

1 H.867

2 Introduced by Representatives Helm of Fair Haven, Conquest of Newbury,

3 Houghton of Essex, Lanpher of Vergennes, Myers of Essex,

4 Savage of Swanton, Townsend of South Burlington, and

5 Yacovone of Morristown

6 Referred to Committee on

7 Date:

8 Subject: Health; cemeteries; preservation

9 Statement of purpose of bill as introduced: This bill proposes to: (1) establish  
10 a work group to catalogue and propose remediation measures for Vermont  
11 cemeteries at risk due to underlying environmental causes; and (2) create an  
12 At-Risk Cemetery Fund to fund the remediation of cemeteries with  
13 environmental damage or that are at risk of future damage due to underlying  
14 environmental causes.

15 An act relating to protecting and remediating at-risk cemeteries

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

2 \* \* \* Work Group for the Preservation of At-Risk Cemeteries \* \* \*

3 Sec. 1. WORK GROUP FOR THE PRESERVATION OF AT-RISK  
4 CEMETERIES; REPORT

5 (a) Creation. There is created a work group for the purpose of cataloguing  
6 the number of Vermont cemeteries at risk due to underlying environmental  
7 causes and estimating the funding necessary to stabilize these cemeteries.

8 (b) Membership. The Work Group shall be composed of the following  
9 members:

10 (1) the State Archeologist, who shall serve as chair;

11 (2) the State Geologist;

12 (3) a representative of the Agency of Transportation's Cultural  
13 Resources Division;

14 (4) a representative appointed by the Vermont Old Cemetery  
15 Association;

16 (5) a representative appointed by the Vermont Cemetery Association;

17 and

18 (6) any other members deemed appropriate by the Chair.

19 (c) Powers and duties. The Work Group shall:

20 (1) conduct a statewide inventory of cemeteries that are at risk due to  
21 underlying environmental causes;

1           (2) identify the underlying causes that put each cemetery listed on the  
2           inventory at risk and generate potential remedies to stabilize and prevent the  
3           future degradation of each listed cemetery;

4           (3) estimate the cost of stabilizing and preventing the future degradation  
5           of each listed cemetery; and

6           (4) identify potential funding sources for the stabilization and prevention  
7           of future degradation at each listed cemetery.

8           (d) Assistance. The Work Group shall have the administrative, technical,  
9           and legal assistance of the Agency of Commerce and Community  
10           Development.

11           (e) Report. On or before November 1, 2020, the Work Group shall submit  
12           a written report to the General Assembly with its findings and any  
13           recommendations for legislative action.

14           (f) Meetings.

15           (1) The Chair shall call the first meeting of the Work Group to occur on  
16           or before August 1, 2020.

17           (2) A majority of the membership shall constitute a quorum.

18           (3) The Work Group shall cease to exist on January 1, 2021.

19           (g) Compensation and reimbursement. Members of the Work Group shall  
20           be entitled to per diem compensation and reimbursement of expenses as  
21           permitted under 32 V.S.A. § 1010 for not more than six meetings. These

1 payments shall be made from monies appropriated to the Agency of Commerce  
2 and Community Development.

3 \* \* \* Funding Cemetery Remediation \* \* \*

4 Sec. 2. 18 V.S.A. § 5324 is added to read:

5 § 5324. GRANTS FOR AT-RISK CEMETERIES

6 (a) The Vermont Old Cemetery Association (VOCA) shall provide grants  
7 to an agency to remediate cemeteries with environmental damage or at risk of  
8 future damage due to underlying environmental causes. As used in this  
9 section, “environmental damage” and “risk of future damage due to underlying  
10 environmental causes” mean existing or future damage to a cemetery due to  
11 flooding, mudslides, fluvial or streambank erosion, or any other naturally  
12 occurring forces.

13 (b) An agency shall:

14 (1) Report to VOCA, either verbally or in writing, the nature and extent  
15 of environmental damage to the cemetery at issue or risk of future damage due  
16 to underlying environmental causes.

17 (2) Provide written notice to the lot owner or next of kin if  
18 environmental damage affected a crypt, niche, grave site, monument, or  
19 memorial. The notice shall advise the lot owner or next of kin to seek  
20 insurance benefits that may be available pursuant to a homeowner’s insurance  
21 policy. A copy of the notice shall be maintained by the agency.

