

1 Introduced by Committee on Transportation

2 Date:

3 Subject: Transportation; annual Transportation Program; surety bonds;

4 transportation planning; appropriations calculations; Central Garage

5 Fund; town highway aid; right-of-way permit fees; vehicle incentive

6 programs

7 Statement of purpose of bill as introduced: This bill proposes to adopt the

8 State's annual Transportation Program and make miscellaneous changes to

9 laws related to transportation.

10 An act relating to the fiscal year 2025 Transportation Program and
11 miscellaneous changes to laws related to transportation

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

13 * * * Transportation Program Adopted as Amended;

14 Definitions * * *

15 Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

16 (a) Adoption. The Agency of Transportation's Proposed Fiscal Year 2025

17 Transportation Program appended to the Agency of Transportation's proposed

18 fiscal year 2025 budget (Revised February XX, 2024), as amended by this act,

19 is adopted to the extent federal, State, and local funds are available.

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

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

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

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

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

16 (5) “Secretary” means the Secretary of Transportation.

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

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

1 heading “Change” means the difference obtained by subtracting the “As
2 Proposed” figure from the “As Amended” figure; the terms “change” or
3 “changes” in the text refer to the project- and program-specific amendments,
4 the aggregate sum of which equals the net “Change” in the applicable table
5 heading; and “State” in any tables amending authorizations indicates that the
6 source of funds is State monies in the Transportation Fund, unless otherwise
7 specified.

8 * * * Agency of Transportation Duties; Bonding * * *

9 Sec. 2. 19 V.S.A. § 10 is amended to read:

10 § 10. DUTIES

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

12 * * *

13 (9) Require any contractor or contractors employed in any project of the
14 Agency for construction of a transportation improvement to file an additional
15 surety bond to the Secretary and the Secretary’s successor in office, for the
16 benefit of labor, materialmen, and others, executed by a surety company
17 authorized to transact business in this State. The surety bond shall be in such
18 sum as the Agency shall direct, conditioned for the payment, settlement,
19 liquidation, and discharge of the claims of all creditors for material,
20 merchandise, labor, rent, hire of vehicles, power shovels, rollers, concrete
21 mixers, tools, and other appliances, professional services, premiums, and other

1 services used or employed in carrying out the terms of the contract between the
2 contractor and the State and further conditioned for the following accruing
3 during the term of performance of the contract: the payment of taxes, both
4 State and municipal, and contributions to the Vermont Commissioner of Labor,
5 ~~accruing during the term of performance of the contract.~~ However, in order to
6 obtain the benefit of the security, the claimant shall file with the Secretary a
7 sworn statement of the claimant's claim, within 90 days after the final
8 acceptance of the project by the State or within 90 days from the time the taxes
9 or contributions to the Vermont Commissioner of Labor are due and payable,
10 and, within one year after the filing of the claim, shall bring a petition in the
11 Superior Court in the name of the Secretary, with notice and summons to the
12 principal, surety, and the Secretary, to enforce the claim or intervene in a
13 petition already filed. The Secretary may, if the Secretary determines that it is
14 in the best interests of the State, accept other good and sufficient surety in lieu
15 of a bond and, in cases involving contracts for \$100,000.00 or less, may waive
16 the requirement of a surety bond.

17 * * *

18 * * * Transportation Program Statute; Technical Corrections * * *

19 Sec. 3. 19 V.S.A. § 10g is amended to read:

20 § 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

21 ADVANCEMENTS, CANCELLATIONS, AND DELAYS

1 (a) Proposed Transportation Program. The Agency of Transportation shall
2 annually present to the General Assembly for adoption a multiyear
3 Transportation Program covering the same number of years as the Statewide
4 Transportation Improvement Program (STIP), consisting of the recommended
5 budget for all Agency activities for the ensuing fiscal year and projected
6 spending levels for all Agency activities for the following fiscal years. The
7 Program shall include a description and year-by-year breakdown of
8 recommended and projected funding of all projects proposed to be funded
9 within the time period of the STIP and, in addition, a description of all projects
10 that are not recommended for funding in the first fiscal year of the proposed
11 Program but that are scheduled for construction during the time period covered
12 by the STIP. The Program shall be consistent with the planning process
13 established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A.
14 chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in
15 sections 10b–10f of this title, and the long-range systems plan, corridor studies,
16 and project priorities developed through the capital planning process under
17 section 10i of this title.

