

No. 38. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

(H.494)

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

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2018

Transportation Program appended to the Agency of Transportation's proposed fiscal year 2018 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

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

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

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

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

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

* * * Department of Motor Vehicles * * *

Sec. 2. DEPARTMENT OF MOTOR VEHICLES

For fiscal year 2018, spending authority for the Department of Motor Vehicles is amended as follows:

| <u>FY18</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------|--------------------|-------------------|---------------|
| Personal Services | 18,395,579 | 18,395,579 | 0 |
| Operating Expense | 11,106,337 | 10,906,337 | -200,000 |
| Total | 29,501,916 | 29,301,916 | -200,000 |

Sources of Funds

| | | | |
|---------------------|------------|------------|----------|
| State | 27,973,478 | 27,773,478 | -200,000 |
| Federal | 1,423,438 | 1,423,438 | 0 |
| Interdept. Transfer | 105,000 | 105,000 | 0 |
| Total | 29,501,916 | 29,301,916 | -200,000 |

* * * State Highway Bridge Program * * *

Sec. 2a. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE PROGRAM

The following project is added to the development and evaluation (D&E) list of the Program Development – State Highway Bridge Program within the fiscal year 2018 Transportation Program: NH 020-2 () – Quechee – Rehab of Bridge 61 on U.S. Route 4 in the town of Hartford over the Ottauquechee River. To the extent funds become available as a result of the unanticipated

delay of or cost savings on projects in the fiscal year 2018 Transportation

Program, the funds may be spent as necessary for D&E of this project.

* * * Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail * * *

Sec. 3. REPEAL

(a) 2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail) is repealed.

(b) In the Program Development – Bike and Pedestrian Facilities Program section of the Agency’s fiscal year 2018 proposed Transportation Program, within the project information description for the Swanton–St. Johnsbury LVRT() project, the projected cash requirement fields are amended as follows:

(1) under “Projected FY 2019,” the estimated amount of construction expenditures and the total expenditures is amended from “980,000” to “1,000,000”;

(2) under “Projected FY 2020,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000”; and

(3) under “Projected FY 2021,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000.”

* * * Maintenance Program * * *

Sec. 4. MAINTENANCE

For fiscal year 2018, spending authority for the Maintenance Program is amended as follows:

| <u>FY18</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------|--------------------|-------------------|---------------|
| Personal Services | 45,558,652 | 43,638,652 | -1,920,000 |
| Operating Expense | 45,265,393 | 45,265,393 | 0 |
| Grants | 421,780 | 421,780 | 0 |
| Total | 91,245,825 | 89,325,825 | -1,920,000 |

Sources of Funds

| | | | |
|---------------------|------------|------------|------------|
| State | 87,376,083 | 87,376,083 | 0 |
| Federal | 3,769,742 | 1,849,742 | -1,920,000 |
| Interdept. Transfer | 100,000 | 100,000 | 0 |
| Total | 91,245,825 | 89,325,825 | -1,920,000 |

* * * License Plate Savings * * *

Sec. 4a. SAVINGS RELATED TO SINGLE LICENSE PLATES;

ANALYSIS; SPENDING AUTHORITY

(a) Secs. 2 and 5 of this act reallocate \$200,000.00 in spending authority from the Department of Motor Vehicles (DMV) to the Town Highway Class 2 Roadway Program as result of cost savings projected to result from the requirement that DMV issue one license plate instead of two license plates for most motor vehicles registered in Vermont.

(b) On or before December 1, 2017, the Commissioner of Motor Vehicles shall provide the House and Senate Committees on Appropriations and on Transportation an updated analysis of cost savings projected to result in fiscal year 2018 from requiring one license plate. If the cost savings are projected to

exceed \$200,000.00, the Administration shall propose in its fiscal year 2018 Budget Adjustment Act submission an increase in spending authority for the Town Highway Class 2 Roadway Program for fiscal year 2018, and a decrease in spending authority for the Department of Motor Vehicles for fiscal year 2018, to the extent the savings are projected to exceed \$200,000.00.