1       (c) Within one year after reporting the nature and extent of environmental  
2       damage or risk for future damage due to underlying environmental causes, the  
3       agency may apply to VOCA for a grant to remediate the environmental  
4       damage or stabilize cemeteries at risk of future damage due to underlying  
5       environmental causes.

6           (1) The grant application shall include the following:

7               (A) a description of the environmental damage or areas at risk of  
8               future damage due to underlying environmental causes and photographs of the  
9               damage or areas at risk;

10              (B) a copy of any letters, newspaper advertisements, or other  
11              documented attempts to obtain funding for the remediation from the family of  
12              the deceased;

13              (C) a copy of other reports filed in accordance with law;

14              (D) a copy of bids submitted by at least two contractors for the cost  
15              of remediation; and

16              (E) a notarized statement signed by the cemetery commissioner or  
17              other proper officer that the agency has no available funds that it is authorized  
18              to use for the purpose of remediation; that it has not been able to obtain  
19              sufficient funds from the family of the deceased, including insurance benefits;  
20              and that the proposed costs of the repairs are fair and reasonable.

1           (2) A VOCA representative shall review the environmental damage or  
2           areas at risk of future damage due to underlying environmental causes within  
3           120 days of receipt of a complete grant application and make a determination  
4           based on the following factors:

5                   (A) whether there is environmental damage or risk of future damage  
6                   due to underlying environmental causes;

7                   (B) severity of the environmental damage or risk of future damage  
8                   due to underlying environmental causes;

9                   (C) emotional distress to visiting families;

10                  (D) appropriateness of prior use of payments from the At-Risk  
11                  Cemetery Fund;

12                  (E) priority of application based upon previous allocations; and

13                  (F) availability of monies within the At-Risk Cemetery Fund.

14           (3) Upon approval, the VOCA treasurer shall disburse funds directly to  
15           the appropriate cemetery commissioner or other proper officer. The agency  
16           shall apply all disbursements made by VOCA to the remediation efforts  
17           described in the grant application. Any funds remaining after the remediation  
18           has been performed must be returned to VOCA for redeposit to the At-Risk  
19           Cemetery Fund.

20           (4) Within 120 days of receipt of disbursements, the agency shall make  
21           a final report to VOCA. The final report shall include the remediation made

1 and by whom, the amount of funds expended, and the amount of funds to be  
2 returned to VOCA, if any. If the remediation has not been completed, the  
3 reason shall be explained, and the anticipated date for a subsequent, final  
4 report shall be provided. The report and any additional report shall be sworn  
5 by a cemetery commissioner or other proper officer.

6 Sec. 3. 18 V.S.A. § 5325 is added to read:

7 § 5325. AT-RISK CEMETERY FUND

8 (a)(1) Creation. The At-Risk Cemetery Fund is established to provide  
9 grants to remediate cemeteries with environmental damage or that are at risk of  
10 future damage due to underlying environmental causes. As used in this  
11 section, “environmental damage” and “risk of future damage due to underlying  
12 environmental causes” mean the same as in section 5324 of this title.

13 (2) The Fund shall be administered by the Vermont Old Cemetery  
14 Association (VOCA). Monies in the Fund shall be used solely to provide  
15 grants to at-risk cemeteries, pursuant to section 5324 of this title.

16 (b)(1) Fees and collection. Every agency shall contribute \$5.00 to the At-  
17 Risk Cemetery Fund for each burial or cremation it performs. A contribution  
18 shall not be collected upon the burial of the remains of a deceased person  
19 where a contribution was collected upon cremation.

20 (2) On or before January 15 of each year, every agency that has  
21 performed a burial or cremation during the preceding calendar year shall

1 submit a check to VOCA for the total amount collected during the preceding  
2 year toward payment to the Fund. Payment shall be accompanied by a  
3 statement signed by a cemetery commissioner or other proper officer certifying  
4 the number of burials and cremations and the amount transmitted. Funds will  
5 be disbursed to VOCA on January 31 of each year.

6 Sec. 4. AT-RISK CEMETERY FUND; INITIAL FEE COLLECTION

7 The Vermont Old Cemetery Association shall collect initial fees for the At-  
8 Risk Fund beginning on January 1, 2021 for each burial or cremation occurring  
9 between July 1, 2020 and December 31, 2020.

10 \* \* \* Effective Date \* \* \*

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on July 1, 2020.