

1 **[AGENCY OF TRANSPORTATION PROPOSALS AS MODIFIED BY**
2 **LEG. COUNSEL AND LEG. COUNSEL TECHNICAL CORRECTIONS**
3 **APPROVED BY AGENCY OF TRANSPORTATION]**

4 Introduced by Committee on Transportation

5 Date:

6 Subject: Transportation; annual Transportation Program; electric vehicle
7 supply equipment (EVSE); EVSE Grant Program; vehicle incentives;
8 Vermont Association of Snow Travelers (VAST); town highway
9 bridges; off-system bridges; 2021 Transportation Bill; electric bicycle
10 incentives; bicyclists; pedestrians; bicycle and pedestrian facilities;
11 Transportation Board; judicial review; on-premises signs; right-of-
12 way permits; 1111 permits; municipal site plan review; Smugglers'
13 Notch; electric vehicle supply equipment fees; technical corrections

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

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

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

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

3 Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

4 (a) The Agency of Transportation’s Proposed Fiscal Year 2023

5 Transportation Program appended to the Agency of Transportation’s proposed
6 fiscal year 2023 budget, as amended by this act, is adopted to the extent
7 federal, State, and local funds are available.

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

9 (1) “Agency” means the Agency of Transportation.

10 (2) “Candidate project” means a project approved by the General
11 Assembly that is not anticipated to have significant expenditures for
12 preliminary engineering or right-of-way expenditures, or both, during the
13 budget year and funding for construction is not anticipated within a predictable
14 time frame.

15 (3) “Development and evaluation (D&E) project” means a project
16 approved by the General Assembly that is anticipated to have preliminary
17 engineering expenditures or right-of-way expenditures, or both, during the
18 budget year and that the Agency is committed to delivering to construction on
19 a timeline driven by priority and available funding.

20 (4) “Electric vehicle supply equipment (EVSE)” has the same meaning
21 as in 30 V.S.A. § 201.

1 (5) “Front-of-book project” means a project approved by the General
2 Assembly that is anticipated to have construction expenditures during the
3 budget year or the following three years, or both, with expected expenditures
4 shown over four years.

5 (6) “Level 1 charger” or “level 1 EVSE” means EVSE that plugs
6 directly into a standard 120-volt AC outlet and supplies an average output of
7 1.3 to 2.4 kilowatts.

8 (7) “Level 2 charger” or “level 2 EVSE” means galvanically connected
9 electric vehicle supply equipment with a single-phase input voltage range from
10 208 to 240 volts AC and a maximum output current less than or equal to 80
11 amperes AC.

12 (8) “Level 3 charger,” “level 3 EVSE,” or “direct-current fast charger
13 (DCFC),” means electric vehicle supply equipment that uses dedicated direct
14 current (DC) to provide energy to a plug-in electric vehicle.

15 (9) “Secretary” means the Secretary of Transportation.

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

18 (11) The table heading “As Proposed” means the Proposed
19 Transportation Program referenced in subsection (a) of this section; the table
20 heading “As Amended” means the amendments as made by this act; the table
21 heading “Change” means the difference obtained by subtracting the “As

1 Proposed” figure from the “As Amended” figure; and the terms “change” or
2 “changes” in the text refer to the project- and program-specific amendments,
3 the aggregate sum of which equals the net “Change” in the applicable table
4 heading.

5 * * * Electric Vehicle Supply Equipment Infrastructure * * *

6 Sec. 2. INVESTMENTS IN ELECTRIC VEHICLE SUPPLY EQUIPMENT
7 INFRASTRUCTURE

8 (a) State highway network. The Agency of Transportation is authorized to
9 spend up to \$6,250,000.00 as appropriated in the fiscal year 2023 budget to
10 install level 3 EVSE along the State highway network consistent with the goals
11 established in 2021 Acts and Resolves No. 55, Sec. 30. This authorization
12 shall be used by the Agency to purchase and install level 3 EVSE or to provide
13 grants for persons to purchase and install level 3 EVSE, or both.

14 (b) Housing, employers, and public venues and attractions. The Agency of
15 Commerce and Community Development is authorized to spend up to
16 \$10,000,000.00 in total and as appropriated in the fiscal year 2023 budget to
17 establish and administer one or more grant programs, which may build upon
18 the existing EVSE Grant Program, to support the continued buildout of level 1
19 and 2 EVSE at multiunit dwellings, including multiunit affordable housing as
20 defined in 2021 Acts and Resolves No. 55, Sec. 29(a)(2), and workplaces and

1 level 1, 2, and 3 EVSE at public venues and attractions, such as parks,
2 downtowns, museums, and ski mountains.

3 (c) State parks and fishing access areas. The Agency of Natural Resources
4 is authorized to spend up to \$3,000,000.00 as appropriated in the fiscal year
5 2023 budget to install level 1 and 2 EVSE at State parks and fishing access
6 areas managed by the State. This authorization shall be used by the Agency of
7 Natural Resources to purchase and install level 1 and 2 EVSE or to provide
8 grants for persons to purchase and install level 1 and 2 EVSE, or both.

9 (d) Purpose. The purpose of the expenditures authorized in subsections
10 (a)–(c) of this section is to respond to negative economic impacts to the
11 tourism, travel, and hospitality industries caused by the COVID-19 public
12 health emergency and to provide assistance to low- and moderate-income
13 households that were impacted by the COVID-19 public health emergency.

14 (e) Eligibility criteria. Notwithstanding 2020 Acts and Resolves No. 139,
15 Sec. 25; 2021 Acts and Resolves No. 55, Sec. 29; and any prior iterations of
16 funding criteria used to distribute State EVSE grant awards through programs
17 involving the EVSE Interagency Workgroup, the Agencies of Transportation,
18 of Commerce and Community Development, and of Natural Resources may
19 modify eligibility criteria for and programmatic implementation of any existing
20 State EVSE grant programs to ensure that available federal monies are best
21 utilized to build a network of EVSE throughout Vermont so as to support the

1 widespread adoption of plug-in electric vehicles, as defined in 23 V.S.A.
2 § 4(85), amongst Vermonters, including those of low and moderate income,
3 and provide increased access to a reliable network of EVSE to better serve and
4 support the travel, tourism, and hospitality industries.

5 (f) Administration expenses. Unless prohibited by federal or State law, the
6 Agencies of Transportation, of Commerce and Community Development, and
7 of Natural Resources may use up to 15 percent of the total amount that is
8 distributed in grant awards under subsections (a)–(c) for costs associated with
9 administering and promoting any State-run electric vehicle supply equipment
10 grant programs.

11 * * * Vehicle Incentive Programs * * *

12 Sec. 3. VEHICLE INCENTIVE PROGRAMS

13 (a) Incentive Program for New PEVs. The Agency is authorized to spend
14 up to \$12,000,000.00 as appropriated in the fiscal year 2023 budget on the
15 Incentive Program for New PEVs established in 2019 Acts and Resolves No.
16 59, Sec. 34, as amended.

17 (b) MileageSmart. The Agency is authorized to spend up to \$3,000,000.00
18 as appropriated in the fiscal year 2023 budget on MileageSmart as established
19 in 2019 Acts and Resolves No. 59, Sec. 34, as amended.

20 (c) Replace Your Ride Program. The Agency is authorized to spend up to
21 \$3,000,000.00 as appropriated in the fiscal year 2023 budget on the Replace

1 Your Ride Program established in 2021 Acts and Resolves No. 55, Sec. 27, as
2 amended.

3 (d) eBike Incentive Program. The Agency is authorized to spend up to
4 \$1,000,000.00 as appropriated in the fiscal year 2023 budget on an eBike
5 Incentive Program to provide incentives for the purchase of electric bicycles,
6 as defined in 23 V.S.A. § 4(46). Incentives shall be available to all
7 Vermonters who self-certify as to having an income at 80 percent of the State
8 median income.

9 (e) eRecreation Incentive Program. The Agency is authorized to spend up
10 to \$1,000,000.00 as appropriated in the fiscal year 2023 budget on an
11 eRecreation Incentive Program to provide incentives for the purchase of all-
12 terrain vehicles, as defined in 23 V.S.A. § 3501, and snowmobiles, as defined
13 in 23 V.S.A. § 3201, that do not contain an internal combustion engine as
14 manufactured and sold.

15 (f) Purpose.

16 (1) The purpose of the expenditures authorized in subsections (a)–(d) of
17 this section is to provide assistance to low- and moderate-income households
18 that were impacted by the COVID-19 public health emergency.

19 (2) The purpose of the expenditures authorized in subsection (e) of this
20 section is to respond to negative economic impacts to the tourism, travel, and
21 hospitality industries caused by the COVID-19 public health emergency and to

1 encourage Vermonters to use all-terrain vehicles and snowmobiles without
2 internal combustion engines as a means to support Vermont’s tourism, travel,
3 and hospitality industries through increased outdoor recreation and the
4 associated benefits to local businesses.

5 (g) Eligibility criteria. Notwithstanding this section; 2019 Acts and
6 Resolves No. 59, Sec. 34, as amended by 2020 Acts and Resolves No. 121,
7 Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, 2021 Acts and Resolves
8 No. 3, Sec. 56, and 2021 Acts and Resolves No. 55, Secs. 18, 19, and 21; and
9 2021 Acts and Resolves No. 55, Sec. 27, as amended by Sec. 5 of this act, the
10 Agency may modify the eligibility criteria for and programmatic
11 implementation of the Incentive Program for New PEVs, MileageSmart, the
12 Replace Your Ride Program, and the eBike Incentive Program to ensure that
13 available federal monies are best utilized to encourage Vermonters with low
14 and moderate income to adopt more efficient modes of personal transportation.

15 (h) Administration expenses. Unless prohibited by federal or State law, the
16 Agency may use up to 15 percent of any single authorization in subsections
17 (a)–(e) and an additional \$2,000,000.00 as appropriated in the fiscal year 2023
18 budget for costs associated with administering and promoting the vehicle
19 incentive programs, including on the Agency’s existing partnership with Drive
20 Electric Vermont.

1 * * * Vermont Association of Snow Travelers Authorizations * * *

2 Sec. 4. VERMONT ASSOCIATION OF SNOW TRAVELERS (VAST)

3 AUTHORIZATIONS

4 The Agency of Transportation, through the Department of Motor Vehicles,
5 is authorized to spend:

6 (1) \$50,000.00 in one-time General Fund monies, as appropriated in
7 Sec. B.1100(12)(A) of the fiscal year 2023 budget, in grants to the Vermont
8 Association of Snow Travelers (VAST) to support the Law Enforcement and
9 Safety Program; and

10 (2) \$1,000,000.00 in one-time General Fund monies, as appropriated in
11 Sec. B.1100(12)(B) of the fiscal year 2023 budget, in grants to VAST to
12 support the Equipment Grant-in-Aid Program.

