

Journal of the House

Wednesday, February 17, 2010

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Mark Pitton of the Bethany Church of Montpelier.

Committee Bill Introduced

H. 765

Rep. Partridge of Windham, for the committee on Agriculture, introduced a bill, entitled

An act relating to establishing the Vermont agricultural innovation authority

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced

H. 766

Rep. Pugh of South Burlington, for the committee on Human Services, introduced a bill, entitled

An act relating to preventing duplication in certain public health records

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bill Referred

S. 282

Senate bill, entitled

An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles;

Was taken up, read the first time and referred to the committee on Transportation.

Bill Referred to Committee on Appropriations**H. 764**

House bill, entitled

An act relating to the state teachers' retirement system of Vermont

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Referred to Committee**J.R.H. 40**

Joint resolution in opposition to the adoption of a project labor agreement for the construction of the new Lake Champlain Bridge

Offered by: Representatives O'Donnell of Vernon, Acinapura of Brandon, Adams of Hartland, Ainsworth of Royalton, Baker of West Rutland, Branagan of Georgia, Canfield of Fair Haven, Crawford of Burke, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Higley of Lowell, Hubert of Milton, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Lawrence of Lyndon, Lewis of Derby, Marcotte of Coventry, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Morley of Barton, Morrissey of Bennington, Myers of Essex, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburg, Reis of St. Johnsbury, Savage of Swanton, Shaw of Pittsford, Turner of Milton and Winters of Williamstown

Whereas, with the recent demolition of the 80-plus-year-old bridge that crossed Lake Champlain between Chimney Point, Vermont, and Crown Point, New York, construction on a new bridge at the same location is scheduled to start later this year, and

Whereas, in accordance with 48 CFR § 536.271, a project labor agreement (PLA) is "an agreement between the contractor, subcontractors, and the union(s) representing workers. Under a PLA, the contractor and subcontractors on a project and the unions(s) agree on terms and conditions of employment for the project," and

Whereas, these agreements are permitted, in accordance with 29 U.S.C. § 158(f), to be adopted for major federal construction projects such as the new Lake Champlain Bridge, and

Whereas, on February 6, 2009, the Obama Administration issued Executive Order 13502 reversing Executive Orders 13202 and 13208 of the Bush

Administration that had halted the use of these agreements on federal construction projects, and

Whereas, the Federal Highway Administration and the New York State Department of Transportation are studying the implementation of a PLA for the new Lake Champlain Bridge, and

Whereas, the Vermont Congressional Delegation has written a letter of support to Federal Highway Administration (FHWA) Administrator Victor Mendez in favor of project labor agreements and the adoption of the New York prevailing wage should a PLA be implemented, and

Whereas, according to a letter that the Associated General Contractors of Vermont (AGC/VT), which represents more than 150 commercial construction firms in the state, sent to the FHWA administrator in response to the delegation's letter, only five percent of Vermont's contractors are unionized, and

Whereas, the AGC/VT stated in its letter that the imposition of a PLA on the Lake Champlain Bridge "would force a firm to change its labor policy or practice in order to compete for or to perform work" on the bridge which will be one of the largest transportation public works projects ever conducted in Vermont, and

Whereas, the AGC/VT letter further stated that imposition of a PLA would "drive up costs, create delays, lead to job disputes, and disrupt local collective bargaining," and that many of its members will refuse to bid on the bridge project should a PLA be imposed due to the severe restrictions it would place on their firms, and

Whereas, the PLA, according to the AGC/VT, "would intentionally eliminate the ability for any Vermont contractor to receive fair and equitable access to bid on the project . . . and mitigate the potential for truly competitive bidding," and

Whereas, with respect to the issue of prevailing wages, the AGC/VT has noted that New York prevailing wages can be adopted without the imposition of a PLA and that all wages paid for work on the Lake Champlain Bridge, as a major federal project, must follow minimum wage standards, and

Whereas, in order that no technically qualified Vermont contractor is disadvantaged in the Lake Champlain Bridge construction bidding process, a PLA must not be imposed on this historic public transportation project, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its strong opposition to the imposition of a project labor agreement for the Lake Champlain Bridge, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Federal Highway Administration Administrator Victor Mendez, Acting New York State Transportation Commissioner Stanley Gee, Vermont Agency of Transportation Secretary David Dill, and the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

Joint Resolution Referred to Committee

J.R.H. 41

Joint resolution relating to the operating and financing of a new nuclear power plant in the town of Vernon

Offered by: Representative O'Donnell of Vernon, Acinapura of Brandon, Adams of Hartland, Ainsworth of Royalton, Baker of West Rutland, Branagan of Georgia, Canfield of Fair Haven, Crawford of Burke, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Higley of Lowell, Hubert of Milton, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Lawrence of Lyndon, Lewis of Derby, Marcotte of Coventry, McAllister of Highgate, McDonald of Berlin, McFaun of Barre Town, McNeil of Rutland Town, Morley of Barton, Morrissey of Bennington, Myers of Essex, Peaslee of Guildhall, Reis of St. Johnsbury, Savage of Swanton, Shaw of Pittsford and Turner of Milton

Whereas, regardless of one's position on the future of the Vermont Yankee nuclear power plant in Vernon, there is unanimous agreement that it will not operate indefinitely, and

Whereas, whenever the plant ceases operation, its contribution to Vermont's current energy supply, currently approximately one-third of the electricity consumed in Vermont, will need to be replaced, and

Whereas, nuclear power creates a smaller carbon footprint than fossil fuels, and while alternative energy sources, conservation, and newer equipment efficiencies may replace a portion of the loss power, it is not likely that these sources are capable of supplying one-third of the state's electrical energy needs, and

Whereas, increasing reliance on the spot electrical market opens Vermont to sudden and unanticipated price fluctuations that are beyond Vermonters' control, and to the threat of foreign imposed oil embargoes, and would possibly increase Vermont's carbon footprint in a state proud to have the lowest in the nation, and

Whereas, President Obama has proposed that the nation rejuvenate nuclear power in a new direction through the construction of new plants that are better constructed, more environmentally sensitive, and more efficient, and

Whereas, in pursuit of this objective, the President has proposed that the federal fiscal year 2111 budget for the U.S. Department of Energy include an additional \$36 billion in loan guarantees for the construction of nuclear power plants, bringing the allocated amount for this purpose to \$54 billion, and

Whereas, the Nuclear Regulatory Commission originally approved the Vernon site for two nuclear power plants, and this site is an ideal location to build a new modern and physically more compact nuclear power plant that could replace the power the current plant generates upon completion of construction and issuance of a federal operating license and state certificate of public good, and serve Vermonters for decades into the future, and

Whereas, there is already located in Vernon a full contingent of nuclear engineers and technicians, and

Whereas, the fairest and most reliable method to determine a future potential owner of the new plant would be for the public service board to open a docket that would include extremely detailed, professional, and unbiased scrutiny of the financial and technical resources, and prior nuclear power industry history, of any potential owner, and

Whereas, only after the public service board conducted its intensive and orderly examination of applicants would a right to proceed be granted, and the owner would still be required to obtain a certificate of public good from the board and a federal operating license from the Nuclear Regulatory Commission before a new plant could actually generate its first kilowatt of electric power, and

Whereas, the Vermont economy desperately needs a boost in economic growth that will be achieved through the creation of new quality jobs, and

Whereas, access to a reasonable portion of the federal loan guarantee money for the construction of new nuclear power plants would provide an ideal financial incentive for perspective owners, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the committees of jurisdiction to work collaboratively to develop legislation this session authorizing the public service board to open a docket to begin the complex process of selecting a potential operator of a new nuclear power plant in Vernon, and be it further

Resolved: That the General Assembly urges the Vermont Congressional Delegation to make every reasonable effort to reserve the amount of \$2 billion in federal loan guarantees for seed financial backing to construct a new nuclear power plant in Vernon, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Energy Steven Chu, to the public service board, and to the Department of Public Service.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Natural Resources and Energy.

House Resolution Placed on Calendar

H.R. 28

House resolution, entitled

House resolution urging Vermonters to support relief efforts in Haiti

Offered by: Representative Geier of South Burlington

Whereas, the recent earthquake in Haiti has left that Caribbean island nation devastated, and

Whereas, Haiti is now in need of the expertise and materials that our state's citizens, businesses, and nonprofit organizations can donate to begin the difficult reconstruction process that lies ahead, and

Whereas, Vermonters should be encouraged to open their hearts and be as generous as possible in assisting the Haitian people as they attempt to restore the public services that were seriously impaired and rebuild the numerous buildings that were damaged or destroyed, now therefore be it

Resolved by the House of Representatives:

That this legislative body expresses its deep concern and sympathy for those Haitians who are in pain and suffering as a result of the recent earthquake, and be it further

Resolved: That this legislative body, on behalf of the citizens of Vermont, sends to the Haitian people its prayers and best wishes for a quick recovery, and be it further

Resolved: That this legislative body calls upon Vermont's citizens, businesses, and nonprofit organizations to aid the nation of Haiti by donating time and materials in support of those who are going to Haiti to participate directly in the relief efforts, and be it further

Resolved: That this legislative body calls upon Vermonters to use their resources to help solve the housing crisis in Haiti by using the advance technology available in our state to provide smart tents, equipped with solar and telecommunications devices, in order to provide safety and shelter for the Haitian people, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Embassy of Haiti in Washington, D.C.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

House Resolution Placed on Calendar

H.R. 29

House resolution, entitled

House resolution urging Congress to support a fiscal year 2011 federal appropriation for the Northeast Great Waters

Offered by: Committee on Fish, Wildlife and Water Resources

Whereas, the restoration and conservation of our nation's "great waters" ecosystems are both an economic and an environmental imperative, and

Whereas, Lake Champlain is recognized as a "great water" by the America's Great Waters Coalition, and

Whereas, Lake Champlain is also identified by the Environmental Protection Agency as a "large aquatic ecosystem" in its "Geographic Areas" initiative, and

Whereas, a comprehensive plan to restore and conserve Lake Champlain has been in place for many years, and

Whereas, historical levels of federal funding have been insufficient to adequately address the many pressing restoration and conservation needs identified in the Lake Champlain plan, and

Whereas, the seven northeastern states have joined hands through an appeal by the Northeast Regional Ocean Council for a unified \$70 million 2011 appropriations request to advance implementation of restoration plans for the

region's four "great waters" ecosystems, including Lake Champlain, Long Island Sound, the Gulf of Maine, and Narragansett Bay, and

Whereas, Lake Champlain would receive approximately \$10 million of the regional request, an opportunity that would complement and enhance the many great ongoing efforts, and

Whereas, governmental and nongovernmental organizations are working together with their counterparts in all the other northeastern states in support of the 2011 request, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges Congress to support a fiscal year 2011 federal appropriation for the Northeast Great Waters, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Joint Resolution Adopted

J.R.S. 49

By Senator Shumlin,

J.R.S. 49. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 19, 2010, it be to meet again no later than Tuesday, February 23, 2010.

Was taken up and adopted on the part of the House.

Bill Amended, Read Third Time and Passed

H. 542

House bill, entitled

An act relating to transfers of mobile homes and rent-to-own transactions

Was taken up and pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

First: In Sec. 1, in 9 V.S.A. § 2602(c)(1)(B), after the word "transferee" and before the semicolon, by inserting ", and if more than one buyer or transferee, the estate under which the buyers or transferees will hold title to the mobile home"

Second: In Sec. 1, in 9 V.S.A. § 2602(c)(2), in the mobile home uniform bill of sale, following the last line of the section of the form pertaining to “Buyer or Transferee (“Buyer”)” and prior to the section heading “Mobile Home Being Sold or Transferred (“Mobile Home”)”, by inserting the following:

If more than one Buyer, Buyers take title as:

Joint tenants (co-owners with right of survivorship).

Tenants by the entirety (joint tenancy of persons who are married).

Tenants in common (individual interests without right of survivorship).

Which was agreed to to. Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered

H. 281

Rep. Ram of Burlington, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to the removal of bodily remains

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5212 is amended to read:

§ 5212. PERMIT TO REMOVE DEAD BODIES

(a) A person desirous of disinterring or removing the body of a human being from one cemetery to another cemetery or to another part of the same cemetery or from a tomb or receiving vault elsewhere shall apply to the ~~town~~ clerk of the ~~town where such~~ municipality in which the dead body is interred or entombed for a removal permit.

(b) An applicant for a removal permit shall publish notice of his or her intent to remove the remains. This notice shall be published for two successive weeks in a newspaper of general circulation in the ~~town~~ municipality in which the body is interred or entombed. The notice shall include a statement that the spouse, child, parent ~~or~~ sibling, or descendant of the deceased or that the cemetery commissioner or other municipal authority responsible for cemeteries in the municipality may object to the proposed removal by filing a complaint in the probate court of the district in which the body is located as provided in section 5212a of this title.

(c) The ~~town~~ municipal clerk shall issue a removal permit 45 days after the date on which notice was last published pursuant to subsection (b) of this section or, if an objection is made pursuant to section 5212a, upon order of the court.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, a removal permit shall be issued upon application:

- (1) when removal is necessary because of temporary entombment; or
- (2) to a federal, state, county, or municipal official acting pursuant to official duties; or
- (3) if the applicant has written permission to remove the remains from all persons entitled to object under section 5212a of this title.

(e) This section does not apply to:

- (1) Unmarked burial sites which are subject to the provisions of subchapter 7 of this chapter.
- (2) The removal of "historic remains," which has the same meaning as in subdivision 5217(a)(1) of this title.

Sec. 2. 18 V.S.A. § 5212a is amended to read:

§ 5212a. REMOVAL; OBJECTIONS

(a) Unless removal is otherwise authorized by law, the cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which remains are interred or entombed or a spouse, child, parent ~~or~~, sibling, or descendant of the deceased may, within 30 days after the date notice was last published under section 5212 of this title, object to the proposed removal by filing a complaint and a copy of the application in the probate court of the district in which the body is interred or entombed. A copy of the complaint shall be filed with the clerk of the ~~town where~~ municipality in which the body is interred or entombed and shall be mailed to the applicant for the removal permit.

(b) The probate court shall, after hearing, issue its order authorizing removal of the body unless the removal is one or more of the following:

- (1) ~~removal would be contrary~~ Contrary to the expressed intent of the deceased; ~~or~~,
- (2) ~~removal is objected~~ Objected to by the surviving spouse of the deceased; ~~or~~,

(3) ~~removal is objected~~ Objected to by an adult son or daughter of the deceased and there is no surviving spouse of the deceased;

(4) ~~removal is objected~~ Objected to by a parent of the deceased and there is no surviving spouse or son or daughter of the deceased;

(5) ~~removal is objected~~ Objected to by an adult sibling of the deceased and there is no surviving spouse, son or daughter, or parent of the deceased.

(6) Objected to by a descendant of the deceased and there is no surviving spouse, son or daughter, parent, or adult sibling of the deceased.

(7) Objected to by the cemetery association or other municipal cemetery authority responsible for cemeteries in the municipality in which the remains are interred or entombed, and there is no surviving spouse, son or daughter, parent, adult sibling, or known descendant of the deceased.

Sec. 3. 18 V.S.A. § 5217 is added to read:

§ 5217. REMOVAL OF HISTORIC REMAINS

(a) As used in this section:

(1) “Historic remains” means remains of a human being who has been deceased for 100 years or more and the remains are located in a publicly known or marked burial ground or cemetery.

(2) “Public good” means actions that provide for the greatest benefit of the people of the state of Vermont.

(3) “Remains” means cremated human remains that are in a container or the bodily remains of a human being.

(4) “Removal” means to transport human remains from one location to another location.

(b) A person may apply for a removal permit to disinter or remove historic remains by filing an application with the clerk for the municipality in which the historic remains are located. The application shall include all the following:

(1) Identification of the specific location and marking of the remains performed by a qualified professional archeologist using standard archeological procedures.

(2) Identification of the specific location in which the remains will be reburied.

(3) The purpose for the removal of the remains, including a statement of the public good that will result from the removal.

(c) An applicant for a removal permit to disinter or remove historic remains shall publish notice of the applicant's intent to remove the remains for two successive weeks in a newspaper of general circulation in the municipality in which the historic remains are located. The applicant shall also send notice by first-class mail to all the following:

(1) The cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which the historic remains are located.

(2) All historical societies located within the municipality in which the historic remains are located.

(3) The district environmental commission for the district in which the historic remains are located.

(4) The state archeologist.

(5) The Vermont Old Cemetery Association.

(6) The Vermont Cemetery Association.

(d) An objection to the proposed removal of historic remains shall be filed with the probate court for the district in which the historic remains are located and the clerk for the municipality in which the historic remains are located within 60 days after the date the notice was last published as required by subsection (c) of this section. An objection may be filed only by the following:

(1) A descendant of the deceased.

(2) The cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which the historic remains are located.

(3) An historical society located within the municipality in which the historic remains are located.

(4) The Vermont Historical Society.

(5) The Vermont Old Cemetery Association.

(6) The Vermont Cemetery Association.

(7) The state archeologist.

(8) Any veterans' organizations operating within the county in which the historic remains are located.

(e) If no objection is received within 60 days after the date the notice was last published as required by subsection (c) of this section, the municipal clerk shall issue a removal permit.

(f) If the probate court receives an objection within the 60-day period, the court shall notify the clerk for the municipality in which the historic remains are located and schedule a hearing on whether to allow removal as described in the application.

(g) The probate court, after hearing, shall order the municipal clerk to grant or deny a permit for removal of the historic remains. The court shall consider the impact of the removal on the public good.

(h) The permit shall require that all remains, markers, and relevant funeral-related materials associated with the burial site be removed and that the removal shall be conducted by a qualified professional archeologist in compliance with standard archeological process. All costs associated with the removal shall be paid by the applicant.

Sec. 4. 18 V.S.A. chapter 121, subchapter 7 is added to read:

Subchapter 7. Unmarked Burial Sites

§ 5601. DEFINITIONS

In this subchapter:

(1) “Treatment plan” means a plan or outline of a process for providing appropriate and respectful treatment of a burial site while considering the rights of the landowner and appropriate stakeholders, including affected Native American tribes or bands and veterans’ organizations. Each treatment plan shall include, as appropriate, the following:

(A) Methods for determining the presence of an unmarked burial site, including archeological surveys and assessments and other nonintrusive techniques.

(B) Methods for handling development and excavation on property on which there is a known burial site or there is likely to be one.

(C) Options for owners of property on which human remains are discovered or determined to be located.

(D) Procedures for protecting, preserving, and moving the burial site and human remains.

(E) Time frames for implementation of the plan.

(F) Procedures for resolving disputes among stakeholders.

(2) “Unmarked burial site” means the location of any interment of human remains or evidence of human remains, including the presence of red ochre, associated funerary objects, or a documented concentration of burial

sites. "Unmarked burial site" does not include a cemetery, mausoleum, or columbarium or any other site that is clearly marked as containing human remains.

§ 5602. DISTURBANCE OF AN UNMARKED BURIAL SITE

(a) When an unmarked burial site is first discovered, excavation or disruption of that site shall stop immediately. The discovery shall be reported immediately to a designated law enforcement officer or the state medical examiner. A person who, after discovering an unmarked burial site, proceeds to excavate, disinter, disturb, destroy, or remove any human remains or associated funerary objects from the unmarked burial site or aids in those activities may be subject to the penalties of 13 V.S.A. § 3761 unless the person is operating under a treatment plan approved by the commissioner of economic, housing and community development. This subsection does not apply to a medical examiner or state's attorney acting under section 5205 of this title.

(b) If, after an investigation pursuant to section 5205 of this title, a medical examiner determines that the burial site does not fall under the purview of the medical examiner's office, the medical examiner shall immediately notify the state archeologist who shall consult with stakeholders, including the municipality, the land owner, state or federally recognized Native American tribes, and any other appropriate interested organizations, to formulate a treatment plan. The state archeologist shall also make a reasonable effort to discover and consult with the closest likely descendents to formulate a treatment plan.

