

Journal of the Senate

FRIDAY, MAY 4, 2018

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 60

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

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 175. An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

S. 206. An act relating to business consumer protection for point-of-sale equipment leases.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 17. Joint resolution opposing the U.S. Environmental Protection Agency's proposed rollback of federal motor vehicle emission standards.

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

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

J.R.S. 58. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

S. 92. An act relating to interchangeable biological products.

And has concurred therein.

The House has considered Senate proposals of amendment to House bill entitled:

H. 780. An act relating to portable rides at agricultural fairs, field days, and other similar events.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Lawrence of Lyndon
Reps. Bartholomew of Hartland
Rep. Young of Glover.

The Governor has informed the House that on May 3, 2018, he approved and signed bills originating in the House of the following titles:

H. 693. An act relating to the Honor and Remember Flag.

H. 199. An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders.

The Governor has informed the House that on May 2, 2018, he approved and signed bills originating in the House of the following titles:

H. 906. An act relating to professional licensing for service members and veterans.

H. 429. An act relating to establishment of a communication facilitator program.

H. 300. An act relating to the statute of limitations for recovery and possession of property actions against the grantee of a tax collector's deed.

Joint Resolution Placed on Calendar

J.R.S. 59.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By All Members of the Senate,

J.R.S. 59. Joint resolution supporting the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site.

Whereas, Vermonters honor the memory of Dr. Henry Janes, the Waterbury village physician and U.S. Army surgeon sent to Gettysburg immediately after the battle to take charge of all the wounded, and

Whereas, Doctor Janes established the main hospital, called Camp Letterman, east of the village of Gettysburg, and

Whereas, much of the site of Camp Letterman is part of a 191-acre parcel that the land developer S&A Homes owns and plans to develop for townhouses, and

Whereas, an extensive list of Civil War-related associations, historians, and historical societies have asked that the 17 key acres of Camp Letterman be preserved, and

Whereas, those precious acres include the area where the tents containing the wounded were located, and

Whereas, Vermont wounded were treated there, including members of the Second Vermont Brigade that broke the right flank of Pickett's Charge, and

Whereas, the wounded Vermonters were among the 4,000 Union and Confederate soldiers who were patients at Camp Letterman, and not all of these patients survived, and

Whereas, if the 17 acres that were a part of Camp Letterman are not preserved, a major Civil War site, important to the Civil War history of Vermont, will be lost, and

Whereas, Vermonters have long rallied to the preservation of sites that are dear to our State's and our nation's history, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly supports the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site and requests that S&A Homes preserve these 17 acres of historic ground, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Gettysburg Battlefield Preservation Association and to S&A Homes in State College, Pennsylvania.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Joint Resolution Referred

J.R.H. 17.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution opposing the U.S. Environmental Protection Agency's proposed rollback of federal motor vehicle emission standards.

Whereas, the federal Greenhouse Gas Emission Standards, the Corporate Average Fuel Economy (CAFE) Standards, and the waiver allowing California vehicle emissions standards to be more stringent than those of the federal government have saved tens of thousands of American lives, reduced U.S. carbon emissions by millions of tons of CO₂, and saved American motorists billions of dollars in fuel costs, and

Whereas, these programs and the waiver authority are under the jurisdiction of the federal Clean Air Act, and have contributed to a modern automobile that lasts longer, requires far fewer tune-ups, pollutes the air considerably less, and requires less fuel to operate, and

Whereas, in the 1970s, U.S. Representative James Jeffords fought for the strongest possible auto emissions standards and unsuccessfully advocated for a minimum mileage standard instead of the adopted average standard, and

Whereas, Vermont has joined with other states and the District of Columbia, including Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Washington in adopting the more stringent California vehicle emissions standards, and

Whereas, if fuel efficiency had not improved from 2005 through 2015, including as a result of the current standards adopted in 2012, households would have spent 25 percent more on fuel, and

Whereas, even with the slightly higher purchase price attributable to incorporating the technology required to comply with the 2012 standards, the average new vehicle buyer starts saving during the first month of ownership, and

Whereas, the International Council on Clean Transportation recently found that, due to technological improvements and innovation, compliance costs for model years 2022–2025 will be 34 percent to 40 percent lower than originally projected, and

Whereas, auto manufacturers are already complying with the 2012 standards, and more than half of the new vehicles introduced in 2017 already meet the 2020 level of the standards, and 32 percent comply with the 2025 level, and

Whereas, Synapse Energy Economics has reported that the 2022 and 2025 standards will create more than 100,000 U.S. jobs in the auto industry by 2025 and more than 250,000 by 2035, and

Whereas, the American Lung Association recently released a poll showing that voters overwhelmingly support the U.S. Environmental Protection Agency's (EPA) current fuel efficiency standards for cars, SUVs, and light trucks in model years 2022 to 2025, and the poll also found that nearly seven in 10 voters want the EPA to leave current fuel efficiency standards in place, and

Whereas, the best-selling passenger car in America — while more fuel efficient than its earlier models— earned the National Highway Traffic Safety Administration's highest-possible, 5-star rating in every safety category and earned a 2017 Top Safety Pick Plus designation from the Insurance Institute for Highway Safety, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commends the Agency of Natural Resources and the Vermont Attorney General for their expressed opposition to the EPA's proposal to roll back any of the Greenhouse Gas Emissions or CAFE Standards or to revoke the emissions waiver granted to California under the Clean Air Act, and be it further

Resolved: That the General Assembly urges the Vermont Attorney General to join in any legal action against the EPA's authority to adopt these regulatory changes, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the EPA Administrator, the Secretary of Natural Resources, the Vermont Attorney General, and the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Natural Resources and Energy.

Consideration Resumed; Bill Recommitted

H. 614.

Consideration was resumed on House bill entitled:

An act relating to the sale and use of fireworks.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as *firstly* proposed by the Committee on Economic Development, Housing and General Affairs?, on motion of Senator Sirotkin the bill was recommitted to the Committee on Economic Development, Housing and General Affairs.

Consideration Resumed; Bill Amended; Third Reading Ordered**H. 911.**

Consideration was resumed on House bill entitled:

An act relating to changes in Vermont's personal income tax and education financing system.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, was agreed to on a roll call, Yeas 26, Nays 3.

Senator Ashe 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, Balint, Baruth, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: Benning, Collamore, Flory.

The Senator absent and not voting was: Westman.

Thereupon, the question, Shall the bill be read the third time?, was decided in the affirmative.

**House Proposal of Amendment to Senate Proposal of Amendment
Concurred In with Amendment****H. 143.**

House proposal of amendment to Senate Proposal of Amendment to House bill entitled:

An act relating to automobile insurance requirements and transportation network companies.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that this act is a step toward uniform regulation of all vehicle for hire companies and vehicle for hire drivers in Vermont.

Sec. 2. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network company rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company’s financial responsibility.

(1) Beginning on July 1, 2018, a driver, or company on the driver’s behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company’s digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage.

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by the company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident or traffic violation, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident or traffic violation.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty consistent with subsection 800(b) of this title, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a civil penalty consistent with subsection 800(d) of this title. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) contracts with an accredited entity to conduct a local, State, and national background check of the individual, including the multistate-multijurisdiction criminal records locator or other similar national database, the U.S. Department of Justice national sex offender public website, and the Vermont sex offender public website;

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, he or she has at least one year of driving experience or has been issued a commercial driver license; and

(C) confirms that the individual possesses proof of registration, automobile liability insurance, and proof of inspection if required by the state of vehicle registration for the vehicle to be used to provide prearranged rides.

(2) The background checks required by this subsection shall be conducted annually by the company.

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied if the background check is completed within 30 days of the effective date of this act or if a background check that satisfies the requirements of subdivision (1)(A) of this subsection (b) was conducted by the company on or after July 1, 2017. This subdivision shall not be construed to exempt drivers from undergoing an annual background check as required under subdivision (2) of this subsection (b).