13 * * * Bridge Formula Program; Off-System Bridges * * *

14 Sec. 4a. BRIDGE FORMULA PROGRAM; OFF-SYSTEM BRIDGES

15 (a) Findings. The General Assembly finds that:

16 (1) the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58
17 (IIJA) provides Vermont with \$225,000,000.00 in Bridge Formula Program
18 funding for federal fiscal years 2022 through 2026;

19 (2) the Bridge Formula Program funds are to be used for the
20 preservation and replacement of bridges;

1 (3) as part of the Bridge Formula Program, states are required to allocate
2 a minimum of 15 percent of the funding to address off-system bridge needs,
3 where off-system bridges are those that are located along roadways off the
4 federal aid system;

5 (4) in Vermont, roadways off the federal aid system are primarily owned
6 and maintained by municipalities; and

7 (5) under the IIJA, the federal share of funding for municipally owned
8 off-system bridges is 100 percent.

9 (b) Priority implementation. In order to implement and allocate the Bridge
10 Formula Program funding, the Agency of Transportation is directed to
11 simultaneously:

12 (1)(A) Fund at 100 percent federal share the construction phase of all
13 off-system bridges in the Fiscal Year 2023 Transportation Program for Town
14 Highway Bridges that:

15 (i) were not authorized for federal funds for the construction phase
16 of the pending project prior to the Fiscal Year 2023 Transportation Program;
17 and

18 (ii) are either listed as a front-of-book project or development and
19 evaluation (D&E) project in the Fiscal Year 2023 Transportation Program.

20 (B) The engineering (PE) and right-of-way (ROW) phases of projects
21 to be funded at 100 percent federal share under subdivision (A) of this

1 subdivision (1) shall continue to be funded at 80 percent federal, 10 percent
2 State, and 10 percent municipal.

3 (2)(A) In the fiscal year 2023 through 2029 Transportation Programs,
4 fund the construction phase of off-system covered bridges and off-system
5 historic truss bridges within the Transportation Programs for Town Highway
6 Bridges based on the prioritization of covered bridges and historic truss bridges
7 under the prioritization process outlined in 19 V.S.A. § 10g(1) at 100 percent
8 federal share.

9 (B) The engineering (PE) and right-of-way (ROW) phases of projects
10 to be funded at 100 percent federal share under subdivision (A) of this
11 subdivision (2) shall continue to be funded at 80 percent federal, 10 percent
12 State, and 10 percent municipal.

13 (c) Secondary implementation. Should funding through the federal Bridge
14 Formula Program remain available following the implementation delineated
15 under subsection (b) of this section, town highway bridges shall be advanced
16 based on the prioritization process outlined in 19 V.S.A. § 10g(1).

17 Sec. 4b. REPEAL

18 Sec. 4a (Bridge Formula Program; off-system bridges) of this act is
19 repealed on October 1, 2029, at the conclusion of the authorized
20 implementation period for the IJA.

1 **Sec. 4c. TOWN HIGHWAY BRIDGE PROGRAM**

2 (a) Within the Agency of Transportation’s Proposed Fiscal Year 2023
3 Transportation Program for Town Highway Bridges, authorized spending for
4 the construction phase of the following projects is amended to be 100 percent
5 federal pursuant to Sec. 4a(b)(1)(A) and (2)(A) of this act:

6 (1) Clarendon BO 1443(55);

7 (2) Hartford BO 1444(60);

8 (3) Ludlow Village BO 1443(52);

9 (4) Poultney BO 1443(53);

10 (5) Stowe BO 1446(37);

11 (6) Stowe BO 1446(39);

12 (7) Statewide Preservation Easement Paint Program; and

13 (8) Statewide Rehabilitation of Covered Bridges.

14 (b) Within the Agency of Transportation’s Proposed Fiscal Year 2023
15 Transportation Program for Town Highway Bridges, authorized spending is
16 amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	350,000	350,000	0
PE	4,294,487	4,294,487	0
ROW	355,000	355,000	0
Construction	25,314,700	25,314,700	0

1	Total	30,314,187	30,314,187	0
2	<u>Sources of funds</u>			
3	TIB	2,402,455	2,402,455	0
4	State	1,919,899	1,230,817	-689,082
5	Federal	24,251,350	25,529,514	1,278,164
6	Local	1,740,483	1,151,401	-589,082
7	Total	30,314,187	30,314,187	0

8 (c) Within the Agency of Transportation’s Proposed Fiscal Year 2023

9 Transportation Program, the following covered bridges projects are added to

10 the candidate list for Town Highway Bridges:

11 (1) Belvidere (Bridge No. 12 on Town Highway 3);

12 (2) Charlotte (Bridge No. 27 on Town Highway 9);

13 (3) Chelsea (Bridge No. 46 on Town Highway 68);

14 (4) Hartland (Bridge No. 22 on Town Highway 15);

15 (5) Lyndon (Bridge No. 33 on Town Highway 58);

16 (6) Northfield (Bridge No. 10 on Town Highway 3);

17 (7) Northfield (Bridge No. 11 on Town Highway 3);

18 (8) Northfield (Bridge No. 15 on Town Highway 3);

19 (9) Troy (Bridge No. 8 on Town Highway 12); and

20 (10) Weathersfield (Bridge No. 83 on Town Highway 65).

1 (d) Within the Agency of Transportation’s Proposed Fiscal Year 2023
2 Transportation Program, the following metal truss bridges projects are added to
3 the candidate list for Town Highway Bridges:

- 4 (1) Berlin (Bridge No. 27 on Town Highway 61);
- 5 (2) Bridgewater (Bridge No. 26 on Town Highway 34);
- 6 (3) Enosburg (Bridge No. 45 on Town Highway 42);
- 7 (4) Lincoln (Bridge No. 46 on Town Highway 6);
- 8 (5) Moretown (Bridge No. 42 on Town Highway 39);
- 9 (6) Newfane (Bridge No. 49 on Town Highway 26);
- 10 (7) Northfield (Bridge No. 65 on Town Highway 57);
- 11 (8) Royalton (Bridge No. 30 on Town Highway 6); and
- 12 (9) Sheldon (Bridge No. 20 on Town Highway 22).

