

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred Senate Bill No.  
3 135 entitled “An act relating to promoting economic development” respectfully  
4 reports that it has considered the same and recommends that the House propose  
5 to the Senate that the bill be amended as follows:

6 First: By striking out Secs. J–J.3, Tax Increment Financing Districts, in  
7 their entirety and inserting in lieu thereof the following:

8 \* \* \* Tax Increment Financing Districts\* \* \*

9 Sec. J. TAX INCREMENT FINANCING; FINDINGS

10 The General Assembly finds that the State of Vermont has an important role  
11 to play in creating the infrastructure necessary to support downtown  
12 development and revitalization, particularly in distressed communities.

13 Sec. J.1. 24 V.S.A. § 1892 is amended to read:

14 § 1892. CREATION OF DISTRICT

15 (a) Upon a finding that such action will serve the public purposes of this  
16 subchapter and subject to subsection (d) of this section, the legislative body of  
17 any municipality may create within its jurisdiction a special district to be  
18 known as a tax increment financing district. The district shall be described by  
19 its boundaries and the properties therein and the district boundary shall be  
20 shown on a plan entitled “Proposed Tax Increment Financing District

1 (municipal name), Vermont.” The legislative body shall hold one or more  
2 public hearings, after public notice, on the proposed plan.

3 \* \* \*

4 (d) The following municipalities have been authorized to use education tax  
5 increment financing for a tax increment financing district, ~~and the Vermont~~  
6 ~~Economic Progress Council is not authorized to approve any additional tax~~  
7 ~~increment financing districts even if one of the districts named in this~~  
8 ~~subsection is terminated pursuant to subsection 1894(a) of this subchapter:~~

9 (1) the City of Burlington, Downtown;

10 (2) the City of Burlington, Waterfront;

11 (3) the Town of Milton, North and South;

12 (4) the City of Newport;

13 (5) the City of Winooski;

14 (6) the Town of Colchester;

15 (7) the Town of Hartford;

16 (8) the City of St. Albans;

17 (9) the City of Barre; ~~and~~

18 (10) the Town of Milton, Town Core; and

19 (11) the City of South Burlington.

20 (e) Annually, the General Assembly may use the estimate of the maximum  
21 amount of new long-term net debt that prudently may be authorized for tax

1 increment financing districts in the next fiscal year prepared pursuant to  
2 32 V.S.A. § 305b to determine whether to expand the number of tax increment  
3 financing districts.

4 Sec. J.2. ADDITIONAL TIF DISTRICTS; FINDINGS; APPROVAL

5 (a) The General Assembly finds that:

6 (1) the City of Newport has retired its tax increment financing district  
7 and all debt incurred in the district was repaid in 2015; and

8 (2) the Town of Colchester voted to dissolve its tax increment financing  
9 district in November 2014.

10 (b) Notwithstanding 24 V.S.A. § 1892(d), and as a result of the termination  
11 of the two tax increment financing districts described in subsection (a) of this  
12 section, the Vermont Economic Progress Council is authorized to approve two  
13 additional tax increment financing districts.

14 Sec. J.3. 24 V.S.A. § 1894 is amended to read:

15 § 1894. POWER AND LIFE OF DISTRICT

16 (a) Incurring indebtedness.

17 (1) A municipality approved under 32 V.S.A. § 5404a(h) may incur  
18 indebtedness against revenues of the tax increment financing district at any  
19 time during a period of up to five years following the creation of the district. If  
20 no debt is incurred during this five-year period, the district shall terminate,  
21 unless the Vermont Economic Progress Council grants an extension to a

1 municipality pursuant to subsection (d) of this section. However, if any  
2 indebtedness is incurred within the first five years after the creation of the  
3 district, then the district has a total of ten years after the creation of the district  
4 to incur any additional debt.

5 \* \* \*

6 (c) Use of the municipal property tax increment. For only debt incurred  
7 within the period permitted under subdivision (a)(1) of this section after  
8 creation of the district, and related costs, ~~not less than an equal share~~ 100  
9 percent of the municipal tax increment ~~pursuant to subsection (f) of this section~~  
10 shall be retained to service the debt, beginning the first year in which debt is  
11 incurred, pursuant to subsection (b) of this section.

12 \* \* \*

13 (f) ~~Equal share required~~ Required share of increment. If any tax increment  
14 utilization is approved pursuant to 32 V.S.A. § 5404a(h), ~~no~~ not more than 75  
15 percent of the State property tax increment and ~~no~~ not less than ~~an equal~~  
16 ~~percent~~ 100 percent of the municipal tax increment may be approved by the  
17 Council or used by the municipality to service this debt.