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) a felony level violation of 18 V.S.A. chapter 84 for selling, dispensing, or trafficking a regulated drug;

(C) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(D) a felony violation of 13 V.S.A. chapter 47 (frauds) or 57 (larceny and embezzlement); or

(E) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1091 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction;

(3) has been subject to a civil suspension within the last seven years under section 1205 (operating a vehicle while under the influence of alcohol or drugs) of this title; or

(4) is listed on the U.S. Department of Justice national sex offender public website or the Vermont sex offender public website or has been convicted of homicide, manslaughter, kidnapping, or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(d) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(e) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 752. RECORDS; INSPECTION

(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, shall visually inspect a random sample of up to 25 drivers' records per company demonstrating compliance with the requirements of this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont. A company shall have an ongoing duty to make such records available for inspection under this section during reasonable business hours and in a manner approved by the Commissioner.

(b) The Commissioner or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont.

(c) If the Commissioner receives notice of a complaint against a company or a driver, the company shall cooperate in investigating the complaint, including producing any necessary records.

(d) Any records, data, or information disclosed to the Commissioner by a company, including the names, addresses, and any other personally identifiable information regarding drivers, are exempt from inspection and copying under the Public Records Act and shall not be released.

§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty pursuant to this section if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a

municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2020.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Motor Vehicles, the Director of the Office of Professional Regulation, and representatives from other State agencies and departments, as the Commissioner deems necessary, and with input from the Vermont League of Cities and Towns and industry and consumer stakeholders, including representatives of transportation network companies (TNCs) and non-TNC companies and career drivers, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State, and how State regulations would affect relevant municipal regulations. Among other things, the Commissioner shall consider:

- (1) issues related to public safety, necessity, and convenience;
- (2) regulatory models adopted in other state and local jurisdictions, including in both urban and rural municipalities in Vermont, applicable to transportation network companies and other vehicle for hire companies;
- (3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;
- (4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures, generally, and with consideration of other, similarly situated jurisdictions, other commercial automobile policy requirements, enhanced personal liability coverage for drivers, and the costs and benefits of requiring Med Pay coverage;
- (5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;
- (6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees and, if applicable, recommended amounts; the employment status of drivers; and increased access for people with disabilities;
- (7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and
- (8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) those which an employer uses to transport employees;

(2) those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15);

(3) buses, trolleys, trains, or similar mass transit vehicles;

(4) courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2018, the Commissioner shall submit a progress report outlining his or her findings and recommendations to the Chairs of the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

(d) On or before January 15, 2019, the Commissioner shall submit a final report of his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. TNC INSURANCE REQUIREMENTS; STUDY

(a) The Commissioner of Financial Regulation shall conduct a study regarding the statutory minimum levels of financial responsibility applicable to transportation network companies (TNC) in Vermont, in particular, the minimums required under 23 V.S.A. § 750(b)(2)(A)(i) (the so-called “gap period”). The purpose of the study is to ensure these requirements correlate with potential liability exposure so that persons are made whole in the event of an automobile accident involving a transportation network company driver.

(b) Consistent with the purpose of this section, and in a form and manner prescribed by the Commissioner, each TNC company doing business in Vermont shall submit claims data elements necessary to inform the Commissioner’s determination with respect to the appropriateness of the statutory minimum levels of financial responsibility. Any data disclosed to the Commissioner by a company pursuant to this section are exempt from inspection and copying under the Public Records Act and shall not be released.

(c) On or before January 15, 2019, the Commissioner shall report his or her aggregated findings and recommendations to the House Committees on Commerce and Economic Development and on Judiciary and the Senate Committees on Judiciary and on Finance.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to transportation network companies.

Thereupon, pending the question, Shall the Senate concur in the House proposal to the Senate proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment to the Senate proposal of amendment with an amendment as follows:

First: In Sec. 2, 23 V.S.A. chapter 10, in § 750(b)(3), by striking out subdivision (A) in its entirety and by inserting in lieu thereof a new subdivision (A) to read as follows:

(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(iii) \$10,000.00 in medical payments coverage (Med Pay).

Second: In Sec. 2, 23 V.S.A. chapter 10, in § 751(c)(3), by striking out the word “seven” and by inserting in lieu thereof three

Which was agreed to.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 132. An act relating to limiting landowner liability for posting the dangers of swimming holes.

H. 660. An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.

H. 736. An act relating to lead poisoning prevention.

H. 899. An act relating to fees for records filed in town offices and a town fee report and request.

H. 913. An act relating to boards and commissions.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 925. An act relating to approval of amendments to the charter of the City of Barre.

H. 926. An act relating to approval of amendments to the charter of the Town of Colchester.

Third Reading Ordered

H. 927.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the City of Montpelier.

Reported that the bill ought to pass in concurrence.

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

Rules Suspended; Bills Delivered

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

H. 132, H. 143, H. 660, H. 736, H. 899, H. 913, H. 925, H. 926.

Adjournment

On motion of Senator Ashe, the Senate adjourned until twelve o'clock and fifty minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 912.

House bill entitled:

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Was taken up.

Thereupon, pending third reading of the bill, Senator Pearson moved to amend the Senate proposal of amendment as follows:

First: In Sec. 18, 18 V.S.A. § 9374(c), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the Board; provided that ~~for a health care practitioner, the employment restriction in this subdivision shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title, and shall not be construed to limit generally the ability of the health care practitioner to practice his or her profession~~ these restrictions shall not preclude a Board member who is a health care professional from participating in an accountable care organization as long as the Board member is not otherwise affiliated in any way with a person subject to supervision or regulation by the Board.

Second: In Sec. 20, effective dates, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Sec. 18 shall take effect on passage and shall apply beginning with the first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not be construed to disqualify a non-health care professional member serving on the Board on the date of passage of this act from being reappointed after the date of passage to serve one or more additional terms.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Pearson?, Senator Lyons requested that the question be divided.

Thereupon, the *first* proposal of amendment was decided in the affirmative on a division of the Senate Yeas 14, Nays 14. There being a tie, the Secretary took the vote of the President who voted “Yea”.

Thereupon, the *second* proposal of amendment was decided in the affirmative.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Proposal of Amendment; Third Reading Ordered

H. 636.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to miscellaneous fish and wildlife subjects.

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

* * * Information Collection * * *

Sec. 1. 10 V.S.A. § 4132 is amended to read:

§ 4132. GENERAL DUTIES OF COMMISSIONER

(a) The Commissioner shall have charge of the enforcement of the provisions of this part.

* * *

(f) The Commissioner may collect data, conduct scientific research, and contract with qualified consultants for the purposes of managing fish and wildlife in the State and achieving the requirements and policies of this part. The Commissioner may designate as confidential any records produced or acquired by Department staff or contractors in the conduct of a study of or research related to fish, wildlife, wild plants, or the habitat of fish, wildlife, or wild plants, if release of the records would present a threat of harm to a species or the habitat of a species. Records designated as confidential under this subsection shall be exempt from inspection and copying under the Public Records Act. Records of Department staff or contractors that are not designated as confidential under this subsection shall be available for inspection and copying under the Public Records Act.

* * * Acquisition of Property; Grants * * *

Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

(a) ~~The secretary~~ Secretary with approval of the Governor may acquire for the use of the ~~State Department of Fish and Wildlife~~ State Department of Fish and Wildlife by gift, purchase, or lease ~~in the name of the State, any and all rights and interests in~~ lands, ponds, or streams, and hunting and fishing rights and privileges in any lands or waters in the State, with and the necessary rights of ingress or egress to and from such lands and waters. The Secretary's authority to acquire property interests under this section shall include all of the interests that may be acquired under subsection 6303(a) of this title.

Sec. 3. 10 V.S.A. § 4147 is amended to read:

§ 4147. FISH AND WILDLIFE LANDS

(a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with the approval of the Governor, may convey, exchange, sell, or lease lands ~~under the Secretary's jurisdiction of the Department of Fish and Wildlife for one or more of the following purposes:~~

(1) resolving trespass issues and implementing boundary line adjustments and right-of-way and deed corrections, provided that the transfers are advantageous to the State;

(2) implementing the acquisition of new lands for conservation and public recreation when, in his or her judgment, it is advantageous to the State ~~to do so in the highest orderly development of such lands and management of game thereon.~~

(b) ~~Provided, however, such~~ The lease, sale, or exchange of lands under this section shall not include oil and gas leases and shall not be contrary to the terms of any contract which ~~that~~ has been entered into by the State.

* * *

* * * Licensing; Lottery Applications * * *

Sec. 4. 10 V.S.A. § 4254(e) is amended to read:

(e) The Commissioner shall establish:

(1) license agencies, for the sale and distribution of licenses or lottery applications for licenses, including any town clerk who desires to sell licenses or process lottery applications for licenses;

(2) the number, type, and location of license agencies, other than town clerk agencies;

(3) the qualifications of all agencies and agents except town clerks;

(4) controls for the inventory, safeguarding, issue, and recall of all licensing materials;

(5) the times and methods for reporting the sale and issuance of all licenses;

(6) procedures for accounting for and return of all monies and negotiable documents due the Department from agencies in accordance with the provisions of this title and Title 32 of the Vermont Statutes Annotated;

(7) procedures for the audit of all license programs and license agency transactions and the proper retention and inspection of all accounting and inventory records related to the sale or issuance of licenses;

(8) procedures for the suspension of any license agent or agency, including a town clerk agent, for noncompliance with the provisions of this title, any written agreement between the agent and the Department, or any licensing rule established by the Department;

(9) that for each license or lottery application, \$1.50 of the fee is a filing fee that may be retained by the agent, except for the super sport license for which \$5.00 of the fee is a filing fee that may be retained by the agent; and

(10) that for licenses, lottery applications, and tags issued where the Department does not receive any part of the fee, \$1.50 may be charged as a filing fee and retained by the agent.

* * * Migratory Waterfowl Stamp Program * * *

Sec. 5. 10 V.S.A. § 4277 is amended to read:

§ 4277. MIGRATORY WATERFOWL STAMP PROGRAM

(a) Definitions. As used in this section:

(1) “Migratory waterfowl” means all waterfowl species in the family anatidae, including wild ducks, geese, brant, and swans.

(2) “Stamp” means the State migratory waterfowl hunting stamp furnished by the Department of Fish and Wildlife as provided for in this section and the federal migratory waterfowl stamp furnished by the U.S. Department of the Interior.

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this State without first obtaining a State and federal migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. A stamp shall not be transferable. The State stamp year shall run from January 1 to December 31.

(c) Waterfowl stamp design, production, and distribution. The Commissioner of Fish and Wildlife shall be responsible for the design, production, procurement, distribution, and sale of ~~all stamps~~ the State stamp and all marketable stamp ~~by-products~~ by-products such as posters, artwork, calendars, and other items.

(d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the Commissioner for a fee of \$7.50. The issuing agent may retain a fee of \$1.00 for each stamp and shall remit \$6.50 of each fee to the Department of Fish and

Wildlife. The Commissioner shall establish a uniform sale price for all categories of ~~byproducts~~ by-products.

(e) Disposition of waterfowl receipts. All State waterfowl stamp receipts and all receipts from the sale of State stamp ~~byproducts~~ by-products shall be deposited in the Fish and Wildlife Fund. All State stamp and ~~byproducts~~ by-products receipts shall be expended through the appropriation process for waterfowl acquisition and improvement projects.

(f) Advisory ~~committee~~ Committee. There is hereby created a the Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the Commissioner of Fish and Wildlife. The Commissioner shall designate a the Chair. The Committee shall be consulted with and may make recommendations to the Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The Commissioner shall make an annual financial and progress report to the Committee with regard to all activities authorized by this section.

* * * Forfeiture * * *

Sec. 6. 10 V.S.A. § 4505 is amended to read:

§ 4505. HEARING; FORFEITURE

The game warden or other officer shall retain possession of firearms, jacks, lights, motor vehicles, and devices taken until final disposition of the charge against the owner, possessor, or person using the same in violation of the provisions of section ~~4745, 4781, 4783, 4784, 4705(a), 4280, 4747,~~ or 4606 of this title, in accordance with the provisions of section 4503 of this title. When the owner, possessor, or person using firearms, jacks, lights, motor vehicles, and devices in violation of the section is convicted of the offense, the court where the conviction is had shall cause the owner, if known, and possessor, and all persons having the custody of or exercising any control over the firearms, jacks, lights, motor vehicles, and devices seized, either as principal, clerk, servant, or agent and the respondent to appear and show cause, if any they have, why a forfeiture or condemnation order should not issue. The hearings may be held as a collateral proceeding to the trial of the respondent in the discretion of the court.

* * * Enforcement; Violations * * *

Sec. 7. 10 V.S.A. § 4551 is amended to read:

§ 4551. FISH AND WILDLIFE VIOLATION DEFINED

A violation of any provision of this part, other than a violation for which a term of imprisonment may be imposed, or a minor violation as defined in

section 4572 of this title, or a violation of a rule adopted under this part shall be known as a fish and wildlife violation.

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other ~~motor propelled~~ motor-propelled craft or any vehicle drawn by a ~~motor propelled~~ motor-propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the ~~right-of-way~~ right-of-way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or muzzle-loading shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a ~~right-of-way~~ right-of-way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of a public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

- (1) the sport shooting range was established before January 1, 2014; and
- (2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

* * *

Sec. 9. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING OF WILD ANIMALS; POSSESSION OF WILD BOAR

(a) A person shall not bring into ~~the State~~, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, ~~unless, upon application in writing therefor, the person obtains~~ without authorization from the Commissioner ~~a permit to do so or his or her designee~~. The importation permit may be granted under such regulations therefor as the ~~Board~~ Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking in the State, any wild bird or animal.

~~(e)~~(e) Applicants shall pay a permit fee of \$100.00.

~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofa* Linnaeus).

(2) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

* * * Trapping * * *

Sec. 10. 10 V.S.A. § 4254c is added to read:

§ 4254c. NOTICE OF TRAPPING; DOG OR CAT

A person who incidentally traps a dog or cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped dog or cat. The Department shall maintain records of all reports of incidentally trapped dogs or cats submitted under this section, and the reports shall include the disposition of each incidentally trapped dog or cat.

Sec. 11. 10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~ rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or

(B) ~~to~~ a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) ~~However, if~~ If required by rule of the ~~board~~ Board, an owner; ~~the owner's~~ employee, tenant, or caretaker; ~~or the members;~~ a member of the selectboard; or a person who sets a trap for compensation who ~~desire~~ desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking ~~such~~ the animal, and shall hold ~~such~~ the pelts for inspection by such authorized representatives.

(b) Before disposing of ~~such~~ pelts taken under this section, if required by rule of the Board, the property owner; ~~the owner's~~ employee, tenant, or caretaker; ~~or;~~ a member of the selectboard; or a person who sets a trap for compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, ~~such~~ the certificates shall accompany the pelts described therein.

Sec. 12. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

* * *

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying ~~or~~, worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(27) Commissioner: Commissioner of Fish and Wildlife.

* * *

(31) Big game: deer, bear, moose, wild turkey, caribou, elk, and anadromous Atlantic salmon taken in the Connecticut River Basin.

* * *

(40) Domestic pet: domesticated dogs, domesticated cats, domesticated ferrets, psittacine birds, or any domesticated animal.

Sec. 13. FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

* * * Coyote Hunting * * *

Sec. 14. 10 V.S.A. § 4716 is added to read:

§ 4716. COYOTE-HUNTING COMPETITIONS; PROHIBITION

(a) As used in this section, “coyote-hunting competition” means a contest in which people compete in the capturing or taking of coyotes for a prize.

(b) A person shall not hold or conduct a coyote-hunting competition in the State.

(c) A person shall not participate in a coyote-hunting competition in the State.

(d) A person who violates this section shall be fined not more than \$1,000.00 nor less than \$400.00 for a first offense. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, a person who violates this section shall be fined not more than \$4,000.00 nor less than \$2,000.00.

Sec. 15. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(TT) § 4716. Participating in a coyote-hunting competition.

(3) Twenty points shall be assessed for:

* * *

(CC) § 4716. Holding or conducting a coyote-hunting competition.

