

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 642 entitled “An act relating to tax increment project
4 development financing” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 24 V.S.A. 1892(d) is amended to read:

8 (d) The following municipalities have been authorized to use education tax
9 increment financing for a tax increment financing district:

10 (1) the City of Burlington, Downtown;

11 (2) the City of Burlington, Waterfront;

12 (3) ~~the Town of Milton, North and South~~ Town of Bennington;

13 (4) ~~the City of Newport~~ City of Montpelier;

14 (5) the City of Winooski;

15 (6) ~~the Town of Colechester~~;

16 (7) ~~the Town of Hartford~~;

17 (8) ~~(7)~~ the City of St. Albans;

18 (9) ~~(8)~~ the City of Barre;

19 (10) ~~(9)~~ the Town of Milton, Town Core; and

20 (11) ~~(10)~~ the City of South Burlington.

1 Sec. 2. TAX INCREMENT FINANCING PROJECT DEVELOPMENT;

2 PILOT PROGRAM

3 (a) Definitions. As used in this section:

4 (1) “Committed” means pledged and appropriated for the purpose of the
5 current and future payment of tax increment financing and related costs as
6 defined in this section.

7 (2) “Financing” means debt incurred, including principal, interest, and
8 any fees or charges directly related to that debt, or other instruments or
9 borrowing used by a municipality to pay for improvements for the approved
10 project, only if authorized by the legal voters of the municipality in accordance
11 with 24 V.S.A. § 1894. Payment for eligible related costs may also include
12 direct payment by the municipality using the district increment. However,
13 such anticipated payments shall be included in the vote by the legal voters of
14 the municipality in accordance with subsection (e) of this section. If interfund
15 loans within the municipality are used as the method of financing, no interest
16 shall be charged. Bond anticipation notes may be used as a method of
17 financing and may qualify as a municipality’s first incurrence of debt. A
18 municipality that uses a bond anticipation note during the third or sixth year
19 that a municipality may incur debt pursuant to subsection (e) of this section
20 shall incur all permanent financing not more than one year after issuing the
21 bond anticipation note.

1 (3) “Improvements” means the installation, new construction, or
2 reconstruction of infrastructure that will serve a public purpose, including
3 utilities, transportation, public facilities and amenities, land and property
4 acquisition and demolition, and site preparation. “Improvements” also means
5 the funding of debt service interest payments for a period of up to five years,
6 beginning on the date on which the first debt is incurred.

7 (4) “Legislative body” means the mayor and alderboard, the city
8 council, the selectboard, and the president and trustees of an incorporated
9 village, as appropriate.

10 (5) “Municipality” means a city, town, or incorporated village.

11 (6) “Original taxable value” means the total valuation as determined in
12 accordance with 32 V.S.A. chapter 129 of all taxable real property located
13 within the project as of the creation date, provided that no parcel within the
14 project shall be divided or bisected.

15 (7) “Project” means public improvements, as defined in subdivision (4)
16 of this subsection (a), to an area comprising not more than 10 parcels in a
17 municipality that meets the criteria set forth in subdivision (h)(2) of this
18 section.

19 (8) “Related costs” means expenses incurred and paid by the
20 municipality, exclusive of the actual cost of constructing and financing
21 improvements, that are directly related to the creation and implementation of

1 the project, including reimbursement of sums previously advanced by the
2 municipality for those purposes. Related costs may not include direct
3 municipal expenses such as departmental or personnel costs.

4 (b) Pilot Program. Beginning January 1, 2021 and ending December 31,
5 2026, the Vermont Economic Progress Council is authorized to approve not
6 more than 20 tax increment financing projects.

7 (c) General authority. Under the pilot program established in subsection
8 (b) of this section, a municipality, upon approval of its legislative body, may
9 apply to the Vermont Economic Progress Council pursuant to the approval
10 process set forth in subsection (h) of this section to use tax increment financing
11 for an individual project located within or serving one or more active
12 designations approved by the Vermont Downtown Board under 24 V.S.A.
13 chapter 76A or located within an industrial park as defined in 10 V.S.A.
14 § 212(7).

15 (d) Eligibility.

16 (1) A municipality is only authorized to apply for a project under this
17 section if the project will serve one or more active designations approved by
18 the Vermont Downtown Development Board under 24 V.S.A. chapter 76A.

19 (2) A municipality with an approved tax increment financing district as
20 set forth in 24 V.S.A. 1892(d) is not authorized to apply for a project under this
21 section.

1 (e) Incurring indebtedness.

2 (1) A municipality approved under the process set forth in subsection (h)
3 of this section may incur indebtedness against revenues to provide funding to
4 pay for improvements and related costs for tax increment financing project
5 development.

6 (2) Notwithstanding any provision of any municipal charter, the
7 municipality shall only have one authorizing vote to incur debt through one
8 instance of borrowing to finance or otherwise pay for the tax increment
9 financing project improvements and related costs. The municipality shall be
10 authorized to incur indebtedness only after the legal voters of the municipality,
11 by a majority vote of all voters present and voting on the question at a special
12 or annual municipal meeting duly warned for the purpose, authorize the
13 legislative body to pledge the credit of the municipality, borrow, or otherwise
14 secure the debt for the specific purposes so warned.

15 (3) Any indebtedness shall be incurred within three years from the date
16 of approval by the Vermont Economic Progress Council, unless the Vermont
17 Economic Progress Council grants an extension of an additional three years
18 provided, however, that an updated plan is submitted prior to the three-year
19 termination date of the project.

20 (f) Original Taxable Value. As of the date the project is approved by the
21 Vermont Economic Progress Council, the lister or assessor for the municipality

1 shall certify the original taxable value and shall certify to the legislative body
2 in each year thereafter during the life of the project the amount by which the
3 total valuation as determined in accordance with 32 V.S.A. chapter 129 of all
4 taxable real property located within the project has increased or decreased
5 relative to the original taxable value.

6 (g) Tax increments.

7 (1) In each year following the approval of the project, the listers or
8 assessor shall include no more than the original taxable value of the real
9 property in the assessed valuation upon which the treasurer computes the rates
10 of all taxes levied by the municipality and every other taxing district in which
11 the project is situated, but the treasurer shall extend all rates so determined
12 against the entire assessed valuation of real property for that year. In each year
13 for which the assessed valuation exceeds the original taxable value, the
14 municipality shall hold apart, rather than remit to the taxing districts, that
15 proportion of all taxes paid that year on the real property within the project
16 which the excess valuation bears to the total assessed valuation. The amount
17 held apart each year is the “tax increment” for that year. No more than the
18 percentages established pursuant to subsection (i) of this section of the
19 municipal and State education tax increments received with respect to the
20 project and committed for the payment for financing for improvements and
21 related costs shall be segregated by the municipality in a special tax increment

1 financing project account and in its official books and records until all capital
2 indebtedness of the project has been fully paid. The final payment shall be
3 reported to the treasurer, who shall thereafter include the entire assessed
4 valuation of the project in the assessed valuations upon which municipal and
5 other tax rates are computed and extended and thereafter no taxes from the
6 project shall be deposited in the project's tax increment financing account.

7 (2) Notwithstanding any charter provision or other provision, all
8 property taxes assessed within a project shall be subject to the provision of
9 subdivision (1) of this section. Special assessments levied under 24 V.S.A.
10 chapters 76A or 87 or under a municipal charter shall not be considered
11 property taxes for the purpose of this section if the proceeds are used
12 exclusively for operating expenses related to properties within the project and
13 not for improvements within the district, as defined in subdivision (a)(4) of this
14 section.

15 (3) Amounts held apart under subdivision (1) of this subsection (g) shall
16 only be used for financing and related costs as defined in subsection (a) of this
17 section.

18 (h) Approval process. The Vermont Economic Progress Council shall only
19 approve a municipality's application for a tax increment financing project
20 development if:

1 (1) the proposed infrastructure improvements and the projected
2 development or redevelopment are compatible with confirmed municipal and
3 regional development plans; the project has clear local and regional
4 significance for employment, housing, or transportation improvements; and

5 (2) the application meets one of the following five criteria:

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

8 (B) The development includes new or rehabilitated affordable
9 housing, as defined in 24 V.S.A. § 4303.

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

15 (D) The development will include at least one entirely new business
16 or business operation or expansion of an existing business within the district,
17 and this business will provide new, quality, full-time jobs that meet or exceed
18 the prevailing wage for the region as reported by the Department of Labor.

19 (E) The development will enhance transportation by creating
20 improved traffic patterns and flow or creating or improving public
21 transportation systems.

1 (i) Use of tax increment.

2 (1) Education property tax increment. For only debt incurred within the
3 period permitted under subdivision (e)(3) of this section after approval of the
4 project, up to 70 percent of the education tax increment may be retained for up
5 to 20 years, beginning with the education tax increment generated the year in
6 which the first debt incurred for the project financed in whole or in part with
7 incremental education property tax revenue. Upon incurring the first debt, a
8 municipality shall notify the Department of Taxes and the Vermont Economic
9 Progress Council of the beginning of the 20-year retention period of the
10 education tax increment.

11 (2) Use of the municipal property tax increment. For only debt incurred
12 within the period permitted under subdivision (e)(3) of this section after
13 approval of the project, not less than 85 percent of the municipal tax increment
14 shall be retained to service the debt, beginning the first year in which debt is
15 incurred, pursuant to subdivision (1) of this subsection.

16 (3) The Vermont Economic Progress Council shall determine there is a
17 nexus between the improvement and the expected development and
18 redevelopment for the project and expected outcomes.

