

1 Introduced by **[Agency of Transportation proposals, as modified following**
2 **discussions with Legislative Council]**

3 Date:

4 Subject: Transportation

5 Statement of purpose of bill as introduced: This bill proposes to adopt the
6 State’s annual Transportation Program and make miscellaneous changes to
7 laws related to transportation.

8 An act relating to the Transportation Program and miscellaneous changes to
9 laws related to transportation

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

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

12 Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

13 (a) The Agency of Transportation’s proposed fiscal year 2020
14 Transportation Program appended to the Agency of Transportation’s proposed
15 fiscal year 2020 budget, as amended by this act, is adopted to the extent
16 federal, State, and local funds are available.

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

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

19 (2) “Secretary” means the Secretary of Transportation.

1 (3) The table heading “As Proposed” means the Transportation Program
2 referenced in subsection (a) of this section; the table heading “As Amended”
3 means the amendments as made by this act; the table heading “Change” means
4 the difference obtained by subtracting the “As Proposed” figure from the “As
5 Amended” figure; and the terms “change” or “changes” in the text refer to the
6 project- and program-specific amendments, the aggregate sum of which equals
7 the net “Change” in the applicable table heading.

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

10 * * * Federal Infrastructure Funding * * *

11 Sec. 2. FEDERAL INFRASTRUCTURE FUNDING

12 (a) Subsection (b) of this section shall expire on February 1, 2020.

13 (b)(1) If a federal infrastructure bill or other federal legislation that
14 provides for infrastructure funding is enacted that provides Vermont with
15 additional federal funding for transportation-related projects, to the extent that
16 federal monies allocated to the State of Vermont are subject to a requirement
17 that the monies be obligated or under contract by the State within a specified
18 time period, the Secretary is authorized to exceed spending authority in the
19 fiscal year 2019 and 2020 Transportation Programs and to obligate and expend
20 the federal monies:

1 (8) Alter the number or boundaries of transportation maintenance
2 districts to reflect changes in workloads and demographics.

3 * * * Voluntary Cancellation of Municipal Projects * * *

4 Sec. 4. 19 V.S.A. § 10g(h) is amended to read:

5 (h) Should capital projects in the Transportation Program be delayed
6 because of unanticipated problems with permitting, right-of-way acquisition,
7 construction, local concern, or availability of federal or State funds, the
8 Secretary is authorized to advance projects in the approved Transportation
9 Program. The Secretary is further authorized to undertake projects to resolve
10 emergency or safety issues. Upon authorizing a project to resolve an
11 emergency or safety issue, the Secretary shall give prompt notice of the
12 decision and action taken to the Joint Fiscal Office and to the House and
13 Senate Committees on Transportation when the General Assembly is in
14 session, and when the General Assembly is not in session, to the Joint
15 Transportation Oversight Committee, the Joint Fiscal Office, and the Joint
16 Fiscal Committee. Should an approved project in the current Transportation
17 Program require additional funding to maintain the approved schedule, the
18 Agency is authorized to allocate the necessary resources. However, the
19 Secretary shall not delay or suspend work on approved projects to reallocate
20 funding for other projects except when other funding options are not available.
21 In such case, the Secretary shall notify ~~the members of~~ the Joint Transportation

1 Oversight Committee, and the Joint Fiscal Office, and the Joint Fiscal
2 Committee when the General Assembly is not in session and the House and
3 Senate Committees on Transportation and the Joint Fiscal Office when the
4 General Assembly is in session. With respect to projects in the approved
5 Transportation Program, the Secretary shall notify, in the district affected, the
6 regional planning commission, the municipality, Legislators, ~~members of the~~
7 Senate and House Committees on Transportation, and the Joint Fiscal Office of
8 any change ~~which~~ that likely will affect the fiscal year in which the project is
9 planned to go to construction. No project shall be canceled without the
10 approval of the General Assembly, except that the Agency may cancel a
11 municipal project when requested by the municipality or when the Agency and
12 the municipality concur that the project no longer is necessary.

13 * * * Project Cancellations * * *

14 Sec. 5. PROJECT CANCELLATIONS

15 (a) Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of
16 projects), the General Assembly approves cancellation of the following project
17 within the Bike and Pedestrian Facilities Program: Colchester – Improve Mill
18 Pond/Severence.

19 (b) Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of
20 projects), the General Assembly approves cancellation of the following

1 projects within the Town Highway Bridge Program: Belvidere BO 1448(),
2 Springfield BO 1442 (40), Woodstock BO 1444 ().

