

1 **[PROPOSAL FROM THE AUDITOR’S OFFICE HIGHLIGHTED IN**
2 **YELLOW, TECHNICAL CORRECTIONS FROM LEG. COUNSEL]**

3 * * * Increased Estimated Costs; Delays; Transportation Program * * *

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

5 § 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

6 ADVANCEMENTS, CANCELLATIONS, AND DELAYS

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

1 and project priorities developed through the capital planning process under
2 section 10i of this title.

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

5 * * *

6 (c) Systemwide performance measures. The Program proposed by the
7 Agency shall include systemwide performance measures developed by the
8 Agency to describe the condition of the Vermont transportation network. The
9 Program shall discuss the background and utility of the performance measures,
10 track the performance measures over time, and, where appropriate, recommend
11 the setting of targets for the performance measures.

12 (d) [Repealed.]

13 (e) Prior expenditures and appropriations carried forward.

14 * * *

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

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

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

6 (2) all projects for which total estimated costs have increased by more
7 than \$8,000,000.00 ~~\$XXX.00~~ or by more than ~~100~~ 50 percent from the
8 ~~estimate in the prior fiscal year’s approved Transportation Program initial~~
9 ~~estimate when the project was first included in an adopted Transportation~~
10 ~~Program~~; and

11 (3) all projects funded for construction in the prior fiscal year’s
12 ~~approved~~ adopted Transportation Program that are no longer funded in the
13 proposed Transportation Program submitted to the General Assembly, the
14 projected costs for such projects in the prior fiscal year’s ~~approved~~ adopted
15 Transportation Program, and the total costs incurred over the life of each such
16 project.

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

19 (1) If capital projects in the Transportation Program ~~be~~ are delayed
20 because of unanticipated problems with permitting, right-of-way acquisition,
21 construction, local concern, or availability of federal or State funds, the

1 Secretary is authorized to advance other projects in the ~~approved~~ adopted
2 Transportation Program for the current fiscal year.

3 (2) The Secretary is further authorized to undertake projects to resolve
4 emergency or safety issues that are not included in the adopted Transportation
5 Program for the current fiscal year. Upon authorizing a project to resolve an
6 emergency or safety issue, the Secretary shall give prompt notice of the
7 decision and action taken to the Joint Fiscal Office and to the House and
8 Senate Committees on Transportation when the General Assembly is in
9 session; and ~~when the General Assembly is not in session~~, to the Joint
10 Transportation Oversight Committee, the Joint Fiscal Office, and the Joint
11 Fiscal Committee when the General Assembly is not in session. ~~Should an~~
12 ~~approved~~

13 (3) If a project in the ~~current~~ adopted Transportation Program ~~require~~ for
14 the current fiscal year requires additional funding to maintain the ~~approved~~
15 schedule in the adopted Transportation Program for the current fiscal year, the
16 Agency is authorized to allocate the necessary resources. However, the
17 Secretary shall not delay or suspend work on ~~approved~~ projects in the adopted
18 Transportation Program for the current fiscal year to reallocate funding for
19 other projects except when other funding options are not available. ~~In such~~
20 ~~ease~~;

1 (4) If the Secretary determines that the preliminary engineering phase,
2 construction start date, or construction completion date for a project will be
3 delayed by one year or more for any reason, the Secretary shall notify the Joint
4 Transportation Oversight Committee, the Joint Fiscal Office, and the Joint
5 Fiscal Committee when the General Assembly is not in session and the House
6 and Senate Committees on Transportation and the Joint Fiscal Office when the
7 General Assembly is in session. With respect to projects in the approved
8 Transportation Program, the Secretary shall notify, in the district affected, the
9 regional planning commission for the district where the delayed project is
10 located, the municipality where the delayed project is located, and the
11 legislators, the House and Senate Committees on Transportation, and the Joint
12 Fiscal Office of any change that likely will affect the fiscal year in which the
13 project is planned to go to construction for the district where the delayed
14 project is located.

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

20 (i) Economic development proposals. For the purpose of enabling the
21 State, without delay, to take advantage of economic development proposals

1 that increase jobs for Vermonters, a transportation project certified by the
2 Governor as essential to the economic infrastructure of the State economy, or a
3 local economy, may, if approval is required by law, be approved for
4 construction by a committee comprising the Joint Fiscal Committee meeting
5 with the ~~Chairs~~ chairs of the ~~Transportation~~ House and Senate Committees on
6 Transportation or their designees without explicit project authorization through
7 an ~~enacted~~ adopted Transportation Program, ~~in the event that such~~
8 ~~authorization is otherwise required by law.~~

9 (j) Plan for advancing projects. The Agency of Transportation, in
10 coordination with the Agency of Natural Resources and the Division for
11 Historic Preservation, shall prepare and implement a plan for advancing
12 ~~approved~~ projects contained in the ~~approved~~ adopted Transportation Program
13 for the current fiscal year. The plan shall include the assignment of a project
14 manager from the Agency of Transportation for each project. The Agency of
15 Transportation, the Agency of Natural Resources, and the Division for Historic
16 Preservation shall set forth provisions for expediting the permitting process
17 and establishing a means for evaluating each project during concept design
18 planning if more than one agency is involved to determine whether it should be
19 advanced or deleted from the Program.

20 (k) Definition. For purposes of subsection (h) of this section, “emergency
21 or safety issues” shall mean:

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

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

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

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

9 (1) Numerical grading system; priority rating. The Agency shall develop a
10 numerical grading system to assign a priority rating to all Program
11 Development Paving, Program Development Roadway, Program Development
12 Safety and Traffic Operations, Program Development State and Interstate
13 Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating
14 system shall consist of two separate, additive components as follows:

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

18 * * *

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

21 * * *

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

6 (n) Development and evaluation projects; delays. The Agency’s annual
7 proposed Transportation Program shall include a project-by-project description
8 in each program of all proposed spending of funds for the development and
9 evaluation of projects. ~~In the approved annual Transportation Program, these~~
10 These funds shall be reserved to the identified projects subject to the discretion
11 of the Secretary to reallocate funds to other projects within the program when
12 it is determined that the scheduled expenditure of the identified funds will be
13 delayed due to permitting, local decision making, the availability of federal or
14 State funds, or other unanticipated problems.

15 (o) Year of first inclusion. For projects initially ~~approved by the General~~
16 ~~Assembly for inclusion in the State~~ included in a Transportation Program
17 adopted after January 1, 2006, the Agency’s proposed Transportation Program
18 prepared pursuant to subsection (a) of this section and the ~~official~~ adopted
19 Transportation Program prepared pursuant to subsection (f) of this section shall
20 include the year in which ~~such~~ the projects were first ~~approved by the General~~
21 ~~Assembly~~ included in an adopted Transportation Program.

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

6 * * *