

Journal of the Senate

THURSDAY, JUNE 18, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Franklin District	Senator Randolph D. Brock
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina

Windham District

Senator Rebecca A. Balint
Senator Jeanette K. White

Windsor District

Senator Alison Clarkson
Senator Richard J. McCormack
Senator Alice W. Nitka

Message from the House No. 56

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 946. An act relating to approval of the adoption of the charter of the Town of Elmore.

H. 965. An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

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

Message from the House No. 57

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 963. An act relating to sunsets related to judiciary procedures.

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

The House has considered a bill originating in the Senate of the following title:

S. 339. An act relating to miscellaneous changes to laws related to vehicles.

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 considered joint resolutions originating in the Senate of the following titles:

J.R.S. 54. Joint resolution relating to the annual State lands transactions.

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

And has adopted the same in concurrence.

Bills Referred

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

H. 946.

An act relating to approval of the adoption of the charter of the Town of Elmore.

To the Committee on Government Operations.

H. 963.

An act relating to sunsets related to judiciary procedures.

To the Committee on Judiciary.

H. 965.

An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

To the Committee on Appropriations.

Bill Amended; Third Reading Ordered

S. 237.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to promoting affordable housing.

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

* * * Municipal Zoning * * *

Sec. 1. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational, and other public sites; buildings and facilities, including hospitals, libraries, power generating plants and transmission lines; water supply, lines, facilities, and service areas; sewage disposal, lines, facilities, and service areas; refuse disposal, storm drainage, and other similar facilities and activities; and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs, and method of financing.

* * *

(10) A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program ~~should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E)~~ shall comply with the requirements of section 4412 of this title, which to provide affordable housing.

* * *

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

(a) Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality. Within any regulatory district that allows multiunit residential dwellings, no bylaw shall have the effect of prohibiting multiunit residential dwellings of four or fewer units as an allowed, permitted use, or of conditioning approval based on the character of the area.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to ~~an owner-occupied~~ a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit.

An accessory dwelling unit means ~~an efficiency or one-bedroom apartment a distinct unit~~ that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

~~(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.~~

(F) Nothing in subdivision (a)(1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

~~(ii) a bylaw that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:~~

~~(I) a new accessory structure;~~

~~(II) an increase in the height or floor area of the existing dwelling; or~~

~~(III) an increase in the dimensions of the parking areas regulates short-term rental units distinctly from residential rental units.~~

* * *

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

* * *

(b) Inclusive Development.

(1) Except in a municipality that has reported substantial municipal constraints in accordance with subdivision (b)(2) of this section and notwithstanding any existing bylaw other than flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, the following land development provisions shall apply in every municipality:

(A) No bylaw shall have the effect of prohibiting the creation of residential lots of at least:

(i) 10,890 square feet or one-quarter acre within any regulatory district allowing residential uses served by and able to connect to a water system operated by a municipality; or

(ii) 5,400 square feet or one-eighth acre within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality.

(B) The appropriate municipal panel or administrative officer, as applicable, shall condition any subdivision approval on obtaining a State wastewater permit pursuant to 10 V.S.A. chapter 64.

(C) No bylaw shall have the effect of prohibiting or requiring conditional use approval for a two-unit dwelling on any lot within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality to any greater extent than a one-unit dwelling would be prohibited or restricted within such district with no additional review, dimensional, or other controls than would be required for a single-family dwelling without a second unit.

(D) When a bylaw establishes a parking minimum for residential properties, each residential parking space that will be leased separately from residential units shall count as two spaces for purposes of meeting the parking minimum for any proposed development located within a half mile of a transit stop. The parking space lease costs shall be reasonably proportional to the production, operation, and maintenance cost of the space to reduce generalized subsidy of leased spaces by other residents. A municipality may condition the municipal land permit on continuation of the separate leasing of parking spaces and residential units.

(2) A municipality may opt out of the requirements of subdivision (1) of this subsection by filing a Substantial Municipal Constraint Report with the Department of Housing and Community Development.

(A) The Substantial Municipal Constraint Report shall demonstrate that:

(i) the municipality's bylaws comply with all of the requirements of subsection (a) of this section; and

(ii) the municipality has documented substantial municipal constraints on its municipal water, municipal sewer, or other services that prevent the adoption of bylaws that conform to the requirements of subdivision (1) of this subsection (b).

(B) On or before January 1, 2021, the Department of Housing and Community Development shall provide a template and guidance on the form and content of the Substantial Municipal Constraint Report.

(C) The Department of Housing and Community Development shall post all Substantial Municipal Constraint Reports on the Department's website, and shall promptly provide a copy to the municipality's regional planning commission, the State program directors for municipal and water sewer funding, the Vermont Community Development Board, the Vermont Downtown Development Board, the Vermont Housing and Conservation Board, and the Natural Resources Board, as well as any person requesting notice. Any person may provide comment on the municipality's report to the Commissioner of Housing and Development within 60 days of the filing. The Department shall post all comments with the Report on the Department's website.

(D) A municipality that has filed a Substantial Municipal Constraint Report shall update the Report each time it updates its municipal plan or bylaws. Failure to update the Report shall disqualify the municipality from the incentives identified in subdivision (3) of this subsection (b) and may subject the municipality to review by the Commissioner of Housing and Community Development pursuant to section 4351 of this title.

(3) Incentives and funding.

(A) On or before July 1, 2021, any municipality that requests technical assistance from a regional planning commission to update local bylaws to address inclusionary growth as described in subdivision (1) of this subsection (b) shall receive priority technical assistance through additional funding made available to the applicable regional planning commission by section 4306 of this title or municipal funding made available through the Municipal Planning Grant Program established by section 4306 of this title and may use resources developed by the Department of Housing and Community Development to assist with the updates.

(B) The following State funding programs shall prioritize funding in municipalities that have updated their bylaws to comply with this subsection or

are actively pursuing actions that will bring their bylaws into compliance with this section:

- (i) State funding for Municipal Water and Sewer Systems;
- (ii) Municipal Planning Grants under section 4306 of this title;
- (iii) Vermont Community Development Program under 10 V.S.A. chapter 29, subchapter 1; and
- (iv) Neighborhood Development Area Historic Tax Credits under 32 V.S.A. § 5930cc.

(4) Pursuant to 27 V.S.A. § 545, in a municipality that has adopted bylaws that comply with subdivision (1) of this subsection (b), deeds may not be restricted by covenants, conditions, or restrictions that conflict with the duly adopted municipal bylaws or policies. This subsection shall not affect the enforceability of any existing deed restrictions.

Sec. 3. 27 V.S.A. § 545 is added to read:

§ 545. COVENANTS, CONDITIONS, AND RESTRICTIONS OF
SUBSTANTIAL PUBLIC INTEREST

Deed restrictions, covenants, or similar binding agreements added after July 1, 2020 that prohibit or have the effect of prohibiting land development allowed under the municipal bylaws in a municipality that has adopted a bylaw in accordance with 24 V.S.A. § 4412(b)(1) shall not be valid. This section shall not affect the enforceability of any property interest held in whole or in part by a qualified organization or State agency as defined in 10 V.S.A. § 6301a, including any restrictive easements, such as conservation easements and historic preservation rights and interests defined in 10 V.S.A. § 822. This section shall not affect the enforceability of any property interest that is restricted by a housing subsidy covenant as defined by section 610 of this title and held in whole or in part by an eligible applicant as defined in 10 V.S.A. § 303(4) or the Vermont Housing Finance Agency.

Sec. 4. REPORT ON SUBSTANTIAL MUNICIPAL CONSTRAINTS

On or before January 15, 2023, the Department of Housing and Community Development shall report to the General Assembly on any Substantial Municipal Constraint Reports received. The report shall address the number of municipalities that have reported substantial municipal constraints, the nature of the constraints, the impact on the development of housing in those municipalities, and any steps the Department recommends towards reducing or eliminating constraints.

* * * Act 250 Downtown Exemption * * *

Sec. 5. 10 V.S.A. § 6001 is amended to read:

* * *

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. ~~At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) At the time of initial sale at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

* * *

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

~~(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a ~~designated downtown development district, designated new town center, or designated growth center, or designated village center that is also a designated neighborhood development area~~ under 24 V.S.A. chapter 76A; or~~

~~(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

* * *

Sec. 6. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a ~~priority housing project~~ development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, ~~if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title~~ or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a neighborhood development area is extinguished.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

(v) ~~A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and~~

~~conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]~~

* * *

Sec. 7. REPEALS

The following are repealed:

- (1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).
- (2) 10 V.S.A. § 6086b (downtown development).

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

- (A) was previously permitted pursuant to 10 V.S.A. chapter 151;
- (B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and
- (C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

- (A) the construction phase of the project that has already been constructed;
- (B) compliance with another State permit that has independent jurisdiction;
- (C) federal or State law that is no longer in effect or applicable;
- (D) an issue that is addressed by municipal regulation and the project will meet the municipal standards; or
- (E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel shall comply with the notice and hearing requirements provided in subdivision 4464(a)(1) of this title. In addition, notice shall be provided to those persons requiring notice under 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (2) of this subsection.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 9. 24 V.S.A. § 2792(a) is amended to read:

(a) A "Vermont Downtown Development Board," also referred to as the "State Board," is created to administer the provisions of this chapter. The State Board shall be composed of the following members or their designees:

* * *

(12) The executive director of the Vermont Housing and Conservation Board or designee.

Sec. 10. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(b) Within 45 days of receipt of a completed application, the State Board shall designate a downtown development district if the State Board finds in its written decision that the municipality has:

(1) Demonstrated a commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, or through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title.~~

* * *

(4) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income

housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(5) Adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a housing commission as provided in section 4433 of this title; or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (b)(4) and (5) of this section. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

(1) require corrective action;

(2) provide technical assistance through the Vermont Downtown Program;

(3) limit eligibility for the benefits established in section 2794 of this chapter without affecting any of the district's previously awarded benefits; or

(4) remove the district's designation without affecting any of the district's previously awarded benefits.

Sec. 11. 24 V.S.A. § 2793a. is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(c) A village center designated by the State Board pursuant to subsection (a) of this section is eligible for the following development incentives and benefits:

* * *

(4) ~~The following State tax credits for projects located in a designated village center:~~

~~(A) A State historic rehabilitation tax credit of ten percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

* * *

Sec. 12. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
NEIGHBORHOOD DEVELOPMENT AREAS

* * *

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

* * *

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development and areas suitable for infill development as defined in section 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of “important natural resources” as defined in subdivision 2791(14) of this title and flood hazard areas and river corridors. If an “important natural resource” is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area

includes flood hazard areas or river corridors, the local bylaws must contain provisions consistent with the Agency of Natural Resources rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the floodway, new development is elevated or floodproofed at least two feet above Base Flood Elevation, or otherwise reasonably safe from flooding, and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside of the neighborhood development area consistent with the Agency of Natural Resources model river corridor bylaws.

(B) Is served by planned or existing transportation infrastructure that conforms with “complete streets” principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) ~~The~~ Within the neighborhood development area, the municipal bylaws allow minimum lot sizes of one-quarter of an acre or less and minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater.

(A) The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

~~(A)~~(B) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

~~(B)~~(C) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this

~~section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.~~

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential ~~density~~ uses and building heights;

(C) minimize the required ~~lot sizes~~, setbacks, and parking requirements, and street widths; and

(D) require conformance with “complete streets” principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

(9) Residents hold a right to utilize household energy conserving devices.

(10) The application includes a map or maps that, at a minimum, identify:

(A) “important natural resources” as defined in subdivision 2791(14) of this title;

(B) existing slopes of 25 percent or steeper;

(C) public facilities, including public buildings, public spaces, sewer or water services, roads, sidewalks, paths, transit, parking areas, parks, and schools;

(D) planned public facilities, roads, or private development that is permitted but not built;

(E) National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government;

(F) designated downtown, village center, new town center, or growth center boundaries as approved under this chapter and their associated neighborhood planning area in accordance with this section; and

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department's guidelines under section 2792 of this title.

(12) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(13) The application includes information in the proposed neighborhood development area that the municipality has adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a Housing Commission as provided in section 4433 of this title;

or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

* * *

(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

(1) The State Board, on its motion, may review compliance with the designation requirements at more frequent intervals.

(2) If the underlying downtown, village center, new town center, or growth center designation terminates, the neighborhood development area designation also shall terminate.

(3) If at any time the State Board determines that the designated neighborhood development area no longer meets the standards for designation established in this section, it may take any of the following actions:

(A) require corrective action within a reasonable time frame;

(B) remove the neighborhood development area designation; or

(C) prospectively limit benefits authorized in this chapter.

(4) Action taken by the State Board under subdivision (3) of this subsection shall not affect benefits already received by the municipality or a land owner in the designated neighborhood development area.

(5) Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (c)(12) and (13) of this section.

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any a proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review, provided that the project meets the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met, as determined by the administrative officer, as defined in chapter 117 of this title. These benefits are:

(1) ~~The~~ the application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D); and

(2) ~~The~~ application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).

~~(3) The~~ the exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

(g) Neighborhood development area incentives for municipalities. Once a municipality has a designated neighborhood development area, it may receive:

(1) priority consideration for municipal planning grant funds; and

(2) training and technical assistance from the Department to support an application for benefits from the Department.

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. The State Board shall provide the municipality with at least 14 days' prior written notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the

municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant ~~may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain~~ shall be eligible for the benefits granted to neighborhood development areas, subject to approval by the administrative officer, as provided in subsection (f) of this section.

* * * Tax Credits * * *

Sec. 13. 32 V.S.A. § 5930aa is amended to read:

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) "Qualified applicant" means an owner or lessee of a qualified building involving a qualified project, but does not include a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) "Qualified building" means a building built at least 30 years before the date of application, located within a designated downtown ~~or~~ village center, or neighborhood development area, which, upon completion of the project supported by the tax credit, will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) "Qualified code improvement project" means a project:

(A) to install or improve platform lifts suitable for transporting personal mobility devices, limited use or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety;

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) to redevelop a contaminated property in a designated downtown, ~~or~~ village center, or neighborhood development area under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown ~~or~~, designated village center, or neighborhood development area. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified Flood Mitigation Project” means any combination of structural and nonstructural changes to a building located within an area subject to the River Corridor Rule or within the flood hazard area as mapped by the Federal Emergency Management Agency that reduces or eliminates flood damage to the building or its contents. The project shall comply with the municipality’s adopted flood hazard and river corridor bylaw, if applicable, and a certificate of completion shall be submitted by a registered engineer, architect, qualified contractor, or qualified local official to the State Board. Improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places shall be consistent with Secretary of the Interior’s Standards for Rehabilitation, as determined by the Vermont Division for Historic Preservation.

(7) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

~~(7)~~(8) “Qualified project” means a qualified code improvement, qualified façade improvement, or qualified historic rehabilitation project as defined by this subchapter.

~~(8)~~(9) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

* * * Wastewater Connection Permits * * *

Sec. 14. 10 V.S.A. § 1974(9) is added to read:

(9) A person who receives an authorization from a municipality that administers a program registered with the Secretary pursuant to section 1983 of this title.

Sec. 15. 10 V.S.A. § 1983 is added to read:

§ 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM
AND POTABLE WATER SUPPLY CONNECTIONS

(a) A municipality may issue an approval for a connection or an existing connection with a change in use to the municipal sanitary sewer collection line via a sanitary sewer service line or a connection to a water main via a new water service line in lieu of permits issued under this chapter, provided that the municipality documents the following in a form prescribed by the Secretary:

(1) The municipality owns or has legal control over connections to a public community water system permitted pursuant to chapter 56 of this title and connections to a wastewater treatment facility permitted pursuant to chapter 47 of this title.

(2) The municipality shall only issue authorizations for:

(A) a sanitary sewer service line that connects to the sanitary sewer collection line that serves a single connection; and

(B) a water service line that connects to the water main that serves a single connection.

(3) The building or structure connects to both the sanitary sewer collection line and public community water system.

(4) The municipality issues approvals that comply with the technical standards for sanitary sewer service lines and water service lines adopted by the Secretary under this chapter.

(5) The municipality requires documentation in the land records that the connection authorized by the municipality was installed in accordance with the technical standards.

(6) The program requires the retention of plans that show the location and design of authorized connections.

(b) The municipality shall notify the Secretary 30 days in advance of terminating any registration. The municipality shall provide all approvals and plans to the Secretary as a part of this termination notice.

Sec. 16. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED
MUNICIPALITIES

The Agency of Natural Resources' Technical Advisory Committee shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy on whether municipalities authorized under 10 V.S.A. § 1983 should also have jurisdiction

to issue permits in lieu of the Secretary for subdivisions when the lot is served by municipal water and sewer.

* * * Age-Specific Housing Study * * *

Sec. 17. STATEWIDE HOUSING STUDY

(a)(1) The Department of Housing and Community Development, in collaboration with the Department of Disabilities, Aging, and Independent Living, shall conduct a Statewide Housing Study to evaluate the current and projected needs for age-specific housing in Vermont.

(2) The Departments shall include recommendations for an age-specific housing plan and policies with measurable objectives that are focused on older Vermonters, in particular those with very low income or who are caregivers or living with disabilities.

(b) The Departments shall submit the Study to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs on or before January 15, 2021.

* * * Funding for Affordable Housing * * *

Sec. 18. FINDINGS AND PURPOSE; FUNDING FOR AFFORDABLE HOUSING

(a) Findings. The General Assembly finds that:

(1) In 2017, the General Assembly, in partnership with the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the State Treasurer, and other affordable housing stakeholders, provided for the funding and creation of an affordable housing bond to support the development of affordable housing throughout the State.

(2) The results of the Housing for All Revenue Bond initiative greatly exceeded original estimates by raising \$37 million in bond proceeds, creating or improving more than 800 homes across the State, generating \$172 million in construction activity, and leveraging \$198 million in other public and private funding.

(3) Additional investments through the Vermont Housing and Conservation Board are necessary to sustain and build on the success of the Housing for All Revenue Bond and create needed affordable housing options for Vermonters including:

(A) creating new multifamily and single-family homes;

(B) addressing blighted properties and other existing housing stock requiring reinvestment, including in mobile home parks; and

(C) providing service-supported housing in coordination with the Agency of Human Services, including housing for those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

(b) Purpose and intent.

(1) The purpose of this section is to promote the development and improvement of permanently affordable housing for current and future Vermont residents throughout the State.

(2) It is the intent of the General Assembly to provide funding to the Vermont Housing and Conservation Board in accordance with 10 V.S.A. § 312.

(c) Appropriations. In fiscal year 2021, the amount of \$13,073,840.00 is appropriated to the Vermont Housing and Conservation Board from property transfer tax revenues pursuant to 32 V.S.A. § 9602, which represents an increase of \$2,269,000.00 from the fiscal year 2020 appropriation to the Vermont Housing and Conservation Board from property transfer tax revenues. It is the intent of the General Assembly that this increase of \$2,269,000.00 is used for housing projects, of which approximately \$750,000.00 shall be used for mobile home park infrastructure needs.

* * * Short-term Rentals * * *

Sec. 19. SHORT-TERM RENTALS

(a) The Department of Housing and Community Development may exercise its authority under 3 V.S.A. § 844 to adopt emergency rules to collect sufficient data to allow the State to understand the impact of short-term rentals on the availability of housing in this State while balancing the privacy interests of short-term rental operators and their guests.

(b) On or before January 15, 2021, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs that includes:

(1) information concerning the data it collects pursuant to this section and in conjunction with any housing needs assessment the Department conducts in conjunction with the Vermont Housing Finance Agency and Vermont Housing and Conservation Board;

(2) a compilation of the legal frameworks adopted by U.S. states and municipalities to regulate short-term rentals; and

(3) recommendations for any statutory and municipal regulation of short-term rentals in this State.

Sec. 20. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, “short-term rental” means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

* * * Homelessness Prevention * * *

Sec. 21. HOMELESSNESS PREVENTION

(a) Consistent with the report mandated in 2019 Acts and Resolves No. 72, Sec. E.300.4, the Secretary of Human Services shall take reasonable measures, including increasing case management services under a “housing first” model for Vermonters who are homeless, to reduce the loss of specialized federal rental assistance vouchers.

(b) The Secretary shall report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Health and Welfare and to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Human Services, and on Health Care on or before October 15, 2020 on measures taken, and results achieved, in increasing the use of specialized federal assistance vouchers.

* * * Mobile Home Parks * * *

Sec. 22. MOBILE HOME PARK INFRASTRUCTURE

(a) The Department of Environmental Conservation shall:

(1) assist the Town of Brattleboro and the Tri-Park Cooperative in the implementation of the Tri-Park Master Plan and Deerfield River & Lower Connecticut River Tactical Basin Plan, including through loan forgiveness or

restructuring of State Revolving Loans RF1-104 and RF3-163 and additional loans, to allow for the relocation of homes in the floodplain and improvements to wastewater and stormwater infrastructure needs;

(2) provide similar assistance to the extent possible to similarly situated mobile home parks that also have relocation or infrastructure needs; and

(3) identify statutory and programmatic changes necessary to assist in the implementation of the plans and to improve access and terms by mobile home parks and other small communities to the Clean Water Revolving Loan Fund, Water Infrastructure Sponsorship Program and the Drinking Water State Revolving Fund.

(b) On or before January 15, 2021, the Department shall report on actions taken and recommendations for statutory or programmatic changes to the Senate Committees on Economic Development, Housing and General Affairs and on Institutions and to the House Committees on General, Housing, and Military Affairs and on Corrections and Institutions.

Sec. 23. 10 V.S.A. § 10 is amended to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a)(1) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b)(2) The amount authorized in subdivision (1) of this subsection (a) of ~~this section~~ shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities.

(b) The Treasurer may use amounts available under this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in his or her discretion as is necessary to promote the availability of mobile home park housing and to protect the interests of the State.

* * * Vermont Housing Incentive Program * * *

Sec. 24. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Vermont Housing Incentive Program§ 699. VERMONT HOUSING INCENTIVE PROGRAM

(a) Purpose. Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs updating to meet code requirement and other standards, this section is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing small grants that are matched by the private apartment owner.

(b) Creation of Program. The Department of Housing and Community Development shall design and implement a Vermont Housing Incentive Program to provide funding to regional nonprofit housing partner organizations to provide incentive grants to private landlords for the rehabilitation and improvement, including weatherization, of existing rental housing stock.

(c) Administration. The Department shall require any nonprofit regional housing partner organization that receives funding under this Program to develop a standard application form for property owners that describes the application process and includes clear instructions and examples to help property owners apply, a selection process that ensures equitable selection of property owners, and a grants management system that ensures accountability for funds awarded to property owners.

(d) Grant Requirements. The Department shall ensure that each grant complies with the following requirements:

(1) A property owner may apply for a grant for improvements to not more than four rental units that are vacant, blighted, or otherwise do not comply with applicable rental housing health and safety laws.

(2) A property owner shall:

(A) match the value of a grant at least two-to-one with his or her own funds and not through in-kind services;

(B) include a weatherization component; and

(C) comply with applicable permit requirements and rental housing health and safety laws.

(3) The Department and the property owner shall ensure that not fewer than half of the rental units improved with grant funds have rents that are affordable to households earning not more than 80 percent of area median income and remain affordable for not less than seven years.

(4) If a property owner sells or transfers a property improved with grant funds within seven years of receiving the grant, the property owner shall:

(A) repay the amount of the grant funds upon sale or transfer; or

(B) ensure that the property continues to remain affordable for the remainder of the seven-year period required in subdivision (3) of this subsection.

(e) As used in this section:

(1) "Blighted" means that a rental unit is not fit for human habitation and does not comply with the requirements of applicable building, housing, and health regulations.

(2) "Vacant" means that a rental unit has not been leased or occupied for at least 90 days prior to the date a property owner submits a grant application and remains unoccupied at the time the grant is awarded.

* * * Appropriations * * *

Sec. 25. APPROPRIATIONS

(a) The sum of \$150,000.00 is appropriated to the Municipal and Regional Planning Fund from the General Fund in fiscal year 2021 to be used by regional planning commissions to assist municipalities in updating their bylaws to include inclusionary housing bylaws.

(b) The sum of \$150,000.00 is appropriated to the Municipal and Regional Planning Fund from the General Fund in fiscal year 2021 to be used by municipal planning commissions to assist municipalities in updating their bylaws to include inclusionary housing bylaws.

(c) The sum of \$50,000.00 is appropriated to Agency of Commerce and Community Development from the General Fund in fiscal year 2021 to provide technical assistance to homeowners and developers who seek to develop accessory dwelling units for existing residential properties and for small residential projects of less than \$1,000,000.00 in anticipated construction costs.

(d) The sum of \$800,000.00 is appropriated to the Agency of Human Services from the General Fund to increase case management services under a "housing first" model for Vermonters who are homeless pursuant to Sec. 22 of this act.

(e) The sum of \$1,000,000.00 is appropriated to the Department of Housing and Community Development from the General Fund to provide funding through the Vermont Housing Incentive Program created in 10 V.S.A. § 699.

* * * Implementation of Incentives * * *

Sec. 26. IMPLEMENTATION

The incentives and funding established in 24 V.S.A. §4412(b)(3) shall be available immediately to municipalities that adopt bylaws to comply with 24 V.S.A. §4412(b)(1) prior to the effective date of July 1, 2023.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except in Sec. 2, 24 V.S.A. § 4412(b) shall take effect on July 1, 2023.

And that when so amended the bill ought to pass.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as follows:

First: By adding a new Sec. 13a to read as follows:

Sec. 13a. 32 V.S.A. § 5930cc is amended to read:

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX
CREDITS

* * *

(d) Flood Mitigation Tax Credit. The qualified applicant of a qualified flood mitigation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$75,000.00.

Second: By striking out Sec. 23, 10 V.S.A. § 10 in its entirety and inserting in lieu thereof the following:

Sec. 23. 10 V.S.A. § 10 is amended to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL
INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities. The Treasurer may use amounts available under this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in his or her discretion as is necessary to promote the availability of mobile home park housing and to protect the interests of the State.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended by striking out Secs. 18 (Findings And Purpose; Funding For Affordable Housing), 24 (10 V.S.A. chapter 29, subchapter 3), and 25 (Appropriations) and their reader assistance headings in their entireties and by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, the recommendation of the Committee on Economic Development, Housing and General Affairs, as amended was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing General Affairs and Housing, as amended? was agreed to and third reading of the bill was ordered.

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

H. 961.

House bill entitled:

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved that the Senate proposal of amendment be amended as follows:

First: In Sec. A.9 by striking out subsection (a) in its entirety and insert in lieu thereof a new subsection (a) to read as follows:

(a) Notwithstanding 32 V.S.A. § 306, for fiscal year 2021 the Governor shall submit to the General Assembly, not later than the August 18, 2020, a budget which shall embody estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the State Treasury for the remainder of fiscal year 2021. The budget shall be based upon the official State revenue estimates, including the Medicaid estimated caseloads and per-member per-month expenditures, adopted by the Emergency Board pursuant to section 305a of this title.

Second: In Sec. A.18 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Agency of Digital Services, the Department of Buildings and General Services; the Judiciary; and the Legislative Information Technology department shall report to the Joint Information Technology Oversight Committee and the Joint Legislative Justice Oversight Committee not later than September 1, 2020 on the status of how software vendors that the State currently engages for the provision of services are bringing contracts and user agreements into compliance with Vermont law so as not to contain presumptively unconscionable terms per 9 V.S.A. chapter 152.

Third: By inserting a new section to be numbered Sec. A.24.a to read as follows:

Sec. A.24.a GLOBAL COMMITMENT WAIVER AMENDMENT

(a) The Secretary of Human Services is authorized to seek a no-change extension of Vermont's Global Commitment to Health Section 1115 Demonstration for the period of January 1, 2022 through December 31, 2023 from the Centers for Medicare and Medicaid Services.

Fourth: In Sec. A.29 by striking out subdivision (b)(2) in its entirety and insert in lieu thereof a new subdivision (b)(2) to read as follows:

(2) after the adjournment of the 2020 legislative session, the Agency shall jointly report to the Joint Legislative Child Protection Oversight Committee and the Joint Legislative Justice Oversight Committee.

Fifth: In Sec. A.31 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) To assist the General Assembly in appropriating the proper funding for short- and long-term residential placements and treatment services pursuant to subsection (a) of this section, on or before August 18, 2020, the Secretary of Administration or designee shall provide to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare:

(1) the status of operations of the Woodside Juvenile Rehabilitation Center facility in fiscal year 2021, including the projected date for cessation of operations at the facility and the cost and funding sources identified for operation of the facility for any period of time during fiscal year 2021;

(2) the projected costs and funding sources to provide short- and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families for any period of time in fiscal year 2021 subsequent to the cessation of operations at Woodside; and

(3) the projected annualized cost of providing such placements and treatment services and the proposed funding sources.

Sixth: In Sec. A.49 by striking out subdivision (a)(7)(A) in its entirety and inserting in lieu thereof a new subdivision (a)(7)(A) read as follows:

(A) \$502,500 for the COVID-19 costs at the Center for Crime Victim Services, the Vermont Network Against Domestic Violence and its member organizations. These costs include PPE; hazard pay; equipment and HIPAA-compliant video conference services; increased shelter sanitation costs and increased direct aid to survivors moved into in the community to meet COVID-19 health and safety recommendations.

and by inserting a new subdivision to be numbered subdivision (18) to read as follows:

(18) Agency of Administration, Director of Racial Equity: \$50,000 is appropriated to the Agency of Administration for specialized training on equity and inclusion. This training is to increase understanding and response capabilities given the disproportionate impacts on communities of color and the New Americans communities of the COVID-19 pandemic.

Seventh: In Sec. A.50 by striking out subdivision (c)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (c)(1)(B) read as follows:

(B) A school district that has fiscal year 2020 funds available from this section shall carry those funds into fiscal year 2021 as revenue without waiting for an audit to confirm the existence or amount of the available funds.

Notwithstanding any other provision of law to the contrary, the Agency of Education shall evaluate the amount of education fund payments authorized by 16 V.S.A. chapter 133 needed to fund a school district's education spending, taking into account any funds available that resulted from the fiscal year 2020 appropriation under this section and other factors it determines to be relevant, and shall subtract from the district's first and second fiscal year 2021 education fund payments an amount it determines is not necessary to fully fund the district's education spending.

Eighth: In Sec. A.51 by striking out subsections (d)-(g) in their entirety and inserting in lieu thereof new subsections (d)-(g) to read as follows:

(d) Program established. There is established within Efficiency Vermont the School Indoor Air Quality Grant Program ("the Program") to provide grants to K-12 covered schools in Vermont to repair, maintain, and upgrade heating, ventilation, and air conditioning (HVAC) systems in reference to COVID-19-specific guidelines from the U.S. Centers for Disease Control and Prevention (CDC) and the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE).

(e) Administration; implementation.

(1) The Program shall be administered by Efficiency Vermont, which shall be responsible for:

(A) providing education and outreach to schools on the Program;

(B) providing informational guidance and best practices for school ventilation and air filtration systems; and

(C) awarding available grants to covered schools under the Program, which may be paid directly to a contractor on behalf of a covered school.

(2) Efficiency Vermont, in consultation with the Agency of Education, the Vermont Superintendents Association, and experts in the field of heating, ventilation, and air conditioning, shall design the Program. The Program design shall establish:

(A) An outreach and education plan.

(B) An equitable system for distributing grants statewide based on geographic location, school size, and grant dollar amount.

(C) Guidelines for the ventilation, filtration, monitoring, humidification, and dehumidification measures and costs that will be eligible for grant funding. Eligible measures may include handheld meters, system evaluation, and retrocommissioning.