* * * Fish and Wildlife Violations; Criminal or Civil * * *

Sec. 16. DEPARTMENT OF FISH AND WILDLIFE; REVIEW OF
CRIMINAL OR CIVIL NATURE OF VIOLATIONS

The Department of Fish and Wildlife shall conduct a review of the potential criminal and civil charges for all fish and wildlife violations. On or before January 15, 2019, the Department shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report recommending changes to the criminal and civil charges for fish and wildlife violations. The report shall summarize the process the Department used to review the charges for fish and wildlife violations and shall explain the basis for the Department's recommendations. Prior to preparing the report required by this section, the Department shall consult with interested stakeholders, the Judiciary, State's Attorneys, criminal defense lawyers, and fish and game groups.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(b) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(c) This section and all other sections shall take effect on July 1, 2018.

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

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

By striking out Sec. 17 (effective dates) and its reader assistance in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 4 (licensing; lottery applications) shall take effect on passage.

(b) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(c) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(d) All other sections shall take effect on July 1, 2018.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 897.

Senator Baruth, for the Committee on Education, to which was referred House bill entitled:

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

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

* * * Findings * * *

Sec. 1. FINDINGS

(a) In 2016 Acts and Resolves No. 148, the General Assembly directed the Agency of Education to contract with a consulting firm to review current practices and recommend best practices for the delivery of special education services in school districts. The Agency of Education contracted with the District Management Group, which issued in November 2017 its report entitled "Expanding and Strengthening Best-Practice Supports for Students who Struggle" (Delivery of Services Report).

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont and State Agricultural College, and the report of its Department of Education and Social Services entitled "Study of Vermont State Funding for Special Education" was issued in December 2017 (Funding Report).

(c) The Delivery of Services Report made the following five recommendations on best practices for the delivery of special education services:

- (1) ensure core instruction meets most needs of most students;
- (2) provide additional instructional time outside core subjects to students who struggle, rather than providing interventions instead of core instruction;
- (3) ensure students who struggle receive all instruction from highly skilled teachers;
- (4) create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and
- (5) provide specialized instruction from skilled and trained experts to students with more intensive needs.

(d) The Funding Report noted, based on feedback from various stakeholders, including educators, school leaders, State officials, parents, and others, that Vermont's existing reimbursement model of funding special education has a number of limitations in that it:

- (1) is administratively costly for the State and localities;
- (2) is misaligned with policy priorities, particularly with regard to the delivery of a multitiered system of supports and positive behavioral interventions and supports;
- (3) creates misplaced incentives for student identification, categorization, and placement;
- (4) discourages cost containment; and
- (5) is unpredictable and lacks transparency.

(e) The Funding Report assessed various funding models that support students who require additional support, including a census-based funding model. A census-based model would award funding to supervisory unions based on the number of students within the supervisory union and could be used by the supervisory union to support the delivery of services to all students. The Funding Report noted that the advantages of a census-based model are that it is simple and transparent, allows flexibility in how the funding is used by supervisory unions, is aligned with the policy priorities of serving students who require additional support across the general and special education service-delivery systems, and is predictable.

* * * Goals * * *

Sec. 2. GOALS

(a) By enacting this legislation, the General Assembly intends to enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts.

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration.

(2) The General Assembly recognizes that a student on an individualized education program, is entitled, under federal law, to a free and appropriate public education in the least restrictive environment in accordance with that program. The changes to State funding for special education and the delivery of special education services as envisioned under this act are intended to facilitate the exercise of this entitlement.

(c) The General Assembly recognizes that it might be appropriate and equitable to provide a higher amount of census-based funding to supervisory unions that have relatively higher costs in supporting students who require additional support, but the General Assembly does not have sufficient information on which to base this determination. Therefore, this act directs the Agency of Education to make a recommendation to the General Assembly on whether the amount of the census grant should be increased for supervisory unions that have relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. The General Assembly intends to reconsider this matter after receiving this recommendation and before the census-based model is implemented.

Sec. 3. 16 V.S.A. § 2901 is amended to read:

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL
EDUCATION ENVIRONMENT

~~It is the policy of the State that each~~ Each local school district shall develop and maintain, in consultation with parents, a comprehensive system of education that ~~will~~ is designed to result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is ~~disrupting the class or~~ having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide ~~quality~~ high-quality services to that student or to other students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. §

~~1401 et seq. chapter 33, Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973; and 42 U.S.C. § 12101 et seq. chapter 126, Americans with Disabilities Act.~~

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

Sec. 4. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

(1) be aligned as appropriate with the general education curriculum;

(2) be designed to enhance the ability of the general education system to meet the needs of all students;

(3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;

(4) seek to identify and respond to students in need of support for ~~at-risk behaviors~~ emotional or behavioral challenges and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based ~~and research-based behavior~~ positive behavioral practices that ~~teach and encourage prosocial skills and behaviors schoolwide~~ promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;

(6) promote collaboration with families, community supports, and the system of health and human services; and

(7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) Identify the classroom accommodations, remedial services, and other supports ~~that have been~~ to be provided to the identified student.

(3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the Secretary, in a form the Secretary prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

(1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;

(2) guidance on how long children are to be served in each tier; and

(3) guidance on how a child's progress is to be measured.

* * * Census-based Funding Model; Amendment of Special Education Laws * * *

Sec. 5. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

§ 2941. POLICY AND PURPOSE

It is the policy of the State to ensure equal educational opportunities for all children in Vermont. This means that children with disabilities are entitled to receive a free appropriate public education. ~~It is further the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities.~~ The purpose of this chapter is to enable the Agency to ensure the provision of the special educational facilities and instruction education services and supports in accordance with individualized education programs necessary to meet the needs of children with disabilities.

§ 2942. DEFINITIONS

As used in this chapter

* * *

(8) A "student who requires additional support" means a student who:

(A) is on an individualized education program;

(B) is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(C) is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;

(D) is an English language learner; or

(E) reads below grade level.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ CENSUS GRANT

~~(a) Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.~~

~~(b) The supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.~~

~~(c) As used in this section:~~

~~(1) "Mainstream salary standard" means:~~

~~(A) the supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus~~

~~(B) an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union with member districts which have in the aggregate more than 1,500 average daily membership, a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership of the supervisory union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union in the State minus 1,500.~~

~~(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.~~

~~(d) If in any fiscal year, a supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard on special education expenditures, the supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.~~

As used in this section:

(1) "Average daily membership" shall have the same meaning as in subdivision 4001(1) of this title, except it shall exclude State-placed students.

(2) “Average daily membership of a supervisory union” means the aggregate average daily membership of the school districts that are members of the supervisory union or, for a supervisory district, the average daily membership of the supervisory district.

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over three school years.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year.

(b) The State commits to satisfying its special education maintenance of fiscal support requirement under 34 C.F.R. § 300.163(a).

(c) Each supervisory union shall receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. Supervisory unions shall use this funding and other available sources of funding to provide special education services to students in accordance with their individualized education programs as mandated under federal law. A supervisory union may use census grant funds to support the delivery of the supervisory union’s comprehensive system of educational services under sections 2901 and 2902 of this title, but shall not use census grant funds in a manner that abrogates its responsibility to provide special education services to students in accordance with their individualized education programs as mandated under federal law.

(d)(1)(A) For fiscal year 2021, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year 2025 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years 2022, 2023, and 2024, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years 2022, 2023, and 2024 shall move gradually the supervisory union's fiscal year 2021 base amount to the fiscal year 2025 uniform base amount by pro rating the change between the supervisory union's fiscal year 2021 base amount and the fiscal year 2025 uniform base amount over this three-fiscal-year period.

§ 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION
REIMBURSEMENT

~~(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.~~

~~(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 95 percent of its extraordinary special education expenditures.~~

~~(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.~~

(1) As used in this section, "child" means a student with disabilities who is three years of age or older in the current school year.

(2) As used in this subchapter, "extraordinary expenditures" means a supervisory union's allowable special education expenditures that for any one

child in a fiscal year exceed \$60,000.00, increased annually by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(3) The State Board of Education shall define allowable special education expenditures that shall include any expenditures required under federal law in order to implement fully individual education programs under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(b) If a supervisory union has extraordinary expenditures, it shall be eligible for extraordinary special education reimbursement (extraordinary reimbursement) as provided in this section.

