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**Act No. 184 (H.736). Transportation; motor vehicles; natural resources and energy; Burlington International Airport; Transportation Board; signs; permits; weight, length, and height restrictions; sustainable building components; transportation network companies**

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

This act:

- Transportation Program. Adopts the Agency of Transportation's (Agency) Proposed Fiscal Year 2023 Transportation Program except as amended in the act (Transportation Program) and defines terms used throughout the act.
- Fiscal Year 2023 Transportation Investments Intended to Reduce Transportation-Related Greenhouse Gas Emissions, Reduce Fossil Fuel Use, and Save Vermont Households Money. Summarizes certain transportation investments.
- Electric Vehicle Supply Equipment (EVSE) Along the State Highway Network. Authorizes \$6,250,000.00 in investments in level 3 electric vehicle supply equipment (EVSE) along the State highway network and updates the State's goals for level 3 EVSE along the State highway network to have a level 3 EVSE within one driving mile of every exit of the Dwight D. Eisenhower National System of Interstate and Defense Highways and 25 driving miles of another level 3 EVSE along the State highway.
- Vehicle Incentive Programs. Authorizes the following for the existing vehicle incentive programs and the existing public-private partnership with Drive Electric Vermont:
  - \$12,000,000.00 for the Incentive Program for New PEVs;
  - \$3,000,000.00 for MileageSmart;
  - \$3,000,000.00 for Replace Your Ride;
  - \$50,000.00 for an incentive program for electric bicycles; and

- \$2,000,000.00 for the public-private partnership with Drive Electric Vermont.
- Base MSRP for the Incentive Program for New PEVs. Increases the Base Manufacturer's Suggested Retail Price (MSRP) for battery electric vehicles (BEV) that are eligible for an incentive through the Incentive Program for New PEVs from \$40,000.00 to \$45,000.00 and eliminates the Base MSRP cap if the plug-in electric vehicle (PEV) will be issued a special registration plate or predominately used to provide accessible transportation to the incentive recipient or a member of the incentive recipient's household. Maintains the \$40,000.00 Base MSRP cap for plug-in hybrid electric vehicles (PHEV).
- Vermont Association of Snow Travelers (VAST) Authorizations. Authorizes the Agency of Transportation to spend \$50,000.00 in one-time General Fund monies in grants to the Vermont Association of Snow Travelers (VAST) to support the Law Enforcement and Safety Program and \$750,000.00 in one-time General Fund monies in grants to VAST to support the Equipment Grant-in-Aid Program, with certain parameters on awards.
- Bridge Formula Program for Off-System Bridges. Establishes the policy for how increased federal funds, available because of the Infrastructure Investment and Jobs Act (IIJA), for off-system bridges will be used to fully cover construction—but with engineering (PE) and right-of-way (ROW) staying at 80% federal, 10% State, and 10% municipal—for:
  - all off-system bridges in the Fiscal Year 2023 Transportation Program for Town Highway Bridges that: (1) were not authorized for federal funds for the construction phase prior to the Fiscal Year 2023 Transportation Program and (2) are either listed as a front-of-book project or a development and evaluation (D&E) project; and
  - all off-system covered bridges and historic truss bridges in fiscal years 2023 through 2029 based on the statutory prioritization

with the balance of available federal funds going to town highway bridges advanced based on the statutory prioritization. Also amends the Fiscal Year 2023 Transportation Program to swap \$689,082.00 in Transportation Fund monies and \$589,082.00 in municipal monies for \$1,278,164.00 in federal monies and adds covered bridges and historic truss bridges to the candidate list in Town Highway Bridges.

- Program Development and Town Highway Aid. Reduces the Program Development (operating expenses) authorization by \$54,211.00 in Transportation Fund monies and increases the Town Highway Aid

authorization by \$54,211.00 in Transportation Fund monies to fund Town Highway Aid at the statutorily required amount.

- Town Highway Structures and Class 2 Roadway Grant Programs and Maintenance. Increases the authorization for the Town Highway Structures Grant Program by \$866,500.00 in Transportation Fund monies, increases the authorization for the Class 2 Roadway Grant Program by \$951,250.00 in Transportation Fund monies, reduces the Maintenance authorization by \$1,817,750.00 in Transportation Fund monies, and establishes a process for reappropriating up to \$1,817,750.00 in unencumbered base Transportation Fund monies appropriated for fiscal year 2022 for Maintenance in fiscal year 2023.
- Mobility and Transportation Innovation (MTI) Grant Program. Funds the Mobility and Transportation Innovation (MTI) Grant Program with \$500,000.00 in Transportation Fund monies and \$1,000,000.00 in General Fund monies, with not less than \$1,250,000.00 going to support microtransit projects.
- One-Time Public Transit Monies. Authorizes \$1,200,000.00 in General Fund monies to the Agency to distribute to public transit providers to, as practicable and in the sole discretion of the public transit provider, provide zero-fare public transit on routes other than commuter and LINK Express and restore service to pre-COVID-19 levels. Also requires a report to the House and Senate Committees on Transportation not later than January 15, 2023 on (1) changes in public transit ridership and (2) what is needed to fund zero-fare public transit going forward.
- Burlington International Airport Working Group. Authorizes \$150,000.00 (\$15,000.00 in Transportation Fund monies and \$135,000.00 in federal monies) for a newly created, working group to, with the assistance of an independent third-party consultant with expertise in airport governance, discuss current issues of regional concern regarding the Burlington International Airport (Airport), explore opportunities for regional collaboration regarding the Airport, analyze what actions could address any issues of regional concern at the Airport, and make recommendations on actions, including a change in the governance structure of the Airport, that could address issues of regional concern regarding the Airport. Also establishes the membership of the working group, what needs to be reviewed, the timeline, and other administrative matters.
- Carbon Reduction Program Monies. Requires the Agency to consult with the Vermont Climate Council and ensure that within the Agency's proposed Transportation Programs for fiscal years 2024, 2025, and 2026 all federal

monies that are proposed by the State for expenditure under the Carbon Reduction Program are allocated toward projects that align with the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

- Vermont State Standards. Requires the Agency to develop a plan for updating the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads, and Streets (Vermont State Standards) and related documents to create context sensitive, multimodal projects that support smart growth as recommended in the Revising the Vermont State Standards (VSS) M2D2: Multimodal Development and Delivery Work Plan, March 2015 and budget for the plan to update the Vermont State Standards and related documents in the Agency's proposed Transportation Program for fiscal year 2024 Transportation Program. Also requires the Agency to make staff available to the House and Senate Committees on Transportation for an oral presentation on the plan beginning on January 15, 2023.
- Transportation Alternatives Grant Program. Repeals obsolete language (prior fiscal years) and requires that, starting in fiscal year 2024 and in most instances, 50 percent of Transportation Alternative Grant Program funds be reserved for municipalities for environmental mitigation projects related to stormwater and highways.
- Amendments to Fiscal Year 2022 Transportation Program. Eliminates the requirement that electric bicycle incentives funded for fiscal year 2022 be \$200.00, which will give the Agency flexibility in administration; allows up to \$5,000.00 from administrative cost allowances for Replace Your Ride to be used to administer the electric bicycle incentives; and clarifies that level 1 and 2 EVSE are eligible for grant awards under the EVSE Grant Program that was funded for fiscal year 2022.
- Bicycle and Pedestrian Planning Integration Program. Establishes the Bicycle and Pedestrian Planning Integration Program to support the continued development and buildout of bicycle and pedestrian infrastructure and requires consultation between the Agency and the regional planning commissions (RPCs).
- Transportation Board. Makes conforming revisions to Titles 5 and 9 in response to an amendment to 19 V.S.A. § 5(c), made by 2016 Acts and Resolves No. 167, Sec. 6, to provide that in virtually all instances appeals from the Transportation Board go to the Supreme Court and adds clarifying language, including subsection headings, to 19 V.S.A. § 5.