13 * * * Amendments to Fiscal Year 2023 Authorizations * * *

14 Sec. 4d. PROGRAM DEVELOPMENT

15 Within the Agency of Transportation’s Proposed Fiscal Year 2023
16 Transportation Program for Program Development Administration, authorized
17 spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
19 <u>Person. Svcs.</u>	<u>23,753,701</u>	<u>23,753,701</u>	<u>0</u>
20 <u>Operat. Exp.</u>	<u>9,039,403</u>	<u>8,985,192</u>	<u>-54,211</u>
21 <u>Grants</u>	<u>286,000</u>	<u>286,000</u>	<u>0</u>

1 **Total** 33,079,104 33,024,893 -54,211

2 Sources of funds

3 **State** 25,074,132 25,019,921 -54,211

4 **Federal** 7,929,972 7,929,972 0

5 **Inter Unit** 75,000 75,000 0

6 **Total** 33,079,104 33,024,893 -54,211

7 **Sec. 4e. TOWN HIGHWAY AID**

8 Within the Agency of Transportation’s Proposed Fiscal Year 2023

9 Transportation Program for Town Highway Aid, authorized spending is

10 amended as follows:

11 FY23 As Proposed As Amended Change

12 **Grants** 27,783,413 27,837,624 54,211

13 **Total** 27,783,413 27,837,624 54,211

14 Sources of funds

15 **State** 27,783,413 27,837,624 54,211

16 **Total** 27,783,413 27,837,624 54,211

17 **Sec. 4f. POLICY AND PLANNING**

18 Within the Agency of Transportation’s Proposed Fiscal Year 2023

19 Transportation Program for Policy and Planning, authorized spending is

20 amended as follows:

21 FY23 As Proposed As Amended Change

1	Person. Svcs.	4,767,663	4,767,663	0
2	Operat. Exp.	1,035,700	1,035,700	0
3	Grants	7,389,725	10,784,247	3,394,522
4	Total	13,193,088	16,587,610	3,394,522

5 Sources of funds

6	State	3,217,573	3,217,573	0
7	Federal	9,920,240	13,314,762	3,394,522
8	Inter Unit	55,275	55,275	0
9	Total	13,193,088	16,587,610	3,394,522

10 ***[PLACEHOLDER IF ANY CHANGES ARE NEEDED FOR THE***
11 ***STRUCTURES AND ROADWAY PROGRAMS]***

12 * * * Amendments to the 2021 Transportation Bill * * *

13 * * * Electric Bicycle Incentives Administrative Costs * * *

14 Sec. 5. 2021 Acts and Resolves No. 55, Sec. 2(8)(D) and (E) are amended to
15 read:

16 (D) Replace Your Ride Program. Sec. 27 of this act creates a new
17 program to be known as the Replace Your Ride Program, which will be the
18 State’s program to incentivize Vermonters to remove older low-efficiency
19 vehicles from operation and switch to modes of transportation that produce
20 fewer greenhouse gas emissions, and authorizes up to ~~\$1,500,000.00~~

1 \$1,495,000.00 for incentives under the Program and capped startup and
2 administrative costs.

3 (E) Electric bicycle incentives. Sec. 28 of this act authorizes up to
4 ~~\$50,000.00~~ \$55,000.00 for \$200.00 incentives for the purchase of an electric
5 bicycle and capped administrative costs.

6 Sec. 6. 2021 Acts and Resolves No. 55, Sec. 27(d) is amended to read:

7 (d) Authorization. In fiscal year 2022, the Agency is authorized to spend
8 up to ~~\$1,500,000.00~~ \$1,495,000.00 in one-time Transportation Fund monies on
9 the Replace Your Ride Program established under this section, with up to
10 ~~\$300,000.00~~ \$295,000.00 of that ~~\$1,500,000.00~~ \$1,495,000.00 available for
11 startup costs, outreach education, and costs associated with developing and
12 administering the Replace Your Ride Program.

13 Sec. 7. 2021 Acts and Resolves No. 55, Sec. 28(b) is amended to read:

14 (b) Authorization.

15 (1) In fiscal year 2022, the Agency is authorized to spend up to
16 \$50,000.00 in one-time Transportation Fund monies on the electric bicycle
17 incentives and up to \$5,000.00 on the costs associated with developing and
18 administering the electric bicycle incentives.

19 (2) If less than \$5,000.00 is expended on administrative costs associated
20 with developing and administering the electric bicycle incentives under
21 subdivision (1) of this subsection, then the balance of that \$5,000.00 shall only

1 be authorized for startup costs, outreach education, and costs associated with
2 developing and administering the Replace Your Ride Program in addition to
3 the authorization in Sec. 27(d) of this act.

4 * * * EVSE Grant Program * * *

5 Sec. 8. 2021 Acts and Resolves No. 55, Sec. 29 is amended to read:

6 Sec. 29. GRANT PROGRAMS FOR ~~LEVEL 2 CHARGERS~~ EVSE IN
7 ~~MULTI-UNIT~~ MULTIUNIT DWELLINGS; REPORT

8 (a) As used in this section:

9 * * *

10 (2) ~~“Multi-unit Multiunit affordable housing”~~ means a ~~multi-unit~~
11 multiunit dwelling where:

12 * * *

13 (3) ~~“Multi-unit Multiunit dwelling”~~ means a housing project, such as
14 cooperatives, condominiums, dwellings, or mobile home parks, with 10 or
15 more units constructed or maintained on a tract or tracts of land.

16 (4) ~~“Multi-unit Multiunit dwelling owned by a nonprofit”~~ means a
17 multi-unit multiunit dwelling owned by a person that has nonprofit status
18 under Section 501(c)(3) of the U.S. Internal Revenue Code, as amended, and is
19 registered as a nonprofit corporation with the Office of the Secretary of State.

20 (5) “Electric vehicle supply equipment (EVSE)” includes both level 1
21 chargers, which connect directly into a standard 120-volt AC outlet and supply

1 an average output of 1.3 to 2.4 kilowatts and are also known as level 1 EVSE,
2 and level 2 chargers, which have a single-phase input voltage range from 208
3 to 240 volts AC and a maximum output current less than or equal to 80
4 amperes AC and are also known as level 2 EVSE.

5 (b) The Agency of Transportation shall establish and administer, through a
6 memorandum of understanding with the Department of Housing and
7 Community Development, a pilot program to support the continued buildout of
8 electric vehicle supply equipment at ~~multi-unit~~ multiunit affordable housing
9 and ~~multi-unit~~ multiunit dwellings owned by a nonprofit and build upon the
10 existing ~~VW~~ EVSE Grant Program that the Department of Housing and
11 Community Development has been administering on behalf of the Department
12 of Environmental Conservation.

13 * * *

14 (d) Pilot program funding shall be awarded with consideration of broad
15 geographic distribution as well as service models ranging from restricted
16 private parking to publicly accessible parking so as to examine multiple
17 strategies to increase access to EVSE.

18 * * *

19 (f) If the Agency of Transportation, in consultation with the interagency
20 team, determines that programmatic funding remains available following the

1 first round of grant awards, then the pilot program shall be opened up and
2 made available to any ~~multi-unit~~ multiunit dwelling.

3 * * *

4 * * * Bicycle and Pedestrian Planning Integration Pilot Program * * *

5 Sec. 9. BICYCLE AND PEDESTRIAN PLANNING INTEGRATION

6 PILOT PROGRAM

7 (a) Establishment. The Agency of Transportation shall establish a pilot
8 program to support the continued development and buildout of bicycle and
9 pedestrian infrastructure. The purpose of the pilot program is to do at least one
10 of the following:

11 (1) ensure alignment and integration of municipal and State bicycle and
12 pedestrian infrastructure deployment and to provide a framework for municipal
13 prioritization of bicycle and pedestrian projects that can be integrated into the
14 VTrans Project Selection and Project Prioritization (VPSP2) process as
15 projects are evaluated for funding through State-sponsored programs, including
16 the Bike and Pedestrian Program, the Transportation Alternatives Program, and
17 the Downtown Transportation Fund; or

18 (2) integrate bicycle and pedestrian elements into Agency-developed
19 projects.

20 (b) Consultation and implementation. The Agency shall work with the
21 State’s Regional Planning Commissions (RPCs) in implementing the pilot

1 program by providing funding through the Transportation Planning Initiative
2 (TPI) for RPCs to develop prioritized municipal bicycle and pedestrian plans
3 or to assist member municipalities in developing prioritized municipal bicycle
4 and pedestrian plans.

5 * * * Transportation Board * * *

6 Sec. 10. 5 V.S.A. chapter 3 is redesignated to read:

7 CHAPTER 3. PROCEEDINGS **BY THE BOARD**; ~~APPEAL TO SUPERIOR~~
8 COURT JUDICIAL REVIEW

9 Sec. 11. 5 V.S.A. § 37 is amended to read:

10 § 37. MEMBERS; TERMS; RETIREMENT; APPEAL

11 (a) When a Board member who hears all or a substantial part of a case
12 retires from office before the case is completed, ~~he or she~~ that individual shall
13 remain a member of the Board for the purpose of concluding and deciding the
14 case, and signing the findings, orders, decrees, and judgments of the case. A
15 retiring chair shall also remain a member for the purpose of certifying
16 questions of law if appeal is taken.

17 (b) A case shall be deemed completed when the Board enters a final order
18 even though the order is appealed to a Superior Court and judicial review is
19 sought pursuant to 19 V.S.A. § 5(c) or the case remanded to the Board. Upon
20 remand, the Board then in office may consider relevant evidence, including
21 any part of the transcript of testimony in the proceedings prior to appeal.

1 Sec. 12. 5 V.S.A. § 40 is amended to read:

2 § 40. PLEADINGS; RULES OF PRACTICE; FINDINGS OF FACT

3 (a) The forms, pleadings, and rules of practice and procedure before the
4 Board shall be prescribed by the Board.

5 (b) The Board shall hear all matters within its jurisdiction and make
6 findings of fact. It shall state its rulings of law when required. Upon ~~appeal to~~
7 ~~a Superior Court~~ judicial review pursuant to 19 V.S.A. § 5(c), the Board's
8 findings of fact shall be accepted unless clearly erroneous.

9 Sec. 13. 5 V.S.A. §§ 43 and 44 are amended to read:

10 § 43. ~~REVIEW BY SUPERIOR COURT~~ JUDICIAL REVIEW

11 A party to a cause who feels aggrieved by the final order, judgment, or
12 decree of the Board may ~~appeal to a Superior Court under Rule 74 of the~~
13 ~~Vermont Rules of Civil Procedure~~ seek judicial review pursuant to 19 V.S.A.
14 § 5(c). However, the Board, before final judgment, may permit an
15 interlocutory appeal to be taken by any party pursuant to a Superior Court 19
16 V.S.A. § 5(c) for determination of questions of law in the same manner as the
17 Supreme Court may by rule provide for appeals before final judgment from a
18 Superior Court. Notwithstanding the provisions of the Vermont Rules of Civil
19 Procedure or the Vermont Rules of Appellate Procedure, neither the time for
20 filing a notice of appeal nor the filing of a notice of appeal, as provided in this
21 section, shall operate as a stay of enforcement of an order of the Board unless

1 the Board or a ~~Superior~~ the Supreme Court grants a stay under the provisions
2 of section 44 of this ~~title~~ chapter.

