

Senate Calendar

WEDNESDAY, MAY 12, 2010

SENATE CONVENES AT: 10:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, MAY 11, 2010

Second Reading

Favorable with Proposal of Amendment

H. 498.

An act relating to maintenance of private roads.

Reported favorably with recommendation of proposal of amendment by Senator Scott for the Committee on Transportation.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

respectfully reports that it has considered the same and recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 19 V.S.A. § chapter 27 is added to read:

CHAPTER 27. PRIVATE ROADS

§ 2701. DEFINITIONS

As used in this chapter, “private road” means a road whose owner is not the state of Vermont, a municipality, or a single private property owner, but two or more owners of private property abutting the road and the owners of any easements recorded in the municipal land records of the town in which the road is located granting a right to cross the road in order to access their property.

§ 2702. PRIVATE ROAD MAINTENANCE

(a) For the purposes of this section, the term “maintenance” shall include activities related to the upkeep of a private road in its existing condition or as necessary to allow safe passage on a private road within its existing scope of use and shall not be construed to include any expansions of or improvements to a private road.

(b) In the absence of any other agreement for the maintenance of a private road, including covenants, requirements contained in deeds, and state or local permits, the owners of the property abutting a private road and the holders of recorded easements with a right to use a private road shall divide reasonable maintenance costs commensurate with their use of the private road.

(For House amendments, see House Journal for March 9, 2010, page 355.)

**PROPOSAL OF AMENDMENT TO H. 498 TO BE OFFERED BY
SENATOR WHITE**

Senator White moves that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) The current Fannie Mae appraisal form contains a section for the appraiser to comment on off-site improvements — including private streets — and to indicate whether the improvements are publicly or privately maintained. If a property is located on a community-owned or privately owned and maintained street, Fannie Mae requires a legally enforceable agreement or covenant for maintenance of the street.

(2) On January 31, 2008, Fannie Mae issued Announcement 08-01, which specifies that Fannie Mae will permit the delivery of mortgage loans for properties for which there is no such maintenance agreement or covenant, provided that the property is located in a state that has statutory provisions defining the responsibilities of property owners for the maintenance and repair of private streets.

(3) Since the mortgage crisis, Fannie Mae has become stricter in its underwriting standards and in enforcing the private street maintenance agreement requirement. Because the ability to sell mortgages to Fannie Mae on the secondary market is critical to most mortgage lenders, this has delayed mortgage closings and created uncertainty for Vermont homeowners throughout the state.

Sec. 2. PRIVATE ROAD MAINTENANCE AGREEMENT STUDY

(a) A committee consisting of two members of the public appointed by the governor, a representative of the Vermont Bankers Association, a representative of the Vermont League of Cities and Towns, and the commissioner of banking, insurance, securities, and health care administration or designee is established to study the creation of default statutory requirements defining the responsibilities of property owners for the maintenance and repair of private roads and to formulate recommended legislation.

(b) For attendance at committee meetings, the members of the committee appointed by the governor shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010(b) and for their actual and necessary mileage expenses.

(c) The committee shall report its findings and recommended legislation to the senate committees on finance and on transportation and to the house committee on commerce and economic development no later than January 15, 2011.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

NEW BUSINESS

House Proposal of Amendment

J.R.S. 47

Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

The House proposes to the Senate to amend the resolution by striking the second *Resolved* clause and insert in lieu thereof the following:

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Secretary of State, the Order of Saint Andrew the Apostle Archons of the Ecumenical Patriarchate in New York City, and the Vermont Congressional Delegation.

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 789.

An act making appropriations for the support of government.

Reported favorably with recommendation of proposal of amendment by Senator Bartlett for the Committee on Appropriations.

(For text of Report, see Senate Calendar Addendum of May 12, 2010.)

(For House amendments, see House Journal for March 25, 2010, page 681; March 26, 2010, page 707.)

House Proposal of Amendment

S. 292

The House concurs in the Senate proposal of amendment to House proposal of amendment with amendment thereto as follows:

By inserting a new Sec. 17 to read:

Sec. 17. 28 V.S.A. §102(c)(22) is added to read:

(22) To notify local and state law enforcement officers of the following information regarding a person released from incarceration on probation, parole or furlough and residing in the community: name; address; conditions imposed by the court, parole board, or commissioner; and the reason for placing the person in that community.

ORDERED TO LIE

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

S. 110.

An act relating to sheltering livestock.

S. 226.

An act relating to medical marijuana dispensaries.

H. 331.

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

S.R. 25.

Senate resolution relating to the animal slaughtering and meat packaging operations of Bushway Packing, Inc. and Champlain Valley Meats, Inc. .

