

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 191  
3 entitled “An act relating to tax increment financing districts” respectfully  
4 reports that it has considered the same and recommends that the bill be  
5 amended by striking out all after the enacting clause and inserting in lieu  
6 thereof the following:

7 Sec. 1. TAX INCREMENT FINANCING; RESOLUTION ON THE USE OF  
8 DEBT PROCEEDS TO PAY FOR DEBT SERVICE

9 In 2019, the State Auditor of Accounts performed and reported on required  
10 reviews and audits of tax increment financing districts. One of the issues  
11 raised in the reporting was whether it is permissible for a tax increment  
12 financing district to use debt proceeds to meet debt service obligations. The  
13 General Assembly seeks to address this issue and clarify tax increment  
14 financing laws for the future. Accordingly, the General Assembly shall not  
15 assess penalties on any tax increment financing district that used debt proceeds  
16 to pay for debt service during the period from January 1, 2006 to June 30, 2020  
17 and considers this a final resolution of the issue.

18 Sec. 2. 24 V.S.A. § 1891 is amended to read:

19 § 1891. DEFINITIONS

20 When used in this subchapter:

21 \* \* \*

1 (4) “Improvements” means the installation, new construction, or  
2 reconstruction of infrastructure that will serve a public purpose and fulfill the  
3 purpose of tax increment financing districts as stated in section 1893 of this  
4 subchapter, including utilities, transportation, public facilities and amenities,  
5 land and property acquisition and demolition, and site preparation.

6 “Improvements” also means the funding of debt service interest payments for a  
7 period of up to five years, beginning on the date in which the first debt is  
8 incurred.

9 \* \* \*

10 (7) “Financing” means debt incurred, including principal, interest, and  
11 any fees or charges directly related to that debt, or other instruments or  
12 borrowing used by a municipality to pay for improvements in a tax increment  
13 financing district, only if authorized by the legal voters of the municipality in  
14 accordance with section 1894 of this subchapter. Payment for the cost of  
15 district improvements and related costs may also include direct payment by the  
16 municipality using the district increment. However, such payment is also  
17 subject to a vote by the legal voters of the municipality in accordance with  
18 section 1894 of this subchapter and, if not included in the tax increment  
19 financing plan approved under subsection 1894(d) of this subchapter, is also  
20 considered a substantial change and subject to the review process provided by  
21 subdivision 1901(2)(B) of this subchapter. If interfund loans within the

1 municipality are used as the method of financing, no interest shall be charged.

2 Bond anticipation notes may be used as a method of financing and may qualify  
3 as a district’s first incurrence of debt. A municipality that uses a bond  
4 anticipation note during the fourth year or tenth year that a district may incur  
5 debt pursuant to section 1894 of this title shall incur all permanent financing  
6 not more than one year after issuing the bond anticipation note.

7 Sec. 3. 24 V.S.A. § 1895 is amended to read:

8 § 1895. ORIGINAL TAXABLE VALUE

9 (a) Certification. As of the date the district is created, the lister or assessor  
10 for the municipality shall certify the original taxable value and shall certify to  
11 the legislative body in each year thereafter during the life of the district the  
12 amount by which the total valuation as determined in accordance with  
13 32 V.S.A. chapter 129 of all taxable real property located within the tax  
14 increment financing district has increased or decreased relative to the original  
15 taxable value.

16 (b) Boundary of the district. Any parcel within a district shall be located  
17 wholly within the boundaries of a district. No adjustments to the boundary of a  
18 district are permitted after the approval of a tax increment financing district  
19 plan as described in section 1894 of this title.

1 Sec. 4. 32 V.S.A. § 5404a is amended to read:

2 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT  
3 FINANCING DISTRICTS

4 (a) A tax agreement or exemption shall affect the education property tax  
5 grand list of the municipality in which the property subject to the agreement is  
6 located if the agreement or exemption is:

7 \* \* \*

8 (b)(1) An agreement affecting the education property tax grand list defined  
9 under subsection (a) of this section shall reduce the municipality's education  
10 property tax liability under this chapter for the duration of the agreement or  
11 exemption without extension or renewal, and for a maximum of 10 years. A  
12 municipality's property tax liability under this chapter shall be reduced by any  
13 difference between the amount of the education property taxes collected on the  
14 subject property and the amount of education property taxes that would have  
15 been collected on such property if its fair market value were taxed at the  
16 equalized nonhomestead rate for the tax year.

17 (2) Notwithstanding any other provision of law, if a municipality has  
18 entered into an agreement that reduces the municipality's education property  
19 tax liability under this chapter and the municipality establishes a tax increment  
20 financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's  
21 municipal and education tax increment shall be calculated based on the

1 assessed value of the properties in the municipality’s grand list and not on the  
2 stabilized value.

3 \* \* \*

4 (f) A municipality that establishes a tax increment financing district under  
5 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties  
6 contained within the district and apply not more than 70 percent of the State  
7 education property tax increment, and not less than 85 percent of the municipal  
8 property tax increment, to repayment of financing of the improvements and  
9 related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by  
10 the Vermont Economic Progress Council pursuant to this section, subject to the  
11 following:

12 \* \* \*

13 (4) In any year that the assessed valuation of real property in a district  
14 decreases in comparison to the original taxable value of the real property in a  
15 district, a municipality shall pay the amount equal to the tax calculated based  
16 on the original taxable value to the Education Fund.

17 \* \* \*

18 Sec. 5. 32 V.S.A. § 5404a is amended to read:

19 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT

20 FINANCING DISTRICTS

21 \* \* \*

1 (h) To approve utilization of incremental revenues pursuant to subsection  
2 (f) of this section, the Vermont Economic Progress Council shall do all the  
3 following:

4 \* \* \*

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

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

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

13 (C) The project will affect the remediation and redevelopment of a  
14 brownfield located within the district. In the case of a brownfield, the Vermont  
15 Economic Progress Council is authorized to adopt rules pursuant to subsection  
16 (j) of this section to clarify what is a reasonable improvement, as defined in  
17 24 V.S.A. § 1891, to remediate and stimulate the development or  
18 redevelopment in the district. As used in this section, “brownfield” means an  
19 area in which a hazardous substance, pollutant, or contaminant is or may be  
20 present, and that situation is likely to complicate the expansion, development,  
21 redevelopment, or reuse of the property.

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Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 3 shall take effect on July 1, 2021.

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

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Senator \_\_\_\_\_

FOR THE COMMITTEE