* * * Town Highway Bridge Program * * *

Sec. 4b. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the Town Highway Bridge Program within the fiscal year 2018 Transportation Program: FLAP (1) – Derby – culvert replacement on the access road to the Eagle Point Wildlife Management Area in Derby. To the extent funds become available for the project from the Federal Lands Access Program in fiscal year 2018, the funds may be expended as necessary for advancement of this project.

* * * Town Aid Programs * * *

Sec. 5. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

For fiscal year 2018, spending authority for the Town Highway Class 2 Roadway Program is amended as follows:

| <u>FY18</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Grants | 7,248,750 | 7,848,750 | 600,000 |
| Total | 7,248,750 | 7,848,750 | 600,000 |
| <u>Sources of funds</u> | | | |
| State | 7,248,750 | 7,848,750 | 600,000 |

| | | | |
|---------|-----------|-----------|---------|
| Federal | 0 | 0 | 0 |
| Total | 7,248,750 | 7,848,750 | 600,000 |

Sec. 6. TOWN HIGHWAY FEDERAL DISASTERS PROGRAM

Spending authority for the fiscal year 2018 Town Highway Federal

Disasters Program is amended as follows:

| <u>FY18</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Grants | 200,000 | 180,000 | -20,000 |
| Total | 200,000 | 180,000 | -20,000 |
| <u>Sources of funds</u> | | | |
| State | 20,000 | 20,000 | 0 |
| Federal | 180,000 | 160,000 | -20,000 |
| Total | 200,000 | 180,000 | -20,000 |

* * * Transportation Alternatives Program * * *

Sec. 7. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

* * *

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency, and shall be funded in the amount provided for in 23 U.S.C. § ~~213(a)~~ 133(h), less the funds set aside for the Recreational Trails Program as ~~specified in 23 U.S.C. § 213(f)~~. Awards shall be made to eligible entities as defined under 23 U.S.C. § ~~213(e)(4)~~ 133(h), and awards under the Grant Program shall be limited to the activities

~~described at 23 U.S.C. § 213(b) other than Recreational Trails Program grants~~
authorized under federal law.

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Transportation Alternatives Grant Committee.

(e) Transportation Alternatives grant awards shall be announced annually by the Transportation Alternatives Grant Committee not earlier than December and not later than the following March.

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

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

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

(4) Regarding Grant Program funds awarded in fiscal years 2020 and 2021, and the balance of Grant Program funds not reserved for environmental

mitigation projects in fiscal year 2022 and thereafter, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

* * *

Sec. 8. MUNICIPAL MITIGATION ASSISTANCE PROGRAM

Authorized spending in the Municipal Mitigation Assistance Program for fiscal year 2018 is amended as follows:

| <u>FY18</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Operating Expenses | 150,000 | 150,000 | 0 |
| Grants | 8,032,342 | 9,032,342 | 1,000,000 |
| Total | 8,182,342 | 9,182,342 | 1,000,000 |
| <u>Sources of Funds</u> | | | |
| State | 1,640,000 | 1,240,000 | -400,000 |
| Federal | 5,442,342 | 5,442,342 | 0 |
| Clean Water Fund | 1,100,000 | 1,100,000 | 0 |
| Other | 0 | 1,400,000 | 1,400,000 |
| Total | 8,182,342 | 9,182,342 | 1,000,000 |

Sec. 9. FUTURE APPROPRIATIONS; REPEAL

2016 Acts and Resolves No. 158, Sec. 5 (future appropriations) is repealed.

Sec. 10. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(c) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the Agency shall ~~distribute~~ expend these funds according to a the Transportation Program plan based upon applications submitted by the towns approved by the General Assembly. With the approval of the Agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access, and substitution of other means of access.