3 * * * Project Additions * * *

4 Sec. 6. PROJECT ADDITIONS

5 (a) The following project is added to the candidate list of Program
6 Development—Traffic & Safety Program within the fiscal year 2020
7 Transportation Program: Colchester – Bayside Intersection Roundabout and
8 Stormwater Improvements.

9 (b) The following project is added to the candidate list of the Program
10 Development—Traffic & Safety Program within the fiscal year 2020
11 Transportation Program: Shelburne – South Burlington – Automated Traffic
12 Signal Performance Measures.

13 * * * Formula for Public Transit Funding * * *

14 Sec. 7. 24 V.S.A. § 5091(i) is amended to read:

15 ~~(i) To implement the public transportation policy goals set forth in section~~
16 ~~5083 of this title and 19 V.S.A. § 10f, the Agency of Transportation shall use~~
17 ~~the following formula for distribution of operating funds to public transit~~
18 ~~systems:~~

19 ~~(1) [Repealed]~~

1 ~~(A) 10 percent based on the percentage of the State's population of~~
2 ~~elders (persons age 60 and above) in each of the designated transit service~~
3 ~~areas;~~

4 ~~(B) 10 percent based on the percentage of the State's youth~~
5 ~~population (persons ages 12 through 17) in each of the designated transit~~
6 ~~service areas;~~

7 ~~(C) 10 percent based on the percentage of the State's population of~~
8 ~~people who have limited physical mobility in each of the designated transit~~
9 ~~service areas;~~

10 ~~(D) 10 percent based on the percentage of the State's population of~~
11 ~~people who are in poverty in each of the designated transit service areas;~~

12 ~~(E) 10 percent based on the percentage of the State's households~~
13 ~~lacking access to an automobile in each of the designated transit service areas.~~

14 ~~(2) 20 percent of operating funds shall be based on need for employment~~
15 ~~transportation, as measured by the percentage of the State's employed persons~~
16 ~~residing in each of the designated transit service areas, using data developed by~~
17 ~~the Vermont Department of Labor.~~

18 ~~(3) 15 percent of operating funds shall be based on the need for~~
19 ~~congestion mitigation and air quality, as measured by the percentage of the~~
20 ~~State's overall population living in high density areas in each of the designated~~
21 ~~transit service areas, using data from the U.S. Bureau of the Census.~~

1 (1) ~~statements~~ Statements that the Agency has complied with subsection
2 503(d) of this chapter;

3 (2) ~~the~~ The Agency’s written determination of necessity;

4 (3) ~~a~~ A general description of the negotiations undertaken; ~~and~~

5 (4) ~~a~~ A survey of the proposed project, and legal descriptions of the

6 property and of the interests therein proposed to be taken. As used in this
7 subdivision “survey” means a plan, profile, or cross-section of the proposed
8 project. The survey and legal descriptions served upon the property owner
9 only need to include the particular property or properties at issue.

10 Sec. 10. 19 V.S.A. § 502(a) is amended to read:

11 (a) Authority. The Agency, when in its judgment the ~~interest~~ interests of
12 the State ~~requires~~ require, may take any property necessary to lay out, relocate,
13 alter, construct, reconstruct, maintain, repair, widen, grade, or improve any
14 State highway, including affected portions of town highways. In furtherance
15 of these purposes, the Agency may enter upon lands to conduct necessary
16 examinations and surveys; however, the Agency shall do this work with
17 minimum damage to the land and disturbance to the owners and shall be
18 subject to liability for actual damages. All property taken permanently shall be
19 taken in fee simple whenever practicable. The Agency’s acquisition of
20 property pursuant to this chapter, whether by condemnation or conveyance in
21 lieu of condemnation, shall not require subdivision approval under any law,

1 regulation, or municipal ordinance. For all State highway projects involving
2 property acquisitions, the Agency shall follow the provisions of the Uniform
3 Relocation Assistance and Real Property Acquisitions Policies Act (“Act²) and
4 its implementing regulations, as may be amended.

5 * * * Public Private Partnership (P3) Definition * * *

6 Sec. 11. 19 V.S.A. § 2612(4) is amended to read:

7 (4) “Public-private partnership” or “P3” means an alternative project
8 delivery mechanism that may be used by the Agency to permit private sector
9 participation in a project, including in its financing, development, operation,
10 management, ownership, leasing, or maintenance. As used in this subchapter,
11 “partnership” shall refer solely to a “public-private partnership” and “partner”
12 shall refer to the State or to the private entity participant or participants in a
13 public-private partnership.