(3)(A) Efficiency Vermont is authorized to use up to \$100,000 of the amount appropriated in subsection (a) of this section for labor.

(B) As the entity appointed to serve as Efficiency Vermont, the Vermont Energy Investment Corp. (VEIC) is also authorized to collect their federally approved indirect rate of 9.3 percent on the Program funds expended.

(C) Monies from the Electric Efficiency Fund created by 30 V.S.A. §209(d)(3) and managed by Efficiency Vermont shall not be used to administer this Program. Where energy savings measures can be implemented in conjunction with the School Indoor Air Quality Grant Program, Efficiency Vermont may leverage its own program budgets, provided the energy savings measures are cost-effective.

(f) Contracting with vendors; bidding exception. Due to the public health risk posed by COVID-19, any project receiving grant funds under the Program shall be deemed to be an emergency repair for the purposes of 16 V.S.A. § 559(e), and a covered school may enter into a contract with an independent third party without the need to competitively bid the contract.

(g) Report. On or before September 15, 2020, Efficiency Vermont shall submit an update on the Program to the House and Senate Committees on Education. On or before March 15, 2021, Efficiency Vermont shall submit a final report on the Program, which shall include a list of the covered schools served, projects completed, funds expended, results and benefits of the projects completed, and overall lessons learned and recommendations for possible future school ventilation improvement programs. The final report shall also include a summary of any Efficiency Vermont programs that were delivered in conjunction with the Program.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Baruth, Hardy, Ingram, McNeil, Parent and Perchlik moved that the Senate proposal of amendment be amended by striking out Sec. A.10 [RESERVED], in its entirety and inserting in lieu thereof the following:

Sec. A.10. SELECT COMMITTEE ON THE FUTURE OF THE VERMONT STATE COLLEGE SYSTEM; REPORTS

(a) Creation. There is created the Select Committee on the Future of the Vermont State College System (Committee) to assist the State of Vermont and the Vermont State Colleges (VSC) in developing a vision and plan for a high-quality, affordable, sustainable future, a future that is workforce-connected and robust in its online capacities.

(b) Membership.

(1) The Committee shall be composed of up to the following 15 members:

(A) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(B) one current member of the Senate, who shall be appointed by the Committee on Committees;

(C) the President of the University of Vermont or designee and a representative of the UVM Board of Trustees, appointed by the President;

(D) the Interim Chancellor of the Vermont State Colleges (VSC) or designee, and a representative of each of the VSC Board of Trustees, VSC campus administration, VSC faculty, VSC students, and VSC alumni or donor community, each appointed by the Interim Chancellor;

(E) the Secretary of Commerce and Community Development or designee;

(F) the Commissioner of Labor or designee;

(G) two representatives of the business community, appointed by the Steering Group created under subsection (c) of this section; and

(H) the President of the Vermont Student Assistance Corporation or designee.

(2) A Committee member may be appointed to fill more than one role as identified in subdivision (1) of this subsection.

(3) Appointers of members of the Committee shall seek to ensure that the geographical areas of the State hosting VSC campuses are represented on the Committee.

(c) Steering Group. On or before June 29, 2020, the Speaker of the House and the President Pro Tempore shall jointly appoint three members of the Committee, and the Governor shall appoint two members of the Committee, to serve as members of a Steering Group. The Steering Group shall provide leadership to the Committee and shall work with a consulting firm to analyze the issues, challenges, and opportunities facing VSC, as well as create a formal action plan to drive change and innovation in the VSC system. The Steering Group may form one or more subcommittees of the Committee to address key topic areas in greater depth.

(d) Collaboration. The Committee shall seek input from and collaborate with key stakeholders, as directed by the Steering Group.

(e) Powers and duties. The Committee shall study the structure of the current VSC system and build on previous studies and white papers in this area, including the ongoing work and work products of the VSCS Forward Task Force, the NVU Strong Advisory Committee, and the VTC Transition Advisory Task Force. The Select Committee shall also offer recommendations on how to increase affordability for students, access, retention, attainment, relevance, and fiscal sustainability, including the following issues:

(1) the financial sustainability of the VSC system and its impact on institutional capacity to innovate and meet State goals and learners' needs, including a comparison of higher education programs, delivery models, tuition, tuition-reduction and tuition-free programs, and structures in other states;

(2) the current organizational structure of VSC and its ability to promote student success;

(3) the alignment of the VSC system and workforce development goals, policy frameworks, and partnerships between businesses and institutions of higher education that are designed to meet the needs of employers and promote the public value of education; and

(4) collaboration with the University of Vermont to move Vermont toward meeting the concepts in subdivision (3) of this subsection (e).

(f) Consultant. The Vermont Legislative Joint Fiscal Office, in collaboration with the New England Board of Higher Education (NEBHE), shall issue a request for proposal to hire a consultant to assist the Committee with responses due from interested parties on or before July 17, 2020. On or before July 31, 2020, the Steering Group shall select the consultant.

(g) Assistance. The Committee shall have the administrative and technical assistance of the Agency of Education. NEBHE shall provide project management support to the Committee.

(h) Reports. Recognizing the need for short-term solutions on system structure, governance, funding, and sustainability, the Committee, through its Steering Group, shall use a phased approach to reporting. The first interim report shall be due on or before December 20, 2020 and shall focus on the topics described in subdivision (e)(1) of this section; the second interim report shall be due on or before June 15, 2021 and shall focus on the topics described in subdivisions (e)(2), (3), and (4) of this section; and the final report, which shall collate findings relative to subsection (e) of this section and include the action plan, shall be due on or before December 15, 2021. All reports shall be in writing and be delivered to the General Assembly and the Governor.

(i) Meetings.

(1) The Secretary of Commerce and Community Development or designee shall call the first meeting of the Committee to occur on or before August 28, 2020.

(2) The Speaker of the House and the President Pro Tempore shall jointly select the Committee chair.

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

(4) The Committee shall cease to exist on January 31, 2022.

(j) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(2) Other members of the Committee, who are not employees of the State of Vermont, shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

(3) Compensation and reimbursement under this subsection shall be, in each fiscal year 2021 and 2022, for a maximum of:

(A) six in-person meetings of the Committee;

(B) eight in-person meetings of the Steering Group; and

(C) four remote meetings of up to four subcommittees, assuming compensation and reimbursement for up to five members of each subcommittee.

(k) Appropriations.

(1) The sum of \$20,500.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Committee, Steering Group, and subcommittees.

(2) Of the funds identified in Sec. A.3(b) of this act, the Vermont State Colleges shall transfer to the Vermont Legislative Joint Fiscal Office an amount sufficient to carry out the responsibilities and actions of the Joint Fiscal Office required under this section.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Ashe and Sears moved that the Senate proposal of amendment be amended in Sec. A.21 by adding a new subsection (b) to read as follows:

(b) The Commissioner of Public Safety shall in collaboration with the Commissioner of Mental Health present a plan to the General Assembly by August 18, 2020 that will create the capacity for each State Police barrack to have embedded mental health clinicians from a designated agency or contracted provider to more appropriately respond to situations involving individuals experiencing a mental health emergency. In formulating this plan, the commissioners shall review the embedded mental health clinician model developed in Franklin county for statewide scalability. The Commissioner of Public Safety shall recommend the reallocation of funds for this purpose and explore the potential to match funds under Vermont's Medicaid waiver.

Which was agreed to.

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

House Proposal of Amendment Concurred In

S. 128.

House proposal of amendment to Senate bill entitled:

An act relating to physician assistant licensure.

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. 26 V.S.A. chapter 31 is amended to read:

CHAPTER 31. PHYSICIAN ASSISTANTS

§ 1731. POLICY AND PURPOSE

The General Assembly recognizes the need to provide means by which ~~physicians in this State may increase the scope and~~ physician assistants may practice medicine in collaboration with physicians and other health care professionals to provide increased efficiency of their practice in order and to ensure that ~~quality~~ high-quality medical services are available to all Vermonters at reasonable cost. The General Assembly recognizes that physician assistants, with their education, training, and experience in the field of medicine, are well suited to provide these services to Vermonters.

§ 1732. DEFINITIONS

As used in this chapter:

(1) "Accredited physician assistant program" means a physician assistant educational program that has been accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), or,

prior to 2001, by either the Committee on Allied Health Education and Accreditation (CAHEA), or the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

(2) “Board” means the State Board of Medical Practice established by chapter 23 of this title.

(3) ~~“Delegation agreement” means a detailed description of the duties and scope of practice delegated by a primary supervising physician to a physician assistant that is signed by both the physician assistant and the supervising physicians.~~ “Collaboration” means a physician assistant’s consultation with or referral to an appropriate physician or other health care professional as indicated based on the patient’s condition; the physician assistant’s education, training, and experience; and the applicable standards of care.

(4) “Disciplinary action” means any action taken by the Board against a physician assistant or an applicant, or an appeal of that action, when the action suspends, revokes, limits, or conditions licensure in any way. The term includes reprimands and administrative penalties.

(5) “Health care facility” has the same meaning as in 18 V.S.A. § 9402.

(6) “Participating physician” means a physician practicing as a sole practitioner, a physician designated by a group of physicians to represent their physician group, or a physician designated by a health care facility to represent that facility, who enters into a practice agreement with a physician assistant in accordance with this chapter.

(7) “Physician” means an individual licensed to practice medicine pursuant to chapter 23 or 33 of this title.

~~(5)~~(8) “Physician assistant” or “PA” means an individual licensed by the State of Vermont who is qualified by education, training, experience, and personal character to provide medical care with the direction and supervision of a Vermont licensed physician to practice medicine in collaboration with one or more physicians pursuant to this chapter.

(9) “Physician group” means a medical practice involving two or more physicians.

~~(6)~~(10) “Supervising physician” means an M.D. or D.O. licensed by the state of Vermont who oversees and accepts responsibility for the medical care provided by a physician assistant “Practice agreement” means an agreement that meets the requirements of section 1735a of this chapter.

~~(7)~~(11) “Supervision” means the direction and review by the supervising physician of the medical care provided by the physician assistant.—The

~~constant physical presence of the supervising physician is not required as long as the supervising physician and physician assistant are or easily can be in contact with each other by telecommunication~~ “Practice as a physician assistant” means the practice of medicine by a PA pursuant to a practice agreement signed by a participating physician.

~~(8) “Disciplinary action” means any action taken against a physician assistant or an applicant by the Board or on appeal therefrom, when that action suspends, revokes, limits, or conditions licensure in any way, and includes reprimands and administrative penalties.~~

§ 1733. LICENSURE

(a) The State Board of Medical Practice is responsible for the licensure of physician assistants, and the Commissioner of Health shall adopt, amend, or repeal rules regarding the training, practice, qualification, and discipline of physician assistants.