* * *

(i) ~~Monies disbursed from the Clean Water Fund established in 10 V.S.A. § 1388 for~~ The Agency shall administer the Municipal Mitigation Assistance Program. Through the Program, the Agency shall provide assistance and grants to municipalities for environmental mitigation projects related to stormwater and highways shall be administered by the Agency through the Municipal Mitigation Grant Program and for the establishment and operation of stormwater utilities. Grants provided to municipalities under the Program

~~shall be matched by~~ Municipalities shall match grants with local funds
sufficient to cover 20 percent of the project costs, ~~except that the Agency may~~
issue grants for the establishment or operation of stormwater utilities without
requiring a local match. From the operating expenses appropriated for the
Program, the Agency is authorized to pay costs billed to the Agency by
municipal stormwater utilities.

* * *

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2018, the amount of
\$1,296,047.00 is transferred from the Transportation Fund to the Central
Garage Fund created in 19 V.S.A. § 13.

* * * Transportation Program Terminology * * *

Sec. 12. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

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

* * *

(16) Inform the Joint Transportation Oversight Committee of any
anticipated loss or reduction of federal funding for transportation purposes due
to either a lack of State funds for matching, or a decrease in federal funds for
the ~~one-year capital program~~ Transportation Program.

* * *

Sec. 13. 19 V.S.A. § 10g is amended to read:

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

ADVANCEMENTS, CANCELLATIONS, AND DELAYS

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

* * *

Sec. 14. 19 V.S.A. § 1512 is amended to read:

§ 1512. UTILITY RELOCATIONS

(a) When relocation of a utility is required by a project for the improvement, construction, or reconstruction of a highway under the provisions of this chapter, the ~~agency~~ Agency or a municipality, or both, may pay for some or all of the cost of the relocation.

(b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A. chapter 25, shall adopt rules setting standards for determining when and to what extent the authority granted by subsection (a) of this section may be exercised. These standards shall take into account the following:

* * *

(4) the overall effect on the ~~state's transportation capital program~~ State's Transportation Program of using available highway construction funds for utility relocation purposes.

* * * Automated Vehicles * * *

Sec. 15. AUTOMATED VEHICLES

(a) On or before December 15, 2017, the Secretary shall convene a meeting of public and private stakeholders with expertise related to:

(1) the licensing of automated vehicle (AV) operators and the registration of AVs;

(2) AV operator education and training;

(3) insurance and liability issues related to AVs;

(4) enforcement of laws governing AV operation;

(5) inspections of AVs;

(6) testing of AVs in Vermont;

(7) emergency response practices in relation to AVs;

(8) infrastructure needs associated with the rollout of AVs; and

(9) social, economic, and environmental consequences of the rollout of AVs.

(b) The purpose of the meeting required under subsection (a) of this section is to gather information related to and raise awareness of opportunities and challenges related to AVs, and identify policy areas requiring further research or possible legislation. On or before January 15, 2018, the Secretary shall report back to the House and Senate Committees on Transportation on its activities and any recommendations related to AVs, including any proposed legislation.

(c) The Secretary shall monitor guidance from the federal government, activities in other states, and industry trends related to the development and rollout of AVs.

* * * Park and Rides * * *

Sec. 16. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE
HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for State highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

* * *

(4) "Highway" shall include park and rides.

* * *

* * * Distribution of Public Transit Program Funds * * *

Sec. 17. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

(a) The Secretary of Transportation, within the annual budget setting process, shall meet with the Public Transit Advisory Council and representatives of public transit systems to establish the level of State funds

needed by public transit systems in Vermont, and shall consider this level in formulating the Agency of Transportation's ~~State Budget request~~ proposed Transportation Program.

(b) State funds authorized by the ~~Legislature~~ General Assembly as grant assistance for the operation of public transit services shall be eligible for use as a matching source for federal funds.

(c) The same fiscal accountability requirements and regulatory standards shall apply to all grantees of funds as provided by rule of the Secretary of Transportation.

(d) Rideshare, capital, contracted services, and transportation brokerage services are not to be considered as operating funds under this section.

(e) State funds shall be paid ~~on a semi-annual payment basis~~ to eligible grantees ~~with the first payment paid immediately upon approval of the contract and the second payment to occur at the start of the third quarter of the State fiscal year~~ as follows:

(1) the first payment of 50 percent of the estimated annual fiscal year total shall be paid immediately upon execution of the grant;

(2) subsequent payments shall be paid quarterly based on projected need determined by current fiscal year spending and availability of funds;

(3) additional payments, if necessary, shall occur only if actual costs exceed the previous payments and if funds are available.

* * *

* * * Highways; Utility Facilities * * *

Sec. 18. 19 V.S.A. § 1111 is amended to read:

§ 1111. PERMITTED USE OF THE RIGHT-OF-WAY; RELOCATION OR
ADJUSTMENT ORDERS

(a) Permits; relocation or adjustment orders.

(1) Permits must be obtained by anyone or any corporation wishing to use as described in this section any part of the highway right-of-way on either the State or town system. Notwithstanding any other statutory requirement, a permit shall be required for any use of any highway right-of-way, consistent with the provisions of this section. In issuing a permit under this section for a use of a State highway right-of-way, the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5. Except for this transportation impact fee authority of the Secretary, the authority given to the Board, the Secretary, and the Attorney General under this section shall also apply to the legislative bodies of towns, or their designees.

(2) Except in emergencies, the Agency or the municipality shall seek input and consider input received from affected utilities before issuing a utility relocation or adjustment order. In specifying the times for utility relocation or adjustment work, the Agency or the municipality shall allocate to each a reasonable time for its role in the relocation or adjustment work after taking into account:

(A) the season of the year; and

(B) the respective duties and responsibilities of the pole or conduit owner and the involved utilities, including the need to install, transfer, or retire individual components in a specific sequence.

(3) When the Agency or a municipality issues a utility relocation or adjustment order in accordance with law in connection with highway maintenance or construction activities, and a utility fails to move or adjust its line or other facility within the time specified in the order, that utility shall be liable to the State or to the municipality for damages that the State or the municipality is required to pay a contractor for delay caused by the failure. However, a utility shall not be liable for such damages if its failure to move or adjust the line or facility is for reasons beyond its control, including: emergency restoration activities; inclement weather; timing restrictions imposed by law or permits; terms of collective bargaining agreements; or the failure of another utility to complete its assigned responsibilities for the installation, transfer, or retirement of its facilities. If the Agency or the selectboard cannot agree with a utility as to whether the utility is liable or as to the amount of damages under this subdivision (a)(3), the Agency or selectboard may bring an action in accordance with subsection (h) of this section.

* * *

(h) Restraining prohibited acts; damages. Whenever the Secretary believes that any person is in violation of the provisions of this chapter, he or she may

also bring an action in the name of the Agency in a court of competent jurisdiction against the person to collect civil penalties as provided for in subsection (j) of this section ~~and, for damages, and~~ to restrain by temporary or permanent injunction the continuation or repetition of the violation. The selectboard shall have the same authority for town highways. The Court may issue temporary or permanent injunctions without bond, and any other relief as may be necessary and appropriate for abatement of any violation. An action, injunction, or other enforcement proceeding by a municipality relating to the failure to obtain or comply with the terms and conditions of any permit issued by a municipality pursuant to this section shall be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date on which the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

* * *

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES AND RETROACTIVITY

(a) This section, Sec. 9 (future appropriations; repeal), and Sec. 15 (automated vehicles) shall take effect on passage. Notwithstanding 1 V.S.A. § 214, Sec. 9 shall apply retroactively to July 1, 2016.

(b) All other sections shall take effect on July 1, 2017.

Date Governor signed bill: May 17, 2017