14 * * * Highway Work; Minimum Wages * * *

15 Sec. 12. 19 V.S.A. § 18 is amended to read:

16 § 18. WAGES

17 In making up specifications and advertising for bids on highway work, the
18 ~~board~~ Agency shall fix, subject to local conditions, the minimum wage per
19 hour for various classes of labor and the minimum to be paid per hour or per
20 cubic yard for trucks ~~which~~ that the contractor shall be bound to pay.

21 * * * Junior Operator Use of Portable Electronic Devices * * *

1 Sec. 13. 23 V.S.A. § 1095a(d) is added to read:

2 (d) A person who violates this section commits a traffic violation as
3 defined in section 2302 of this title and shall be subject to a civil penalty of not
4 less than \$100.00 and not more than \$200.00 for a first violation, and of not
5 less than \$250.00 and not more than \$500.00 for a second or subsequent
6 violation within any two-year period.

7 * * * School Bus Driver Blood Alcohol Content Limitation * * *

8 Sec. 14. 23 V.S.A. § 1201(a) is amended to read:

9 (a) A person shall not operate, attempt to operate, or be in actual physical
10 control of any vehicle on a highway:

11 (1) when the person's alcohol concentration is 0.08 or more, or 0.02 or
12 more if the person is operating a ~~school bus as defined in subdivision 4(34) of~~
13 ~~this title~~ vehicle that requires an operator's license with a school bus
14 endorsement; or

15 * * *

16 * * * Evidentiary Blood Sample * * *

17 Sec. 15. 23 V.S.A. § 1203(b) is amended to read:

18 (b) Only a physician, licensed nurse, medical technician, physician
19 assistant, medical technologist, ~~or~~ laboratory assistant, intermediate or
20 advanced emergency medical technician, or paramedic acting at the request of
21 a law enforcement officer may withdraw blood for the purpose of determining

1 the presence of alcohol or ~~other~~ another drug. This limitation does not apply to
2 the taking of a breath sample. A medical facility or business may not charge
3 more than \$75.00 for services rendered when an individual is brought to a
4 facility for the sole purpose of an evidentiary blood sample or when an
5 emergency medical technician or paramedic draws an evidentiary blood
6 sample.

7 * * * Increased Penalties for Vehicle Related Child Endangerment * * *

8 Sec. 16. 23 V.S.A. § 1100 is added to read:

9 § 1100. CHILD ENDANGERMENT

10 (a) A person 18 years of age or older is guilty of child endangerment when
11 he or she violates one of the following with at least one passenger less than 16
12 years of age in the motor vehicle:

13 (1) subsection 1091(b) of this title;

14 (2) section 1133 of this title; or

15 (3) section 1201 of this title.

16 (b)(1) A person who violates subsection (a) of this section without causing
17 the serious injury or death of a child less than 16 years of age shall be subject
18 to a civil penalty of not more than \$750.00 or imprisoned for not more than
19 two years, or both, for a first conviction. Any civil penalty imposed under this
20 subdivision shall be in addition to any civil penalty imposed for a related
21 conviction pursuant to sections 1091, 1133, and 1201 of this title and any term

1 of imprisonment imposed under this subdivision shall run consecutive to any
2 term of imprisonment imposed for a related conviction pursuant to sections
3 1091, 1133, and 1201 of this title.

4 (2) A person who violates subsection (a) of this section without causing
5 the serious injury or death of a child less than 16 years of age shall be subject
6 to a civil penalty of not more than \$1,500.00 or imprisoned not more than
7 two years, or both, for a second conviction. At a minimum, the person must
8 perform at least 200 hours of community service or serve at least
9 60 consecutive hours of the sentence of imprisonment, which may not be
10 suspended, deferred, or served as a supervised sentence, except that credit for a
11 sentence of imprisonment may be received for time served in a residential
12 alcohol facility pursuant to sentencing if the program is successfully
13 completed. Any civil penalty imposed under this subdivision shall be in
14 addition to any civil penalty imposed for a related conviction pursuant to
15 sections 1091, 1133, and 1201 of this title and any term of imprisonment
16 imposed under this subdivision shall run consecutive to any term of
17 imprisonment imposed for a related conviction pursuant to sections 1091,
18 1133, and 1201 of this title.

19 (3) A person who violates subdivision (a)(3) of this section without
20 causing the serious injury or death of a child less than 16 years of age shall be
21 subject to a civil penalty of not more than \$2,500.00 or imprisoned not more

1 than five years, or both, for a third conviction. At a minimum, the person must
2 serve at least 96 consecutive hours of the sentence of imprisonment, which
3 may not be suspended, deferred, or served as a supervised sentence, except that
4 credit for a sentence of imprisonment may be received for time served in a
5 residential alcohol facility pursuant to sentencing if the program is successfully
6 completed. Any civil penalty imposed under this subdivision shall be in
7 addition to any civil penalty imposed for the related conviction pursuant to
8 section 1201 of this title and any term of imprisonment imposed under this
9 subdivision shall run consecutive to any term of imprisonment imposed for a
10 related conviction pursuant to section 1201 of this title.