19 (j) Distribution. Of the municipal and education tax increments received in
20 any tax year that exceed the amounts committed for the payment of the
21 financing for improvements and related costs for the project, equal portions of

1 each increment may be retained for the following purposes: prepayment of
2 principal and interest on the financing, placed in a special account required by
3 subdivision (g)(1) of this section and used for future financing payments, or
4 used for defeasance of the financing. Any remaining portion of the excess
5 municipal tax increment shall be distributed to the city, town, or village
6 budget, in the proportion that each budget bears to the combined total of the
7 budgets, unless otherwise negotiated by the city, town, or village, and any
8 remaining portion of the excess education tax increment shall be distributed to
9 the Education Fund.

10 (k) Information Reporting. Every municipality with an approved project
11 pursuant to this section shall:

12 (1) Develop a system, segregated for the project, to identify, collect, and
13 maintain all data and information necessary to fulfill the reporting
14 requirements of this section, including performance measures.

15 (2) Throughout the year, as required by events, provide notification to
16 the Vermont Economic Progress Council and the Department of Taxes
17 regarding any tax increment financing development project debt obligations,
18 public votes, or votes by the municipal legislative body immediately following
19 such obligation or vote on a form prescribed by the Council, including copies
20 of public notices, agendas, minutes, vote tally, and a copy of the information
21 provided to the public in accordance with 24 V.S.A. § 1894(i);

1 (3) Annually:

2 (A) Ensure that the tax increment financing project account required
3 by subdivision (g)(1) is subject to the annual audit prescribed in subsection (l)
4 of this section. Procedures must include verification of the original taxable
5 value and annual and total municipal and education tax increments generated,
6 expenditures for debt and related costs, and current balance.

7 (B) On or before February 15 of each year, on a form prescribed by
8 the Council, submit an annual report to the Vermont Economic Progress
9 Council and the Department of Taxes, including the information required by
10 subdivision (2) of this section if not already submitted during the year, all
11 information required by subdivision (A) of this subdivision (3), and the
12 information required by 32 V.S.A. § 5404a(i), including performance measures
13 and any other information required by the Council or the Department of Taxes.

14 (l) Annual report. The Vermont Economic Progress Council and the
15 Department of Taxes shall submit an annual report to the Senate Committees
16 on Economic Development, Housing and General Affairs and on Finance and
17 the House Committees on Commerce and Economic Development and on
18 Ways and Means on or before April 1 each year. The report shall include the
19 date of approval, a description of the project, the original taxable value of the
20 property subject to the project development, the scope and value of projected
21 and actual improvements and developments, projected and actual incremental

1 revenue amounts, and division of the increment revenue between project debt,
2 the Education Fund, the special account required by subdivision (g)(1) and the
3 municipal General Fund, projected and actual financing, and a set of
4 performance measures developed by the Vermont Economic Progress Council,
5 which may include outcomes related to the criteria for which the municipality
6 applied and the amount of infrastructure work performed by Vermont firms.

7 (m) Audit; financial reports. Annually, until the year following the end of
8 the period for retention of education tax increment, a municipality with an
9 approved project under this section shall:

10 (1) by January 1, submit an annual report to the Vermont Economic
11 Progress Council, which shall provide sufficient information for the Vermont
12 Economic Progress Council to prepare its report required by subsection (i) of
13 this section; and

14 (2) by April 1, ensure that the project is subject to the annual audit
15 prescribed in 24 V.S.A. §§ 1681 and 1690. Procedures must include
16 verification of the original taxable value and annual and total municipal and
17 education tax increments generated, expenditures for debt and related costs,
18 and current balance.

19 (n) Authority to issue decisions.

20 (1) The Secretary of Commerce and Community Development, after
21 reasonable notice to a municipality and an opportunity for a hearing, is

1 authorized to issue decisions to a municipality on questions and inquiries
2 concerning the administration of projects, statutes, rules, noncompliance with
3 this section, and any instances of noncompliance identified in audit reports
4 conducted pursuant to subsection (1) of this section.

5 (2) The Vermont Economic Progress Council shall prepare
6 recommendations for the Secretary prior to the issuance of a decision. As
7 appropriate, the Council may prepare such recommendations in consultation
8 with the Commissioner of Taxes, the Attorney General, and the State
9 Treasurer. In preparing recommendations, the Council shall provide a
10 municipality with a reasonable opportunity to submit written information in
11 support of its position. The Secretary shall review the recommendations of the
12 Council and issue a final written decision on each matter within 60 days of the
13 receipt of the recommendations. The Secretary may permit an appeal to be
14 taken by any party to a Superior Court for determination of questions of law in
15 the same manner as the Supreme Court may by rule provide for appeals before
16 final judgment from a Superior Court before issuing a final decision.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.
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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE