~~ reasonably to be expected to harm, harass, drive, or pursue any wildlife.

(7) If the registration certificate or consent form is and proof of insurance are not available for inspection, and the registration number, or plate of a size and type approved by the Commissioner, is not displayed on the all-terrain vehicle ATV in a manner approved by the Commissioner.

(8) While the operator is under the influence of drugs or alcohol as defined by this title.

(9) In a careless or negligent manner or in a manner that is inconsistent with the duty of ordinary care, so as to endanger a person an individual or property.

(10) Within a cemetery, public or private, as defined in 18 V.S.A. § 5302.

(11) On limited access highways, ~~rights-of-way~~ rights-of-way, or approaches unless permitted by the Traffic Committee under section 1004 of this title. In no cases shall the use of ~~all-terrain vehicles~~ ATVs be permitted on any portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless the Traffic Committee permits operation on these highways.

(12) On a sidewalk unless permitted by the ~~selectboard or trustees of the local governing~~ legislative body of the municipality where the sidewalk is located.

(13) Without liability insurance as described in this subdivision. The owner or operator of an ATV shall not operate or permit the operation of an ATV at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title without having in effect a bond or a liability policy in the amounts of at least \$25,000.00 for one individual and \$50,000.00 for two or more individuals killed or injured and \$10,000.00 for damages to property in any one accident. In lieu of a bond or liability policy, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner. Financial responsibility shall be maintained and evidenced in a form prescribed by the Commissioner, and persons who self-insure shall be subject to the provisions of subsection 801(c) of this title.

(14) While the operator's license or privilege to operate a motor vehicle is suspended, unless operated at a location described in subdivision 3502(a)(2)(A) or (D) of this title.

(15) Outside the boundaries of trails established by the VASA Trail System unless such operation is specifically authorized pursuant to another provision of this chapter.

(16) Unless the operator and all passengers wear properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title.

(c) No public or private landowner shall be liable for any property damage or personal injury sustained by any ~~person~~ individual operating or riding as a passenger on an ~~all-terrain vehicle~~ ATV or upon a vehicle or other device drawn by an ~~all-terrain vehicle~~ ATV upon the public or private landowner's property, whether or not the public or private landowner has given permission to use the land, unless the public or private landowner charges a cash fee to the operator or owner of the ~~all-terrain vehicle~~ ATV for the use of the property or unless damage or injury is intentionally inflicted by the landowner.

(d) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated:

(1) if equipped with an exhaust system with a cut out, bypass, or similar device; or

(2) with the spark arrester removed or modified, except for use in closed course competition events.

(e) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated by an operator who is less than 18 years of age unless one of the following criteria is met:

(1) the operator is operating on property owned or leased by the operator or his or her parents or guardian; or

(2) the operator is taking a prescribed safety education training course and operating under the direct supervision of a certified ~~all-terrain vehicle~~ ATV safety instructor; or

(3) the operator holds an appropriate safety education certificate issued by this State or issued under the authority of another state or province of Canada.

(f) ~~A person~~ An individual who is required to hold an appropriate safety education certificate under the provisions of subsection (e) of this section shall exhibit the safety education certificate upon demand of a law enforcement officer having authority to enforce the provisions of this section.

~~(g) Notwithstanding any other provision of law or rule to the contrary, the Commissioner may authorize the temporary operation of all-terrain vehicles not registered in this State on Route 253 in Beecher Falls for an annual special event, provided the all-terrain vehicle is registered in another state or province.~~
[Repealed.]

* * * U.S. Postal Service; Vehicle Inspection; Sunset Repeal * * *

Sec. 19. 2017 Acts and Resolves No. 71, Sec. 31(a)(4) is amended to read:

(4) ~~23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020. [Repealed.]~~

* * * Permit Fees; Waiver * * *

Sec. 20. AUTHORITY TO WAIVE RIGHT-OF-WAY PERMIT FEES

(a) Notwithstanding 19 V.S.A. § 1112(b), the Secretary is authorized to waive fees associated with permits or permit amendments issued pursuant to 19 V.S.A. § 1111 for any reason associated with the response and recovery to the COVID-19 pandemic.

(b) Subsection (a) of this section shall continue in effect until six months after the conclusion of a state of emergency declared under 20 V.S.A. chapter 1 due to COVID-19.

* * * Use of Pozzolans as an Alternative to Portland Cement * * *

Sec. 21. USE OF POZZOLANS AS AN ALTERNATIVE TO PORTLAND CEMENT

(a) Findings. The General Assembly finds that:

(1) Pozzolans, such as pulverized fuel ash (commonly known as “fly ash”), ground granulated blast-furnace slag, and silica fume, can be used to partially replace a portion of the Portland Cement used in the production of concrete.

(2) Using pozzolans in the production of concrete for transportation infrastructure projects can typically reduce the use of Portland Cement by 40 to 50 percent.

(3) Using pozzolans in a concrete mix design can:

(A) reduce the carbon dioxide emissions associated with transportation infrastructure projects, such as bridges and sidewalks;

(B) increase the compressive strength and durability of concrete; and

(C) decrease construction costs.

(4) Pozzolans cannot be used as a complete substitute for Portland Cement in a concrete mix design because they enhance and do not replace the cementitious properties of Portland Cement as it hydrates as part of the overall chemical reaction that binds and strengthens the concrete.

(b) Use of Portland Cement. The Agency is encouraged to continue researching, testing, and wherever practicable, using pozzolans and

alternatives to Portland Cement as part of the concrete mix designs for all transportation infrastructure projects.

* * * Study on Direct-to-Consumer Motor Vehicle Sales; Report * * *

Sec. 22. STUDY ON DIRECT-TO-CONSUMER MOTOR VEHICLE SALES; REPORT

(a) The Agency of Transportation, in consultation with the Attorney General's Office, the Department of Financial Regulation, a manufacturer that engages in direct-to-consumer motor vehicle sales to Vermont consumers, and the Vermont Vehicle and Automotive Distributors Association, shall conduct a study and, on or before December 15, 2020, file a written report on the findings of its study, sources reviewed, and recommendations regarding the regulation of direct-to-consumer motor vehicle sales with the Senate Committees on Economic Development, Housing and General Affairs and on Transportation and the House Committees on Commerce and Economic Development and on Transportation.

(b) The report shall, at a minimum, include a review of:

(1) all Vermont consumer protection laws and regulations that currently apply when a consumer purchases a motor vehicle from a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4, whether those consumer protections currently apply to direct-to-consumer motor vehicle sales, and, if not, whether those consumer protections should apply to direct-to-consumer motor vehicle sales;

(2) how consumers currently obtain financing in direct-to-consumer motor vehicle sales and any proposals that would better protect Vermont consumers who engage in direct-to-consumer motor vehicle sales;

(3) how consumers are currently taxed in direct-to-consumer motor vehicle sales and whether there are steps the State can take to maximize the collection of taxes owed on direct-to-consumer motor vehicle sales where the vehicles are operated in Vermont;

(4) any enforcement issues related to direct-to-consumer motor vehicle sales;

(5) what reasons, if any, exist to prohibit manufacturers engaged in direct-to-consumer motor vehicle sales from owning, operating, or controlling a motor vehicle warranty or service facility in the State and a recommendation on whether a sales center should be required if a manufacturer engaged in direct-to-consumer motor vehicle sales is permitted to own, operate, or control a motor vehicle warranty or service facility in the State;

(6) laws, rules, and best practices from other jurisdictions and any model legislation related to the regulation of direct-to-consumer motor vehicle sales; and

(7) how any proposed amendments to Vermont law regulating direct-to-consumer motor vehicle sales will affect dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; franchisors and franchisees, as defined in 9 V.S.A. § 4085; and other persons who are selling motor vehicles to Vermonters.

(c) As used in this section, “direct-to-consumer motor vehicle sales” means sales made by:

(1) motor vehicle manufacturers that sell or lease vehicles they manufacture directly to Vermont consumers and not through dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; or

(2) other persons that sell or lease new or used motor vehicles directly to Vermont consumers and not through Vermont licensed dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4 on websites such as Carvana, Vroom, and TrueCar.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (federal funding), 3 (spending redirection), 4 (Amtrak), 19 (U.S. Postal Service vehicle inspection exemption sunset repeal; 23 V.S.A. § 1222(e)), and 20 (section 1111 permit fee waiver) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2020.

And that the bill ought to pass in concurrence with such proposal of amendment.

Sen. Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 219, S. 301.

Adjournment

On motion of Senator Ashe, the Senate adjourned until four o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Bill Amended; Bill Passed

S. 124.

Senate bill entitled:

An act relating to miscellaneous law enforcement amendments.

Was taken up.

Thereupon, pending third reading of the bill, Senators White, Bray, Clarkson, Collamore and Pollina moved to amend the bill by as follows:

First: By striking out Sec. 2, 20 V.S.A. § 2352 (Council membership) in its entirety and inserting in lieu thereof the following:

Sec. 2. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) the Executive Director of Racial Equity;

(E) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

~~(D)~~(F) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E)~~(G) ~~five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;~~

~~(H) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;~~

~~(I) a law enforcement officer, appointed by the President of the Vermont State Employees Association;~~

~~(J) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;~~

~~(K) an individual appointed by the Executive Director of the Center for Crime Victim Services;~~

~~(L) an individual appointed by the Executive Director of the Human Rights Commission;~~

~~(M) an individual appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence; and~~

~~(N) three public members, appointed by the Governor, who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system.~~

(2) A member's term shall be three years.

* * *

~~(c) The public members of the Council set forth in subdivision (a)(1)(N) of this section shall be entitled to receive no per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.~~

* * *

Second: By adding a Sec. 6a to read as follows:

Sec. 6a. 20 V.S.A. § 2359 is added to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Third: By adding a Sec. 9a to read as follows:

Sec. 9a. 20 V.S.A. § 2368 is added to read:

§ 2368. STATEWIDE POLICY; REQUIRED USE OF BODY CAMERAS

(a) On or before January 1, 2022, each law enforcement agency shall adopt, follow, and enforce the Model Body Worn Camera (BWC) Policy established by the Law Enforcement Advisory Board pursuant to 2016 Acts and Resolves No. 163, and each law enforcement officer shall comply with the provisions of that policy.

(b) The Council shall incorporate the provisions of this section into training it provides.

Fourth: In Sec. 10, 20 V.S.A. chapter 151, subchapter 2 (Council; unprofessional conduct), by striking out section 2403 (law enforcement agencies; duty to report) in its entirety and inserting in lieu thereof the following:

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) ~~Category (A).~~

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a credible complaint against the officer that, ~~if deemed credible by the executive officer of the agency as a result of a valid investigation,~~ alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Council a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report.

(b) The Council shall provide a copy of any report and the relevant documents provided with it to the Council Advisory Committee, which shall recommend any appropriate action to take in regard to a law enforcement officer who is the subject of that report.

(c) The Executive Director of the Council shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

Fifth: By adding a Sec. 10a to read as follows:

Sec. 10a. LAW ENFORCEMENT RECOMMENDATIONS

In order to further the goal of defining law enforcement officers as community guardians, the following entities shall report to the Senate and House Committees on Government Operations on or before January 15, 2021 on their progress in regard to the following topics, including any recommendations for legislative action:

(1) Law enforcement officer qualifications.

(A) The Law Enforcement Advisory Board shall recommend universal standards for interviewing and hiring new law enforcement officers

in order to recognize applicant qualities that are desirable and those that are not. The Board shall specifically recommend standards that should apply to officers in a supervisory role.

(B) The Criminal Justice Training Council (Council) shall consult with the Human Rights Commission, the American Civil Liberties Union, and other relevant organizations and individuals in reviewing law enforcement applicants' current written, oral, and psychological examinations for cultural sensitivities and overall appropriateness.

(2) Law enforcement officer training.

(A) The Council, in consultation with the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Human Rights Commission, the American Civil Liberties Union, and other relevant stakeholders, shall review the current requirements for basic and annual in-service training in order to determine whether appropriate training is provided in the areas of cultural awareness, implicit bias, de-escalation, and recognition of and appropriately responding to individuals with a mental condition, and whether that training is embedded into training on other policing policies such as traffic stops and searches.

(B) In consideration of its analysis in subdivision (A) of this subdivision (2), and in reviewing current training requirements and how that training is used in practice, the Council shall recommend any amendments to statutorily required training that may not be necessary for all officers.

(C) The Council, Law Enforcement Advisory Board, and Department of Public Safety shall consult with the Vermont League of Cities and Towns and other interested stakeholders to determine whether:

(i) the Council should be reestablished within a State agency or other oversight entity;

(ii) the Police Academy should be relocated to a different area of the State; and

(iii) there should be more flexibility in the residential and field training required of law enforcement applicants, including whether applicants should be able to satisfy some aspects of basic training through experiential learning.

(3) Models of civilian oversight. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the Vermont League of Cities and Towns, and other interested parties to recommend one or more models of civilian oversight of law enforcement.

(4) Reporting allegations of law enforcement misconduct. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the American Civil Liberties Union, and other interested parties in order to identify a central point for reporting allegations of law enforcement officer misconduct, which may be the Council or another entity, and how those allegations should be handled.

(5) Access to complaint information. The Council Advisory Committee shall consult with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, and other interested parties in reviewing public access to records related to allegations of law enforcement officer misconduct and substantiations of those allegations in order to recommend any changes to current practice.

(6) Body cameras.

(A)(i) The Law Enforcement Advisory Board shall report any changes it deems necessary to the Model Body Worn Camera (BWC) Policy that it established pursuant to 2016 Acts and Resolves No. 163.

(ii) After consulting with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, and other interested parties, the Board shall specifically recommend policies for responding to public records requests for body camera footage, including any recommended timelines to respond, how and what footage should be redacted, length of footage retention, and storage.

(B) The Department of Public Safety shall consult with the Law Enforcement Advisory Board to investigate the possibility of a statewide group purchasing contract for law enforcement body cameras and of central storage locations. If the Department recommends such a group, it shall detail its recommended structure and operation.

(7) Military equipment. After an opportunity for community involvement and feedback, the Law Enforcement Advisory Board shall recommend a statewide policy on law enforcement officers' use of military equipment.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 28, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Rodgers, Sears.

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 955.

House bill entitled:

An act relating to capital construction and State bonding budget adjustment.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the Senate proposal of amendment as follows:

First: In Sec. 6, amending 2019 Acts and Resolves No. 42, Sec. 10, by inserting subsection (e) to read as follows:

(e) ~~The sum of \$50,000.00 is appropriated in FY 2020 to the Vermont Association of Snow Travelers, Inc. for the STP LVRT(7) project for improvements to the Lamoille Valley Rail Trail. [Repealed.]~~

Second: In Sec. 7, amending 2019 Acts and Resolves No. 42, Sec. 11, by inserting subsection (e) to read as follows:

(e) ~~The sum of \$13,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects. [Repealed.]~~

Third: In Sec. 13, amending 2019 Acts and Resolves No. 42, Sec. 20, in subdivision (c)(1), by striking out “Of the amount appropriated” and inserting in lieu thereof the following: Notwithstanding 18 V.S.A. § 5212b(b), of the amount appropriated and after Total Reallocations and Transfers – Section 20, by striking out “\$2, 377,854.50” and inserting in lieu thereof \$3,753,195.56

Fourth: In Sec. 14, by striking out “\$11,634,361.55” in two places and inserting in lieu thereof \$11,634,360.00

Fifth: By striking out Sec. 34, effective date, and its reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * Department of Public Service * * *

Sec. 34. BROADBAND EXPANSION; INTENT

On or before September 1, 2020, it is the intent of the General Assembly to review the use of any unexpended funds from the \$900,000.00 appropriated to the Department of Public Service in 2017 Acts and Resolves No. 84, Sec. 16c, as amended by 2018 Acts and Resolves No. 190, Sec. 14, for broadband expansion in FY 2021.

* * * Effective Date * * *

Sec. 35. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Rules Suspended; Bills Placed in All Remaining Stages of Passage

On motion of Senator Ashe, the rules were suspended, and the following bills were severally placed in all remaining stages of passage:

H. 942, H. 943, H. 946, H. 957, H. 959.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 942.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1a, summary of transportation investments, in subdivision (2), Bike and Pedestrian Facilities Program, by striking out “\$18,230,970.00” and inserting in lieu thereof \$18,030,970.00

Second: By striking out Secs. 5a, Clarendon SRE Building, and 5b, Morristown Fuel Farm, in their entireties and inserting in lieu thereof the following:

Sec. 5a. CLARENDON SRE BUILDING

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Clarendon AV-FY20-001 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	20,000	10,000	-10,000
Construction	575,000	55,000	-520,000
Total	595,000	65,000	-530,000
<u>Sources of funds</u>			
State	595,000	65,000	-530,000
Total	595,000	65,000	-530,000

Sec. 5b. MORRISTOWN FUEL FARM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Morristown AV-FY21-015 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	150,000	380,000	230,000
Total	150,000	380,000	230,000
<u>Sources of funds</u>			
State	150,000	380,000	230,000
Total	150,000	380,000	230,000

Third: By striking out Sec. 7a, Bicycle and Pedestrian Grant Program, in its entirety and inserting in lieu thereof the following:

Sec. 7a. PROGRAM DEVELOPMENT; BICYCLE AND PEDESTRIAN GRANT PROGRAM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bicycle and Pedestrian Facilities, authorized spending for Statewide State-Aid Construction Projects is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	468,500	668,500	200,000
Total	468,500	668,500	200,000
<u>Sources of funds</u>			
State	234,250	334,250	100,000
Local	234,250	334,250	100,000
Total	468,500	668,500	200,000

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 943. An act relating to approval of amendments to the charter of the City of St. Albans.

H. 946. An act relating to approval of the adoption of the charter of the Town of Elmore.

H. 957. An act relating to extending the deadline to test for lead in the drinking water of school buildings and child care facilities.

Bill Passed in Concurrence with Proposals of Amendment

H. 959.

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to education property tax.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 124, H. 942, H. 943, H. 946, H. 955, H. 957, H. 959.

Message from the House No. 59

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 349. An act relating to emergency funding for local government.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 338. An act relating to justice reinvestment.

And has concurred therein.

The House has considered Senate proposals of amendment to the following House bills:

H. 558. An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

H. 750. An act relating to creating a National Guard provost marshal.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill:

H. 961. An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Ashe, the Senate adjourned until Noon on Thursday, June 25, 2020.