11 (4) A person who violates subdivision (a)(3) of this section without
12 causing the serious injury or death of a child less than 16 years of age shall be
13 subject to a civil penalty of not more than \$5,000.00 or imprisoned not more
14 than ten years, or both, for a fourth or subsequent conviction. At a minimum,
15 the person must serve at least 192 consecutive hours of the sentence of
16 imprisonment, which may not be suspended, deferred, or served as a
17 supervised sentence, except that credit for a sentence of imprisonment may be
18 received for time served in a residential alcohol facility pursuant to sentencing
19 if the program is successfully completed. Any civil penalty imposed under this
20 subdivision shall be in addition to any civil penalty imposed for the related
21 conviction pursuant to section 1201 of this title and any term of imprisonment

1 imposed under this subdivision shall run consecutive to any term of
2 imprisonment imposed for a related conviction pursuant to section 1201 of this
3 title.

4 * * * Drugged Driving Under 21 Years of Age * * *

5 Sec. 17. 23 V.S.A. § 1217 is amended to read:

6 § 1217. PERSONS UNDER 21; UNDER THE INFLUENCE OF A DRUG

7 (a) A person under 21 years of age who operates, attempts to operate, or is
8 in actual physical control of a motor vehicle on a highway when the person
9 possesses, is under the influence of, or using any drug commits a civil traffic
10 violation subject to the jurisdiction of the Judicial Bureau and subject to the
11 following sanctions:

12 (1) For a first violation, the person's license or privilege to operate shall
13 be suspended for six months.

14 (2) For a second or subsequent violation, the person's license or
15 privilege to operate shall be suspended until the person reaches 21 years of age
16 or for one year, whichever is longer.

17 (b) No civil penalty or points shall be assessed for a violation of this
18 section.

19 (c) A charge of violating this section shall not bar prosecution for any
20 crime, including a prosecution under section 1201 of this title.

1 * * * Electric Vehicle Purchase and Lease Incentive Program * * *

2 Sec. 20. ELECTRIC VEHICLE PURCHASE AND LEASE INCENTIVE
3 PROGRAM

4 (a) Legislative findings. The General Assembly finds that:

5 (1) In its final report, the Vermont Climate Action Commission
6 recommended building an electric vehicle (EV) point-of-sale customer
7 incentive for new and used EVs.

8 (2) Transportation energy burdens are particularly high for rural
9 Vermonters with low income. A vigorous incentive for both new and used
10 EVs, combined with the lower fueling and maintenance costs of EVs, could
11 significantly lessen transportation cost burdens for Vermonters.

12 (3) State policy, including Vermont’s Comprehensive Energy Plan
13 (CEP), recognizes vehicle electrification as an essential strategy for meeting
14 the State’s climate and energy goals. The CEP calls for 50,000 EVs, or
15 10 percent of the fleet in Vermont by 2025 advancing to EVs composing
16 25 percent for the fleet by 2030. Vermont has approximately 2,600 EVs on the
17 road today, and EVs in Vermont are just 3.5 percent of new passenger vehicle
18 registrations. Projections show Vermont is not yet on track to meet its
19 transportation-electrification targets.

1 (4) Meeting Vermont’s transportation-electrification targets will help
2 make Vermont attractive to employers, workers, and tourists and help grow
3 Vermont’s economy by keeping transportation energy expenditures in State.

4 (5) In 2015, approximately \$830 million was spent on gasoline sales in
5 Vermont. If this travel had all been powered by electricity, the cost would
6 have been significantly less, saving drivers more than \$500 million.

7 (6) Vehicle electrification faces several barriers, including EV model
8 availability, publicly available charging stations, and lack of public awareness
9 about the benefits of EVs. While State government is working hard to address
10 these issues, surveys consistently confirm that the upfront cost of EVs is
11 among the top barriers and that consumer incentives are effective in increasing
12 EV sales.

13 (7) A robust consumer purchase and lease incentive would accelerate
14 EV sales and help bring EV technology up to scale. Moreover, a consumer
15 purchase and lease incentive would help consumers overcome the fear of
16 change that can come with entering the EV market and the fear of
17 obsolescence that can accompany the rapid growth of EV technology.

18 (b) Electric vehicle purchase and lease incentive program.