3 § 44. POWERS OF ~~SUPERIOR~~ THE SUPREME COURT

4 ~~A Superior~~ Upon appeal to the Supreme Court, the Court may reverse or
5 affirm the judgments, orders, or decrees of the Transportation Board and may
6 remand a cause to it with mandates, as law or equity shall require; and the
7 Board shall enter its judgment, order, or decree in accordance with these
8 mandates. Appeals to the ~~Superior~~ Supreme Court shall not have the effect of
9 vacating any judgment, order, or decree of the Board, but the ~~Superior~~
10 Supreme Court, upon notice to interested parties, may suspend execution of a
11 Board judgment under a decree as justice and equity require unless otherwise
12 specifically provided by law.

13 Sec. 14. 5 V.S.A. § 207(d) is amended to read:

14 (d) The application for a certificate of approval of the site selected shall be
15 in writing and substantially describe the property involved and the general
16 purposes for which it is to be acquired and the manner in which the acquisition
17 is asserted to serve the public interest. The application shall designate the
18 names of all owners or persons known to be interested in lands adjoining the
19 property and their residences, if known, and shall contain such further matter
20 as the Board by rule shall determine. The application shall be supported by
21 documentation showing that the proposed facility has received municipal

1 approval. After evaluating the application, the Board shall issue its order
2 giving notice of the time and place of hearing on the application. The
3 applicant shall give notice of the proceedings to all persons owning or
4 interested in adjoining lands by delivery of a true copy of the application and
5 order for hearing by registered or certified mail to the last known address of
6 each of the persons; the notice to be mailed at least 12 days prior to the date of
7 the hearing. Notice of the hearing and a general statement of the purpose shall
8 be published at least once in a newspaper of common circulation in the town
9 where the property described in the application is situated at least two days
10 before the date of the hearing, and a similar notice shall be posted in a public
11 place at least 12 days before the hearing. Upon compliance by the applicant
12 with the foregoing provisions for notice, the Board shall hear the applicant and
13 all parties interested on the question of approval of the site or sites and shall
14 consider and determine whether in the public interest the application ought to
15 be granted. Whenever the Board makes an order granting or denying a
16 certificate of approval of an airport, or a restricted landing area, approval to use
17 or operate an airport or a restricted landing area or other air navigation facility,
18 an aggrieved person may ~~have the decision reviewed on the record by the~~
19 ~~Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure~~
20 seek judicial review pursuant to 19 V.S.A. § 5(c).
21 Sec. 14a. 5 V.S.A. § 652 is amended to read:

1 § 652. SUPERIOR COURT JUDICIAL REVIEW

2 The Secretary of Transportation or the legislative body of a municipality, as
3 defined in 24 V.S.A. § 2001, or the committee representing two or more
4 municipalities, when authorized by vote of their legislative bodies, may
5 proceed in Superior Court as provided in 19 V.S.A. chapter 5, except as
6 otherwise provided in this subchapter.

7 Sec. 14b. 5 V.S.A. § 3639 is amended to read:

8 § 3639. FARM CROSSINGS AND CATTLE GUARDS; CONSTRUCTION
9 AND MAINTENANCE; JUDICIAL REVIEW

10 (a) A person ~~or corporation~~ owning or operating a railroad shall construct
11 and maintain farm crossings of the road for the use of the proprietors of lands
12 adjoining the railroad, and cattle guards at all farm and road crossings
13 sufficient to prevent cattle and animals from getting on the railroad. A farm
14 crossing may be temporarily or permanently closed or discontinued by mutual
15 agreement between all parties having an interest therein. If no such mutual
16 agreement can be reached by such interested parties, then a person ~~or~~
17 ~~corporation~~ owning or operating a railroad and desiring to close any farm
18 crossing shall make application to the Transportation Board. The Board shall
19 thereupon give notice to all parties interested, in such manner as the Board
20 may direct, of hearing on the application, the hearing to be in the county where
21 such crossing is located. After the hearing, a person ~~or corporation~~ owning or

1 operating a railroad shall not close such farm crossing without the approval of
2 the Transportation Board. A person aggrieved by the closing of a farm
3 crossing after January 1, 1955 by a person ~~or corporation~~ owning or operating
4 a railroad may notify the Transportation Board by registered or certified mail
5 of the closing, and thereupon the Board shall conduct a hearing. Notice and
6 place of hearing shall be as set forth in this subsection. The Transportation
7 Board may require the reopening of any such crossing and make such other
8 order as is permitted in section 3649 of this title. At any such hearing, the
9 burden of proof shall rest with the person or persons effecting or seeking to
10 effect the closing of such farm crossing. Any person aggrieved by ~~an~~ the final
11 order of the Transportation Board, who was a party to the proceedings, may, in
12 accordance with Rule 74 of the Vermont Rules of Civil Procedure, appeal to
13 the Superior Court, whereupon such cause shall be tried as an original action
14 brought under the provisions of 12 V.S.A. § 402 seek judicial review pursuant
15 to 19 V.S.A. § 5(c).

16 (b) A person ~~or railroad corporation~~ closing any farm crossing in violation
17 of a provision of this section or failing to comply with any such order shall be
18 fined not less than \$50.00 nor more than \$500.00 and any person aggrieved by
19 such violation may recover ~~his or her~~ the person's damages in an action on this
20 statute.

21 Sec. 15. 5 V.S.A. § 3788 is amended to read:

1 § 3788. ORDERS OF BOARD; ~~APPEALS~~ JUDICIAL REVIEW

2 The order of the Board relating to any matter upon which it may act under
3 the authority of this chapter shall be communicated in writing to the petitioners
4 and to all persons to whom notice of the hearing on such petition was given.

5 Any person aggrieved by such order, who was a party to such proceedings,
6 may ~~appeal from such order to the Superior Court in accordance with Rule 74~~
7 ~~of the Vermont Rules of Civil Procedure~~ seek judicial review pursuant to 19
8 V.S.A. § 5(c).

9 Sec. 16. 9 V.S.A. § 4100b is amended to read:

10 § 4100b. ENFORCEMENT; TRANSPORTATION BOARD

11 (a) The Transportation Board established in 19 V.S.A. § 3 shall enforce the
12 provisions of this chapter.

13 * * *

14 (h) Within 20 days after any order or decision of the Board authorized
15 under this chapter, any party to the proceeding may apply for a rehearing with
16 respect to any matter determined in the proceeding or covered or included in
17 the order or decision. The application for rehearing shall set forth fully every
18 ground upon which it is claimed that the decision or order complained of is
19 unlawful or unreasonable. No appeal from any order or decision of the Board
20 shall be taken unless the appellant makes an application for rehearing as
21 provided in this subsection, and when the application for rehearing has been

1 made, no ground not set forth in the application shall be urged, relied on, or
2 given any consideration by the Board unless the Board for good cause shown
3 allows the appellant to specify additional grounds. Any party to the
4 proceeding may appeal the final order, including all interlocutory orders or
5 decisions, pursuant to ~~the Superior Court~~ 19 V.S.A. § 5(c) within 30 days after
6 the date the Board rules on the application for reconsideration of the final order
7 or decision. All findings of the Board upon all questions of fact properly
8 before the court shall be prima facie lawful and reasonable. The order or
9 decision appealed from shall not be set aside or vacated except for errors of
10 law. No additional evidence shall be heard or taken by the ~~Superior~~ Supreme
11 Court on appeals from orders or decisions by the Board authorized under this
12 title.

13 (i) In cases where the Board finds that a violation of this chapter has
14 occurred or there has been a failure to show good cause under section 4089 or
15 4098 of this title, the ~~Superior Court~~ Board, upon petition, shall determine
16 reasonable attorney's fees and costs and award them to the prevailing party.

17 Sec. 17. 19 V.S.A. § 5 is amended to read:

18 § 5. TRANSPORTATION BOARD; POWERS AND DUTIES

19 (a) General duties and responsibilities; exceptions. The regulatory and
20 quasi-judicial functions relating to transportation shall be vested in the Board,
21 except that the duties and responsibilities of the Commissioner of Motor

1 Vehicles in Titles 23 and 32, including all quasi-judicial powers, shall continue
2 to be vested in the Commissioner.

3 (b) Naming transportation facilities.

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

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

1 (c) Hearing examiners; report of findings; final orders; judicial review.

2 The Board may delegate the responsibility to hear quasi-judicial matters, and
3 other matters as it may deem appropriate, to a hearing examiner or a single
4 Board member, to hear a case and make findings in accordance with 3 V.S.A.
5 chapter 25, except that highway condemnation proceedings shall be conducted
6 pursuant to the provisions of chapter 5 of this title. A hearing examiner or
7 single Board member so appointed shall report the findings of fact in writing to
8 the Board. Any order resulting from those findings shall be rendered only by a
9 majority of the Board. Final orders of the Board issued pursuant to section 20
10 of this title (small claims against the Agency) may be reviewed on the record
11 by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil
12 Procedure. All other final orders of the Board may be reviewed on the record
13 by the Supreme Court.

14 (d) Specific duties and responsibilities. The Board shall:

15 * * *

16 (e) Offices and assistance. Suitable offices and office equipment shall be
17 provided by the State for the Board at Montpelier. The Board may employ
18 clerical or other employees and assistants whom it deems necessary in the
19 performance of its duties and in the investigation of matters within its
20 jurisdiction.

1 that is separated from the activity by a public highway, or other intervening
2 land use not related to the advertised activity. Undeveloped land or farmland
3 shall not be considered as an intervening land use.

4 * * *

5 * * * Right-of-Way Permits; 1111 Permits; Municipal Site Plan Review * * *

6 Sec. 19. 19 V.S.A. § 1112(b) is amended to read:

7 (b) The Secretary shall collect the following fees for each application for
8 the following types of permits issued pursuant to section 1111 of this title:

9 * * *

10 (2) utility installations, including ~~each~~ direct connection to the State
11 highway **subsurface** stormwater system: \$100.00

12 * * *

13 Sec. 20. 24 V.S.A. § 4416**(b)** is amended to read:

14 (b) Whenever a proposed site plan involves access to a State highway or
15 other work in the State highway right-of-way such as excavation, grading,
16 paving, or utility installation, the application for site plan approval shall
17 include a letter from the Agency of Transportation confirming that the Agency
18 has reviewed the proposed site plan and determined whether a permit is
19 required under 19 V.S.A. § 1111. If the Agency determines that a permit for
20 the proposed site plan is required under 19 V.S.A. § 1111, then the letter from

1 the Agency ~~shall~~ may set out ~~any~~ conditions that the Agency proposes to attach
2 to the permit required under 19 V.S.A. § 1111.