(c) A supervisory union that has extraordinary expenditures in a fiscal year for any one child shall be eligible for extraordinary reimbursement equal to:

(1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount under subdivision (a)(2) of this section (excess expenditures) multiplied by 95 percent; plus

(2) an amount equal to the lesser of:

(A) the amount of its excess expenditures; or

(B)(i) the extraordinary expenditures threshold amount under subdivision (a)(2) of this section; minus

(ii) the base amount of the census grant received by the supervisory union under subsection 2961(d) of this title for that fiscal year; multiplied by

(iii) 60 percent.

(d) The State Board of Education shall establish by rule the administrative process for supervisory unions to submit claims for extraordinary reimbursement under this section and for the review and payment of those claims.

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education plan under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures' threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

~~§ 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

~~(a) Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.~~

~~(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.~~

~~(c) As used in this subchapter:~~

~~(1) Special education expenditures are allowable expenditures for special education, as defined by rule of the State Board, less the following:~~

~~(A) revenue from federal aid for special education;~~

~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of this title;~~

~~(C) extraordinary special education expenditures, as defined in section 2962 of this title;~~

~~(D) any transportation expenses already reimbursed;~~

~~(E) special education costs for a student eligible for aid under section 2963a of this title; and~~

~~(F) other State funds used for special education costs as defined by the State Board by rule.~~

~~(2) The State Board shall define allowable expenditures under this subsection. Allowable expenditures shall include any expenditures required under federal law.~~

~~(3) "Special education expenditures reimbursement rate" means a percentage of special education expenditures that is calculated to achieve the 60 percent share required by subsection 2967(b) of this title. [Repealed.]~~

~~§ 2963a. EXCEPTIONAL CIRCUMSTANCES~~

~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for State assistance under sections 2961, 2962, and 2963 of this title.~~

~~(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that the school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final. [Repealed.]~~

§ 2964. SERVICE PLAN

~~(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.~~

~~(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed. [Repealed.]~~

* * *

§ 2967. AID PROJECTION; STATE SHARE

~~(a) On or before December 15, the Secretary shall publish an estimate, by supervisory union and its member districts to the extent they anticipate reimbursable, of its anticipated special education expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in for the ensuing school year.~~

~~(b) The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special As used in this section, special education expenditures shall include:~~

- ~~(1) costs eligible for grants and reimbursements under sections 2961 through 2963a and 2962 of this title;~~
- ~~(2) costs for services for persons who are visually impaired; and~~
- ~~(3) costs for persons who are deaf and or hard of hearing;~~
- ~~(3)(4) costs for the interdisciplinary team program;~~
- ~~(4) costs for regional specialists in multiple disabilities;~~
- ~~(5) funds expended for training and programs to meet the needs of students with emotional or behavioral problems challenges under subsection 2969(c) of this title; and~~

(6) funds expended for training under subsection 2969(d) of this title.

§ 2968. REPORTS

~~(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this chapter, and local effort.~~

~~(b) If a supervisory union or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract \$100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the \$100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.~~

~~(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.~~

~~(d) Special education receipts and expenditures shall be included within the audits required of a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to section 323 of this title. [Repealed.]~~

§ 2969. PAYMENTS

~~(a)(1) On or before August 15, December 15, and April 15 of each fiscal year, the State Treasurer shall withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and shall forward to each supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed one-third of the census grant due to the supervisory union under section 2961 of this title for that fiscal year.~~

(2) On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures under section 2962 of this title, shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total extraordinary expenditures actually incurred during the reporting period.

(3) On or before December 15, February 15, May 15, and September 15 of each school year, based on a warrant issued by the Commissioner of Finance and Management, the State Treasurer shall withdraw from the Education Fund and shall forward to each supervisory union the amount of extraordinary reimbursement incurred by the supervisory union under section 2962 of this title that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.

(b) [Repealed.]

(c) For the purpose of meeting the needs of students with emotional or behavioral problems challenges, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity, up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of, and provision of ~~education~~ educational services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance to the supervisory union or school district for these schools to fund the provision of training assistance for these schools.

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) ~~special education expenditures by supervisory unions~~ the total amount of census grants made to supervisory unions under section 2961 of this title;

(2) ~~the rate of growth or decrease in special education costs, including the identity of high- and low-spending supervisory unions~~ the total amount of

extraordinary special education reimbursement made to supervisory unions under section 2962 of this title;

- (3) results for special education students;
- (4) the availability of special education staff;
- (5) the consistency of special education program implementation statewide;
- (6) the status of the education support systems tiered systems of supports in supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students served by public schools within the supervisory union, by day placement, and by residential placement.

~~(b) The Secretary's report shall include the following data for both high- and low-spending supervisory unions:~~

~~(1) each supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;~~

~~(2) each supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;~~

~~(3) whether the supervisory union was in compliance with section 2901 of this title;~~

~~(4) any unusual community characteristics in each supervisory union relevant to special education placements;~~

~~(5) a review of high- and low-spending supervisory unions' special education student count patterns over time;~~

~~(6) a review of the supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and~~

~~(7) any other factors affecting its spending.~~

~~(c) The Secretary shall review low-spending supervisory unions to determine the reasons for their spending patterns and whether those supervisory unions used cost-effective strategies appropriate to replicate in other supervisory unions.~~

~~(d) For the purposes of this section, a “high-spending supervisory union” is a supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a “low-spending supervisory union” is a supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.~~

~~(e) The Secretary and Agency staff shall assist the high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the supervisory union shall report its progress on the remediation plan.~~

~~(f) Within 30 days of receipt of the supervisory union’s report of progress, the Secretary shall notify the supervisory union that its progress is either satisfactory or not satisfactory.~~

~~(1) If the supervisory union fails to make satisfactory progress, the Secretary shall notify the supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the supervisory union’s special education expenditures reimbursement pending satisfactory compliance with the plan.~~

~~(2) If the supervisory union fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the supervisory union shall explain to the State Board either the reasons the supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board’s decision whether to withhold funds under this subdivision shall be final.~~

~~(3) If the supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.~~

~~(g) Within 10 days after receiving the Secretary’s notice under subdivision (f)(1) of this section, the supervisory union may challenge the Secretary’s decision by filing a written objection to the State Board outlining the reasons the supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the supervisory union’s objection is filed. The State Board may give the supervisory union and the Secretary an opportunity to be heard. The State Board’s decision shall be final. The State shall withhold no portion of the supervisory union’s reimbursement~~

~~before the State Board issues its decision under this subsection.~~

~~(h) Nothing in this section shall prevent a supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.~~

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in ~~subsection 2967(b) of this title~~ State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. ~~These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title.~~ The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

* * * Technical and Conforming Changes * * *

Sec. 6. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

* * *

(c) Excess special education costs incurred by a ~~district~~ supervisory union in providing special education services to a student beyond those covered by tuition may be charged to the student's supervisory union for the district of residence. However, only actual costs or actual proportionate costs attributable to the student may be charged.

* * *

Sec. 7. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A ~~school-district~~ supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

* * *

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the ~~districts and~~ supervisory unions in accordance with that section.

(b) The Secretary shall notify the superintendent or chief executive officer of each supervisory union in writing of federal or State funds disbursed to member school districts.

* * * Census-based Funding Advisory Group * * *

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

(a) Creation. There is created the Census-based Funding Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

(b) Membership. The Advisory Group shall be composed of the following 12 members:

(1) the Executive Director of the Vermont Superintendents Association or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Independent Schools Association or designee;

(6) the Executive Director of the Vermont-National Education Association or designee;

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education Association who is a special education teacher;

(9) one member selected by the Vermont Association of School Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights; and

(12) the Commissioner of the Vermont Department of Mental Health or designee.

(c) Powers and duties. The Advisory Group shall:

(1) advise the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

(2) advise the Agency of Education and supervisory unions on the implementation of this act; and

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group to occur on or before September 30, 2018.