FOR INFORMATION ONLY

J.R.H. 51.

Joint resolution supporting the assignment of the F-35 aircraft to the Vermont Air National Guard

By: Representatives Audette of South Burlington, Atkins of Winooski, Baker of West Rutland, Bissonnette of Winooski, Brennan of Colchester, Canfield of Fair Haven, Condon of Colchester, Courcelle of Rutland City, Crawford of Burke, Donaghy of Poultney, Donovan of Burlington, Evans of Essex, Fagan of Rutland City, French of Shrewsbury, Gilbert of Fairfax, Higley of Lowell, Hubert of Milton, Jerman of Essex, Johnson of South Hero, Krawczyk of Bennington, Krebs of South Hero, Lenes of Shelburne, Lewis of Derby, Martin of Wolcott, McFaun of Barre Town, McNeil of Rutland Town, Morrissey of Bennington, Orr of Charlotte, Peaslee of Guildhall, Peltz of Woodbury, Potter of Clarendon, Savage of Swanton, Shand of Weathersfield, Shaw of Pittsford, Till of Jericho, Toll of Danville, Turner of Milton and Waite-Simpson of Essex

Whereas, since 1946, the Vermont Air National Guard in South Burlington at the Burlington International Airport has been home to the 158th Fighter Wing, and for approximately 20 years, it has hosted the F-16 jet combat aircraft, long considered one of the United States Air Force's (USAF's) premier fighter planes, and

Whereas, the Green Mountain Boys of the Vermont Air National Guard proudly "maintain the highest caliber of trained personnel and equipment to accomplish the USAF mission of "Fly, Fight, and Win," and

Whereas, although a highly respected and venerable aircraft, the F-16's lifespan is close to its conclusion, and during the next decade, the more technologically advanced F-35 will replace the F-16, and

Whereas, the USAF has narrowed the potential bedding sites for the F-35 to 11 locations nationwide, and only three, including South Burlington, are National Guard fighter wings, and

Whereas, the USAF will make a final determination where to station the F-35 in 2011, and deployment will probably not occur until several years later, and

Whereas, residents of South Burlington and Winooski, the two municipalities which the F-16 takeoffs and landings most directly affect, have expressed concerns about the noise that the new aircraft might cause, and

Whereas, although the USAF is currently conducting an Environmental Impact Study (EIS) on the F-35, including its noise impacts, that will not be completed until this summer, Lt. Col. Chris Caputo has responded to concerns related to noise with pertinent information, and

Whereas, Lt. Col. Caputo commented that the F-35 takeoffs could possibly be quieter than those of the F-16, as the older plane relies on external fuel tanks compared to the stealth-shaped F-35 which is equipped with interior fuel tanks that enable it to take off at a lower throttle setting, and

Whereas, an EIS completed at Eglin Air Force Base in Florida did document high F-35 noise levels; however, they reflected that base's use as a training facility where repeated high speed landings and takeoffs occur, and

Whereas, unlike at Eglin, the more restrained airport protocol of the Vermont Air National Guard means that more advanced training maneuvers are conducted in remote areas of northern New England and upstate New York and not over the more densely populated areas of Chittenden County, and

Whereas, an acoustic analysis of the F-35 conducted at Edwards Air Force Base in California recorded only slightly higher decibel levels for the F-35 in comparison to the F-16, including: flying at 1,000 feet and at 160 knots at full throttle — but without its afterburner — the F-35 generated 121 decibels

compared to 114 for the F-16; at minimum throttle, the F-35 was recorded at 94 decibels compared to the F-16's 89, and

Whereas, responding to noise concerns of the South Burlington City Council, Brigadier General Steven Cray noted that the Vermont Air National Guard has decades of experience and an excellent heritage of working with neighbors on fighter jet noise problems and would continue this tradition with the F-35, and

Whereas, aside from the noise issues, Vermont National Guard Adjutant General Major General Michael Dubie has spoken of possible negative economic consequences if the Vermont Air National Guard's air wing is relegated to a secondary support status, and

Whereas, although there are legitimate noise issues related to the prospect of a new, and more technologically advanced, F-35 fighter jet being stationed in South Burlington, the Vermont Air National Guard is working to minimize any additional noise impact and has demonstrated a willingness to mitigate neighbor's fears to the greatest extent possible, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its support for the permanent assignment of the F-35 fighter jet to the Vermont Air National Guard's base in South Burlington, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United State Air Force Secretary Michael Donley, Vermont National Guard Adjutant General Major General Michael Dubie, and the Vermont Congressional Delegation.