3 * * * Smugglers' Notch Motor Vehicle Limitations * * *

4 Sec. 21. 23 V.S.A. § 1006b is amended to read:

5 § 1006b. SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT

6 ROUTE 108; **COMMERCIAL VEHICLE OPERATION**

7 **PROHIBITED**

8 (a) **Winter closure.** The Agency of Transportation may close the
9 Smugglers' Notch segment of Vermont Route 108 during periods of winter
10 weather.

11 (b) **Vehicle operation prohibition.**

12 (1) ~~As used in this subsection, "commercial vehicle" means truck-~~
13 ~~tractor semitrailer combinations and truck tractor trailer combinations.~~

14 ~~(2) Commercial Single-unit motor vehicles over 40 feet in length and~~
15 ~~combination vehicles over 45 feet in total length~~ are prohibited from operating
16 on the Smugglers' Notch segment of Vermont Route 108.

17 ~~(3)(2) Either the~~ **The** operator of a **commercial** vehicle who violates this
18 subsection, ~~or~~ and the operator's employer, unless they are the same person,
19 shall each be subject to a civil penalty of \$1,000.00. **If \$1,500.00 or, if the**
20 violation results in substantially impeding the flow of traffic on Vermont Route
21 108, **the penalty shall be \$2,000.00 a civil penalty of \$3,000.00.** For a second

1 or subsequent conviction within a three-year period, the applicable penalty or
2 penalties shall be doubled.

3 (3) The prohibition in subdivision (1) of this subsection shall not apply
4 to law enforcement, fire, emergency medical services, and search and rescue
5 vehicles involved in training or responding to real world incidents.

6 (c) Required signage. The Agency shall erect signs conforming to the
7 standards established by section 1025 of this title to indicate the closures and
8 restrictions authorized under this section.

9 * * * Repeal of EVSE Fees Sunset * * *

10 Sec. 22. SUNSET REPEAL

11 2019 Acts and Resolves No. 59, Sec. 38 (repeal of 32 V.S.A. § 604 (electric
12 vehicle supply equipment fees) on July 1, 2022) is repealed.

13 * * * Codified Law Technical Corrections * * *

14 Sec. 23. REPEAL

15 19 V.S.A. § 22 (fine applicable for a violation of the since repealed 19
16 V.S.A. § 21(c)) is repealed.

17 Sec. 24. 19 V.S.A. § 11a(b) is amended to read:

18 (b) ~~In fiscal year 2017, of the funds appropriated to the Department of~~
19 ~~Public Safety pursuant to subsection (a) of this section, the amount of~~
20 ~~\$1,680,000.00 is allocated exclusively for the purchase, outfitting, assignment,~~
21 ~~and disposal of State Police vehicles. In fiscal year 2018 and in succeeding~~

1 fiscal years, of the funds appropriated to the Department of Public Safety
2 pursuant to subsection (a) of this section, the amount of \$2,100,000.00 is
3 allocated exclusively for the purchase, outfitting, assignment, and disposal of
4 State Police vehicles. Any unexpended and unencumbered funds remaining in
5 this allocation at the close of a fiscal year shall revert to the Transportation
6 Fund. The Department of Public Safety may periodically recommend to the
7 General Assembly that this allocation be adjusted to reflect market conditions
8 for the vehicles and equipment.

9 Sec. 25. 19 V.S.A. § 38(f) is amended to read:

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

13 [Repealed.]

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

17 (3) In fiscal year 2022 and thereafter, \$1,100,000.00 of Grant Program
18 funds, or such lesser sum if all eligible applications amount to less than
19 \$1,100,000.00, shall be reserved for municipalities for environmental
20 mitigation projects relating to stormwater and highways, including eligible salt
21 and sand shed projects.

1 (4) Regarding ~~Grant Program funds awarded in fiscal years 2020 and~~
2 ~~2021, and~~ the balance of Grant Program funds not reserved for environmental
3 mitigation projects in fiscal year 2022 and thereafter, in evaluating applications
4 for Transportation Alternatives grants, the Agency shall give preferential
5 weighting to projects involving as a primary feature a bicycle or pedestrian
6 facility. The degree of preferential weighting and the circumstantial factors
7 sufficient to overcome the weighting shall be in the complete discretion of the
8 Agency.

9 Sec. 26. 19 V.S.A. § 996(a) is amended to read:

10 (a) The Agency of Transportation shall work with municipal
11 representatives to revise the Agency of Transportation’s **Town Road** and
12 **Bridge Standards** in order to incorporate a suite of practical and cost-effective
13 best management practices, as approved by the Agency of Natural Resources,
14 for the construction, maintenance, and repair of all existing and future State
15 and town highways. These best management practices shall address activities
16 that have a potential for causing pollutants to enter the groundwater and waters
17 of the State, including stormwater runoff and direct discharges to State waters.
18 The best management practices shall not supersede any requirements for
19 stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that
20 apply to State and town highways. ~~The Agency of Transportation shall report~~
21 ~~to the House and Senate committees on Transportation, the house committee~~

1 ~~on fish, wildlife and water resources, and the Senate Committee on Natural~~
2 ~~Resources and Energy by January 15, 2011, on the best management practices~~
3 ~~to be incorporated into the Agency of Transportation’s Town Road and Bridge~~
4 ~~Standards.~~

5 * * * Effective Dates * * *

6 Sec. 27. EFFECTIVE DATES

7 (a) This section and Sec. 22 (repeal of 32 V.S.A. § 604 sunset) shall take
8 effect on passage.

9 (b) Notwithstanding 1 V.S.A. § 214, Secs. 5–8 (amendments to the 2021
10 Transportation Bill) shall take effect retroactively on July 1, 2021.

11 (c) All other sections shall take effect on July 1, 2022.