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

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

(4) The Advisory Group shall cease to exist on June 30, 2022.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the development of proposed rules to implement this act and any recommendations for legislation. On or before January 15 of 2020, 2021, and 2022, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than eight meetings per year.

(h) Appropriation. The sum of \$3,900.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of \$3,900.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

* * * Census Grant Supplemental Adjustment;
Pupil Weighting Factors; Report * * *

Sec. 10. REPEAL

2017 Acts and Resolves No. 49, Sec. 35 (education weighting report) is repealed.

Sec. 11. CENSUS GRANT SUPPLEMENTAL ADJUSTMENT; PUPIL
WEIGHTING FACTORS; REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association, shall consider and make recommendations on the following:

(1) Whether the census grant, as defined in the amendment to 16 V.S.A. § 2961 in Sec. 5 of this act, should be increased for supervisory unions that have, in any year, relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled "Study of Vermont State Funding for Special Education" issued in December 2017 by the University of Vermont Department of Education and Social Services.

(2) Methods, other than the use of per pupil weighting factors, that would further the quality and equity of educational outcomes for students.

(3) The criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including each of the following:

(A) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(B) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(C) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and whether the modification would further the quality and equity of educational outcomes for students.

(D) Whether to add any weighting factors, including a school district population density factor and a factor for students who attend regional career technical education centers, and if so, why the weighting factor should be added and whether the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National

Conference of State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) On or before November 1, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(c) The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$250,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

* * * Training and Technical Assistance on the Delivery of Special
Education Services * * *

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018–2019, 2019–2020, and 2020–2021 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

(1) ensuring core instruction meets most needs of most students;

(2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;

(3) ensuring students who require additional support receive all instruction from highly skilled teachers;

(4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

(b) The sum of \$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

* * * Agency of Education; Staffing * * *

Sec. 13. AGENCY OF EDUCATION; STAFFING

The following positions are created in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in effective instruction for students who require additional support. There is appropriated to the Agency of Education from the General Fund for fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating expenses.

* * * Extraordinary Services Reimbursement * * *

Sec. 14. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, ~~and an~~ unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

Sec. 15. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

* * *

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental ~~fund-raising~~ fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(v) Spending attributable to the district’s share of special education spending in excess of \$50,000.00 that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any one student in the fiscal year occurring two years prior.

* * *

* * * Rulemaking * * *

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont’s school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

* * * Transition * * *

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required by the Secretary to estimate the supervisory union's projected fiscal year 2021 extraordinary special education reimbursement under Sec. 5 of this act.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

(a) Allowable special education costs shall include salaries and benefits of licensed special education teachers, including vocational special needs teachers and instructional aides for the time they carry out special education responsibilities.

(1) The allowable cost that a local education agency may claim includes a school period or service block during which the staff member identified in this subsection is providing special education services to a group of eight or fewer students, and not less than 25 percent of the students are receiving the special education services, in accordance with their individualized education programs.

(2) In addition to the time for carrying out special education responsibilities, a local education agency may claim up to 20 percent of special education staff members' time, if that staff spends the additional time performing consultation to assist with the development of and providing instructional services required by:

(A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; or

(B) a plan for students who require additional assistance in order to succeed in the general education environment.

(b) This section is repealed on July 1, 2020.

* * * Approved Independent Schools * * *

Sec. 19. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an "approved" independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school's enrollment policy and any limitation on a student's ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools.

(1) On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school.

(2) Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation.

(3) Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

(5) The State Board may revoke ~~or~~, suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Sec. 21. 16 V.S.A. § 2973 is amended to read:

§ 2973. ~~INDEPENDENT SCHOOL TUITION RATES~~ SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education plan who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to

students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education plan team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education plan" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section on a nonresidential basis may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-costs rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved

independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(3) An approved independent school shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subsection to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subsection pending the Secretary's receipt of required documentation under this subsection, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) procedural safeguards and parental rights, including discipline procedures, specified in federal and State law;

(B) committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress;

(C) subject to subsection (d) of this section, employing or contracting with staff who have the required licensure to provide special education services;

(D) agreeing to communicate with the responsible LEA concerning:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA:

(i) committing to the requirements under subdivision (1) of this subsection (c); and

(ii) if the LEA provides staff or resources to the approved independent school on an interim basis under subsection (d) of this section, setting forth the terms of that arrangement with assistance from the Agency of Education on the development of those terms and on the implementation of the arrangement; and

(B) subject to subsection (d) of this section, shall ensure that qualified school personnel attend evaluation and planning meetings and IEP meetings for the student.

(d) If an approved independent school enrolls a student under subdivision (a)(1) of this section but does not have the staff or State Board certification to provide special education services in the specific disability category that the student requires, then:

(1) The LEA, in consultation with the approved independent school and the Agency of Education, shall determine what special education services and supports the school is able to provide to the student.

(2) The LEA shall, on an interim basis and at its cost, provide such additional staff and other resources to the approved independent school as are

necessary to support the student until such time as the approved independent school is able to directly provide these services and has the appropriate State Board certification; provided, however, that the school shall have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment.

(3) If the school does not have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment as required under subdivision (2) of this subsection (d), then, in the event that the State Board determines that the school has failed to make good faith and reasonable efforts to secure the required staff, resources, and certification, the State Board may take any action that is authorized by section 166 of this title.

~~(b)~~(e) Neither a school ~~districts~~ district nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

~~(e)~~(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2020:

(1) Sec. 5 (amendment to 16 V.S.A. chapter 101); and

(2) Sec. 17 (transition).

(b) The following sections shall take effect on July 1, 2019:

(1) Sec. 14 (extraordinary services reimbursement);

(2) Sec. 15 (amendment to 16 V.S.A. § 4001); and

(3) Secs. 19-21 (approved independent schools).

(c) This section and the remaining sections shall take effect on passage.

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

Senator Campion, for the Committee on Finance, to which the bill was referred, reported the bill without recommendation.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 26, Nays 2.

Senator Baruth 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, Balint, Baruth, Benning, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: Branagan, Flory.

Those Senators absent and not voting were: McCormack, Westman.

House Proposal of Amendment; Consideration Postponed

S. 111.

House proposal of amendment to Senate bill entitled:

An act relating to privatization contracts.

Was taken up.

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

Sec. 1. 3 V.S.A. § 343 is amended to read:

§ 343. PRIVATIZATION CONTRACTS; PROCEDURE

(a) ~~No~~ An agency ~~may~~ shall not enter into a privatization contract, unless all of the following are satisfied:

* * *

(b)(1) A privatization contract shall contain specific performance measures regarding quantity, quality, and results and guarantees regarding the services performed.

(2) The agency shall provide information in the State's Workforce Report on the contractor's compliance with the specific performance measures set out in the contract.

(3) The agency may not renew the contract if the contractor fails to comply with the specific performance measures set out in the contract as required by subdivision (1) of this subsection.

(c)(1) Before an agency may renew a privatization contract for the first time, the Auditor of Accounts shall review the privatization contract analyzing whether it is achieving:

(A) the 10 percent cost-savings requirement set forth in subdivision (a)(2) of this section;

(B) the performance measures incorporated into the contract as required under subdivision (b)(1) of this section.

(2) If the Auditor of Accounts finds that a privatization contract has not achieved the cost savings required under subdivision (a)(2) of this section or complied with performance measures required under subdivision (b)(1) of this section, the Auditor of Accounts shall file a report with the agency and the House and Senate Committees on Government Operations, and the agency shall review whether to renew the privatization contract or perform the work with State employees.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Benning consideration of the bill was postponed until the next legislative day.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 269.

House proposal of amendment to Senate bill entitled:

An act relating to blockchain, cryptocurrency, and financial technology.

Was taken up.

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

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section, ~~“blockchain technology”~~ :

(1) “Blockchain” means a mathematically cryptographically secured, chronological, and decentralized consensus ledger or consensus database, whether maintained via Internet interaction, peer-to-peer network, or otherwise other interaction.