~~(b) In order to practice, a licensed physician assistant shall have completed a delegation agreement as described in section 1735a of this title with a Vermont licensed physician signed by both the physician assistant and the supervising physician or physicians. The original shall be filed with the Board and copies shall be kept on file at each of the physician assistant’s practice sites. All applicants and licensees shall demonstrate that the requirements for licensure are met.~~

~~(c),(d) [Repealed.]~~

§ 1734. ELIGIBILITY

(a) The Board may grant a license to practice as a physician assistant to an applicant who meets all of the following requirements:

(1) ~~submits~~ Submits a completed application form provided by the board; Board.

(2) ~~pays~~ Pays the required application fee; .

(3) ~~has~~ Has graduated from an accredited physician assistant program or has passed and maintained the certification examination by the National Commission on the Certification of Physician Assistants (NCCPA) prior to 1988; .

(4) ~~has~~ Has passed the ~~certification examination given~~ Physician Assistant National Certifying Examination administered by the NCCPA; .

(5) ~~is~~ Is mentally and physically able to engage safely in practice as a physician assistant; .

(6) ~~does~~ Does not hold any license, certification, or registration as a physician assistant in another state or jurisdiction that is under current disciplinary action, or has been revoked, suspended, or placed on probation for cause resulting from the applicant's practice as a physician assistant, unless the Board has considered the applicant's circumstances and determines that licensure is appropriate;

(7) ~~is~~ Is of good moral character;

(8) ~~submits~~ Submits to the Board any other information that the Board deems necessary to evaluate the applicant's qualifications; ~~and~~.

(9) ~~has~~ Has engaged in practice as a physician assistant within the last three years or has complied with the requirements for updating knowledge and skills as defined by Board rules. This requirement shall not apply to applicants who have graduated from an accredited physician assistant program within the last three years.

(b), (c) [Repealed.]

(d) When the Board intends to deny an application for licensure, it shall send the applicant written notice of its decision by certified mail. The notice shall include a statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the Board for review of its preliminary decision. At the hearing, the burden shall be on the applicant to show that licensure should be granted. After the hearing, the Board shall affirm or reverse its preliminary denial.

(e) Failure to maintain competence in the knowledge and skills of a physician assistant, as determined by the Board, shall be cause for revocation of licensure.

§ 1734b. RENEWAL OF LICENSE

(a) Licenses shall be renewed every two years on payment of the required fee. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The Board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the Board shall pay the license renewal fees into the Medical Practice Board Special Fund. Any physician assistant while on extended active duty ~~in the uniformed services of the United States or member of the National Guard, State Guard, or reserve component~~ as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a physician assistant at the time of an activation or

deployment shall receive an extension of licensure up to 90 days following the physician assistant's return from activation or deployment, provided the physician assistant notifies the Board of ~~his or her~~ the activation or deployment prior to the expiration of the current license, and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

* * *

(d) A licensee shall promptly provide the Board with new or changed information pertinent to the information in ~~his or her~~ the physician assistant's license and license renewal applications at the time ~~he or she~~ the licensee becomes aware of the new or changed information.

(e) A license that has lapsed may be reinstated on payment of a renewal fee and a late renewal fee. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if a license remains lapsed for a period of three years, the Board may require the licensee to update ~~his or her~~ the licensee's knowledge and skills as defined by Board rules.

§ 1734c. EXEMPTIONS

(a) Nothing in this chapter shall be construed to require licensure under this chapter of any of the following:

(1) ~~a physician~~ Physician assistant ~~student~~ students enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

(2) ~~a physician assistant~~ Physician assistants employed in the service of the U.S. Armed Forces or National Guard, including National Guard in state status, while performing duties incident to that employment;

(3) ~~a technician~~ Technicians or other ~~assistant or employee~~ assistants or employees of a physician who ~~performs~~ perform physician-delegated tasks but who ~~is~~ are not rendering services as a physician assistant assistants or identifying ~~himself or herself~~ themselves as a physician assistant; ~~or assistants.~~

(4) ~~a physician assistant~~ Physician assistants who ~~is~~ are duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician ~~assistant is~~ assistants are employed as or formally designated as ~~the team physician assistant~~ assistants by an athletic team visiting Vermont for a specific sporting event and the physician ~~assistant~~ assistants ~~limits his or her~~ limit their practice in this State to the treatment of the members, coaches, and staff of the sports team employing or designating the physician ~~assistant~~ assistants.

(b) Physician assistants licensed in this State or credentialed as physician assistants by a federal employer shall not be required to have a practice agreement when responding to a need for medical care created by a disaster or emergency, as that term is defined in 20 V.S.A. § 102(c).

§ 1735a. SUPERVISION PRACTICE AGREEMENT AND SCOPE OF PRACTICE

(a) It is the obligation of each team of physician and physician assistant to ensure that the physician assistant's scope of practice is identified; that delegation of medical care is appropriate to the physician assistant's level of competence; that the supervision, monitoring, documentation, and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established. Except as provided in subsection 1734c(b) of this chapter and subsection (e) of this section, a physician assistant shall engage in practice as a physician assistant in this State only if the physician assistant has entered into a written practice agreement as set forth in subsection (b) of this section.

(1) A physician assistant shall enter into a practice agreement with a physician who practices as a sole practitioner only if the participating physician's area of specialty is similar to or related to the physician assistant's area of specialty.

(2) A physician assistant shall enter into a practice agreement with a participating physician who represents a physician group or health care facility only if one or more of the physicians practicing in the physician group or at the health care facility has an area of specialty similar to or related to the physician assistant's area of specialty.

(b) The information required in subsection (a) of this section shall be included in a delegation agreement as required by the Commissioner by rule. The delegation agreement shall be signed by both the physician assistant and the supervising physician or physicians, and a copy shall be kept on file at each of the physician assistant's practice sites and the original filed with the Board. A practice agreement shall include all of the following:

(1) Processes for physician communication, availability, decision-making, and periodic joint evaluation of services delivered when providing medical care to a patient.

(2) An agreement that the physician assistant's scope of practice shall be limited to medical care that is within the physician assistant's education, training, and experience. Specific restrictions, if any, on the physician assistant's practice shall be listed.

(3) A plan to have a physician available for consultation at all times when the physician assistant is practicing medicine.

(4) The signatures of the physician assistant and the participating physician; no other signatures shall be required.

(c) The physician assistant's scope of practice shall be limited to medical care which is delegated to the physician assistant by the supervising physician and performed with the supervision of the supervising physician. The medical care shall be within the supervising physician's scope of practice and shall be care which the supervising physician has determined that the physician assistant is qualified by education, training, and experience to provide. A practice agreement may specify the extent of the collaboration required between the PA and physicians and other health care professionals; provided, however, that a physician shall be accessible for consultation by telephone or electronic means at all times when a PA is practicing.

(d) The practice agreement shall be reviewed by the physician assistant and either the participating physician or a representative of the practice, physician group, or health care facility, at a minimum, at the time of the physician assistant's license renewal.

(d)(e) In the event of the unanticipated unavailability of a participating physician practicing as a sole practitioner due to serious illness or death, a physician assistant may continue to practice for not more than a 30-day period without entering into a new practice agreement with another participating physician.

(f) The practice agreement shall be filed with the Board. The Board shall not request or require any modifications to the practice agreement. The practice agreement may be filed with the Board electronically at the option of the physician assistant; no original documents shall be required.

(g) Nothing in this section shall be construed to require the physical presence of a physician at the time and place at which a physician assistant renders a medical service.

(h) A physician assistant may prescribe, dispense, and administer, and procure drugs and medical devices to the extent delegated by a supervising physician to the same extent as may a physician. A physician assistant who is authorized by a supervising physician to prescribe prescribes controlled substances must register shall be registered with the federal Drug Enforcement Administration.

(e) A supervising physician and physician assistant shall report to the Board immediately upon an alteration or the termination of the delegation agreement.

§ 1735b. PHYSICIAN ASSISTANT AS PRIMARY CARE PROVIDER

Notwithstanding any provision of law to the contrary, a physician assistant shall be considered a primary care provider when the physician assistant practices in one or more of the medical specialties for which a physician would be considered to be a primary care provider.

§ 1736. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct described in section 1354 of this title by a licensed physician assistant shall constitute unprofessional conduct. ~~When;~~ when that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of licensure:

(1) fraud or misrepresentation in applying for or procuring a license or in applying for or procuring a periodic renewal of a license;

(2) occupational advertising that is intended or has a tendency to deceive the public;

(3) exercising undue influence on or taking improper advantage of a person using the individual's services, or promoting the sale of professional goods or services in a manner that exploits a person for the financial gain of the practitioner or of a third party;

(4) failing to comply with provisions of federal or state statutes or rules governing the profession;

(5) conviction of a crime related to the profession; and

(6) conduct that evidences unfitness to practice in the profession.

(b) Unprofessional conduct includes the following actions by a licensed physician assistant:

(1) Making or filing false professional reports or records, impeding or obstructing the proper making or filing of professional reports or records, or failing to file ~~the~~ a proper professional report or record.

(2) Practicing the profession when mentally or physically unfit to do so.

(3) ~~Practicing the profession without having a delegation agreement meeting the requirements of this chapter on file at the primary location of the physician assistant's practice and the Board~~ Practicing as a physician assistant without a practice agreement meeting the requirements of section 1735a of this chapter, except under the circumstances described in subsections 1734c(b) and 1735a(e) of this chapter. The Board's receipt of a practice agreement filed in accordance with subsection 1735a(f) of this chapter shall not be construed to constitute Board approval of the practice agreement or of its contents.

(4) Accepting and performing responsibilities that the individual knows or has reason to know ~~that he or she~~ the individual is not competent to perform.

(5) Making any material misrepresentation in the practice of the profession, whether by commission or omission.

(6) The act of holding ~~one's self~~ oneself out as, or permitting ~~one's self~~ oneself to be represented as, a licensed physician.

~~(7) Performing otherwise than at the direction and under the supervision of a physician licensed by the Board or an osteopath licensed by the Vermont Board of Osteopathic Physicians and Surgeons; [Repealed.]~~

(8) Performing or offering to perform a task or tasks beyond the individual's ~~delegated~~ scope of practice.

(9) Administering, dispensing, procuring, or prescribing any controlled substance otherwise than as authorized by law.

(10) Habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to provide medical services.

(11) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions. Failure to practice competently includes, as determined by the Board:

(A) performance of unsafe or unacceptable patient care; or

(B) failure to conform to the essential standards of acceptable and prevailing practice.

(c) A person aggrieved by a determination of the Board may, within 30 days of the order, appeal that order to the Vermont Supreme Court on the basis of the record created before the Board.

* * *

§ 1738. USE OF TITLE

Any person who is licensed to practice as a physician assistant in this State shall have the right to use the title "physician assistant" and the ~~abbreviation "P.A."~~ abbreviations "PA" and "PA-C." No other person ~~may shall~~ assume that title, ~~or use that abbreviation~~ those abbreviations, or use any other words, letters, signs, or devices to indicate that the person using them is a physician assistant.

§ 1739. LEGAL LIABILITY

~~(a) The supervising physician delegating activities to a physician assistant shall be legally liable for such activities of the physician assistant, and the~~

physician assistant shall in this relationship be the physician's agent.

~~(b) Nothing in this chapter shall be construed as prohibiting a physician from delegating to the physician's employees certain activities relating to medical care and treatment now being carried out by custom and usage when such activities are under the control of the physician. The physician delegating activities to his or her employees shall be legally liable for such activities of such persons, and such person shall in this relationship be the physician's agent. Nothing contained in this chapter shall be construed to apply to nurses acting pursuant to chapter 28 of this title. Physician assistants are responsible for their own medical decision making. A participating physician in a practice agreement with a physician assistant shall not, by the existence of the practice agreement alone, be legally liable for the actions or inactions of the physician assistant; provided, however, that this does not otherwise limit the liability of the participating physician.~~

§ 1739a. ~~INAPPROPRIATE USE OF SERVICES BY PHYSICIAN;
UNPROFESSIONAL CONDUCT~~

~~Use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of this chapter constitutes unprofessional conduct by the physician and such physician shall be subject to disciplinary action by the Board in accordance with the provisions of chapter 23 or 33 of this title, as appropriate. [Repealed.]~~

§ 1740. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Original application for licensure, \$225.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety.

(2) Biennial renewal, \$215.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, ~~which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety~~ described in subdivision (1) of this section.

§ 1741. ~~NOTICE OF USE OF PHYSICIAN ASSISTANT TO BE POSTED~~

~~A physician, clinic, or hospital that utilizes the services of a physician assistant shall post a notice to that effect in a prominent place. [Repealed.]~~

* * *

§ 1743. MEDICAID REIMBURSEMENT

~~The Secretary of Human Services shall, pursuant to 3 V.S.A. chapter 25, adopt rules providing for a fee schedule for provide reimbursement under Title XIX (Medicaid) of the Social Security Act and 33 V.S.A. chapter 19, relating to medical assistance that recognizes reasonable cost differences between services provided by physicians and those provided by physician assistants under this chapter.~~

§ 1743a. PAYMENT FOR MEDICAL SERVICES

(a) As used in this section:

(1) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

(2) “Participating provider” has the same meaning as in 18 V.S.A. § 9418 and includes providers participating in the Vermont Medicaid program.

(b) Health insurers and, to the extent permitted under federal law, Medicaid shall reimburse a participating provider who is a physician assistant for any medical service delivered by the physician assistant if the same service would be covered if delivered by a physician. Physician assistants are authorized to bill for and receive direct payment for the medically necessary services they deliver.

(c) To provide accountability and transparency for patients, payers, and the health care system, the physician assistant shall be identified as the treating provider in the billing and claims processes when the physician assistant delivered the medical services to the patient.

(d) A health insurer shall not impose any practice, education, or collaboration requirement for a physician assistant that is inconsistent with or more restrictive than the provisions of this chapter.

§ 1744. ~~CERTIFIED PHYSICIAN ASSISTANTS~~

~~Any person who is certified by the Board as a physician assistant prior to the enactment of this section shall be considered to be licensed as a physician assistant under this chapter immediately upon enactment of this section, and shall be eligible for licensure renewal pursuant to section 1734b of this title. [Repealed.]~~

Sec. 2. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

* * *

(38) signing a blank or undated prescription form; or

~~(39) use of the services of a physician assistant by a physician in a manner that is inconsistent with the provisions of chapter 31 of this title; or [Repealed.]~~

* * *

Sec. 3. 26 V.S.A. § 1444 is added to read:

§ 1444. LIABILITY FOR ACTIONS OF AGENT

(a) A physician may delegate to a medical technician or other assistant or employee certain activities related to medical care and treatment that the individual is qualified to perform by training, education, experience, or a combination of these when the activities are under the control of the physician. The physician delegating the activities to the individual shall be legally liable for the individual's performance of those activities, and in this relationship, the individual shall be the physician's agent.

(b)(1) Nothing in this section shall be construed to apply to a nurse acting pursuant to chapter 28 of this title.

(2) Nothing in this section shall be construed to apply to a physician assistant acting pursuant to chapter 31 of this title. Liability for the actions or inactions of a physician assistant shall be governed by the provisions of section 1739 of this title.

Sec. 4. DEPARTMENT OF HEALTH; RULEMAKING

The Department of Health shall amend the Board of Medical Practice rules pursuant to 3 V.S.A. chapter 25 to conform the provisions regarding physician assistant licensure to the provisions of this act. The Department shall complete its rulemaking process on or before July 1, 2021.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020 and shall apply to all physician assistant licenses issued or renewed on and after that date, except that in Sec. 1, 26 V.S.A. § 1743a (payment for medical services) shall apply to Medicaid beginning on January 1, 2021, to the extent permitted under federal law.

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

House Proposal of Amendment Concurred In with Amendment

S. 338.

House proposal of amendment to Senate bill entitled:

An act relating to justice reinvestment.

Was taken up.

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

* * * Findings and Purpose * * *

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Almost 80 percent of sentenced Department of Corrections admissions are for people returned or revoked from furlough, parole, and probation, primarily driven by furlough violators.

(2) Nearly one-half of Vermont's sentenced prison population at the end of FY 2019 consisted of people who were returned from community supervision, primarily furlough.

(3) Nearly 80 percent of furlough returns to incarceration are due to technical violations rather than new crime offenses.

(4) A decrease of 106–135 people would represent an 8–10 percent drop in the sentenced incarceration population and could mean a 40–50 percent reduction in the out-of-state contract population.

(5) Revocations and returns from supervision are driving a large share of prison admissions, and limited funding leaves large numbers of high-risk people without the programs and services they need to succeed in the community.

(6) Over the past three years, the average annual proportion of admissions to sentenced incarceration that were persons returning or being revoked from furlough, parole, and probation was 78 percent.

(7) Vermont incarcerates more persons than current facilities can accommodate, and the incarceration population is growing.

(b) The purpose of this act is to:

(1) Improve public safety in Vermont, while creating immediate opportunities to reduce recidivism and achieve long-term savings by reducing contract bed needs significantly.

(2) Make evidence-based programming available to individuals transitioning back into the community in order to support their transition and reduce violations, revocations, and reincarceration.

(3) Streamline the furlough system to eliminate multiple furlough statuses without limiting the availability of supervision within the community for inmates.

* * * Parole * * *

Sec. 2. 28 V.S.A. § 402 is amended to read:

§ 402. DEFINITIONS

Whenever As used in this chapter:

(1) “Parole” means the release of an inmate to the community by the Parole Board before the end of the inmate’s sentence subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner. If a court or other authority files a warrant or detainer against an inmate, the Board may release him or her on parole to answer the warrant and serve any subsequent sentences.

(2) “Interview” means an appearance by the inmate at a meeting of the Parole Board.

(3) “Review” means an evaluation of an inmate’s records without an appearance by the inmate before the Parole Board.

Sec. 3. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

An inmate who is serving a sentence of imprisonment who is not eligible for presumptive parole pursuant to section 501a of this title shall be eligible for parole consideration as follows:

(1) If the inmate’s sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate’s sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence.

Sec. 4. 28 V.S.A. § 501a is added to read:

§ 501a. PRESUMPTIVE PAROLE

An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the expiration of the inmate's minimum or aggregate minimum term of imprisonment if the inmate:

(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;

(2) has no outstanding warrants, detainers, commitments, or pending charges;

(3) is compliant with the required services and programming portion of the inmate's case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate's minimum term if the inmate is incarcerated for 90 days or more;

(4) is compliant with the conditions of supervision if the offender is supervised in the community on furlough during:

(A) the entire period of supervision if the term of supervision is less than 90 days; or

(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;

(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;

(6) has not had parole revoked on the inmate's current sentence; and

(7) is not serving a sentence for committing a crime specified in 13 V.S.A. § 5301.

Sec. 5. 28 V.S.A. § 501a is amended to read:

§ 501a. PRESUMPTIVE PAROLE

An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the expiration of the inmate's minimum or aggregate minimum term of imprisonment if the inmate:

(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;

(2) has no outstanding warrants, detainers, commitments, or pending charges;

(3) is compliant with the required services and programming portion of the inmate's case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate's minimum term if the inmate is incarcerated for 90 days or more;

(4) is compliant with the conditions of the offender's supervision if the offender is supervised in the community on furlough during:

(A) the entire period of supervision if the term of supervision is less than 90 days; or

(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;

(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months, or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;

(6) has not had parole revoked on the inmate's current sentence; and

(7) is not serving a sentence for committing a crime specified in ~~13 V.S.A. § 5301~~ 33 V.S.A. § 5204(a).

Sec. 6. 28 V.S.A. § 502 is amended to read:

§ 502. PAROLE INTERVIEWS AND REVIEWS

(a) The Board shall interview each inmate eligible for parole consideration under section 501 of this title before ordering the inmate released on parole. The Board shall consider all pertinent information regarding an inmate in order to determine the inmate's eligibility for parole. The Board may grant parole only after an inmate is interviewed in accordance with this section. The Parole Board may conduct the interview in person, by telephone or videoconference, or by any other method it deems appropriate.

(b) An initial interview of the inmate shall occur at least 30 days prior to the date when the inmate becomes eligible for parole consideration under section 501 of this title.

(c) An inmate eligible for parole consideration shall, subsequent to the initial interview provided for above, be reviewed and interviewed thereafter, as follows:

~~(1) If the inmate is serving a maximum sentence of less than 15 years:~~

~~(A) the Board shall review the inmate's record once every 12 months;~~

~~(B)(2) the Board shall conduct an interview of the inmate at the request of the Department; and~~

~~(C)(3) upon written request of the inmate, the Board shall conduct an interview, but not more than once in any two-year period annually.~~

~~(2) If the inmate is serving a sentence with a maximum of 15 years up to a maximum of life:~~

~~(A) the Board shall review the inmate's record once every two years;~~

~~(B) the Board shall conduct an interview of the inmate at the request of the Department; and~~

~~(C) upon written request of the inmate, the Board may conduct an interview, but not more than once in any two-year period.~~

(d) The Board in its discretion may hear from attorneys or other persons with an interest in the case before the Board. A person presenting statements to the Board may be required to submit the statement in writing.

(e) Interviews and reviews shall be conducted in accordance with the rules and regulations established by the Board, which shall be consistent with this section.