19 (1) The Public Service Department (PSD), with the cooperation and
20 support of the Agency of Natural Resources (ANR) and the Agency of

1 Transportation (VTrans), shall establish and administer a new and used electric
2 vehicle purchase and lease incentive program (program) for Vermont residents.

3 (2) The program shall structure EV purchase and lease incentive
4 payments by income to help all Vermonters benefit from electric driving,
5 including Vermont’s most vulnerable. Specifically, the program shall:

6 (A) better match the incentive to consumer behavior, the program
7 shall apply to both purchases and leases and to both new and used EVs;

8 (B) provide incentives of \$2,500.00 to households with income levels
9 between 100 percent and 140 percent of the State’s most recent Median
10 Household Income (MHI) level. Additional incentives of up to twice that
11 amount shall be available to households below Vermont’s MHI;

12 (C) apply to vehicles with a Base Manufacturer’s Suggested Retail
13 Price (MSRP) of \$35,000.00 or less;

14 (D) run for two years from the date the PSD makes the first incentive
15 payment available or until the available funds are fully obligated, with
16 available incentives spread evenly across each year to the extent reasonably
17 practicable.

18 (E) be funded on a first-come, first-serve basis in each year of the
19 program.

20 (3) To the extent public electric distribution utilities are willing to
21 participate, each sale or lease incentive would come with a Level 2 home

1 charger to be funded under Tier 3 of Vermont’s Renewable Energy Standard.

2 The home charger shall be subject to utility rate design to help the utilities

3 manage grid load and provide optimal charging rates to the consumer.

4 Participating utilities shall help market the program.

5 (7) Subject to State procurement requirements, the PSD may retain a
6 consultant to assist with marketing, program development and administration.

7 Up to \$75,000.00 of program funding may be set aside for this purpose.

8 (8) The PSD shall evaluate the program annually to gauge its
9 effectiveness.

10 * * * Fees for Use of Electric Vehicle (EV) Charging Stations * * *

11 Sec. 21. 32 V.S.A. § 603 is amended to read:

12 § 603. FEE CREATION, AMOUNT, AND ADJUSTMENT OF AMOUNT

13 * * *

14 (3) Fees for the following, unless otherwise specified by law, may be set
15 by the department or agency providing the service or product, and shall be
16 reasonably and directly related to their costs, as provided in subdivision (2) of
17 this section:

18 * * *

19 (4) Notwithstanding any other provision of this subchapter, any State
20 agency or department may establish, set, and adjust fees for the use of electric
21 vehicle (EV) charging stations at state-owned, -leased, or -controlled facilities.

1 The agency or department may establish fees for EV charging at less than its
2 costs, to cover its costs, or at the existing regional market rate. EV charging
3 stations owned or controlled by the state shall be subject to the same laws
4 specifically governing EV charging stations owned or controlled by private
5 parties.

6 (5) Fees collected under ~~subdivision~~ subdivisions (3) and (4) of this
7 section shall be credited to special funds established and managed pursuant to
8 subchapter 5 of chapter 7 of this title, and shall be available to the charging
9 departments to offset the costs of providing these services or products.

10 However, for purposes of fees established under this subdivision for copies of
11 public records, the fees shall be calculated as provided in 1 V.S.A. § 316.

12 These fees shall be reported in accordance with section 605 of this title.

13 Sec. 22. 19 V.S.A. § 11 is amended to read:

14 § 11. TRANSPORTATION FUND

15 The Transportation Fund shall comprise the following:

16 * * *

17 (7) both statewide and departmental indirect cost recoveries from federal
18 sources by the Agency of Transportation; and

19 (8) other miscellaneous sources including the sale of maps, plans, ~~and~~
20 reports, fees collected by the Travel Information Council, leases for property at
21 State-owned airports and railroads, proceeds from the sale of State surplus

1 property under the provisions of 29 V.S.A. §§ 1556 and 1557, ~~and~~ proceeds
2 from the sale of recycled materials, and fees collected for use of electric
3 vehicle charging stations at facilities owned, leased, or controlled by the
4 Agency.

5 * * * Effective Dates * * *

6 Sec. 23. EFFECTIVE DATES

7 (a) This section and Secs. 2 (federal infrastructure funding), 3
8 (transportation maintenance districts reorganization), 4 (voluntary cancellation
9 of municipal projects), 5 (project cancellations), 7 (formula for public transit
10 funding), 11 (public private partnership (P3) definition), 12 (highway work;
11 minimum wages), 20 (electric vehicle incentive program), 21 (fees for electric
12 vehicle charging stations), and 22 (transportation fund) shall take effect on
13 passage.

14 (b) All other sections shall take effect on July 1, 2019.