

# Journal of the Senate

WEDNESDAY, FEBRUARY 5, 2014

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 14

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 373.** An act relating to updating and reorganizing Title 33.

**H. 735.** An act relating to Executive Branch and Judiciary fees.

In the passage of which the concurrence of the Senate is requested.

## Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourth day of February, 2014 he approved and signed a bill originating in the Senate of the following title:

**S. 25.** An act relating to public advocacy in utility matters.

## Bills Referred

House bills of the following titles were severally read the first time and referred:

### H. 373.

An act relating to updating and reorganizing Title 33.

To the Committee on Health and Welfare.

**H. 735.**

An act relating to Executive Branch and Judiciary fees.

To the Committee on Finance.

**Bill Passed****S. 223.**

Senate bill of the following title:

An act relating to regulating the making of pension loans.

Was taken up.

Thereupon, the bill was passed on a roll call, Yeas 27, Nays 0.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Bray, Collins, Cummings, Doyle, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Campbell (presiding), Flory, Fox (deceased).

**Third Reading Ordered****S. 285.**

Senator Benning, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the furlough of offenders 65 years of age and older.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Bills Amended; Third Readings Ordered****S. 184.**

Senator Ashe, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to eyewitness identification policy.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 182, subchapter 3 is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. EYEWITNESS IDENTIFICATION POLICY

(a) On or before January 1, 2015, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358 shall adopt an eyewitness identification policy.

(b) The written policy shall contain, at a minimum, the following essential elements as identified by the Law Enforcement Advisory Board:

(1) Protocols guiding the use of a show-up identification procedure.

(2) The photo or live lineup shall be conducted by a blind administrator who does not know the suspect's identity. For law enforcement agencies with limited staff, this can be accomplished through a procedure in which photographs are placed in folders, randomly numbered and shuffled, and then presented to an eyewitness such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed.

(3) Instructions to the eyewitness, including that the perpetrator may or may not be among the persons in the identification procedure.

(4) In a photo or live lineup, fillers shall possess the following characteristics:

(A) All fillers selected shall resemble the eyewitness's description of the perpetrator in significant features such as face, weight, build, or skin tone, including any unique or unusual features such as a scar or tattoo.

(B) At least five fillers shall be included in a photo lineup, in addition to the suspect.

(C) At least four fillers shall be included in a live lineup, in addition to the suspect.

(5) If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator.

(c) The model policy issued by the Law Enforcement Advisory Board shall encourage ongoing law enforcement training in eyewitness identification procedures for State, county, and municipal law enforcement agencies and constables who exercise law enforcement authority pursuant to 24 V.S.A. § 1936a and are trained in compliance with 20 V.S.A. § 2358.

(d) If a law enforcement agency does not adopt a policy by January 1, 2015 in accordance with this section, the model policy issued by the Law Enforcement Advisory Board shall become the policy of that law enforcement agency or constable.

## Sec. 2. REPORTING EYEWITNESS IDENTIFICATION POLICIES

The Vermont Criminal Justice Training Council shall report to the General Assembly on or before April 15, 2015, regarding law enforcement's compliance with Sec. 1 of this act.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

## S. 291.

Senator Rodgers, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the establishment of transition units at State correctional facilities.

Reported recommending that the bill be amended as follows:

First: In Sec. 1, in subsection (b), by striking out the following: “2015” and inserting in lieu thereof the following: 2016 and by adding after the word “facility” where it first appears the following: , except as otherwise provided in subsection (c).

Second: In Sec. 1, by adding a new subsection (c) to read as follows:

(c) No State-owned work camp shall be required to establish a transition unit under this section.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendations of amendment were severally agreed to, and third reading of the bill was ordered.

**S. 297.**

Senator Benning, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to the recording of custodial interrogations in homicide and sexual assault cases.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 182, subchapter 3 of is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a) As used in this section:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider himself or herself to be in custody, starting from the moment a person should have been advised of his or her Miranda rights and ending when the questioning has concluded.

(2) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the capacity to create a visual recording, an audio recording of the interrogation.

(3) “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4) “Statement” means an oral, written, sign language, or nonverbal communication.

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to simultaneously record both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of his or her identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the Court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

## Sec. 2. TASK FORCE

(a) Creation. There is created an Interrogation Practices Task Force to plan for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(b) Membership. The Task Force shall be composed of the following eight members:

(1) the Commissioner of Public Safety or his or her designee;

(2) the Director of the Criminal Justice Training Council or his or her designee;

(3) a Sheriff appointed by the Vermont Sheriffs' Association;

(4) a Chief of Police appointed by the Vermont Association of Chiefs of Police;

(5) the Attorney General or his or her designee;

(6) the Defender General or his or her designee;

(7) the Executive Director of State's Attorneys and Sheriffs or his or her designee;

(8) a representative appointed by The Innocence Project.

(c) Powers and duties. The Task Force, in consultation with practitioners and experts in recording interrogations, shall:

(1) assess the scope and location of the current inventory of recording equipment in Vermont;

(2) develop recommendations, including funding options, regarding how to equip adequately law enforcement with the recording devices necessary to carry out Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation); and

(3) develop recommendations for expansion of recordings to questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject regarding any felony offense.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Public Safety.

(e) Report. On or before October 1, 2014, the Task Force shall submit a written report to the Senate and House Committees on Judiciary with its recommendations for implementation of Sec. 1. of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(f) Meetings.

(1) The Commissioner of Public Safety shall call the first meeting of the Task Force to occur on or before June 1, 2014.

(2) The Committee shall select a chair from among its members at the first meeting.

(3)(A) A majority of the members of the Task Force shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of all members of the Task Force.

(4) The Task Force shall cease to exist on December 31, 2014.

### Sec. 3. EFFECTIVE DATES

Sec. 1 shall take effect on July 1, 2015 and Sec. 2 and this section shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 655.**

Senator Kitchel, for the Committee on Appropriations, to which was referred House bill entitled:

An act relating to fiscal year 2014 budget adjustments.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 2013 Acts and Resolves No. 50, Sec. B.139 is amended to read:

Sec. B.139 Tax department - reappraisal and listing payments

Grants	<u>3,293,196</u>	<u>3,368,196</u>
Total	3,293,196	3,368,196
Source of funds		
Education fund	<u>3,293,196</u>	<u>3,368,196</u>
Total	3,293,196	3,368,196

and by striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 2013 Acts and Resolves No. 50, Sec. B.145 is amended to read:

Sec. B.145 Total general government

Source of funds		
General fund	<del>69,657,388</del>	70,763,769
Transportation fund	3,930,356	3,930,356
Special funds	10,336,132	10,336,132
Education fund	<del>9,480,096</del>	9,555,096
Federal funds	963,293	963,293
Internal service funds	69,123,421	69,123,421
Interdepartmental transfers	6,974,721	6,974,721
Enterprise funds	3,233,092	3,233,092

Pension trust funds	39,659,149	39,659,149
Private purpose trust funds	<u>1,138,128</u>	<u>1,138,128</u>
Total	<u>214,495,776</u>	<u>215,677,157</u>

and by adding a new section to be numbered Sec. 73a to read as follows:

Sec. 73a. 2013 Acts and Resolves No. 50, Sec. E.139(c) is added to read:

(c) Of this appropriation, \$75,000 shall be transferred to the Department of Taxes, Division of Property Valuation and Review and used with any remaining funds from the amount transferred pursuant to 2013 Acts and Resolves No. 1, Sec. 75, for payment of any expenses associated with reappraisals of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the State of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Second: By adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. 2013 Acts and Resolves No. 50, Sec. B.204 is amended to read:

Sec. B.204 Judiciary

Personal services	<del>32,218,222</del>	32,868,222
Operating expenses	8,707,574	8,707,574
Grants	<u>70,000</u>	<u>70,000</u>
Total	<u>40,995,796</u>	41,645,796
Source of funds		
General fund	<del>35,067,633</del>	35,717,633
Special funds	3,235,319	3,235,319
Tobacco fund	39,871	39,871
Federal funds	714,176	714,176
Interdepartmental transfers	<u>1,938,797</u>	<u>1,938,797</u>
Total	<u>40,995,796</u>	41,645,796

and by striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 2013 Acts and Resolves No. 50, Sec. B.240 is amended to read:

Sec. B.240 Total protection to persons and property

Source of funds		
General fund	<del>118,749,083</del>	119,499,112
Transportation fund	25,238,498	25,238,498
Special funds	<del>75,064,951</del>	75,164,951
Tobacco fund	606,315	606,315

Federal funds	66,671,503	66,671,503
ARRA funds	1,479,429	1,479,429
Global commitment fund	256,224	256,224
Interdepartmental transfers	8,670,609	8,670,609
Enterprise funds	<u>6,178,980</u>	<u>6,178,980</u>
Total	<u>302,915,592</u>	303,376,621

Third: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 2013 Acts and Resolves No. 50, Sec. B.300 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	<del>10,337,270</del>	10,462,270
Operating expenses	<del>3,232,916</del>	3,591,498
Grants	<del>5,473,998</del>	<u>5,260,754</u>
Total	<del>19,044,184</del>	19,314,522
Source of funds		
General fund	<del>5,135,482</del>	5,241,643
Special funds	91,017	91,017
Tobacco fund	<del>291,127</del>	223,127
Federal funds	<del>9,843,546</del>	9,975,320
Global commitment fund	415,000	415,000
Interdepartmental transfers	<del>3,268,012</del>	<u>3,368,415</u>
Total	<del>19,044,184</del>	19,314,522

and by striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2013 Acts and Resolves No. 50, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	<del>590,507,696</del>	606,770,937
Special funds	<del>89,631,251</del>	89,094,967
Tobacco fund	40,046,431	40,046,431
State health care resources fund	<del>267,531,579</del>	268,303,555
Education fund	3,929,242	3,929,242
Federal funds	<del>1,186,473,782</del>	1,207,610,475
Global commitment fund	<del>1,224,791,971</del>	1,248,742,299
Internal service funds	1,502,901	1,502,901
Interdepartmental transfers	<del>25,378,027</del>	25,503,430
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	<del>3,429,817,880</del>	3,491,529,237

Fourth: By striking out Sec. 37 in its entirety and inserting in lieu thereof a new Sec. 37 to read as follows:

Sec. 37. 2013 Acts and Resolves No. 50, Sec. B.500 is amended to read:

Sec. B.500 Education - finance and administration

Personal services	7,072,845	7,147,845
Operating expenses	2,019,419	2,519,419
Grants	<u>12,591,200</u>	<u>12,591,200</u>
Total	21,683,464	22,258,464
Source of funds		
General fund	3,007,875	3,007,875
Special funds	<del>13,293,157</del>	13,868,157
Education fund	892,795	892,795
Federal funds	3,624,185	3,624,185
Global commitment fund	<u>865,452</u>	<u>865,452</u>
Total	21,683,464	22,258,464

and by striking out Sec. 40 in its entirety and inserting in lieu thereof a new Sec. 40 read as follows:

Sec. 40. 2013 Acts and Resolves No. 50, Sec. B.515 is amended to read:

Sec. B.515 Total general education

Source of funds		
General fund	370,703,978	370,703,978
Special funds	<del>17,197,375</del>	17,772,375
Tobacco fund	766,541	766,541
Education fund	<del>1,452,124,701</del>	1,451,050,701
Federal funds	133,926,899	133,926,899
Global commitment fund	865,452	865,452
Pension trust funds	<u>34,963,059</u>	<u>34,963,059</u>
Total	<del>2,010,548,005</del>	2,010,049,005

and by adding a new section to be numbered Sec.79a to read as follows:

Sec. 79a. 2013 Acts and Resolves No. 50, Sec. E.500(b) is added to read:

(b) Of the special funds appropriated in Sec. B.500 of this act, up to \$75,000 shall be transferred to the Joint Fiscal Office from the Agency of Education for reimbursement of costs incurred for analysis of special education as authorized in subsections (c) - (f) of this section.

(c) The Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Agency of Education, shall develop a request for proposals to evaluate the use of paraprofessionals to provide special education services in

Vermont public schools. A special committee consisting of the members of the Joint Fiscal Committee and the chairs of the House and Senate Committees on Education shall select a consultant from among the proposals submitted and the Joint Fiscal Office shall enter into a contract with the consultant to perform the evaluation required by this section.

(d) The consultant's evaluation shall include examination of the following:

(1) the relationship between the use of paraprofessionals and achievement of identified student outcomes;

(2) factors that influence a school district's decision to use paraprofessionals to deliver special education services;

(3) the range of and impacts resulting from the implementation of schoolwide programs for improving and managing behaviors, particularly on the use of paraprofessionals;

(4) if and how the current education funding system impacts the use of paraprofessionals to deliver special education services;

(5) the quality and availability of information to boards and administrators of supervisory unions and school districts to monitor and evaluate the delivery of special education services; and

(6) local governance practices regarding regular reevaluation of the needs for one-on-one aides and the movement of special needs students toward independence from an aide.

(e) The Joint Fiscal Office, the Office of Legislative Council, and the Agency of Education shall assist the consultant to gather data necessary for an evaluation. The consultant shall interview school board members, administrators, licensed teachers, and paraprofessionals and shall provide opportunities for participation by students with special needs and their parents or guardians.

(f) On or before January 15, 2015, the consultant shall submit a report to the Governor, the Joint Fiscal Committee, and the House and Senate Committees on Education detailing research, conclusions, and recommendations.

Fifth: By striking out Sec. 42 in its entirety and inserting in lieu thereof a new Sec. 42 to read as follows:

Sec. 42. 2013 Acts and Resolves No. 50, Sec. B.714 is amended to read:

Sec. B.714 Total natural resources

Source of funds

General fund

~~26,072,035~~ 27,838,171

Special funds	34,994,533	34,994,533
Fish and wildlife fund	8,914,102	8,914,102
Federal funds	20,837,609	20,837,609
Interdepartmental transfers	<u>6,986,357</u>	<u>6,986,357</u>
Total	<u>97,804,636</u>	<u>99,570,772</u>

Sixth: By striking out Sec. 45 in its entirety and inserting in lieu thereof a new Sec. 45 to read as follows:

Sec. 45. 2013 Acts and Resolves No. 50, Sec. B.813 is amended to read:

Sec. B.813 Total commerce and community development

Source of funds

General fund	14,731,031	14,731,031
Special funds	<del>18,937,450</del>	19,562,450
Federal funds	44,834,367	44,834,367
Interdepartmental transfers	222,700	222,700
Enterprise funds	<u>827,003</u>	<u>827,003</u>
Total	<del>79,552,551</del>	80,177,551

Seventh: By striking out Sec. 47 in its entirety and inserting in lieu thereof a new Sec. 47 to read as follows:

Sec. 47. 2013 Acts and Resolves No. 50, Sec. B.922 is amended to read:

Sec. B.922 Total transportation

Source of funds

Transportation fund	<del>218,733,438</del>	220,657,745
TIB fund	<del>21,121,994</del>	19,197,687
Special funds	2,235,250	2,235,250
Federal funds	373,641,099	373,641,099
Internal service funds	20,319,956	20,319,956
Interdepartmental transfers	4,432,547	4,432,547
Local match	2,183,313	2,183,313
TIB proceeds fund	<u>10,387,500</u>	<u>10,387,500</u>
Total	<del>653,055,097</del>	653,055,097

Eighth: By striking out Sec. 49 in its entirety and inserting in lieu thereof a new Sec. 49 to read as follows:

Sec. 49. 2013 Acts and Resolves No. 50, Sec. B.1001 is amended to read:

Sec. B.1001 Total debt service

Source of funds

General fund	<del>70,521,584</del>	70,210,177
Transportation fund	2,414,979	2,414,979

TIB debt service fund	2,397,816	2,393,683
Special funds	628,910	628,910
ARRA funds	<u>1,253,280</u>	<u>1,153,645</u>
Total	<u>77,216,569</u>	76,801,394

Ninth: By striking out Sec. 53(a) in its entirety and inserting in lieu thereof a new Sec. 53(a) to read as follows:

(a) The following is appropriated in fiscal year 2014 to the Agency of Transportation:

Transportation Fund \$1,626,284

Tenth: By adding a new section to be numbered Sec. 53a to read as follows:

Sec. 53a. 2012 Acts and Resolves No. 162, Sec. BB.1200(a)(1)(B) is amended to read:

(B) Transportation Fund. The amount of ~~\$2,200,000~~ \$1,910,949 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation, the transportation board, and the department of public safety to fund the collective bargaining agreements and the requirements of this act.

Eleventh: By striking out Sec 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. [Deleted]

Twelfth: By striking out Sec. 73 in its entirety and inserting in lieu thereof a new Sec. 73 to read as follows:

Sec. 73. 2013 Acts and Resolves No. 50, Sec. E.127(c) is added to read:

(c) The amount of \$200,000 shall be transferred from the fiscal year 2014 Legislature budget to the Joint Fiscal Committee budget for the purpose of procuring fiscal and policy expertise related to Vermont's health care system.

Thirteenth: By adding a new section to be numbered Sec. 75a to read as follows:

Sec. 75a. CHOICES FOR CARE; REINVESTMENT

(a) Of the Choices for Care funds available for reinvestment in fiscal year 2014, the Department of Disabilities, Aging, and Independent Living is authorized to use up to \$1,000,000 in fiscal years 2014 and 2015 on one-time investments that directly benefit eligible choices for care enrollees and one-time investments to home- and community-based providers that are consistent with and prioritized based on current needs analysis to meet the

overall strategic goals and outcomes of the waiver. This authorization is in addition to the reinvestment plan submitted by the Department as submitted to the Committees on Appropriations in January 2014. The General Fund portion of this amount is \$435,600 which may be transferred to other Department appropriations as needed to meet the objectives of this section. The Department shall report to the Joint Fiscal Committee in July 2014 regarding this provision.

Fourteenth: By striking out Sec. 78 in its entirety and inserting in lieu thereof a new Sec. 78 to read as follows:

Sec. 78. GENERAL ASSISTANCE HOUSING INTENT

(a) The General Assembly understands that there is a need for emergency housing in Vermont and supports the efforts of the Department for Children and Families to address the growing demand. It finds that while motels are currently used to address emergency housing needs, it is the goal of the General Assembly that motels be reserved for catastrophic situations in the future.

Fifteenth: By adding a new section to be numbered Sec. 86a to read as follows:

Sec. 86a. SPECIAL WARMTH GRANT

(a) Effective January 30, 2014, the Department for Children and Families is authorized to grant \$500,000 of the funds available within the fuel assistance program for a special warmth program to address extraordinary temperature-related fuel assistance needs in the 2013-2014 heating season.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposals of amendment were collectively agreed to, and third reading of the bill was ordered on a roll call, Yeas 25, Nays 2.

Senator Benning having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Bray, Collins, Cummings, Doyle, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

**Those Senators who voted in the negative were:** Benning, McAllister.

**Those Senators absent or not voting were:** Campbell (presiding), Flory, Fox (deceased).

**House Proposals of Amendment Concurred In**

**S. 27.**

House proposals of amendment to Senate bill entitled:

An act relating to respectful language in the Vermont Statutes Annotated.

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, subsection (b), by deleting “and 223,” and by inserting “and” before “222” and by deleting Sec. 2a in its entirety

Second: In Sec. 2b, 1 V.S.A. § 146, in the first sentence, by striking out “general”

Third: By inserting a Sec. 2d after Sec. 2c to read as follows:

Sec. 2d. 1 V.S.A. § 148 is added to read:

§ 148. DEVELOPMENTAL DISABILITY

“Developmental disability” or “person with developmental disabilities” shall have the same meaning as in 18 V.S.A. § 9302.

Fourth: By deleting Sec. 9 in its entirety

Fifth: By deleting Sec. 10 in its entirety

Sixth: In Sec. 11, 4 V.S.A. § 33, subdivision (13), by striking out “developmental” and inserting in lieu thereof “intellectual”

Seventh: In Sec. 12, 4 V.S.A. § 36(a), subdivision (2)(B)(v), by striking out “developmental” and inserting in lieu thereof “intellectual”

Eighth: In Sec. 15, 6 V.S.A. § 2777(d), in subdivisions (2)(E) and (4)(B), by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Ninth: By deleting Sec. 17 in its entirety

Tenth: In Sec. 19, 8 V.S.A. § 4089b, by deleting subdivision (c)(1) and inserting in lieu thereof the following:

(c) A health insurance plan shall provide coverage for treatment of a mental ~~health~~ condition and shall:

(1) not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental ~~health~~ condition than for access to treatment for other health conditions, including no greater

co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured's policy;

Eleventh: In Sec. 19, 8 V.S.A. § 4089b, by deleting subdivision (d)(1)(A) and inserting in lieu thereof the following:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization, provided that the managed care organization is in compliance with the rules adopted by the Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Twelfth: By deleting Sec. 19a in its entirety

Thirteenth: In Sec. 25, 8 V.S.A. § 10501, in the third sentence, by striking out "elderly" and inserting in lieu thereof "old"

Fourteenth: In Sec. 31, 9 V.S.A. § 4501, in subdivision (3)(C), in the first sentence, by striking out "intellectual" and inserting in lieu thereof "developmental" and by inserting "substance use disorders, including" before "drug addiction and alcoholism" and in the second sentence, by striking out "who is an alcoholic or drug abuser" and inserting in lieu thereof "with a substance use disorder"

Fifteenth: In Sec. 32, 9 V.S.A. § 4503, in subdivision (b)(3), by striking out "persons who are elderly" and by inserting in lieu thereof "elders"

Sixteenth: In Sec. 35, 10 V.S.A. § 622(7), in the last sentence, by inserting "elders or" after "independent living for" and by striking out "are" before "handicapped" and by striking out "elderly or" after "handicapped"

Seventeenth: In Sec. 51, in 13 V.S.A. § 1306, by striking out "intellectual" and inserting in lieu thereof "developmental"

Eighteenth: In Sec. 80, 16 V.S.A. § 3851(c), by deleting subdivision (5)(D) and inserting in lieu thereof the following:

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility or similar nonprofit

facility for the continuing care of ~~the elderly~~ elders or the infirm, provided that such facility is owned by or under common ownership with an otherwise eligible institution, and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the Green Mountain Care Board, if required, has issued a certificate of need.

Nineteenth: In Sec. 82, 17 V.S.A. § 2502, in subsection (b), in the first sentence, by striking out “elderly” and inserting in lieu thereof “elders” and in the second sentence by striking out “a” before “~~handicapped or elderly~~” and by inserting “an elder or to a” after “~~handicapped or elderly~~” and by striking out “is elderly or” after “person who”

Twentieth: In Sec. 85, 17 V.S.A. § 2667, in the first sentence, by striking out “elderly” and inserting in lieu thereof “elders”

Twenty-first: In Sec. 93, 18 V.S.A. § 1751(b)(26), by striking out “persons who are elderly” and by inserting in lieu thereof “elders”

Twenty-second: In Sec. 104, in 18 V.S.A. § 7401, in subdivisions (14) and (15), by striking out “or mental condition” after “a psychiatric disability” and by inserting “mental condition or” before “psychiatric disability”

Twenty-third: In Sec. 111, in 18 V.S.A. § 8706, in subdivision (1), by striking out “and” after the semicolon and in subdivision (3) by inserting “and” after the semicolon

Twenty-fourth: In Sec. 113, 18 V.S.A. § 8731(d), by striking out “adults who are elderly” and by inserting in lieu thereof “elders” and by inserting “adults who” after “~~disabled adults or~~”

Twenty-fifth: In Sec. 114, in 18 V.S.A. § 8839, in subdivision (3)(A), by inserting before the semicolon “, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age”

Twenty-sixth: In Sec. 121, 20 V.S.A. § 2063(b)(1), by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Twenty-seventh: In Sec. 122, 20 V.S.A. § 2730(a)(1)(A), by inserting “elders or” before “persons who” and by striking out “are elderly,” after “persons who” and by striking out the comma after “infirmity”

Twenty-eighth: In Sec. 125, 20 V.S.A. § 3072(b), in subdivision (3), by striking out the second section symbol

Twenty-ninth: In Sec. 130, 21 V.S.A. § 495d, in subdivision (7)(B), by striking out “intellectual” and inserting in lieu thereof “developmental”

Thirtieth: In Sec. 137, 21 V.S.A. § 644(a), in subdivision (6), by striking out “incurable”

Thirty-first: In Sec. 139, 21 V.S.A. § 1301(6)(C)(vii), in subdivision (IV), by striking out “elderly” and inserting in lieu thereof “an elder”

Thirty-second: In Sec. 141, 23 V.S.A. § 4(15), by inserting “elders or” after “nor one which is used to transport” and by striking out “are elderly” and by striking out “or” before “have a disability”

Thirty-third: By striking Sec. 142 in its entirety, and inserting in lieu thereof the following:

Sec. 142. 23 V.S.A. § 304a is amended to read:

§ 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR PEOPLE WITH DISABILITIES

\* \* \*

(b) Special registration plates or removable windshield placards, or both, shall be issued by the Vermont Commissioner of Motor Vehicles. The placard shall be issued without a fee to a person who is blind or has an ambulatory disability. One set of plates shall be issued without additional fees for a vehicle registered or leased to a person who is blind or has an ambulatory disability. The Commissioner shall issue these placards or plates under rules adopted by him or her after proper application has been made to the Commissioner by any person residing within the State of Vermont. Application forms shall be available on request at the Department of Motor Vehicles.

\* \* \*

(4) An applicant for a ~~special handicapped~~ special registration plate or placard for persons with disabilities may request the Civil Division of the Superior Court in the county in which he or she resides to review a decision by the Commissioner to deny his or her application for a special registration plate or placard.

\* \* \*

(d) A person who has an ambulatory disability or an individual transporting a person who is blind shall be permitted to park and to park without fee for at least 10 continuous days in a parking space or area which is restricted as to the length of time parking is permitted or where parking fees are assessed, except that this minimum period shall be 24 continuous hours for parking in a State- or municipally operated parking garage. This section shall not apply to spaces or areas in which parking, standing, or stopping of all vehicles is prohibited by

law or by any parking ban, or which are reserved for special vehicles. As a condition to this privilege, the vehicle shall display the ~~special handicapped registration~~ registration plate or placard issued by the Commissioner or a special registration license plate or placard issued by any other jurisdiction.

\* \* \*

(f) Persons who ~~are temporarily disabled with an~~ have a temporary ambulatory disability may apply for a temporary removable windshield placard to the Commissioner on a form prescribed by him or her. The placard shall be valid for a period of up to six months and displayed as required under the provisions of subsection (c) of this section. The application shall be signed by a licensed physician, certified physician assistant, or licensed advanced practice registered nurse. The validation period of the temporary placard shall be established on the basis of the written recommendation from a licensed physician, certified physician assistant, or licensed advanced practice registered nurse. The Commissioner shall promulgate rules to implement the provisions of this subsection.

Thirty-fourth: In Sec. 152, 24 V.S.A. § 2691, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Thirty-fifth: In Sec. 153, 24 V.S.A. § 2694, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Thirty-sixth: In Sec. 156, 24 V.S.A. § 4001(4), by striking out “persons who are elderly and” and inserting in lieu thereof “elders” in all three places that it appears and by striking out “persons who are elderly” and inserting “elders” in both places that it appears and by striking out “persons who are elderly” and inserting “elders” in lieu thereof and by restoring “~~inevitably~~” by removing the striking

Thirty-seventh: In Sec. 157, 24 V.S.A. § 4002, in subdivision (10)(B), by striking “persons” after “elderly” and inserting in lieu thereof “elders” and by striking out “elderly and” before “of low income”

Thirty-eighth: In Sec. 157, 24 V.S.A. § 4002, in (11), in the first sentence, by striking out “who are elderly” and inserting in lieu thereof “elders” and in the second sentence, by striking out “elderly” and inserting in lieu thereof “elder”

Thirty-ninth: In Sec. 158, 24 V.S.A. § 4003(b), in subdivision (2), in the first sentence, by striking out “persons” before “~~of a low income~~” and by striking out “who are elderly” after “~~of a low income~~” and inserting in lieu thereof “elders of a low income”

Fortieth: In Sec. 159, 24 V.S.A. § 4008, in subdivision (6), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Forty-first: In Sec. 159, 24 V.S.A. § 4008, in subdivision (8), in the first sentence, by striking out “persons who are elderly” and inserting in lieu thereof “elders” and in the second sentence, by striking out “Persons who are elderly” and inserting in lieu thereof “Elders”

Forty-second: In Sec. 160, 24 V.S.A. § 4010(a)(1), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Forty-third: In Sec. 161, 24 V.S.A. § 4302(c)(11)(D), by inserting “elders,” before “or ~~disabled or elderly~~” and by striking out “or are elderly” before “should be allowed”

Forty-fourth: In Sec. 163, 24 V.S.A. § 5091, in subdivision (i)(1)(A), by striking out “who are elderly” and inserting in lieu thereof “of elders”

Forty-fifth: In Sec. 165, 24 App. V.S.A. chapter 5 § 1201, in the second sentence, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Forty-sixth: By deleting Sec. 172 in its entirety

Forty-seventh: In Sec. 175, 26 V.S.A. § 1446, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Forty-eighth: In Sec. 182, 26 V.S.A. § 4451, in subdivisions (7) and (8), by striking out “hearing impaired” and inserting in lieu thereof “hard of hearing”

Forty-ninth: In Sec. 183, 26 V.S.A. § 4464(b), in subdivision (10), by restoring “~~or client~~” by removing the striking

Fiftieth: In Sec. 185, 27 V.S.A. § 1331, in subdivision (4), by striking out “elderly” and inserting in lieu thereof “an elder”

Fifty-first: In Sec. 186, 27 V.S.A. § 1333, in subsections (a) and (b), by striking out “elderly” and inserting in lieu thereof “elders”

Fifty-second: By deleting Sec. 188 in its entirety

Fifty-third: In Sec. 190, in 28 V.S.A. § 906, in subdivision (3), by striking out “intellectual” and inserting in lieu thereof “developmental”

Fifty-fourth: In Sec. 190, in 28 V.S.A. § 907, in subdivision (6)(B), by striking out “substance use or abuse” and restoring “~~chemical dependence~~” by removing the striking

Fifty-fifth: In Sec. 190, in 28 V.S.A. § 907, in subdivision (6)(E), by striking out “intellectual” and inserting in lieu thereof “developmental”

Fifty-sixth: In Sec. 191, 30 V.S.A. § 209c(a), in the third sentence, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Fifty-seventh: In Sec. 193, 30 V.S.A. § 7059(a)(1), in subdivision (F), by striking out “individuals who are elderly” and inserting in lieu thereof “elders”

Fifty-eighth: In Sec. 194, 31 V.S.A. chapter 19, in the chapter’s catchline, by striking out “PEOPLE WHO ARE ELDERLY” and inserting in lieu thereof “ELDERS” and by deleting everything after the first set of ellipses

Fifty-ninth: In Sec. 202, in 33 V.S.A. § 1502, subdivision (1), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Sixtieth: By deleting Sec. 204 in its entirety

Sixty-first: In Sec. 207, 33 V.S.A. § 1951, in subdivision (8), in the first sentence, by striking out “disability” and inserting in lieu thereof “disabilities” and by striking out the last sentence in its entirety

Sixty-second: In Sec. 208, 33 V.S.A. § 1955, by striking out “ICF/ID” in every instance in which it appears and inserting in lieu thereof “ICF/DD” and by striking out “ICF/ID’s” in both instances in which it appears and inserting in lieu thereof “ICF/DD’s”

Sixty-third: By deleting Sec. 210 in its entirety

Sixty-fourth: In Sec. 211, 33 V.S.A. § 2078, by striking out “elderly” after “Vermonters who are” and inserting in lieu thereof “elders”

Sixty-fifth: In Sec. 212, 33 V.S.A. § 2501a(c), in the second sentence, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Sixty-sixth: In Sec. 213, 33 V.S.A. § 4301(3), in subdivision (D), by striking out “intellectual” and inserting in lieu thereof “developmental”

Sixty-seventh: In Sec. 214, 33 V.S.A. § 6321, in subdivision (a)(3), by striking out “elderly” and inserting in lieu thereof “an elder”

Sixty-eighth: In Sec. 214, 33 V.S.A. § 6321, in subsection (d), in the last sentence, by striking out “individuals who are elderly” and inserting in lieu thereof “elders”

Sixty-ninth: In Sec. 215, 33 V.S.A. § 6902, in subdivision (2), by striking out “elderly” and inserting in lieu thereof “an elder”

Seventieth: In Sec. 216, 33 V.S.A. § 6903(a), in subdivision (5), by striking out “intellectual” and inserting in lieu thereof “developmental”

Seventy-first: In Sec. 217, 33 V.S.A. § 6912(b), by striking out “elderly” and inserting in lieu thereof “elders”

Seventy-second: By deleting Sec. 223 in its entirety

Seventy-third: In Sec. 224 in the section catchline, by striking “DATES” and inserting in lieu thereof “DATE” and by deleting everything after the section catchline and inserting in lieu thereof the following:

This act shall take effect on July 1, 2014.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

### **Message from the House No. 15**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to the following House bill:

**H. 198.** An act relating to the Legacy Insurance Management Act.

And has severally concurred therein.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 43.** Joint resolution relating to weekend adjournment .

And has adopted the same in concurrence.

### **Adjournment**

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Thursday, February 6, 2014.