18 \* \* \*

19 Sec. J.4. 32 V.S.A. § 305b is added to read:

20 § 305b. EDUCATION PROPERTY TAX INCREMENT; EMERGENCY

21 BOARD ESTIMATE

1        (a) Annually, at the January meeting of the Emergency Board held pursuant  
2        to section 305a of this title, the Joint Fiscal Office and the Secretary of  
3        Administration shall provide to the Emergency Board a consensus estimate of  
4        forgone revenue from the Education Fund resulting from the retention of  
5        education property tax increment by tax increment financing districts  
6        authorized pursuant to 24 V.S.A. chapter 53 and section 5404a of this title.  
7        The estimate shall be for the succeeding fiscal year. The Emergency Board  
8        shall adopt an official estimate of forgone revenue from the Education Fund at  
9        the January meeting.

10       (b) Annually, on or before September 30 of each year, the Emergency  
11       Board shall review the size and affordability of the net indebtedness for tax  
12       increment financing districts and submit to the Governor and to the General  
13       Assembly an estimate of the maximum amount of new long-term net debt that  
14       prudently may be authorized for tax increment financing districts in the next  
15       fiscal year. The estimate of the Board shall be advisory, and shall take into  
16       consideration:

17           (1) any existing or new debt incurred by authorized tax increment  
18           financing districts; and

19           (2) the impact of the amount of the indebtedness on the General and  
20           Education Funds.

1 Sec. J.5. 16 V.S.A. § 4025 is amended to read:

2 § 4025. EDUCATION FUND

3 (a) ~~An~~ The Education Fund is established to comprise the following:

4 (1) All revenue paid to the State from the statewide education tax on  
5 nonresidential and homestead property under 32 V.S.A. chapter 135.

6 (2) For each fiscal year, the amount of the general funds appropriated  
7 and transferred to the Education Fund shall be \$305,900,000.00, to be  
8 increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal  
9 Office and Administration determination of the National Income and Product  
10 Accounts (NIPA) Implicit Price Deflator for State and Local Government  
11 Consumption Expenditures and Gross Investment as reported by the U.S.  
12 Department of Commerce, Bureau of Economic Analysis through the fiscal  
13 year for which the payment is being determined, plus an additional one-tenth  
14 of one percent, plus an amount equal to one-half of the official estimate of  
15 forgone revenue from the Education Fund adopted by the Emergency Board  
16 pursuant to section 305b of this title.

17 \* \* \*

18 Sec. J.6. 32 V.S.A. § 5404a(h) is amended to read:

19 (h) Criteria for approval. To approve utilization of incremental revenues  
20 pursuant to subsection (f) of this section, the Vermont Economic Progress  
21 Council shall do all the following:

1           (1) ~~Review~~ Conduct a review of each application to determine that the  
2 new real property development would not have occurred or would have  
3 occurred in a significantly different and less desirable manner but for the  
4 proposed utilization of the incremental tax revenues. The review that shall take  
5 into account:

6           (A) the amount of additional time, if any, needed to complete the  
7 proposed development within the tax increment district and the amount of  
8 additional cost that might be incurred if the project were to proceed without  
9 education property tax increment financing;

10           (B) how the proposed development components and size would  
11 differ, if at all, including, if applicable to the development, in the number of  
12 units of affordable housing, as defined in 24 V.S.A. § 4303, without education  
13 property tax increment financing; and

14           (C) the amount of additional revenue expected to be generated as a  
15 result of the proposed development; the percentage of that revenue that shall be  
16 paid to the ~~education fund~~ Education Fund; the percentage that shall be paid to  
17 the municipality; and the percentage of the revenue paid to the municipality  
18 that shall be used to pay financing incurred for development of the tax  
19 increment financing district.

20   \* \* \*

1           (3) Location criteria. Determine that each application meets one of the  
2 following criteria:

3           (A) The development or redevelopment is compact, high density, and  
4 located in or near existing industrial areas.

5           (B) The proposed district is within an approved growth center,  
6 designated downtown, designated village center, ~~or~~ new town center, or  
7 neighborhood development area.

8           (C) The development will occur in an area that is economically  
9 distressed, which for the purposes of this subdivision means that the ~~area has~~  
10 ~~experienced patterns of increasing unemployment, a drop in average wages, or~~  
11 ~~a decline in real property values~~ municipality in which the area is located has  
12 at least one of the following:

13           (i) a median family income that is not more than 80 percent of the  
14 statewide median family income as reported by the Vermont Department of  
15 Taxes for the most recent year for which data are available;

16           (ii) an annual average unemployment rate that is at least one  
17 percent greater than the latest annual average statewide unemployment rate as  
18 reported by the Vermont Department of Labor; or

19           (iii) a median sales price for residential properties under six acres  
20 that is not more than 80 percent of the statewide median sales price for



1 residential properties under six acres as reported by the Vermont Department  
2 of Taxes.

