



TOWN OF POMFRET, VERMONT

SELECTBOARD

May 14, 2025

VIA ELECTRONIC MAIL

House Committee on Transportation
Vermont State House
115 State Street
Montpelier, Vermont 05633
Attention: Representative Matt Walker
mwalker@leg.state.vt.us

Re: Clarification of Vermont Municipalities' Legal Trails Authority

Dear Chair Walker:

The Town of Pomfret urges your committee to incorporate the substance of Senate bill 4 ("S.4"), concerning the maintenance and use of legal trails, into Senate bill 123 (the "DMV Bill"). We understand that the substance of S.4 was removed from Senate bill 488 during conference earlier this month, but with a commitment from your committee to reconsider this issue after hearing testimony. We respectfully request the opportunity to testify before your committee on this important matter.

Background and Context

The Town of Pomfret maintains 5.19 miles of legal trails that serve as vital recreational resources for our community and visitors alike. Since 2004, Pomfret has had a legal trails ordinance and policy governing the maintenance and permitted uses of these public rights-of-way.¹ Our legal trails are inspected annually by our highway department and maintained as needed for non-motorized recreational purposes for the benefit of the general public.

However, recent litigation against the Town of Tunbridge has called into question Vermont municipalities' authority to maintain legal trails.² This uncertainty threatens the public's continued enjoyment of these valuable resources not just in Pomfret, but across Vermont, and should be clarified by appropriate legislation, such as S.4.

¹ Town of Pomfret Ordinance Pertaining to Travel of Trails, adopted August 4, 2004, and Policy on Legal Trails, adopted July 7, 2010, *available at* https://pomfretvt.us/~pomfretvt/index.php/download_file/view/50/225/.

² John Echeverria et al. v. Town of Tunbridge, No. 23-CV-00195 (Vt. Super. Ct.).

Why S.4 is Necessary

S.4 would provide much-needed statutory clarity by:

1. **Explicitly confirming municipalities' authority to maintain legal trails** without imposing a mandatory duty to do so;
2. **Allowing municipalities to regulate trail use** through local ordinances, similar to Pomfret's existing Trails Ordinance; and
3. **Protecting municipalities from liability** by specifying that towns "shall not be responsible for any maintenance, including culverts and bridges" and "shall not owe a duty of care to persons using a trail that is maintained by the town".

Addressing Constitutional Concerns

We understand that some have raised concerns that S.4 might constitute a "taking" of private property in violation of state and federal constitutions. We respectfully disagree with this interpretation for the following reasons:

1. **Legal trails are already established public rights-of-way**, not private property. These corridors were previously designated town highways and remain public assets, even though they have been reclassified as trails. The public already has the right to travel on these corridors;
2. **S.4 does not expand the physical boundaries** of existing legal trails or authorize municipalities to enter private property outside of the existing public right-of-way;
3. **Municipal maintenance activities would occur only within these established public rights-of-way** and would be limited to ensuring safe public passage for limited purposes;
4. **Property owners retain their underlying fee interest** in the land and all rights compatible with the public's right of passage; and
5. **Maintenance of these trails enhances their value to adjacent landowners** by reducing erosion, improving drainage, and preventing environmental degradation that could affect neighboring properties.

S.4 simply clarifies existing authority of municipalities to maintain public rights-of-way that have already been legally established—a power we believe municipalities already possess but which has been challenged through litigation.

The Value of Legal Trails to Our Communities

In Pomfret, as in many Vermont communities, legal trails serve numerous public purposes:

1. Providing recreational opportunities for hiking, snowshoeing, cross-country skiing, and other non-motorized activities;

2. Connecting networks of recreational paths across town boundaries;
3. Preserving historic travel corridors that are part of Vermont's cultural heritage;
4. Offering emergency access to remote areas; and
5. Supporting tourism and the outdoor recreation economy that is vital to our region.

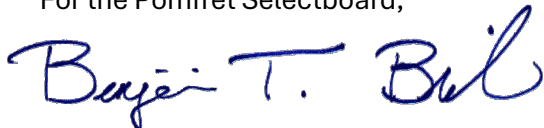
Without clear municipal authority to maintain these trails, their continued availability for public use is in jeopardy. Improper maintenance—or lack of maintenance altogether—could lead to erosion, runoff, and other environmental concerns that would damage both the trails themselves and adjacent private property.

Conclusion

We strongly urge your committee to incorporate the substance of S.4 into the DMV Bill. This legislation provides necessary clarity that will benefit municipalities, property owners, and the public alike. It does not create new authority, but rather confirms municipalities' existing authority to maintain legal trails within their jurisdictions for the benefit of all Vermonters.

One or more representatives of the Town of Pomfret would be pleased to testify before your committee on this matter. Please contact us at selectboard@pomfretvt.us or (802) 457-3861 if you have any questions or would like to schedule our testimony.

For the Pomfret Selectboard,



Benjamin Brickner, chair

Cc: Camryn Griffin, Committee Assistant, cgriffin@leg.state.vt.us
Senator Alison Clarkson, aclarkson@leg.state.vt.us
Senator Rebecca White, rwhite@leg.state.vt.us
Senator Joe Major, jmajor@leg.state.vt.us
Representative Heather Surprenant, hsurprenant@leg.state.vt.us