(2) “Blockchain technology” means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION

COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) “Personal information” means data capable of being associated with a particular natural person, including gender identification, birth information, marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) “Personal information protection company” means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) “Personal information protection services” means:

(A) receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer;

(B) pursuant to a written agreement that specifies the types of personal information to be held, and the scope of services to be provided, on behalf of the consumer; and

(C) in the best interest, and for the protection and benefit, of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of \$1,000.00, which includes a licensing fee of \$500.00 and an investigation fee of \$500.00;

(B) an annual renewal fee of \$500.00;

(C) a change in address fee of \$100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions for FinTech and Blockchain Approaches * * *

Sec. 5. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) “Blockchain technology” has the same meaning as in 12 V.S.A. § 1913.

(2) “Participant” means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) “Protocols” means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) “Virtual currency” means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BLLC) by:

(1) specifying in its articles of organization that it elects to be a BLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BLLC shall:

(A) provide a summary description of the mission or purpose of the BLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BLLC will be fully decentralized or partially decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants’ access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BBLLC operating agreement; or
(iii) any other matter of governance or activities within the purpose of the BBLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BBLLC;

(E) provide how a person becomes a member of the BBLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BBLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BBLLC may interact with the BBLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BBLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BBLLC through multiple roles are not deemed to take place in this State solely because the BBLLC is organized in this State.

§ 4175. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BBLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BBLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BBLLC.

§ 4176. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BBLLC from any other judicial, statutory, or regulatory provision of Vermont

law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

Sec. 6. REPEAL

32 V.S.A. § 5811(26) (digital business entity) is repealed.

Sec. 7. 32 V.S.A. chapter 151, subchapter 3 is amended to read:

Subchapter 3. Taxation of Corporations

* * *

§ 5832. TAX ON INCOME OF CORPORATIONS

* * *

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

~~(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or [Repealed.]~~

(C) For C corporations with gross receipts from \$0-\$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$300.00; or

(D) For C corporations with gross receipts from \$2,000,001.00-\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with gross receipts greater than \$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$750.00.

§ 5832a. ~~DIGITAL BUSINESS ENTITY FRANCHISE TAX~~

~~(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:~~

~~(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or~~

~~(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not~~

~~more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.~~

~~(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.~~

~~(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.~~

~~(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.~~

~~(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.~~

~~(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the Commissioner with a copy of its federal tax return. [Repealed.]~~

* * *

~~§ 5838. DIGITAL BUSINESS ENTITY ELECTION~~

~~A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business entity for the taxable year. [Repealed.]~~

* * * Blockchain Technology in Public Records * * *

Sec. 8. PUBLIC RECORDS

On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to blockchain business development.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Clarkson, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

H. 593.

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

Was taken up.

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

First: In Sec. 2, in subsection (a), by striking out “January” in both instances and inserting in lieu thereof “July”

Second: By striking out Secs. 6a and 7 in their entireties and inserting in lieu thereof Secs. 7–15 to read:

Sec. 7. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a

single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 8. 9 V.S.A. § 41a is amended to read:

§ 41a. LEGAL RATES

(a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.

(b) The rate of interest or the sum allowed:

* * *

(10) Interest on a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes shall accrue at the rate of 12 percent per annum using simple interest, unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.

* * *

Sec. 9. 12 V.S.A. chapter 113 is amended to read:

CHAPTER 113. ~~JUDGMENT LIEN~~ JUDGMENTS AND JUDGMENT LIENS

* * *

§ 2903. DURATION AND EFFECTIVENESS

* * *

(c) ~~Interest~~ Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and ~~V.R.C.P. Rule 80.1 of the Vermont Rules of Civil Procedure~~. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.

§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT

(a) Upon or after entering a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes, a court may suspend or reduce the accrual of interest on the judgment if it finds:

(1) the judgment debtor's income and assets are exempt from collection; or

(2) based on his or her current income, assets, and expenses, the judgment debtor does not have more financial resources available than what is reasonably necessary to support the debtor and his or her dependents.

(b) To request suspension or reduction of interest on a judgment, the debtor shall submit to the court a motion to suspend or reduce interest that includes:

(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and

(2) any additional documentation the court prescribes.

(c) If the court approves the request, it:

(1) shall provide in its order that the suspension or reduction of interest is based on the judgment debtor's current income, assets, and expenses; and

(2) may require the judgment debtor periodically to provide the judgment creditor with an updated financial disclosure form.

(d) The court may revise its order upon a motion by the judgment creditor or judgment debtor to reinstate, reduce further, or suspend the accrual of interest based on a substantial change in the judgment debtor's income, assets, or expenses.

* * *

Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Debt Collectors and Debt Collection

§ 2491. DEFINITIONS

As used in this subchapter:

(1) "Credit card debtor" means a consumer who is in default on credit card debt incurred for personal, family, or household purposes.

(2) "Debt collector" means a person who engages, or directly or indirectly aids, in collecting a credit card debt incurred for personal, family, or household purposes, and includes a debt buyer.

§ 2491a. ENFORCEMENT

A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER

(a) Notice prior to initiating action. Prior to initiating an action to obtain a judgment against a credit card debtor, a debt collector shall deliver to the credit card debtor:

(1) a claim of exemption form adopted by the Vermont Judiciary; and

(2) a written notice that contains:

(A) the amount of the debt;

(B) the name of the person to whom the debt is owed;

(C) the name of the original creditor, the last four digits of the account, and the alleged date of the last payment if any;

(D) a statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the debt collector will review the information in deciding whether and how to proceed in collecting the debt.

(b) Time for delivering notice prior to initiating action. A debt collector shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action to obtain a judgment against a credit card debtor.

(c) Notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. Prior to filing a motion to collect on a judgment against a credit card debtor, an assignee of the judgment shall deliver to the judgment debtor:

(1) a copy of the judgment against the credit card debtor;

(2) the date and parties to each assignment of the judgment;

(3) a claim of exemption form adopted by the Vermont Judiciary; and

(4) a written statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.

(d) Time for delivering notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment.

§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS
EXPIRED; LIMITATIONS

(a)(1) A debt collector shall not initiate a civil action to collect a debt from a credit card debtor when the debt collector knows or reasonably should know that the statute of limitations provided in 12 V.S.A. § 511 has expired.

(2) Notwithstanding any other provision of law, when the limitations period provided in 12 V.S.A. § 511 expires, any subsequent payment toward, written or oral affirmation of, or other activity on the debt does not revive or extend the limitations period.

(b) After the statute of limitations provided in 12 V.S.A. § 511 has expired, a debt collector may only communicate with a credit card debtor concerning the debt after providing written or verbal notice that the credit card debtor has the right to request that the debt collector cease all communications with the credit card debtor concerning the debt and providing one of the following disclosures:

(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or debt collector name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”

(2) If the debt is past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or debt collector name] cannot sue you for it and will not report it to any credit reporting agency.”

Sec. 11. 12 V.S.A. § 2732 is amended to read:

§ 2732. GOODS, EFFECTS, AND CREDITS HELD BY THIRD PERSON

On request of the judgment creditor, the clerk of the court granting judgment shall issue ~~to the officer holding the execution~~ a summons as trustee to a third person having in his or her hands goods, effects, or credits, other than earnings, of the debtor that have not previously been attached on trustee process in connection with the action. The summons shall be in such form as the Supreme Court may by rule provide for a summons to a trustee in connection with the commencement of an action and shall state the date and amount of the judgment. The summons shall be served by the officer upon the trustee in like manner and with the same effect as mesne process. A copy of the summons shall be served upon the judgment debtor with the officer's

endorsement thereon of the date of service upon the trustee. After service of the summons, proceedings shall be had as provided by law and by rule promulgated by the Supreme Court for trustee process in connection with the commencement of an action.

Sec. 12. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) 75 percent of the debtor's weekly disposable earnings, or 30 times the federal minimum hourly wage, whichever is greater; or

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. § 1602 and implementing regulations of the Federal Reserve Board, 85 percent of the debtor's weekly disposable earnings, or 40 times the federal minimum hourly wage, whichever is greater; or

(3) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1) and (2) of this subsection, such greater amount of earnings as the court shall order.

* * *

Sec. 13. 12 V.S.A. § 3173 is added to read:

§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR'S
BANK ACCOUNTS; PROCEDURE

(a)(1) A judgment creditor may, pursuant to this section, obtain trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution to enforce a money judgment in a civil action.

(2) Notwithstanding section 2732 of this title or any other provision of law, a judgment debtor's accounts or funds in the possession of a bank or other financial institution shall not be attached, be subject to trustee process, or be subject to execution by a judgment creditor unless the requirements of this section are satisfied.

(3) Nothing in this section shall prohibit a financial institution from exercising a contractual right of setoff against a judgment debtor's deposit accounts with the financial institution.

(b)(1) A judgment creditor may file an ex parte motion for trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution describing in detail the grounds for the motion, the amount alleged to be unpaid, including estimated costs anticipated to be expended for court fees and service on parties in connection with the trustee process procedure.

(2) The judgment creditor shall prepare a summons and a disclosure for the trustee, and a claim of exemption for the judgment debtor, on forms provided by the court.

(c)(1) Upon receipt of a motion for trustee process filed under this section when a judgment is final and has not been satisfied, the Superior clerk is authorized to issue one or more summonses to any trustee financial institution specified by the judgment creditor that possesses accounts or funds belonging to the judgment debtor.

(2) If the judgment creditor requests issuance of more than one summons, the judgment creditor shall specify, and the clerk shall include in the summons, which financial institution shall not freeze the amounts exempted by subdivision 2740(15) of this title.

(3) The clerk shall issue a notice of hearing concurrently with the summons and shall set the matter for hearing not sooner than 30 days after issuing the notice and summons.

(4) A summons issued pursuant to this subsection shall contain instructions to the trustee financial institution directing it not to freeze any funds of the judgment debtor that, based on deposit or other information kept by the trustee financial institution, are protected under 31 C.F.R. part 212 or exempt under subdivision 2740(15) of this title.

(d)(1) The judgment creditor shall serve on the trustee financial institution and the judgment debtor pursuant to Rule 4 of the Vermont Rules of Civil Procedure, unless the judgment debtor files an appearance pursuant to Rule 5 of the Vermont Rules of Civil Procedure after the motion for trustee process is filed:

(A) the motion for trustee process;

(B) the summons and notice of hearing issued by the clerk pursuant to subdivisions (c)(1) and (3) of this section;

(C) a claim of exemptions form approved by the Court Administrator that permits the judgment debtor to identify any of the debtor's funds in the possession of the trustee financial institution that may be exempt from execution under section 2740 of this title; and

(D) a disclosure form for the trustee.

(2) If the judgment creditor does not provide proof of service on the judgment debtor by the time of the hearing and the judgment debtor does not appear at the hearing, the court shall issue an order denying the motion for trustee process and directing the trustee financial institution to release all of the judgment debtor's held funds to the judgment debtor, unless the hearing is continued for good cause.

(e) Upon receipt of a summons served pursuant to subsection (d) of this section, a trustee financial institution, based on the instructions contained in the summons and deposit or other information kept by the institution:

(1) shall not freeze any funds in its possession belonging to the judgment debtor that are protected under 31 C.F.R. part 212 or that are exempt under subdivision 2740(15) of this title;

(2) shall freeze any funds up to the amount owed as provided in the summons to the trustee that are not protected under 31 C.F.R. part 212 and that are not exempt under subdivision 2740(15) of this title; and

(3) shall return the disclosure form to the court and to the parties within 10 days.

(f)(1) A judgment debtor may request an expedited hearing to determine a claim of exemption.

(2) The judgment debtor shall:

(A) submit the request in writing; and

(B) send a copy of the request to the court, to the judgment creditor, and to the trustee financial institution.

(3) The court shall give notice to the parties and hold the hearing within three business days after the judgment debtor makes the request.

(4) If the judgment debtor requests an expedited hearing, he or she is deemed to have entered an appearance and waived any further service.

(g) At the hearing on the motion for trustee process or motion for expedited hearing, the court shall consider the disclosure form from the trustee and the testimony and affidavits offered by any party, provided that an affiant is available to testify in person or by telephone. The court shall issue an order granting or denying the motion for trustee process, which shall:

(1) state the amount of the judgment unpaid, including costs incurred since filing the motion;

(2) state the rate of postjudgment interest due under 9 V.S.A. § 41a(b)(10);

(3) identify any funds of the judgment debtor in the possession of the trustee financial institution that are exempt from execution under section 2740 of this title and order release of those funds to the judgment debtor;

(4) review any proposed settlement between the judgment creditor and the judgment debtor and make a finding as to whether any waiver of exemptions was knowing; and

(5) identify the amount of funds in the possession of the trustee financial institution that shall be released to the judgment creditor.

(h) A trustee financial institution shall not be subject to criminal or civil liability for any actions taken in reliance upon the provisions of this section.

Sec. 14. IMPLEMENTATION; REPORT

(a) On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses:

(1) the implementation, outcomes, and effectiveness of Secs. 8–13 of this act;

(2) whether to expand the applicability of the provisions of Secs. 8–13 of this act beyond credit card debt; and

(3) any recommendations for further legislative action related to Secs. 8–13 of this act.

(b) On or before January 15, 2019, the Attorney General, in consultation with the Judicial Branch and representatives of creditors and debtors, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses the potential costs and benefits of requiring a court to acquire and review a debtor's credit report when considering a request to reduce or suspend the accrual of postjudgment interest, who should be responsible for producing the credit report, and how to ensure consumer privacy if a credit report is used for those purposes in a court action.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 6 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies that either are written to be effective or are renewed on or after nine months after the date of passage.

(c) Secs. 1–2 (automatic renewal provisions) shall take effect on July 1, 2019.

(d) Secs. 4–5 (credit protection for vulnerable persons) shall take effect on January 1, 2019.

(e) Secs. 3 (retainage for construction materials) and 7 (one-stop notification study) shall take effect on July 1, 2018.

(f) Secs. 8–14 (credit card and debt collections) shall take effect on October 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**House Proposal of Amendment to Senate Proposal of Amendment
Concurred In**

H. 676.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to miscellaneous energy subjects.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by inserting a new Sec. 3 to read as follows:

Sec. 3. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION
STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

-
- (1) “Agency” means the Agency of Agriculture, Food and Markets.
- (2) “Invasive species” means any species of vegetation that:
- (A) is designated as a noxious weed on the Agency’s Noxious Weed Rule under chapter 84 of this title;
 - (B) is listed on the Vermont Invasive Exotic Plant Committee Watch List;
 - (C) has been quarantined by the Agency as invasive; or
 - (D) has been determined to be invasive by the Agency of Natural Resources.
- (3) “Native” refers to perennial vegetation that is native to Vermont. Native perennial vegetation does not include invasive species.
- (4) “Naturalized” refers to perennial vegetation that is not native to Vermont, but is now considered to be well established and part of Vermont flora. Naturalized perennial vegetation does not include invasive species.
- (5) “Owner” means a public or private entity that has a controlling interest in the solar site.
- (6) “Perennial vegetation” means wildflowers, forbs, shrubs, sedges, rushes, and grasses that serve as habitat, forage, and migratory way stations for pollinators.
- (7) “Pollinator” means bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes wild and managed insects.
- (8) “Solar site” means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.
- (9) “Vegetation management plan” means a written document that includes short- and long-term site management practices that will provide and maintain native and naturalized perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard (Scorecard) published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site's completed Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native and naturalized perennial vegetation for foraging habitat beneficial to pollinators consistent with the solar site's Scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native and naturalized plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

And by renumbering the remaining section to be numerically correct.

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

Committees of Conference Appointed

H. 711.

An act relating to employment protections for crime victims.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Balint
Senator Nitka
Senator Soucy

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 780.

An act relating to portable rides at agricultural fairs, field days, and other similar events.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Starr
Senator Pollina
Senator Brooks

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 915.

An act relating to the protection of pollinators.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Branagan
Senator Rodgers
Senator Baruth

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 269.

An act relating to blockchain, cryptocurrency, and financial technology.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Clarkson
Senator Soucy
Senator Balint

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 269, H. 676, H. 711, H. 780, H. 912, H. 915.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock and thirty minutes in the morning.