- Common Carrier Assessments. Repeals Title 5 chapter 5, which is now obsolete because the common carrier assessment that was formerly in 5 V.S.A. § 63 was repealed by 1988 Acts and Resolves No. 160, Sec. 1, but the balance of the chapter containing administrative provisions (5 V.S.A. §§ 64–67) was not repealed.
- On-Premises Signs. Amends 10 V.S.A. § 493(1), and the allowance for on-premises signs, to measure the distance from the on-premises sign to a main entrance based on a straight line, and not a line measured along the centerline of the highway, if the change in elevation from the sign to the main entrance is more than 100 feet.
- Right-of-Way (1111) Permit Fees. Amends 19 V.S.A. § 1112 to only assess the right-of-way (1111) permit fee for stormwater utility connections that are subsurface, and only for the collective-direct connection to the State highway subsurface stormwater system, as opposed to each direct connection individually.
- Site Plan Review. Amends 24 V.S.A. § 4416(b) to change “shall” (mandatory) to “may” (permissive) and strike “any” to eliminate the requirement that the Agency include all permit conditions in the site plan review process letter (would still be included in the right-of-way (1111) permit itself).
- Smugglers’ Notch Restrictions. Amends 23 V.S.A. § 1006b to have the civil penalty for violating the Smugglers’ Notch restrictions be assessed against the employer of the operator of the vehicle, if operating in the scope of employment, or the operator of the vehicle, if operating for personal purposes, for violations and have the vehicle prohibition to be based on length of vehicle and not type of vehicle.
- Restrictions on the Use of Covered Bridges; Other Limits; Liability for Damages; Recovery of Expenses.
  - Repeals 19 V.S.A. § 313, municipal authority to restrict the use of covered bridges, but adds the authority back (in updated form) as 23 V.S.A. § 1397a.
  - Repeals 19 V.S.A. § 315, fines for violating covered bridge restrictions, but adds increased civil penalties (\$1,000.00 for a first violation, \$2,000.00 for a first violation that substantially impedes the flow of traffic, and doubled for a second or subsequent conviction within a three-year period) for violating covered bridge restrictions as 23 V.S.A. § 1434(c).

- Amends 23 V.S.A. § 1399(b), exceptions to weight limits, to expand the exclusion for municipal and volunteer fire apparatus that can be operated in excess of weight limitations to also include law enforcement motor vehicles.
- Amends 23 V.S.A. § 1400d, agricultural service vehicle exemptions, to exempt agricultural service vehicles from the prohibition on operating in excess of covered bridges limits.
- Amends 23 V.S.A. § 1492, liability for damages, to update very outdated internal citations and adds subsection 1434(c) to the list of violations that trigger liability for damages to the public highway or bridge.
- Repeals 23 V.S.A. § 1112, recovery for expenses for emergency services from operating on a closed highway, but adds broader language that allows a municipal, county, or State entity that deploys rescue services to aid stranded operators or move disabled vehicles in certain instances to recover from the operator or operator's employer, provided that the operator was acting during or incidental to the operator's scope of employment, the costs of providing rescue services as 24 V.S.A. § 2296a.
- Amends 23 V.S.A. § 1400b, filing of weight restrictions, to eliminate the requirement that municipalities file a complete copy of the list of special weight limits for town highways in the municipality by February 10 of each year.
- Makes other technical and conforming revisions.
- Statement of Policy on Sustainable Building Components. Adds 19 V.S.A. § 10m to address the Agency's statement of policy on the use of sustainable building components in all maintenance, construction, and improvement projects within the State's Transportation Program.
- Authority for State to Collect Fees for Use of State EVSE. Amends 32 V.S.A. § 604 to require the Agency and the Department of Buildings and General Services to make staff available to standing committees beginning on January 15 each year to give an oral presentation on the State's efforts to collect fees at State owned/controlled EVSE and any significant national trends with regards to the pricing of EVSE. Also extends the sunset on 32 V.S.A. § 604 to July 1, 2025.
- Authority for Secretary of Transportation to Relinquish Portions of the State Highway and State Highway Right-of-Way to the Town of St. Albans. Extends the Secretary of Transportation's authority to enter into an agreement

with the Town of St. Albans to relinquish a segment of the State highway right-of-way for what was to be known as the Vermont Route 207 Extension until June 30, 2032, and authorizes the Secretary of Transportation to, until June 30, 2032, enter into an agreement with the Town of St. Albans to relinquish a segment of Vermont Route 36.

- Regulation of Transportation Network Companies (TNC). Extends the sunset of the local regulation preemption savings clause so that municipalities with a population of more than 35,000 residents based on the 2010 census will not have their ordinances, resolutions, or bylaws regulating transportation network companies (TNC) that were in effect on July 1, 2017, be preempted, to the extent they are inconsistent with the provisions of 23 V.S.A. chapter 10, until July 1, 2025, and requires the Commissioner of Motor Vehicles, in consultation with the City of Burlington, the Vermont League of Cities and Towns, and TNCs doing business in Vermont, to file a written report by March 15, 2024, that makes recommendations on how, if at all, to amend 23 V.S.A. § 754 (preemption/savings clause) and, as applicable, 23 V.S.A. chapter 10 (TNC chapter).