(f) The Board may, when formulating the conditions of a parole, shall take into consideration the emotional needs of the victim of an offender's crime plus the needs of the victim's family.

Sec. 7. 28 V.S.A. § 502a is amended to read:

§ 502a. RELEASE ON PAROLE

(a) ~~No~~ Except as otherwise provided in subsection (d) of this section and section 501 of this title, no inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.

(b) An inmate who is not eligible for presumptive parole pursuant to section 501a of this title shall be released on parole by the written order of the Parole Board if the Board determines:

(1) the inmate is eligible for parole;

(2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and

(3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.

(c) A parole under subsection (b) or (e) of this section shall be ordered only for the best interests of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence, or a conditional pardon.

(d) Notwithstanding subsection (a) or (e) of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or suitable housing accommodation as specified by the Parole Board. Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate's diagnosis of a terminal or serious medical condition. As used in this subsection, a "serious medical condition" does not mean a condition caused by noncompliance with a medical treatment plan.

(e)(1) The Department shall identify each inmate meeting the presumptive parole eligibility criteria in section 501a of this title and refer each eligible inmate who does not meet the risk criteria set forth in subdivision (2) of this subsection to the Parole Board for an administrative review at least 60 days prior to the inmate's eligibility date.

(2) The Department shall screen each inmate it identifies as eligible for presumptive parole for the risk criteria set forth in this subdivision. If the Department determines that, based on clear and convincing evidence, there is a reasonable probability that the inmate's release would result in a detriment to the community, or that the inmate is not willing and capable of fulfilling the obligations of parole, the Department shall, at least 60 days prior to the inmate's eligibility date, refer the inmate to the Parole Board for a parole hearing.

(3)(A) Within 30 days of the inmate's eligibility date, the Parole Board shall conduct an administrative review of each inmate the Department identifies as eligible for presumptive release who does not meet the risk criteria set forth in subdivision (2) of this subsection. The Board may deny

presumptive release and set a hearing if it determines, through its administrative review, that a victim or victims should have the opportunity to participate in a parole hearing. If the Board determines there is a victim or victims who should be notified, the Department shall notify the victim or victims, and the Board shall provide them with the opportunity to participate in a parole hearing.

(B) The Parole Board shall conduct a parole hearing pursuant to section 502 of this title for each eligible inmate that the Department determines meets the risk criteria in subdivision (2) of this subsection.

* * * Furlough * * *

Sec. 8. 28 V.S.A. § 808 is amended to read:

§ 808. TEMPORARY FURLOUGHS GRANTED TO OFFENDERS

(a) The Department may extend the limits of the place of confinement of an offender at any correctional facility if the offender agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender's furlough. The Department may authorize a temporary furlough for a defined period for any of the following reasons:

- (1) ~~To~~ to visit a critically ill relative;
- (2) ~~To~~ to attend the funeral of a relative;
- (3) ~~To~~ to obtain medical services;
- (4) ~~To~~ to contact prospective employers;
- (5) ~~To~~ to secure a suitable residence for use upon discharge.

~~(6) To continue the process of reintegration initiated in a correctional facility. The offender may be placed in a program of conditional reentry status by the Department upon the offender's completion of the minimum term of sentence. While on conditional reentry status, the offender shall be required to participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.~~

(b) An offender granted a temporary furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the Commissioner, during the period of the offender's furlough. The Department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.

(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the offender, but shall constitute solely a permitted extension of the limits of the place of confinement for offenders committed to the custody of the Commissioner.

(d) When any enforcement officer, as defined in 23 V.S.A. § 4²; employee of the Department²; or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the temporary furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.

(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum term of the sentence, who is diagnosed with a terminal or serious medical condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the Commissioner. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.

~~(f) While appropriate community housing is an important consideration in release of offenders, the Department shall not use lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the offender will be served by reentering the community on furlough. The Department shall adopt rules to implement this subsection. [Repealed.]~~

(g) ~~Subsections (b)-(f)~~ Subsection (b) of this section shall also apply to sections 808a and 808c of this title.

Sec. 9. 28 V.S.A. § 808a is amended to read:

§ 808a. TREATMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the Department in the community that reduce the offender’s risk to reoffend or that provide reparation to the community in the form of

supervised work activities.

(b) Provided the approval of the sentencing judge, if available, otherwise a Superior Court judge, is first obtained, the Department may place on treatment furlough an offender who has not yet served the minimum term of the sentence, who, in the Department's determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the Department has determined should be addressed in order to reduce the offender's risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The State's share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within State agencies reflective of their shared responsibilities to maximize the efficient and effective use of State resources. In the event that a memorandum of agreement cannot be reached, the Secretary of Administration shall make a final determination as to the manner in which costs will be allocated.

~~(c)(1) Except as provided in subdivision (2) of this subsection, the Department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.~~

~~(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection. [Repealed.]~~

Sec. 10. 28 V.S.A. § 723 is amended to read:

§ 723. CONDITIONAL REENTRY COMMUNITY SUPERVISION
FURLOUGH

(a) ~~When a sentenced offender has served the minimum term of the total effective sentence, the~~ The Department may release the offender from a correctional facility ~~under section 808 of this title for the offender to participate in a reentry program while serving the remaining sentence in the community a person who:~~

(1) has served the minimum term of the person's total effective sentence;

(2) is ineligible for or refuses presumptive parole pursuant to section 501a of this title or has been returned or revoked to prison for a violation of conditions of parole, furlough, or probation; and

(3) agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that person's furlough.

(b) The offender's continued supervision in the community is conditioned on the offender's commitment to and satisfactory progress in his or her reentry program and on the offender's compliance with any terms and conditions identified by the Department.

(c) Prior to release under this section, the Department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use the results of this assessment in preparing a reentry plan. The Department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.

Sec. 11. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF CONDITIONAL REENTRY
COMMUNITY SUPERVISION FURLOUGH

The Department shall identify in the terms and conditions of ~~conditional reentry~~ community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

Sec. 12. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF COMMUNITY SUPERVISION
FURLOUGH

(a) Authority of the Department. The Department shall identify in the terms and conditions of community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of

community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

(b) 30-day interrupt or revocation. Any interruption of an offender's community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if duration of the interruption will be thirty days or longer.

(c) Appeal. An offender whose furlough status is revoked or interrupted for 30 days or longer shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interrupt for 30 days or longer pursuant to subsection (d) of this section.

(d) Technical violations.

(1) As used in this section, "technical violation" means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department's discretion to revoke furlough or interrupt furlough status for 30 days or longer for a technical violation, unless:

(A) the offender's risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; or

(B) the violation or pattern of violations indicates the offender poses a danger to others or to the community or poses a threat to abscond or escape from furlough.

Sec. 13. 28 V.S.A. § 725 is amended to read:

§ 725. PAROLE HEARING FOR OFFENDERS ON ~~CONDITIONAL~~
~~REENTRY~~ COMMUNITY SUPERVISION FURLOUGH

(a) The Department shall submit to the Parole Board a recommendation relative to whether the offender should be released to parole pursuant to section ~~502a~~ 501 of this title when:

(1) an offender sentenced solely for the commission of one or more unlisted crimes has, in the sole discretion of the Department, successfully

completed 90 days of community supervision in a conditional reentry program furlough; or

(2) an offender sentenced for the commission of at least one or more listed crimes has, in the sole discretion of the Department, successfully completed 180 days of community supervision in a conditional reentry program furlough.

Sec. 14. 28 V.S.A. § 818 is amended to read:

§ 818. EARNED GOOD TIME; REDUCTION OF TERM

(a) On or before ~~July 1, 2020~~ September 1, 2020, the Department of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good time program to become effective on January 1, 2021. The Commissioner shall adopt rules to carry out the provisions of this section as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

(b) The earned good time program implemented pursuant to this section shall comply with the following standards:

(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to section 811 of this title, or to offenders sentenced to life without parole. Offenders currently serving a sentence shall be eligible to begin earning a reduction in term when the earned good time program becomes effective.

(2) Offenders shall earn a reduction of ~~five~~ seven days in the minimum and maximum sentence for each month during which the offender:

(A) is not adjudicated of a major disciplinary rule violation; and

(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision; and

~~(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.~~

(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one

day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall not be eligible for good time except as provided in this subsection.

(4) The Department shall:

(A) ensure that all victims of record are notified of the earned good time program at its outset and made aware of the option to receive notifications from the Department pursuant to this subdivision;

(B) provide timely notice ~~no~~ not less frequently than every 90 days to the offender ~~and to any victim of record~~ any time the offender receives a reduction in his or her term of supervision pursuant to this section, ~~and the Department shall;~~

(C) maintain a system that documents and records all such reductions in each offender's permanent record; and

(D) record any reduction in an offender's term of supervision pursuant to this section on a monthly basis and ensure that victims who want information regarding changes in scheduled release dates have access to such information.

~~(5) The program shall become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843.~~

Sec. 15. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM CUSTODY

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough, or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential. The prosecutor's office shall ensure that victims are made aware of their right to notification of an offender's scheduled release date pursuant to this section.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 16. 28 V.S.A. § 808d is amended to read:

§ 808d. DEFINITION; ELIGIBLE MISDEMEANOR; FURLOUGH AT
THE DISCRETION OF THE DEPARTMENT

~~For purposes of sections 808a-808e~~ As used in section 808c of this title, "eligible misdemeanor" means a misdemeanor crime that is not one of the following crimes:

* * *

* * * Absconding and Escape * * *

Sec. 17. 28 V.S.A. § 808e is amended to read:

§ 808e. ABSCONDING FROM FURLOUGH; WARRANT

(a) The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of ~~subdivision subsection~~ subsection 808(a)(6), ~~subsection 808(e) or 808(f)~~, or section 808a, 808b, or 808c of this title, requiring the person to be returned to a correctional facility. A law enforcement officer who is provided with a warrant issued pursuant to this section shall execute the warrant and return the person who has absconded from furlough to the Department of Corrections.

(b) A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

Sec. 18. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

(a) A person who, while in lawful custody:

(1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or

(2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or if the person was in custody as a result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.

(b)(1) A person shall not, while in lawful custody:

(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 808(a)(1)–(5) or § 723;

(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.

(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

(3) ~~It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this subsection (b) if~~ If the person is on furlough status pursuant to 28 V.S.A. § 808(a)(6)723, 808(e), 808(f), or 808a, 808b, or 808e a violation of this subdivision (1) of this subsection requires a showing that the person intended to escape from furlough.

(c) All sentences imposed under subsection (a) of this section shall be consecutive to any term or sentence being served at the time of the offense.

(d) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the Department of Mental Health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the Commissioner in contract.

(2) “Participating hospital” means a hospital under contract with the Department of Mental Health to participate in the no refusal system.

(3) [Repealed.]