§ 5603. UNMARKED BURIAL SITES SPECIAL FUND

(a) The unmarked burial sites special fund is established in the state treasury for the purpose of protecting, preserving, moving, or reintering human remains discovered in unmarked burial sites.

(b) The fund shall be composed of any monies appropriated to the fund by the general assembly or received from any other source, private or public. Interest earned on the fund and any balance remaining in the fund at the end of a fiscal year shall be retained in the fund. This fund shall be maintained by the state treasurer and shall be managed in accordance with subchapter 5 of chapter 7 of Title 32.

(c) The commissioner of economic, housing and community development may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites, provided that the commissioner has approved a treatment plan for the site that has been developed pursuant to subsection 5602(b) of this title.

(d) The funds shall be used for the following purposes relating to unmarked burial sites:

(1) To implement a treatment plan approved by the commissioner of economic, housing and community development.

(2) To monitor excavations.

(3) To perform archeological assessments and archeological site or field investigations, including radar scanning and any other nonintrusive technology or technique designed to determine the presence of human remains.

(4) To provide mediation and other appropriate dispute resolution services.

(5) To acquire property or development rights, provided the commissioner of economic, housing and community development determines that disbursements for this purpose will not unduly burden the fund and further provided the commissioner shall expend funds for this purpose only with the concurrence of the secretary of commerce and community development and after consultation with the legislative bodies of any affected municipality or municipalities.

(6) Any other appropriate purpose determined by the commissioner of economic, housing and community development to be consistent with the purposes of this fund.

(e) The commissioner may adopt rules to carry out the intent and purpose of this section.

§ 5604. UNMARKED BURIAL SITE TREATMENT PLAN COMMITTEE

(a) The unmarked burial site treatment plan committee is created to develop procedures for addressing issues related to known or discovered unmarked burial sites including treatment plans to be used when an unmarked burial site is discovered on private property. The committee is composed of the following nine members:

(1) The commissioner of economic, housing and community development, or designee.

(2) The state archeologist, or designee.

(3) A representative from the Vermont League of Cities and Towns, Inc.

(4) A representative from a Native American tribe based in Vermont who has experience handling unmarked burial sites, appointed by the commissioner of housing and community affairs.

(5) A federal archeologist from the Natural Resources Conservation Service of the U.S.D.A.

(6) The U.S. Forest Service, Green Mountain National Forests archeologist.

(7) The director of the University of Vermont consulting archeology program.

(8) A representative from the Vermont Bankers Association, Inc.

(9) A representative from the home Builders and Remodelers Association of Vermont.

(b) The committee shall:

(1) Develop procedures for responding to reports of a discovery of an unmarked burial site as defined in 18 V.S.A. § 5601(2).

(2) When notified of the discovery of an unmarked burial site on private property and after consultation with appropriate stakeholders, including affected Native American tribes or bands and veterans organizations, develop a treatment plan for the burial site.

(3) The committee shall issue an annual report describing the number and issues surrounding unmarked burial sites for which treatment plans were developed, including an outline of the procedures and treatment plans that have been implemented and the outcomes or resolutions of the implemented treatment plans. The report shall be posted on the website of the department of housing and community affairs.

Sec. 4. REPEAL

18 V.S.A. § 5212b, relating to a burial sites special fund, is repealed.

Sec. 5. EFFECTIVE DATE

This act shall take effect on September 1, 2010.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 562

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the regulation of professions and occupations

Reported in favor of its passage when amended as follows:

First: By striking Sec. 6 in its entirety

Second: In Sec. 45, 26 V.S.A. § 3320a(e), by striking the second instance of the word “a”

Third: By striking Sec. 53 in its entirety and inserting in lieu thereof a new Sec. 53 to read:

Sec. 53. REPEAL

26 V.S.A. §§ 1187 (secretary of state as agent for process for professional engineers); 1723 (use of diagnostic pharmaceutical agents by optometrists); 1724a (annual update of formulary for optometrists by the director of the office of professional regulation); and 3178b (reinstatement of private investigator or security guard license) are repealed.

Rep. Sharpe of Bristol, for the committee on Ways and Means, recommended the bill ought to pass when amended as recommended by the committee on Government Operations.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 117

Rep. Martin of Wolcott, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to the date of the primary election

Reported in favor of its passage in concurrence with proposal of amendment as follows:

Sec. 1. 17 V.S.A. § 2351 is amended to read:

§ 2351. PRIMARY ELECTION

A primary election shall be held on the ~~second~~ fourth Tuesday ~~of September~~ in August in each even numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for president and vice-president of the United States, their electors, and justices of the peace.

Sec. 2. 17 V.S.A. § 2352 is amended to read:

§ 2352. NOMINATION OF CANDIDATES PRIOR TO SPECIAL ELECTION

When the governor or any court, pursuant to law, orders a special election to be held for any of the offices covered by section 2351 of this title, a special primary election shall be held on the Tuesday which falls not less than ~~40~~ 60 days nor more than ~~46~~ 66 days prior to the date set for the special election. The

nomination of candidates prior to a special election, including nomination both by primary and by other means, shall be governed by the rules applicable to nomination of candidates prior to the general election, except as may be specifically provided in this chapter. The term "general election", as used in this chapter, shall be deemed to include a special election, unless the context requires a different interpretation.

Sec. 3. 17 V.S.A. § 2353(a) is amended to read:

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for any office indicated, if petitions containing the requisite number of signatures made by legal voters, in substantially the following form, are filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

I join in a petition to place on the primary ballot of the party the name of, whose residence is in the (city), (town) of in the county of, for the office of to be voted for on Tuesday, the day of ~~September~~ August, 20; and I certify that I am at the present time a registered voter and am qualified to vote for a candidate for this office.

Sec. 4. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS

Primary petitions shall be filed no sooner than the ~~first Monday in June~~ second Monday in May and not later than 5:00 p.m. on the ~~third Monday of July~~ second Thursday after the first Monday in June preceding the primary election prescribed by section 2351 of this title, and not later than 5:00 p.m. of the ~~42nd~~ 62nd day prior to the day of a special primary election.

Sec. 5. 17 V.S.A. § 2369 is amended to read:

§ 2369. DETERMINING WINNER; TIE VOTES

Persons who receive a plurality of all the votes cast by a party in a primary shall be candidates of that party for the office designated on the ballot. If two or more candidates of the same party are tied for the same office, the choice among those tied shall be determined:

(1) Upon five days' notice and not later than 10 days following the primary election, ~~by~~ the state committee of a party, for a state or congressional office; the senatorial district committee for state senate; the county committee for county office; or the representative district committee for a representative

to the general assembly shall meet to nominate a candidate from among the tied candidates.

~~(2) By run off election for a county office, for a state senator, or for a representative to the general assembly. The run off election shall be held on the fourth Tuesday of September and shall be conducted in the same manner as the primary election. The committee chair shall certify the candidate nomination for the general election to the secretary of state within 48 hours of the nomination.~~

Sec. 6. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) Statements pursuant to this subchapter, except for vacancies created by the death or withdrawal of a candidate after the primary, shall be filed not ~~more than 60 days~~ earlier than the second Thursday after the first Monday in June before the day of the general election and not later than 5:00 p.m. on the ~~third day~~ Tuesday following the primary election.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the withdrawal to nominate a candidate. In no event, shall a statement be filed later than ~~40~~ 60 days prior to the election.

Sec. 7. 17 V.S.A. § 2402(d) is amended to read:

(d) A statement of nomination and a completed and signed consent form shall be filed not sooner than the ~~first Monday in June~~ second Thursday after the first Monday in June and not later than the third day after the primary election. No public official receiving nominations shall accept a petition unless a completed and signed consent form is filed at the same time.

Sec. 8. 17 V.S.A. § 2413(a) is amended to read:

(a) The party members in each town, on or before the ~~first Tuesday of September~~ fourth Tuesday of August in each even numbered year, upon the call of the town committee, may meet in caucus and nominate candidates for justice of the peace. The committee shall give notice of the caucus as provided in subsection (d) of this section and the chairman and secretary shall file the statements required in sections 2385 through 2387 of this title.

Sec. 9. 17 V.S.A. § 2479 is amended to read:

§ 2479. MANNER OF DISTRIBUTION

Not later than ~~30~~ 45 days before the election, the secretary of state shall furnish the prepared ballots to the clerk of each town. Ballots shall be sent in

securely fastened packages by mail or in some other safe manner, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. The town clerk shall store the ballots, except for ballots used as early or absentee voter or sample ballots, in a secure place until the day of the election, at which time the town clerk shall deliver them in sufficient quantities to the presiding officer in each polling place, together with any ballots prepared by the town clerk.

Sec. 10. 17 V.S.A. § 2811 is amended to read:

§ 2811. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, POLITICAL COMMITTEES, AND POLITICAL PARTIES

(a) Each candidate for state office, each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more, and each political committee and each political party required to register under section 2831 of this title shall file with the secretary of state campaign finance reports ~~40 days before the primary election and on the 25th on July 15th and on the 15th~~ of each month thereafter ~~and continuing to the general election and 10 days after the general election~~ until and including December 15th.

(b) At any time, but not later than ~~40 days~~ December 15th following the general election, a candidate for state office and each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more shall file with the secretary of state a "final report" which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities.

* * *

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations, **Rep. Koch of Barre Town** moved to amend the proposal of amendment of the committee on Government Operations as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. chapter 51, subchapter 6A is added to read:

Subchapter 6A. Uniformed Services and Overseas Voters

§ 2551. APPLICATION OF SUBCHAPTER

If there is a conflict between a provision set forth in this subchapter and any other provision of this chapter, the provision in this subchapter shall prevail.

§ 2551a. ELECTRONIC VOTING FOR UNIFORMED SERVICES AND OVERSEAS VOTERS

Uniformed services voters and overseas voters who have applied for absentee or early voter ballots and balloting materials may choose and shall be permitted to cast ballots electronically, either by e-mail or by a secure online system using virtual private network (VPN) or similar technology. The secretary of state shall adopt rules governing electronic voting and, in the secretary's discretion, may contract with a private voting service to administer the electronic voting system.

§ 2551b. USE OF FEDERAL WRITE-IN ABSENTEE BALLOTS

(a) Election officials shall permit absent uniformed services voters and overseas voters to use the Federal Write-In Absentee Ballot, in accordance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff to vote for all offices in any general, special, primary, or runoff election for federal, state, or local government office or public question.

(b) Election officials shall permit absent uniformed services voters and overseas voters to use the Federal Write-In Absentee Ballot voter declaration as a request for registration and an application for a military-overseas ballot simultaneous with the submission of the Federal Write-In Absentee Ballot, if the request is received by the later of the 15th day before the election or the last day for other voters in the state to apply for an early voter ballot for that election.

§ 2551c. EMERGENCIES; SPECIAL PROCEDURE TO FACILITATE ABSENTEE VOTING

If an international, national, state, or local emergency or other situation arises that makes substantial compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq., impossible or impracticable, as confirmed by the existence of armed conflict involving United States Armed Forces or the mobilization of those forces, including state national guard and reserve component members of this state, or by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of emergency exists, the governor directly, or by delegation to the secretary of state, may prescribe, by emergency order or rule, a special procedure or requirement as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected who are eligible to vote in this state. The secretary of state shall take reasonable steps to provide absent uniformed services voters and overseas

voters with timely notice of any special procedure or requirement prescribed under this section.

Sec. 2. SPECIAL RULES FOR 2010

(a) Absentee ballots cast in the general election to be held on November 2, 2010 shall be counted if postmarked by the date of the general election and received on or before 5:00 p.m. on November 12, 2010.

(b) The secretary of state shall request a waiver pursuant to 42 U.S.C. section 1973ff, the Uniformed and Overseas Citizens Absentee Voter Act, for the general election of November 2, 2010.

Sec. 3. SECRETARY OF STATE REPORT

The secretary of state shall report to the house and senate committees on government operations by March 1, 2011 on:

(1) the feasibility of using electronic voting systems universally in Vermont elections; and

(2) responses by the United States Department of Justice with respect to other states who requested a waiver pursuant to the Uniformed and Overseas Citizens Absentee Voter Act.

Pending the question, Shall the proposal of the Committee of Government Operations be amended as offered by Rep. Koch of Barre Town? **Rep. Koch of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the proposal of the Committee of Government Operations be amended as offered by Rep. Koch of Barre Town? was decided in the negative. Yeas, 50. Nays, 95.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Baker of West Rutland
Branagan of Georgia
Brennan of Colchester
Canfield of Fair Haven
Clark of Vergennes
Clerkin of Hartford
Condon of Colchester
Crawford of Burke
Devereux of Mount Holly
Dickinson of St. Albans
Town

Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City
Greshin of Warren
Helm of Castleton
Higley of Lowell
Howard of Cambridge
Hubert of Milton
Johnson of Canaan
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Krawczyk of Bennington
Larocque of Barnet

Lawrence of Lyndon
Lewis of Derby
Marcotte of Coventry
McAllister of Highgate
McDonald of Berlin
McFaun of Barre Town
McNeil of Rutland Town
Morley of Barton
Morrissey of Bennington
Myers of Essex
O'Donnell of Vernon *
Olsen of Jamaica
Pearce of Richford
Peaslee of Guildhall

Perley of Enosburg
Poirier of Barre City
Reis of St. Johnsbury

Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford

Wheeler of Derby
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Audette of South Burlington
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Bray of New Haven
Browning of Arlington
Burke of Brattleboro
Cheney of Norwich
Clarkson of Woodstock
Conquest of Newbury
Consejo of Sheldon *
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Davis of Washington
Deen of Westminster
Donovan of Burlington
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph
Geier of South Burlington
Gilbert of Fairfax
Haas of Rochester

Head of South Burlington
Heath of Westford
Hooper of Montpelier
Howard of Rutland City
Howrigan of Fairfield
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Klein of East Montpelier
Krebs of South Hero
Lanpher of Vergennes
Larson of Burlington
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Maier of Middlebury
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
Milkey of Brattleboro
Miller of Shaftsbury
Minter of Waterbury
Mitchell of Barnard
Mook of Bennington
Moran of Wardsboro

Mrowicki of Putney *
Nease of Johnson
Nuovo of Middlebury
Obuchowski of Rockingham
Orr of Charlotte
Partridge of Windham
Pellett of Chester
Peltz of Woodbury
Potter of Clarendon
Pugh of South Burlington
Ram of Burlington
Rodgers of Glover
Shand of Weathersfield
Sharpe of Bristol
Smith of Mendon
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Townsend of Randolph
Waite-Simpson of Essex
Webb of Shelburne
Weston of Burlington
Wilson of Manchester
Wizowaty of Burlington
Young of St. Albans City
Zenie of Colchester
Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Grad of Moretown
Kitzmiller of Montpelier

O'Brien of Richmond
Turner of Milton

Rep. Consejo of Sheldon explained his vote as follows:

“Mr. Speaker:

I would have liked to allow our forces to vote electronically, unfortunately our Secretary of State is telling us that it is not possible at this time to allow the

sanctity of the vote to be insured. I look forward to the day it will be possible for all of us to vote electronically, knowing that the privacy of our vote is being preserved.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

I vote to support the work of the committee in support of Vermonters far from home who want to securely exercise their right to vote. I'm someone who has had their supposedly secure online financial information compromised several times by the lack of internet security. I would hope we would make sure without a doubt that voting can be reliably secure before taking a chance with others ballots.”

Rep. O'Donnell of Vernon explained her vote as follows:

“Mr. Speaker:

I vote yes Mr. Speaker for my son Mike and for all of our soldiers who value their freedom to vote so much that they are willing to risk their lives for the freedom of others. We should be doing everything in our power to make it easier for all our soldiers.”

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations? **Rep. Martin of Wolcott** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations? was decided in the affirmative. Yeas, 139. Nays, 6.

Those who voted in the affirmative are:

Acinapura of Brandon	Burke of Brattleboro	Devereux of Mount Holly
Adams of Hartland	Canfield of Fair Haven	Dickinson of St. Albans
Ainsworth of Royalton	Cheney of Norwich	Town
Ancel of Calais	Clark of Vergennes	Donaghy of Poultney
Andrews of Rutland City	Clarkson of Woodstock	Donahue of Northfield
Aswad of Burlington	Clerkin of Hartford	Donovan of Burlington
Atkins of Winooski	Conquest of Newbury	Edwards of Brattleboro
Audette of South Burlington	Consejo of Sheldon	Emmons of Springfield
Baker of West Rutland	Copeland-Hanzas of	Evans of Essex
Bissonnette of Winooski	Bradford	Fagan of Rutland City
Bohi of Hartford	Corcoran of Bennington	Fisher of Lincoln
Botzow of Pownal	Courcelle of Rutland City	Frank of Underhill
Branagan of Georgia	Crawford of Burke	French of Shrewsbury
Bray of New Haven	Davis of Washington	French of Randolph
Browning of Arlington	Deen of Westminster	Geier of South Burlington

Gilbert of Fairfax	Maier of Middlebury	Perley of Enosburg
Greshin of Warren	Malcolm of Pawlet	Poirier of Barre City
Haas of Rochester	Manwaring of Wilmington	Potter of Clarendon
Head of South Burlington	Marcotte of Coventry	Pugh of South Burlington
Heath of Westford	Marek of Newfane	Ram of Burlington
Helm of Castleton	Martin of Springfield	Reis of St. Johnsbury
Higley of Lowell	Martin of Wolcott	Rodgers of Glover
Hooper of Montpelier	Masland of Thetford	Savage of Swanton
Howard of Cambridge	McAllister of Highgate	Scheuermann of Stowe
Howard of Rutland City	McCullough of Williston	Shand of Weathersfield
Hubert of Milton	McDonald of Berlin	Sharpe of Bristol
Jerman of Essex	McFaun of Barre Town	Shaw of Pittsford
Jewett of Ripton	McNeil of Rutland Town	Smith of Mendon
Johnson of South Hero	Milkey of Brattleboro	South of St. Johnsbury
Johnson of Canaan	Miller of Shaftsbury	Spengler of Colchester
Keenan of St. Albans City	Minter of Waterbury	Stevens of Waterbury
Kilmartin of Newport City	Mitchell of Barnard	Stevens of Shoreham
Klein of East Montpelier	Mook of Bennington	Sweaney of Windsor
Koch of Barre Town	Moran of Wardsboro	Taylor of Barre City
Komline of Dorset	Morley of Barton	Till of Jericho
Krawczyk of Bennington	Morrissey of Bennington	Toll of Danville
Krebs of South Hero	Mrowicki of Putney	Townsend of Randolph
Lanpher of Vergennes	Myers of Essex	Waite-Simpson of Essex
Larocque of Barnet	Nease of Johnson	Webb of Shelburne
Larson of Burlington	Nuovo of Middlebury	Weston of Burlington
Lawrence of Lyndon	Obuchowski of Rockingham	Wheeler of Derby
Lenes of Shelburne	Olsen of Jamaica	Wilson of Manchester
Leriche of Hardwick	Partridge of Windham	Winters of Williamstown
Lewis of Derby	Pearce of Richford	Wizowaty of Burlington
Lippert of Hinesburg	Peaslee of Guildhall	Young of St. Albans City
Lorber of Burlington	Pellett of Chester	Zenie of Colchester
Macaig of Williston	Peltz of Woodbury	Zuckerman of Burlington

Those who voted in the negative are:

Brennan of Colchester	Howrigan of Fairfield	Orr of Charlotte
Condon of Colchester	O'Donnell of Vernon	Wright of Burlington

Those members absent with leave of the House and not voting are:

Grad of Moretown	O'Brien of Richmond
Kitzmiller of Montpelier	Turner of Milton

Thereupon third reading of the bill was ordered.

Adjournment

At three o'clock and forty five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock and thirty minutes in the afternoon.