Multiple effective dates, beginning retroactively on July 1, 2021

See chart on following page.

<b>H.736 - FY 2023 Transportation Program</b>				
Line #	All funding sources	FY22 As Passed	FY23 As Passed	FY23 vs FY22
1	<b>Administration-finance-planning</b>			
2	Central Admin & Finance	16,115,124	19,890,141	3,775,017
3	Policy & Planning	11,458,898	12,337,610	878,712
4	Transportation Board	186,611	190,962	4,351
5	Department of Motor Vehicles	35,973,988	39,741,834	3,767,846
6	Sub-total	63,734,621	72,160,547	8,425,926
7	<b>Facilities</b>			
8	Rest Areas	1,460,000	418,416	(1,041,584)
9	AOT Buildings	850,000	2,050,000	1,200,000
10	Sub-total	2,310,000	2,468,416	158,416
11	<b>Alternate modes</b>			
12	Public Transit	42,821,522	44,539,278	1,717,756
13	Aviation	10,451,646	9,498,994	(952,652)
14	Pedestrian & Bike Facilities	16,789,554	19,793,776	3,004,222
15	Park & Ride	5,220,233	4,043,060	(1,177,173)
16	Multi-Modal Facilities	0	0	0
17	Rail infrastructure	27,630,019	26,613,183	(1,016,836)
18	Amtrak	8,750,000	8,750,000	0
19	Sub-total	111,662,974	113,238,291	1,575,317
20	<b>State Highway Infrastructure</b>			
21	Maintenance	104,278,647	104,446,031	167,384
22	Paving	120,459,399	158,820,094	38,360,695
23	Roadway	37,334,563	51,346,705	14,012,142
24	State bridges	49,252,858	57,838,207	8,585,349
25	Interstate bridges	22,595,374	36,731,681	14,136,307
26	Traffic & Safety	33,343,610	45,645,895	12,302,285
27	PD Admin & Tech Services	24,422,265	33,024,893	8,602,628
28	Sub-total	391,686,716	487,853,506	96,166,790
29	<b>Town programs</b>			
30	Town Highway Aid (Formula)	27,105,769	27,837,624	731,855
31	Town Highway Aid (One-Time)	3,000,000	0	(3,000,000)
32	Town Bridges	15,408,394	30,314,187	14,905,793
33	TH Class 2	15,297,500	8,600,000	(6,697,500)
34	TH Structures	12,667,000	7,200,000	(5,467,000)
35	TH Class 1 supplemental grants	128,750	128,750	0
36	Trans. Alternatives/Enhancements	4,454,294	5,665,880	1,211,586



37	TH State aid nonfederal disasters	1,150,000	1,150,000	0
38	TH State aid federal disasters	180,000	180,000	0
39	FEMA grant program	1,250,000	1,250,000	0
40	TH VT Local Roads	411,689	414,481	2,792
41	Municipal mitigation grants	8,785,150	6,450,498	(2,334,652)
42	Sub-total	89,838,546	89,191,420	(647,126)
43	<b>One-Time and Other Investments</b>			
44	EV Purchase Incentives Program	3,250,000	12,000,000	8,750,000
45	EV Charging Infrastructure (one-time)	1,000,000	2,000,000	1,000,000
46	EV Charging Infrastructure (formula)	–	4,250,000	4,250,000
47	E-Bike Incentives	50,000	50,000	–
48	Replace Your Ride	1,500,000	3,000,000	1,500,000
49	MileageSmart	1,250,000	3,000,000	1,750,000
50	Drive Electric VT	–	2,000,000	2,000,000
51	Public Transit and MTI Grants	–	2,700,000	2,700,000
52	DMV IT System	24,500,000	20,250,000	(4,250,000)
53	Grants to VAST	–	800,000	800,000
54	Emission Repair Program	375,000	–	(375,000)
55	Clean Water/Phosphorus Control	3,000,000	–	(3,000,000)
56	New Haven Train Station	400,000	–	(400,000)
57	Sub-total	35,325,000	50,050,000	14,725,000
58	<b>Total All Programs</b>	<b>694,557,857</b>	<b>814,962,180</b>	120,404,323
59	Central Garage Internal Service Funds	22,202,720	22,754,095	551,375
60	<b>Total Authorizations</b>	<b>716,760,577</b>	<b>837,716,275</b>	120,955,698

*FY22 Includes BAA Adjustments*