* * * Reports to General Assembly * * *

Sec. 19. RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM
STUDY AND RECOMMENDATIONS; VERMONT
SENTENCING COMMISSION

(a) During the 2020 legislative interim, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Executive Director of Racial Equity, the Chief Superior Judge, the Attorney General, the Defender General, the Department of Corrections, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work with Crime Research Group to identify existing data that explores the relationships between demographic factors and sentencing outcomes and determine whether and where current data systems and collections are insufficient for additional analyses and what staffing or resources are needed to support more robust reporting. Relevant data shall include plea agreements, sentence types and length, criminal history, offense severity, and any other metric that may further identify differences in how people are charged and sentenced by county, race, and gender. The stakeholders identified in this subsection shall also:

(1) Perform an initial analysis of sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities and make any related proposals for legislative action, including recommendations for further study.

(2) Jointly report their findings pursuant to this subsection and any associated recommendations pursuant to subdivisions (1) and (2) of this subsection to the Joint Legislative Justice Oversight Committee and the Vermont Sentencing Commission on or before December 1, 2020. The report shall include any dissenting opinions among the stakeholders.

(b)(1) The Vermont Sentencing Commission shall consider relevant findings and recommendations developed by the stakeholder group pursuant to subsection (a) of this section and:

(A) consider whether changes to Vermont's sentencing structure are necessary to address the findings and implement the recommendations developed by the stakeholder group; and

(B) if it deems appropriate, issue nonbinding guidance for offenses for which there are racial and geographic disparities in sentencing.

(2) On or before February 26, 2021, the Vermont Sentencing Commission shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on its determinations pursuant to subdivision (1) of this subsection.

Sec. 20. PAROLE REPORT; JUDICIARY; PAROLE BOARD

On or before January 15, 2022, the Chair of the Vermont Parole Board shall report to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions on the implementation of presumptive parole as established by 28 V.S.A. §§ 501a and 502a. The report shall include an analysis of the current administrative burden of presumptive parole and the anticipated administrative burden of expanding presumptive parole eligibility to offenders who have committed a listed crime as defined in 13 V.S.A. § 5201.

Sec. 21. JUSTICE REINVESTMENT II WORKING GROUP; OVERSIGHT AND IMPLEMENTATION OF JUSTICE REINVESTMENT II

(a) Justice Reinvestment II Working Group. The Justice Reinvestment II Working Group, established by the Governor in Executive Order 03-19, shall oversee the implementation of Justice Reinvestment II as provided in this section. A representative of the Vermont Parole Board shall join the Justice Reinvestment II Working Group to carry out the duties set forth in this section.

(b) Duties. The Working Group shall provide oversight over the rollout of Justice Reinvestment II, including the implementation of case reviews and releases for individuals newly eligible for presumptive parole, calculations of earned good time for eligible individuals within Department of Corrections facilities, and the Department's efforts to assess how its graduated sanctions are implemented in local field offices in compliance with Sec. 23 of this act. The Working Group shall also work with the Council on State Governments to:

(1) based on the information provided by the Agency of Human Services pursuant to Sec. 22 of this act, identify current screening, assessment, and case planning gaps for incarcerated individuals and propose system improvements for minimizing gaps in screening and assessment and ensuring case plans reflect both the individual's identified criminogenic and behavioral health needs;

(2) identify tools to assist in identifying specific offender risk factors that can be targeted with services and treatment programs based on evidence-based practices shown to be effective in reducing recidivism;

(3) determine how to share information about risk assessments and available Department and community-based programming among each other to inform plea agreement, sentencing, and probation revocation decisions;

(4) study the efficacy of using probation as a presumptive sentencing structure for certain types of offenses for which connections to community-based programming leads to better outcomes;

(5) evaluate the policy of probationers earning one day of credit towards their suspended sentence for each day served on probation without violation, including:

(A) how best to implement such a policy without impacting the length of probation terms or suspended sentences imposed;

(B) whether the credit accrued should apply to both the minimum and maximum suspended sentences;

(C) whether accrual of credit equal to the imposed maximum term of imprisonment or statutory maximum term of imprisonment for the offense should result in the termination and discharge of probation; and

(D) whether terms of probation for misdemeanors should be for a specific duration, not to exceed two years, or if the court should have discretion to impose a longer term in the interests of justice;

(6) explore additional options, including an option modeled after probation midpoint reviews provided for in 28 V.S.A. § 252(d), for allowing release from probation prior to the end of the imposed probation term, either in addition to or instead of a policy for providing one day of credit towards a suspended sentence for each day served on probation without violation as detailed in subdivision (5) of this subsection;

(7) evaluate the appeal process set forth in Sec. 12 of this Act for offenders on community supervision furlough who are returned to a correctional facility for 30 days or longer for a technical violation as an appropriate due process mechanism for offenders returned from furlough;

(8) develop funding and appropriation recommendations for future justice reinvestments; and

(9) recommend any necessary legislative action based on information gathered during the implementation of this act.

(c) Reports.

(1) On or before January 15, 2021, the Working Group shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on the results of its work pursuant to subdivisions (2)–(7) of subsection (b) of this section and suggested legislative action regarding probation and earned credit on probation, a process by which offenders may appeal certain furlough revocations or interrupts by the Department, and how to ensure sentencing, revocation, and plea agreement decisions are informed by available programming, including community treatment programs and individual risk assessment information.

(2) On or before January 15, 2022, the Working Group shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions with its findings pursuant to subsection (b) of this section and any recommendations for legislative action.

Sec. 22. AGENCY OF HUMAN SERVICES; REPORT TO JUSTICE
REINVESTMENT II WORKING GROUP

On or before December 1, 2020, the Agency of Human Services, with assistance from the Council of State Governments Justice Center, shall coordinate the provision of the following information to the Justice Reinvestment II Working Group:

(1) the nature and scope of available screening and assessment of mental health and substance use needs among incarcerated populations, and how screening and assessment results inform case plans for sentenced individuals while they are incarcerated and prior to their release into community supervision, including individuals on probation; and

(2) the existing behavioral health collaborative care coordination and case management protocols that serve people in Department of Corrections custody or supervision and any existing challenges to information sharing between service providers and the Department.

Sec. 23. 2020 Acts and Resolves No. 88, Sec. 70a is amended to read:

Sec. 70a. DEPARTMENT OF CORRECTIONS; GRADUATED
SANCTIONS; REENTRY HOUSING; REPORT

(a) On or before ~~April 1, 2020~~ January 15, 2021, the Department of Corrections shall report to the Senate Committee on Judiciary, the House Committee on Corrections and Institutions, and the House and Senate Committees on Appropriations on how to strengthen existing graduated sanctions and incentives policies to ensure they reflect current research on best practices for responses to violation behavior that most effectively achieve behavior change and uphold public safety. The Department shall also identify reentry housing needs for corrections populations. As a part of this work, the Department shall submit its recommendations including initial cost estimates regarding:

(1) formalizing the use of ~~incentives and sanctions~~ positive to negative reinforcements in supervision practices at a 4:1 ratio and require ~~incentives reinforcements~~ to be entered and tracked in the community supervision case management system;

* * *

Sec. 24. REPEALS

28 V.S.A. § 808b (home confinement furlough) and 28 V.S.A. § 808c (reintegration furlough) are repealed on January 1, 2021.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) This section and Secs. 14 (earned good time; reduction of term) and 25 (repeals) shall take effect on passage.

(b) Sec. 12 (terms and conditions of community supervision furlough) shall take effect on July 1, 2021.

(c) Sec. 5 (presumptive parole) shall take effect on January 1, 2023.

(d) All other sections shall take effect on January 1, 2021.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Sears, Baruth, Benning, Nitka and White moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: By striking out Sec. 11, 28 V.S.A. § 724, in its entirety and inserting in lieu thereof the following:

Sec. 11. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF CONDITIONAL REENTRY
COMMUNITY SUPERVISION FURLOUGH

(a) Authority of the Department. The Department shall identify in the terms and conditions of ~~conditional reentry~~ community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

(b) 90-day interruption or revocation. Any interruption of an offender's community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if the interruption will be 90 days or longer.

(c) Appeal. An offender whose furlough status is revoked or interrupted for 90 days or longer shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based

on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interruption for 90 days or longer pursuant to subsection (d) of this section.

(d) Technical violations.

(1) As used in this section, “technical violation” means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department’s discretion to revoke furlough or interrupt furlough status for 90 days or longer for a technical violation, unless:

(A) the offender’s risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; or

(B) the violation or pattern of violations indicate the offender poses a danger to others or to the community or poses a threat to abscond or escape from furlough.

Second: By striking out Sec. 12, 28 V.S.A. § 724, in its entirety and inserting in lieu thereof the following:

Sec. 12. [Deleted].

Third: In Sec. 21, Justice Reinvestment II Working Group, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Oversight and implementation of Justice Reinvestment II. Subject to the availability of Bureau of Justice Assistance funding for the involvement of the Council of State Governments, the Justice Reinvestment II Working Group, established by the Governor in Executive Order 03-19, shall oversee the implementation of Justice Reinvestment II as provided in this section. A representative of the Vermont Parole Board shall join the Justice Reinvestment II Working Group to carry out the duties set forth in this section. In the event that such federal funding is not available, the duties set forth in subsection (b) of this section shall be carried out by the Joint Legislative Justice Oversight Committee in consultation with the members of the Justice Reinvestment II Working Group and a representative of the Vermont Parole Board, and any resulting recommendations of the Committee shall be introduced in the form of proposed legislation for the 2021 or 2022 legislative session.

Fourth: In Sec. 21, Justice Reinvestment II Working Group, in subsection (b), by striking out subdivision (7) in its entirety and inserting in lieu thereof the following:

(7) evaluate the policy of parole eligibility for older adult inmates who are not serving a sentence of life without parole and who have served a portion of their sentence but not the minimum term;

Fifth: In Sec. 21, Justice Reinvestment II Working Group, subdivision (c)(1), by striking out the words “, a process by which offenders may appeal certain furlough revocations or interrupts by the Department,”

Sixth: In Sec. 26, effective dates, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

(a) This section and Secs. 14 (earned good time; reduction of term), 19 (racial disparities in the criminal justice system study and recommendations; Vermont Sentencing Commission), 21 (Justice Reinvestment II Working Group; oversight and implementation of Justice Reinvestment II), 22 (Agency of Human services; report to Justice Reinvestment II Working Group), and 25 (repeals) shall take effect on passage.

And by relettering the remaining subsections to be alphabetically correct.

Which was agreed to.

Third Reading Ordered

H. 650.

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

An act relating to boards and commissions.

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 Messaged

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

S. 338, H. 961.

Rules Suspended; Bill Delivered

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

S. 128.

Adjournment

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.