18 (b) Projected spending. Projected spending in future fiscal years shall be
19 based on revenue estimates as follows:

20 * * *

1 (c) Systemwide performance measures. The Program proposed by the
2 Agency shall include systemwide performance measures developed by the
3 Agency to describe the condition of the Vermont transportation network. The
4 Program shall discuss the background and utility of the performance measures,
5 track the performance measures over time, and, where appropriate, recommend
6 the setting of targets for the performance measures.

7 (d) [Repealed.]

8 (e) Prior expenditures and appropriations carried forward.

9 * * *

10 (f) Adopted Transportation Program. Each year following ~~enactment~~
11 adoption of a Transportation Program under this section, the Agency shall
12 prepare and make available to the public the Transportation Program
13 ~~established~~ adopted by the General Assembly. The resulting document shall
14 be entered in the permanent records of the Agency ~~and of the Board~~, and shall
15 constitute the State’s official Transportation Program.

16 (g) Project updates. The Agency’s annual proposed Transportation
17 Program shall include project updates referencing this section and listing the
18 following:

19 (1) all proposed projects in the Program that would be new to the State
20 Transportation Program ~~if adopted~~;

1 (2) all projects for which total estimated costs have increased by more
2 than \$8,000,000.00 or by more than 100 percent from the estimate in the prior
3 fiscal year's ~~approved~~ adopted Transportation Program; and

4 (3) all projects funded for construction in the prior fiscal year's
5 ~~approved~~ adopted Transportation Program that are no longer funded in the
6 proposed Transportation Program submitted to the General Assembly, the
7 projected costs for such projects in the prior fiscal year's ~~approved~~ adopted
8 Transportation Program, and the total costs incurred over the life of each such
9 project.

10 (h) ~~Should~~ Project delays; emergency and safety issues; additional funding;
11 cancellations.

12 (1) If capital projects in the Transportation Program ~~be~~ are delayed
13 because of unanticipated problems with permitting, right-of-way acquisition,
14 construction, local concern, or availability of federal or State funds, the
15 Secretary is authorized to advance other projects in the ~~approved~~ adopted
16 Transportation Program for the current fiscal year.

17 (2) The Secretary is further authorized to undertake projects to resolve
18 emergency or safety issues that are not included in the adopted Transportation
19 Program for the current fiscal year. Upon authorizing a project to resolve an
20 emergency or safety issue, the Secretary shall give prompt notice of the
21 decision and action taken to the Joint Fiscal Office and to the House and

1 Senate Committees on Transportation when the General Assembly is in
2 session, and ~~when the General Assembly is not in session,~~ to the Joint
3 Transportation Oversight Committee, the Joint Fiscal Office, and the Joint
4 Fiscal Committee when the General Assembly is not in session. ~~Should an~~
5 ~~approved~~

6 (3) If a project in the ~~current~~ adopted Transportation Program ~~require~~ for
7 the current fiscal year requires additional funding to maintain the ~~approved~~
8 schedule in the adopted Transportation Program for the current fiscal year, the
9 Agency is authorized to allocate the necessary resources. However, the
10 Secretary shall not delay or suspend work on ~~approved~~ projects in the adopted
11 Transportation Program for the current fiscal year to reallocate funding for
12 other projects except when other funding options are not available. In such
13 case, the Secretary shall notify the Joint Transportation Oversight Committee,
14 the Joint Fiscal Office, and the Joint Fiscal Committee when the General
15 Assembly is not in session and the House and Senate Committees on
16 Transportation and the Joint Fiscal Office when the General Assembly is in
17 session. With respect to projects in the ~~approved~~ adopted Transportation
18 Program, the Secretary shall notify, ~~in the district affected,~~ the regional
19 planning commission for the district where the affected project is located, the
20 municipality where the affected project is located, the legislators for the district
21 where the affected project is located, the House and Senate Committees on

1 Transportation, and the Joint Fiscal Office of any change that likely will affect
2 the fiscal year in which the project is planned to go to construction.

3 (4) No project shall be canceled without the approval of the General
4 Assembly, except that the Agency may cancel a municipal project upon the
5 request or concurrence of the municipality, provided that notice of the
6 cancellation is included in the Agency’s annual proposed Transportation
7 Program.

8 (i) Economic development proposals. For the purpose of enabling the
9 State, without delay, to take advantage of economic development proposals
10 that increase jobs for Vermonters, a transportation project certified by the
11 Governor as essential to the economic infrastructure of the State economy, or a
12 local economy, may, if approval is required by law, be approved for
13 construction by a committee comprising the Joint Fiscal Committee meeting
14 with the ~~Chairs~~ chairs of the ~~Transportation~~ House and Senate Committees on
15 Transportation or their designees without explicit project authorization through
16 an ~~enacted~~ adopted Transportation Program, ~~in the event that such~~
17 ~~authorization is otherwise required by law.~~

18 (j) Plan for advancing projects. The Agency of Transportation, in
19 coordination with the Agency of Natural Resources and the Division for
20 Historic Preservation, shall prepare and implement a plan for advancing
21 ~~approved~~ projects contained in the ~~approved~~ adopted Transportation Program

1 for the current fiscal year. The plan shall include the assignment of a project
2 manager from the Agency of Transportation for each project. The Agency of
3 Transportation, the Agency of Natural Resources, and the Division for Historic
4 Preservation shall set forth provisions for expediting the permitting process
5 and establishing a means for evaluating each project during concept design
6 planning if more than one agency is involved to determine whether it should be
7 advanced or deleted from the Program.

8 (k) Definition. ~~For purposes of~~ As Used in subsection (h) of this section,
9 “emergency or safety issues” ~~shall mean~~ means:

10 (1) serious damage to a transportation facility caused by a natural
11 disaster over a wide area, such as a flood, hurricane, earthquake, severe storm,
12 or landslide; ~~or~~

13 (2) catastrophic or imminent catastrophic failure of a transportation
14 facility from any cause; ~~or~~

15 (3) any condition identified by the Secretary as hazardous to the
16 traveling public; or

17 (4) any condition evidenced by fatalities or a high incidence of crashes.

18 (l) Numerical grading system; priority rating. The Agency shall develop a
19 numerical grading system to assign a priority rating to all Program
20 Development Paving, Program Development Roadway, Program Development
21 Safety and Traffic Operations, Program Development State and Interstate

1 Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating
2 system shall consist of two separate, additive components as follows:

3 (1) One component shall be limited to asset management- and
4 performance-based factors that are objective and quantifiable and shall
5 consider, ~~without limitation,~~ the following:

6 * * *

7 (2) The second component of the priority rating system shall consider,
8 ~~without limitation,~~ the following factors:

9 * * *

10 (m) Inclusion of priority rating. The annual proposed Transportation
11 Program shall include an individual priority rating pursuant to subsection (l) of
12 this section for each highway paving, roadway, safety and traffic operations,
13 and bridge project in the ~~program~~ Program along with a description of the
14 system and methodology used to assign the ratings.

15 (n) Development and evaluation projects; delays. The Agency's annual
16 proposed Transportation Program shall include a project-by-project description
17 in each program of all proposed spending of funds for the development and
18 evaluation of projects. ~~In the approved annual Transportation Program, these~~
19 These funds shall be reserved to the identified projects subject to the discretion
20 of the Secretary to reallocate funds to other projects within the program when
21 it is determined that the scheduled expenditure of the identified funds will be

1 delayed due to permitting, local decision making, the availability of federal or
2 State funds, or other unanticipated problems.

3 (o) Year of first inclusion. For projects initially ~~approved by the General~~
4 ~~Assembly for inclusion in the State~~ included in a Transportation Program
5 adopted after January 1, 2006, the Agency’s proposed Transportation Program
6 prepared pursuant to subsection (a) of this section and the ~~official~~ adopted
7 Transportation Program prepared pursuant to subsection (f) of this section shall
8 include the year in which ~~such~~ the projects were first ~~approved by the General~~
9 ~~Assembly~~ included in an adopted Transportation Program.

10 (p) Lamoille Valley Rail Trail. The Agency shall include the annual
11 maintenance required for the Lamoille Valley Rail Trail (LVRT), running from
12 Swanton to St. Johnsbury, in the Transportation Program it presents to the
13 General Assembly under subsection (a) of this section. The proposed
14 authorization for the maintenance of the LVRT shall be sufficient to cover:

15 * * *

16 * * * Appropriation Calculations * * *

17 * * * Central Garage Fund * * *

18 Sec. 4. 19 V.S.A. § 13(c) is amended to read:

19 (c)(1) For the purpose specified in subsection (b) of this section, the
20 following amount, at a minimum, shall be transferred from the Transportation
21 Fund to the Central Garage Fund:

1 (A) ~~in fiscal year 2021, \$1,355,358.00; and~~
2 ~~(B) in subsequent fiscal years, at a minimum,~~ the amount specified in
3 ~~subdivision (A) of this subdivision (1) as adjusted annually by increasing~~
4 transferred for the previous fiscal year's amount by the percentage increase in
5 the year increased by the percentage change in the Bureau of Labor Statistics
6 Consumer Price Index for All Urban Consumers (CPI-U) during the two most
7 recently closed State fiscal years if the percentage change is positive; or
8 (B) the amount transferred for the previous fiscal year if the
9 percentage change is zero or negative.

* * *

11 (3) For purposes of subdivision (1) of this subsection, the percentage
12 change in the CPI-U is calculated by determining the increase or decrease, to
13 the nearest one-tenth of a percent, in the CPI-U for the month ending on June
14 30 in the calendar year one year prior to the first day of the fiscal year for
15 which the transfer will be made compared to the CPI-U for the month ending
16 on June 30 in the calendar year two years prior to the first day of the fiscal year
17 for which the transfer will be made.

* * * Town Highway Aid * * *

Sec. 5. 19 V.S.A. § 306(a) is amended to read:

20 (a) General State aid to town highways.

1 (1) An annual appropriation to class 1, 2, and 3 town highways shall be
2 made. This appropriation shall increase over the previous fiscal year’s
3 appropriation by the same percentage change as the following, whichever is
4 less, or shall remain at the previous fiscal year’s appropriation if either of the
5 following are negative or zero:

6 (A) ~~the year-over-year increase in the two most recently closed fiscal~~
7 ~~years in~~ percentage change of the Agency’s total appropriations funded by
8 Transportation Fund revenues, excluding appropriations for town highways
9 under this subsection (a), for the most recently closed fiscal year as compared
10 to the fiscal year immediately preceding the most recently closed fiscal year; or

11 (B) the percentage ~~increase~~ change in the Bureau of Labor Statistics
12 Consumer Price Index for All Urban Consumers (CPI-U) ~~during the same~~
13 ~~period in subdivision (1)(A) of this subsection.~~

14 (2) ~~If the year-over-year change in appropriations specified in either~~
15 ~~subdivision (1)(A) or (B) of this subsection is negative, then the appropriation~~
16 ~~to town highways under this subsection shall be equal to the previous fiscal~~
17 ~~year’s appropriation~~ For purposes of subdivision (1)(B) of this subsection, the
18 percentage change in the CPI-U is calculated by determining the increase or
19 decrease, to the nearest one-tenth of a percent, in the CPI-U for the month
20 ending on June 30 in the calendar year one year prior to the first day of the
21 fiscal year for which the appropriation will be made compared to the CPI-U for

1 the month ending on June 30 in the calendar year two years prior to the first
2 day of the fiscal year for which the appropriation will be made.

3 * * *

4 * * * Right-of-Way Permits; Fees * * *

5 Sec. 6. 19 V.S.A. § 1112 is amended to read:

6 § 1112. DEFINITIONS; FEES

7 (a) As used in this section:

8 (1) “Major commercial development” means a commercial development
9 for which the Agency requires the applicant to submit a traffic impact study in
10 support of its application under section 1111 of this ~~title~~ chapter.

11 (2) “Minor commercial development” means a commercial development
12 for which the Agency does not require the applicant to submit a traffic impact
13 study in support of its application under section 1111 of this ~~title~~ chapter.

14 * * *

15 (b) The Secretary shall collect the following fees for each application for
16 the following types of permits issued pursuant to section 1111 of this ~~title~~
17 chapter:

18 * * *

19 (c) Notwithstanding subsection (b) of this section, the Secretary may, in the
20 Secretary’s sole discretion, waive the collection of fees for permits issued
21 pursuant to section 1111 of this chapter upon a determination of hardship.

* * * Vehicle Incentive Programs * * *

Sec. 7. 19 V.S.A. § 2904a is added to read:

§ 2904a. REPLACE YOUR RIDE PROGRAM FLEXIBILITY;

EMERGENCIES

Notwithstanding subdivisions 2904(d)(2)(A) and (d)(2)(B)(i) and (ii) of this chapter, the Agency of Transportation is authorized to waive or modify any eligibility requirements for the Replace Your Ride Program that pertain to the removal of an eligible vehicle with an internal combustion engine, as required under subsection 2904(d) of this chapter, provided that:

(1) the Governor has declared a state of emergency under 20 V.S.A. chapter 1 and, due to the event or events underlying the state of emergency, motor vehicles registered in Vermont have been damaged or totaled;

(2) the waived or modified eligibility requirements are prominently posted on any websites maintained by or at the direction of the Agency for purposes of providing information on the vehicle incentive programs;

(3) the waived or modified eligibility requirements are only applicable:

(A) upon a showing that the applicant for an incentive under the Replace Your Ride Program was a registered owner of a motor vehicle that was damaged or totaled due to the event or events underlying the state of emergency at the time of the event or events underlying the state of emergency; and