3 (4) Project criteria. Determine that the proposed development within a  
4 tax increment financing district will accomplish at least three of the following  
5 five criteria:

6 (A) The development within the tax increment financing district  
7 clearly requires substantial public investment over and above the normal  
8 municipal operating or bonded debt expenditures.

9 (B) The development includes new or rehabilitated affordable  
10 ~~housing that is affordable to the majority of the residents living within the~~  
11 ~~municipality and is developed at a higher density than at the time of~~  
12 ~~application. “Affordable” has the same meaning as in 10 V.S.A. § 6001(29),~~  
13 as defined in 24 V.S.A. § 4303.

14 (C) The project will affect the remediation and redevelopment of a  
15 brownfield located within the district. As used in this section, “brownfield”  
16 means an area in which a hazardous substance, pollutant, or contaminant is or  
17 may be present, and that situation is likely to complicate the expansion,  
18 development, redevelopment, or reuse of the property.

19 (D) The development will include at least one entirely new business  
20 or business operation or expansion of an existing business within the district,  
21 and this business will provide new, quality high-quality, full-time jobs that

1 meet or exceed the prevailing wage for the region as reported by the  
2 ~~department of labor~~ Department of Labor.

3 (E) The development will enhance transportation by creating  
4 improved traffic patterns and flow or creating or improving public  
5 transportation systems.

6 Sec. J.7. 24 V.S.A. chapter 53, subchapter 5 is redesignated to read:

7 Subchapter 5. Statewide Tax Increment Financing

8 Sec. J.8. 24 V.S.A. chapter 53, subchapter 6 is added to read:

9 Subchapter 6. Municipal Tax Increment Financing

10 § 1903. DEFINITIONS

11 As used in this subchapter:

12 (1) “District” or “TIF” means a tax increment financing district.

13 (2) “Improvements” means the installation, new construction, or  
14 reconstruction of infrastructure to benefit a municipal tax increment financing  
15 district, including utilities, transportation, public facilities and amenities, land  
16 and property acquisition and demolition, and site preparation.

17 (3) “Legislative body” means the mayor and alderboard, the city  
18 council, the selectboard, or the president and trustees of an incorporated  
19 village, as appropriate.

20 (4) “Municipality” means a city, town, or incorporated village.

1           (5) “Original taxable value” means the total valuation as determined in  
2           accordance with 32 V.S.A. chapter 129 of all taxable real property located  
3           within the tax increment financing district as of the creation date as set forth in  
4           section 1904 of this subchapter, provided that no parcel within the district shall  
5           be divided or bisected by the district boundary.

6           (6) “Related costs” means expenses incurred and paid by the  
7           municipality, exclusive of the actual cost of constructing and financing  
8           improvements, that are directly related to the creation and implementation of a  
9           municipal tax increment financing district, including reimbursement of sums  
10           previously advanced by the municipality for those purposes, direct municipal  
11           expenses such as departmental or personnel costs related to creating or  
12           administering the project, and audit costs allocable to the district.

13           § 1904. MUNICIPAL TAX INCREMENT FINANCING DISTRICT

14           (a) General authority. Notwithstanding any provision of subchapter 5 of  
15           this chapter or 32 V.S.A. § 5404a to the contrary, upon approval of the  
16           legislative body of any municipality, a municipality may create a municipal tax  
17           increment financing district, and may incur debt to provide funding for  
18           improvements and related costs for the district.

19           (b) Municipal approval; voter approval.

20           (1) The legislative body of the municipality shall hold one or more  
21           public hearings to consider a municipal tax increment financing plan.

1 Following public notice, hearing, and opportunity to comment, the legislative  
2 body of the municipality may grant approval of the plan.

3 (2) When adopted by the act of the legislative body of that municipality,  
4 the plan shall be recorded with the municipal clerk and lister or assessor, and  
5 the creation of the district shall occur at 12:01 a.m. on April 1 of the calendar  
6 year so voted by the municipal legislative body.

7 (3) The municipality may only incur debt for the project if the voters of  
8 the municipality approve the debt obligation by a majority vote at a regular or  
9 special meeting for which voting upon the debt obligation was properly  
10 warned.

11 (4) Following final voter approval, the municipality has up to five years  
12 to incur debt pursuant to the financing plan.

13 (c) Life of district.

14 (1) A municipality may incur indebtedness against revenues of the  
15 municipal tax increment financing district over any period authorized by the  
16 legislative body of the municipality.

17 (2) Any indebtedness incurred under subdivision (1) of this subsection  
18 may be retired over any period authorized by the legislative body of the  
19 municipality.

1           (3) The district shall continue until the date and hour the indebtedness is  
2           retired or, if no debt is incurred, after the period authorized by the legislative  
3           body of the municipality to incur indebtedness.

4           (d) Financing. During the life of an active district, the following apply,  
5           notwithstanding any provision of law to the contrary:

6           (1) Valuation.

7           (A) Within 30 days of voter approval pursuant to subsection (b) of  
8           this section, the lister or assessor for a municipality shall certify to the  
9           legislative body of the municipality the original taxable value of a tax  
10           increment financing district as of the date the voters approved the debt  
11           obligation.

12           (B) On or before June 30 following voter approval and annually  
13           thereafter, the lister or assessor shall assess and certify to the legislative body  
14           the current value of a project parcel.

15           (2) Tax rate.

16           (A) The lister or assessor shall use the original taxable value of a  
17           project parcel when computing the municipal tax rate.

18           (B) When calculating the amount of tax due on a project parcel, the  
19           treasurer shall apply the municipal tax rate to the current assessed value, rather  
20           than the original taxable value.

1           (3) Tax increment.

2           (A) The “tax increment” is the amount of tax paid on a project parcel,  
3           as calculated pursuant to subdivision (2)(B) of this subsection (d) using the  
4           current assessed value, that exceeds the amount of tax that would have been  
5           due if the tax rate were applied to the original taxable value.

6           (B) The municipality may retain any share of the municipal tax  
7           increment to service the debt, beginning the first year in which debt is incurred.

8           (C) A municipal tax increment financing district created pursuant to  
9           this subchapter is not authorized to retain any education property tax  
10          increment.

11          (D) A municipality shall segregate the tax increment in a special  
12          account and in its official books and records.

13          (4) Use of tax increment.

14          (A) As of each date the municipality receives a tax payment and  
15          retains a portion of the tax increment pursuant to this section, the municipality  
16          shall use the portion of the municipal tax increment that is necessary to pay  
17          costs actually incurred as of that date for debt service and related costs.

18          (B) If, after paying for improvements and related costs, there remains  
19          any excess portion of the tax increment, the municipality may retain the  
20          increment to prepay principal and interest on the financing, use for future  
21          financing payments, or use for defeasance of the financing.

1           (e) Annual audit.

2                   (1) The municipality shall ensure that the segregated account for the tax  
3           increment financing district required by this section is subject to the annual  
4           audit requirements prescribed in sections 1681 and 1690 of this title.

5                   (2) Any audit procedures shall include verification of the original  
6           taxable value and current assessed value, expenditures for project debt service  
7           and related costs, annual and total tax increment funds generated, and  
8           allocation of tax increment funds.

9           Sec. J.9. IMPLEMENTATION

10                   Secs. J.1– J.3 and J.6 of this act shall apply only to tax increment financing  
11           district applications filed, and districts approved, on or after the date of passage  
12           of this act.

13                   Second: In Sec. A.1, 32 V.S.A. chapter 105, by striking out section 3341 in  
14           its entirety.

15                   Third: By redesignating Secs. H.9–H.10 as Secs. H.10–H.11 and inserting a  
16           new Sec. H.9 to read:

17           Sec. H.9. 32 V.S.A. § 5930bb(a) is amended to read:

18                   (a) Qualified applicants may apply to the State Board to obtain the tax  
19           credits provided by this subchapter for a qualified project at any time before  
20           ~~one year after~~ the completion of the qualified project.

1        Fourth: By inserting a Sec. M.3 to read:  
2        Sec. M.3. 2014 Acts and Resolves No. 179, Sec. G.100(b), as amended by  
3        2015 Acts and Resolves No. 51, Sec. G.9, and 2016 Acts and Resolves No.  
4        172, Sec. E.801, is further amended to read:

5        (b) Sec. E.100.6 (wood products manufacture incentive) shall take effect  
6        retroactively on January 1, 2014 and apply to tax years 2014, 2015, ~~and~~ 2016,  
7        2017, and 2018.

8        Fifth: In Sec. N.1, Effective Dates, in subsection (a), by striking out “J-J.3”  
9        and inserting in lieu thereof “J-J.9”

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13        (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE