2022 JFO TIF Report

House Ways and Means Committee

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Background and Context for This Report

- 24 V.S.A. §1892 required JFO to produce a report in 2018
    - Evaluation of the program from an operational, fiscal, and economic impacts perspective.
- Same section of statute requires JFO to update the conclusions and findings of that report every four years.
    - Same parameters of evaluation, but also a review of the sustainability of TIF district debt in the long-term.

Vermont TIF Districts

Table 1: TIF Districts In Vermont						
	Year Created	Increment Retention Period	Original Property Value at Creation	Education Fund Increment Split	Municipal General Fund Increment Split	Debt Incurred as of June 30, 2020
Active TIF Districts						
Burlington Waterfront	1996	1996-2035[a]	$42,412,900	Original: 100% to TIF, 0% to Ed. Fund Beginning 2015: 75% to TIF, 25% to Ed. Fund For Burlington Town Center parcels: 100% to TIF	100% to TIF, 0% to municipal general fund	$32,509,873
Winooski	2000	2004-2024	$25,065,900	Original: 95% to TIF, 5% to Ed. Fund Beginning 2008: 98% to TIF, 2% to Ed. Fund	100% to TIF, 0% to municipal general fund	$29,998,000
Milton Town Core	2008	2011-2031	$124,186,560	75% to TIF, 25% to Ed. Fund	75% to TIF, 25% to municipal general fund	$9,652,600
Hartford	2011	2014-2034	$31,799,200	75% to TIF, 25% to Ed. Fund	75% to TIF, 25% to municipal general fund	$3,026,000
Burlington Downtown	2011	2016-2036	$170,006,600	75% to TIF, 25% to Ed. Fund	100% to TIF, 0% to municipal general fund	$5,420,000
St. Albans	2012	2013-2033	$123,049,450	75% to TIF, 25% to Ed. Fund	100% to TIF, 0% to municipal general fund	$19,500,000
Barre	2012	2015-2035	$51,046,870	75% to TIF, 25% to Ed. Fund	75% to TIF, 25% to municipal general fund	$2,200,000
South Burlington	2012	2017-2037	$35,387,700	75% to TIF, 25% to Ed. Fund	75% to TIF, 25% to municipal general fund	$5,000,000
Bennington	2017	20 Years from First Debt	$41,883,500	70% to TIF, 30% to Ed. Fund	100% to TIF, 0% to municipal general fund	$0
Montpelier	2018	20 Years from First Debt	$59,354,009	70% to TIF, 30% to Ed. Fund	100% to TIF, 0% to municipal general fund	$0
Retired TIF Districts						
Milton North and South	1998	1998-2019[b]	$26,911,151	Original: 100% to TIF, 0% to Ed. Fund Beginning 2010: 75% to TIF, 25% to Ed. Fund	Original: 100% to TIF, 0% to municipal general fund Beginning 2010: 75% to TIF, 25% to municipal general fund	$9,295,300
Newport	1998	1997-2015	$48,500	100% to TIF, 0% to Ed. Fund	100% to TIF, 0% to municipal general fund	$300,000

[a]The Waterfront district has a retention period of 1999 to 2025. However, Act 134 of 2016 extended the increment retention period to 2035 for only the Burlington Town Center parcels

[b] In 2006, the Legislature enacted special provisions allowing the Milton North and South TIF Districts to be extended for an additional ten years

Source: 2021 Annual Report produced by VEPC

Operational Evaluation

- **Vermont's TIF statute continues to limit the downsides and excesses of TIF, but administratively, challenges remain in dealing with the unpredictability of TIF.**
- JFO evaluated the program's operational performance on a *statutory* and *administrative* perspective.

Operational Evaluation: Statutory

- JFO continues to believe that the statutory framework of TIF in Vermont limits the downsides of TIF, and ensures that TIF is used to provide public benefit.
- Particularly true with respect to taxes eligible for retention:
  - The State sets strong limits and enforces them with no exceptions. In other states, the relationship is considerably more complementary.
- Updates for this report:
  - Some stakeholders expressed concern that the program's resources were potentially too limited, or the program is constrained in its potential.
    - JFO conclusion: with TIF, more resources means higher risk. The State is wise to not take on additional risk.

Operational Evaluation: Administration

- **In general, JFO believes the current structure of TIF administration is appropriate.**
  - In Vermont, administration is largely the responsibility of the towns.
    - Assessments, tax calculations, debt service, construction contracts, etc..
  - VEPC has an approval and monitoring role**.**
    - Districts submit annual reports to VEPC including information on development progress, tax revenues, jobs created, and other performance measures.
    - Also approves substantial deviations from the TIF plans
    - This is significantly more oversight than other states.

Operational Evaluation: Administration

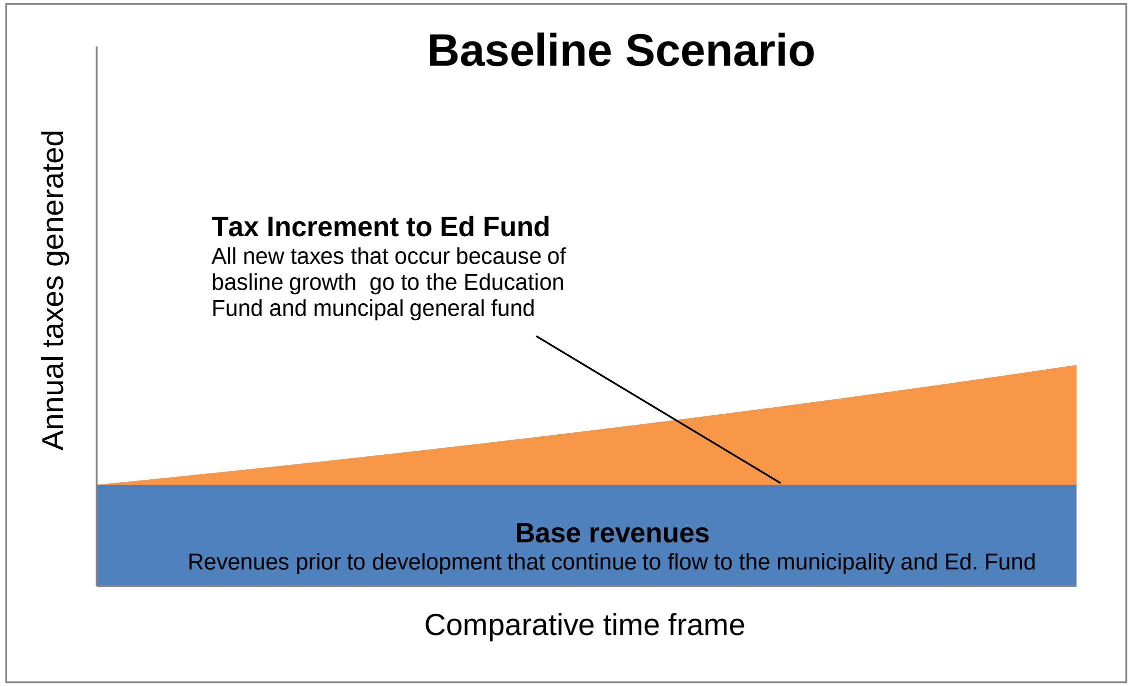
- **It is not clear to JFO that moving VEPC's TIF administrative functions to another state body would guarantee better outcomes**
  - JFO heard suggestions for alternative arrangements:
    - A new independent body outside of ACCD, with equal numbers of members appointed by Legislature and Governor.
    - Returning TIF approval and monitoring back to the Legislature.
  - Reorganization may solve one issue but create other issues.
  - Which office in State government would perform VEPC's monitoring function?

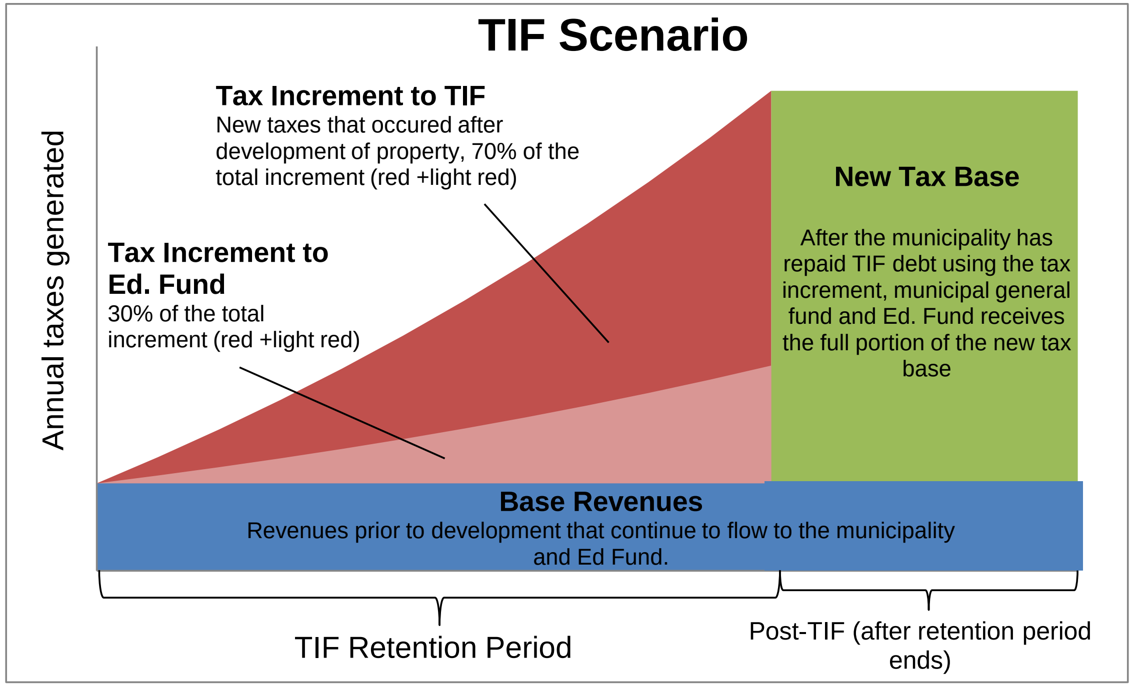
Operational Evaluation: Administration

- **The auditing of TIF districts by the State Auditor is a strength in the system.**
- Having a regular performance audit schedule for TIF districts at the state level is unique in the U.S.
- Many benefits to this system:
  - Ensuring towns are adhering to statute and TIF rule.
  - Forces towns to maintain accurate and complete records.
  - Builds state capacity in TIF.
- Could the same audits be performed by a VEPC or town hired independent auditor? JFO does not believe so.
  - Loss of State capacity in TIF, conflict of interest questions, no access to AG opinions on statute.

Fiscal Impacts

- **Using a counterfactual model that attempts to estimate what might have occurred in the absence of TIF, JFO concludes that over the next five years, TIF will cost the Education Fund between $5.5 and $7.5 million plus $3 to 5 million to municipalities each year.**
- Like last report, JFO created a model to estimate “what might have happened if TIF wasn’t used?”
  - If the State or municipality would have collected more property tax under a baseline scenario, then TIF is a cost.





Fiscal Impacts: Explanation of the Model

- In the last Report:
  - JFO compared the growth of TIF districts (assumed at 6% year over year) to a scenario where TIF districts would grow at the county average historical growth rate from the past 20 years.
- In this report:
  - The hypothetical scenario is derived from the actual growth of the parcels in the TIF districts over an 8-to-13-year period (subject to data availability)
  - Growth of TIF districts is VEPC projections of growth

2018 Report	2022 Update
Baseline Growth Assumption: County average historical growth rate from past 20 years, +/- 0.5%. Plus 0.5% if in Chittenden County, minus 0.5% otherwise.	**Baseline Growth Assumption:** Actual compound annual growth of parcels in districts in years prior to TIF creation.
TIF Scenario Growth Assumption: 6% year-over-year growth in each district	**TIF Scenario Growth Assumption:** VEPC projections of property value growth

Fiscal Impacts

- **JFO concludes that the theoretical assumptions upon which tax increment calculations are based in current TIF districts are flawed, particularly for those districts in Chittenden County.**
  - Only Bennington appears to approach a true zero growth assumption
  - If data shows the parcels in a TIF district were growing in the years prior to TIF, it seems unreasonable to assume they would suddenly stop growing.
  - Burlington itself appears to recognize this in their most recent substantial change request by "booking" background grand list growth.

Table 3: Baseline Scenario Growth Assumptions			
City	**Growth Rate**	**Period**	**OTV Year**
Bennington	0.48%	2003 through 2016 CLA Adjusted Growth TIF District	2017
Montpelier	2.77%	2004 through 2017 CLA Adjusted Growth TIF District	2018
St. Albans	2.23%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Milton Town Core	3.50%	JFO assumption. Data indicated a unexplainable significant increase in TIF district grand list in the pre-TIF years.	2008
South Burlington	2.00%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Hartford	6.31%	2003 through 2010 CLA Adjusted Growth TIF District	2011
Burlington Downtown	5.11%	2003 through 2010 CLA Adjusted Growth TIF District	2011
Barre City	1.06%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Burlington Waterfront	3.52%	Burlington 1987 through 1996 overall grand list growth	1997
Winooski	2.24%	Winooski 1990 through 1999 overall grand list growth	2000

Fiscal Impacts: State Revenues

- **TIF is costing the Education Fund between $5.5 and $7.5 million in the short term annually.**
- Subject to a lot of uncertainty beyond immediate term:
  - Will towns achieve their growth projections?
  - What will tax rates be?
- Other general observations:
  - Towns where historical average growth was high pre-TIF cost more
  - Towns with very large OTVs cost more.
  - Towns with slow historical average growth or growth “explosions” cost the Ed Fund less.

Table 4: JFO Model Fiscal Impact Estimates (in millions of dollars)

	What the Education Fund receives under TIF	What the Education Fund receives if the district grew at its historical average	Difference (negative = cost)
2021	$13.80	$18.40	-$4.60
2022	$12.70	$18.40	-$5.70
2023	$13.30	$19.10	-$5.80
2024	$13.40	$19.70	-$6.40
2025	$13.50	$19.60	-$6.10
2026	$12.90	$20.30	-$7.40
2027	$15.30	$21.00	-$5.70
2028	$15.60	$21.80	-$6.20
2029	$16.10	$22.60	-$6.50
2030	$16.60	$23.40	-$6.80
2031	$17.10	$24.30	-$7.20
2032	$15.00	$20.60	-$5.50
2033	$15.90	$21.30	-$5.40
2034	$14.50	$18.60	-$4.10
2035	$13.40	$15.90	-$2.50

Fiscal Impacts: State Revenues

- Once the retention period is over, State will benefit from the growth in tax base:
  - Note that in this model, if a district is “losing” money every year, it takes a very long time to break even once the retention period ends.
- Impacts are both small and large:
  - Small, because they represent just under a penny on the average homestead and nonhomestead property tax rates, and less than half of 1% of Ed Fund revenues
  - Large, because TIF is now the largest economic development program in the state solely funded by state dollars.

Fiscal Impacts: State Revenues

- Rather than referring to actual cost of TIF, this model provides a hypothetical construct for legislators to understand the potential fiscal impacts of TIF.
- **For a formal estimate of TIF, JFO continues to recommend the Consensus estimates of the maximum impact on the Education Fund be used**

Table 5: Consensus Estimates of the Impact of TIF on Grand List and Education Fund (in millions of dollars)	
Year	**Fiscal Impact**
2021	-$6.33
2022	-$6.63
2023	-$7.31
2024	-$7.79
2025	-$6.30

Table 6: Education Fund Dollars Retained by Districts from VEPC 2021 Annual Report (in millions of dollars)	
Year	**Fiscal Impact**
2021	-$9.28
2022	-$10.25
2023	-$10.82
2024	-$11.45
2025	-$9.75

Fiscal Impacts: Municipalities

- Using this same model, JFO estimates that municipalities will contribute approximately $3-5 million per year in the near term
- Other observations on municipal impacts:
  - Some municipalities in their updated plans have pledged municipal tax increment beyond the statutory 20-year retention period for Education Tax increment
  - JFO has observed other non-tax increment sources being used to fund debt service

Table 7: JFO Model of Impacts on Muncipalities (in millions of dollars)

	Fiscal Impact
2021	-$3.12
2022	-$3.43
2023	-$3.58
2024	-$3.89
2025	-$3.90
2026	-$4.06
2027	-$4.17
2028	-$4.46
2029	-$4.73
2030	-$5.02
2031	-$5.31
2032	-$4.55
2033	-$4.76
2034	-$4.99
2035	-$4.16

Other Fiscal Considerations

- **Administration Costs**
  - Multiple layers of administration: towns, VEPC and its staff, State Auditor, Department of Taxes, JFO.
  - Municipalities devote significant staff time to administering TIF, and retain consultants to assist them create applications/plans:
    - In 2020: Burlington reported $191,000 in consultant costs plus $84,000 in staff salaries and benefits paid to city economic development staff.
  - State Auditor’s Office has devoted over 5,000 hours of staff time to TIF audits and have billed municipalities over $320,000 since 2018.
    - Economies of scope/learning from doing are difficult to achieve with TIF districts because every TIF and municipality is different.
  - VEPC’s annual operating budget in FY2022 was $286,000, but not all of that is TIF.
  - JFO does not estimate staff time spent on TIF…

TIF District Debt Financing Costs

- Towns usually bond through the Municipal Bond Bank and pay interest rates of between 3-5%, although some borrow privately.
- Financing costs are significant:
  - Districts have authorized up to $258 million in borrowing.
  - This comes with an addition $107 million in financing costs, 30% of total borrowing.
  - Examples:
    - South Burlington projects $38 million in borrowing for infrastructure but an additional $14 million in financing costs will also need to be paid.
    - In Montpelier, $15.8 million in debt for infrastructure improvements comes with $10.6 million in financing costs.
- These financing costs are not specific to TIF. Mostly related to municipal borrowing

Other Considerations for Fiscal Impacts

- JFO’s models do not estimate the fiscal costs associated with the downside risk that tax increments do not materialize as projected.
- Some of these costs to the Education Fund or municipal general funds could be offset by any TIF benefit to other tax types
  - Other revenues like income, sales and use, meals and rooms taxes would require creations of new business.
    - Many developments in TIF are housing and office space related, although there are some commercial developments (hotels in St. Albans and Burlington) that would generate new revenues.

Economic Impacts

- **The overall economic impacts of TIF on the state are likely mixed.**
- A review of the most recent academic literature finds TIF does not clearly provide broad economic impacts.
  - Full literature review in 2018 found mixed results, but on balance, "TIF has not accomplished the goal of promoting economic development"
  - No compelling evidence that Vermont would be an exception to these findings

Economic Impacts: Downtown Development

- **JFO concludes that TIF may be generating long-term economic impacts by driving development to denser, downtown areas.**
- Economic development that encourages more density has many benefits:
  - Increased housing, less expensive transportation networks, more efficient provision of public services, environmental benefits, tourism benefits.
  - Higher productivity and innovation
- TIF is also in sync with existing Vermont development policy
- The Legislature may want to consider whether some infrastructure improvements align closer with goal of downtown vitality.
  - Will public space beautification or brownfield remediation bring more vitality to a downtown area than a parking garage? Statute does not appear to prioritize within “infrastructure improvements”

Economic Impacts: Non-TIF Revenues

- **Large amounts of outside TIF money obscure the analysis of economic impacts related to TIF**
  - Outside funding used for improvements appears to be significant in many Vermont districts.
    - St. Albans: major revitalization of its downtown core. Only $13 million of TIF-backed debt was used for improvements, $13 million in other subsidies
  - Diversifying and including outside revenues is good! But it is inaccurate to attribute all growth in property value, jobs, wages, or any other variable solely to TIF

Table 8: Use of Non-TIF Revenues in Vermont TIF Districts

District	TIF Revenue	Non-TIF Revenue	Notes:
Barre	$834,668	$2,829,573	$1.3 million from Federal Housing and Community Development $600,000 from the Environmental Protection Agency $442,415 from the VT Department of Environmental Conservation
Bennington	0	$156,088	$50,000 in Downtown Transportation Fund Grant
Burlington Downtown	$3,432,381	$323,113	
Burlington Waterfront	N/A	$2,710,358	$2.5 million from Vtrans
Hartford	$1,265,965	$941,093	$305,000 from VT Sales Tax Allocation program ~$175,000 in Downtown Transportation Grants
Milton Town Core	$3,627,788	$743,123	$681,000 from Vttrans grant
Montpelier	$0	$828,903	Non-TIF resources provided by City
South Burlington	$313,269	$6,761,654	$5.5 million in Federal Grants
St. Albans	$5,846,963	$13,429,761	Almost $4 million in various Federal grants $950,000 in State Downtown Transportation Grants
Winooski	N/A	$32,865,712	

Source: 2020 Annual Reports for TIF Districts

Economic Impacts: Actuals vs Expectations

- **If economic growth impacts are evaluated relative to what was projected in their applications, TIF districts have failed to deliver the promised impacts.**
  - JFO estimates that if development had occurred as initially projected, the Education Fund would be receiving $1.1 million more in revenue in 2022, and towns would have an additional $4.4 million for TIF
  - Property value growth could miss projections for any number of reasons.
    - COVID-19 pandemic virtually ground construction to a halt
    - Construction costs have gone up. Less is possible with the same amount of debt.

Table 9: Taxable Value Changes by End-2020: Projected at Application versus Actuals

District	Projected at Application Taxable Value Increase by End-2020	Actual Projected Taxable Value Increase by End-2020	Under/Overshoot
Barre	$23,535,350	$5,974,670	-$17,560,680
Bennington	$9,486,100	-$970,840	-$10,456,940
Burlington Downtown	$81,626,808	$43,791,843	-$37,834,965
Hartford	$62,852,200	$26,179,700	-$36,672,500
Milton Town Core	$104,425,510	$44,934,231	-$59,491,279
Montpelier	$6,949,400	$0	-$6,949,400
South Burlington	$81,160,300	$9,373,866	-$71,786,434
St. Albans	$84,294,600	$49,405,337	-$34,889,263
Total	**$454,330,268**	**$178,688,807**	**-$275,641,461**

Source: VEPC TIF Districts Applications and 2020 Annual Reports

Economic Impacts: Actuals vs Expectations

- Is there anything wrong with missing projections? From an economic impact perspective, not really.
- Some thoughts/concerns:
  - If projections are part of approval process for TIF, VEPC should be mindful of past district performance when considering financial viability.
  - There may be an incentive for municipalities to show extensive but unrealistic development. Like Downtown Tax Credits review showed, bigger could be likely to be approved.
  - VEPC should encourage towns not to take on debt unless the associated private development is essentially shovel-ready.
  - It may be worth reconsidering the utility of projections made in applications beyond the shortest of terms.
  - Form an evaluation perspective, if it’s not appropriate to compare what was projected versus what actually occurred, the absence of benchmarks means TIF is an economic success just by building anything at all.

Geographic Diversity

- **Research has shown that TIF districts are created in areas with some underlying level of economic growth, rather than generating economic growth in distressed areas.**
  - There is evidence this is occurring in Vermont:
    - Five of ten active districts are in Chittenden County, and account for over 80% of Education Tax retained.
    - Bennington is the only district established that was experience below average grand list growth as a town.
  - No new TIF districts have been approved since 2018

Geographic Diversity

- **The complexity and scale required for the current TIF program may preclude smaller towns from using it.**
  - This issue was raised in the last report.
  - In this report, JFO heard this from stakeholders:
    - The scale of planning needed for the current TIF program makes it untenable for smaller communities, beyond the complexities of actually administering it.
      - TIF tends to be used almost as part of a broad, long-term planning exercise for municipalities, where long-term visions of downtowns are backed by the long-term financing that TIF offers.
    - These long-term planning exercises and administrative costs may not be worth the State dollars TIF provides.
  - If these concerns are true, some simpler tool is worth exploring for smaller municipalities.

TIF District Debt Burdens

- **The current amount and approach to debt in TIF districts is conservative, but some districts are in riskier positions than others.**
  - It is not appropriate to make an overall judgement of TIF district debt capacity on a state level because TIF is a municipal construct.
    - The sustainability of TIF debt depends on the financial situation of each town
  - On a statewide basis, towns have incurred $107.3 million worth of debt as of end FY2021, and have an outstanding balance of $61 million
  - Note that TIF debt *sustainability* and *viability* are not the same thing:
    - Towns can make debt payments using other sources. Viability refers to the ability for tax increment to cover those payments.

Table 10: TIF District Debt as end of FY2021

	Anticipated	Voted	Incurred	Outstanding Balance	Last Year To Incur Debt
Burlington Waterfront	$55,602,263	$54,415,873	$32,509,873	$12,923,084	2023, but only for 3 parcels
Winooski	$30,000,000	$30,000,000	$29,998,000	$10,687,470	2005
Milton Town Core	$23,766,263	$9,945,000	$9,652,600	$7,642,943	2018
Burlington Downtown	$33,387,500	$10,000,000	$5,420,000	$4,820,000	2023
Hartford	$13,000,000	$11,869,600	$3,026,000	$2,588,400	2024
St. Albans	$23,109,922	$19,500,000	$19,500,000	$15,600,294	2023
Barre City	$6,836,575	$2,200,000	$2,200,000	$1,848,000	2024
South Burlington	$54,998,596	$10,268,985	$5,000,000	$5,000,000	2024
Bennington	$5,690,518	$0	$0	$0	2029
Montpelier	$15,813,020	$10,500,000	$0	$0	2030
Total	**$262,204,657**	**$158,699,458**	**$107,306,473**	**$61,110,191**	

Source: VEPC TIF Annual Report, 2021

TIF District Debt Burdens: Burlington Waterfront

- JFO's concern with the Burlington Waterfront district relates to the three parcels associated with the Burlington Town Center (BTC) project.
  - District was created in 1996 and was originally entitled to retain Education tax increment until 2025. For the non-BTC parcels, the retention period ends in 2025.
  - Act 134 of 2016 expanded the district to the three BTC parcels
    - They were entitled to incur debt until 2021 (since extended to 2023).
    - Entitled to retain increment until 2035
    - Both of these require the execution of a construction contract of no less than $50 million- as of writing, this has not been signed.
  - At present, the parcels are generating negative tax increment
  - Voters approved $21.6 million in infrastructure improvement, but the city estimates that actual improvements will be in the $8-10 million range.

Burlington Waterfront

- News reports state that the project will be complete by 2026. That would mean the City has at most 9 years to retain Education Property Tax increment.
- New reports also state private development will be between $45 and $55 million.
- JFO has concerns about the viability of paying this debt using tax increment alone.
  - A 10-year maturity bond requires between $1 and 1.2 million in annual debt service payments.
  - Assessed value *growth* would need to exceed $40 million in order to make these payments at 2020 tax rates.
  - Even if the project is on schedule (debt by 2023, built by 2026), at least $3 million in debt service payments would be required without any increment at all.
- In 2019, VEPC was updated on the progress of the Waterfront district but to date, has not received a further formal briefing.

TIF District Debt Burdens: Barre

- In 2012, Barre's district was approved with a projected $23 million in property value growth as a result of $8.4 million in infrastructure improvements.
- In 2019, the city received approval for a substantial change, where the infrastructure improvements were now expected to be $12 million, but the private development unchanged.
- JFO has concerns about viability:
    - City is relying heavily on the development of the Rouleau Plant, which is expected to generate $8.6 million in property value growth and $350,000 a year in tax increment to make debt payments.
    - VEPC staff expressed concerns when considering the substantial change request:
        - The documentation did not support the idea that the development will generate $8.6 million in property value growth.
        - The town's earlier projections had a poor track record.
        - The town's projections relied upon escalating tax rates. VEPC has advised towns to assume flat tax rates.
- VEPC is requiring Barre to submit substantial change requests when it is ready to proceed with any project.

TIF District Debt Burdens: Burlington Downtown

- At approval: Burlington projected constructing $33.4 million in public infrastructure to leverage private development generating $81.6 million in property value growth.
- In November 2021: total infrastructure costs had increased to $36.9 million.
- JFO's has concerns about the viability of the financial plan because of the reliance on an unusual assumption:
  - The plan shows the district generating enough increment to have $6 million in surplus by the end of the retention period.
  - But: that projection assumes the following:
    - 1% "background growth" a year from 2024 through 2036, which generates $39.9 million assessed value growth, and $66,000 in new tax increment a year or $6 million over the course of the projection horizon.

TIF District Debt Burdens: Hartford

- At application: $13 million in infrastructure improvements would generate property value growth of $73 million by 2034.
- Since then, the district has struggled to maintain its timeline:
  - By end FY-2021, the district had received voter approval for $11.8 million but had only incurred $3 million, and requested the Legislature extend its debt period by 3 years.
- In 2019, the district requested to borrow an additional $5.48 million for infrastructure improvements.
- JFO's has several concerns about viability:
  - The $15 million in projected property value growth is not enough to cover debt service payments.
  - Hartford already requested a debt period extension from the Legislature.
  - Even prior to COVID, the town was projecting the need to retain municipal increment beyond 2034.
  - When the district was approved, VEPC retained a consultant to review the viability. They found the projections to be "aggressive" but reasonable and subject to considerable uncertainty

TIF District Debt Burdens

- **Based upon analysis of district financing plans and the uncertainty surrounding TIF and outside factors, JFO believes the Legislature will likely need to intervene to provide support to some districts in the future**
- The financing plans of some TIF districts do not allow for much margin for error.
- The risks to TIF districts are, on balance, tilted towards the negative.
  - The costs and availability of construction are likely to put strain on towns and their infrastructure plans.
- For some districts who are relying on private development in the retail, hospitality sectors, or office space, the value of those developments could be negatively impacted by the COVID-19 pandemic.

Considerations for Legislators

- JFO identified three broader, salient areas that merit deeper legislative consideration.
  - Considerations are more practicable, rather than theoretical.

1) VEPC’s role as an approval, monitoring, and regulatory agency.

2) The administrative process for handling issues within the TIF program.

3) Opportunities for providing direct financial resources for municipal infrastructure construction.

VEPC’s Role

- **Statute could be improved by requiring a formal analysis of statewide economic and fiscal impacts.**
- This was something that was recommended in the last report
    - Use of a cost-benefit model, such as the REMI Model used for VEGI, could give a better understanding of statewide economic impacts of a TIF application.
    - Capital Investment Grant Program created last year also uses a model to generate awards.
- At the moment, analysis of statewide economic impacts is not as rigorous as it could be:
    - Montpelier and Bennington applications did not include any formal analysis beyond qualitative statements.

VEPC's Role

- **Statute or TIF rule could be improved to require certain conditions for feasibility studies.**
- VEPC staff rely heavily upon the analysis and projections of municipalities to determine TIF district viability.
  - The historical track record of municipal projections is not good.
- There appear to be inconsistencies in the level of prudence or conservative assumptions applied to feasibility.
  - Hartford: VEPC staff assumed a "catalytic effect" of growth and growing tax rates to conclude the district was viable, despite the town's own projections showing shortfalls.
  - Barre: The town's projections showed the district was viable but VEPC staff (rightly) expressed caution and required Barre to receive approval on anything before going forward.

VEPC’s Role

- **Statute or TIF rule could be improved to require certain conditions for feasibility studies.**
- Statute could be improved to certain baseline assumptions and parameters for reviewing an applications:
  - Requiring every application and substantial change request to require flat tax rates.
  - Adopting a policy for considering underlying or dynamic growth in TIF districts.
  - Requiring clear determinations and conclusions on financial feasibility. More tenuous plans would require check ins.
  - Requiring the retention of an independent third party such as the State economist for the Administration to weigh in on town assumptions where viability is not clear.
- Statute or VEPC could also require districts to submit scenario analyses.
  - If the feasibility were highly sensitive to even minor adjustments in assumptions, it might flag a more precarious TIF district financing plan.

VEPC’s Role

- **Statute or TIF rule could be improved to require a more rigorous evaluation of whether municipalities need to use TIF for these infrastructure improvements.**
- Current statute requires VEPC to evaluate an applicant’s “statement and demonstration that the project would not proceed without the allocation of a tax increment.”
  - However, no formal guidelines exist for making this evaluation.
- Statute or VEPC might require certain analyses to determine need
  - The town’s budget and service provision relative to peer towns in Vermont
  - The town’s debt burden per capita relative to its peers.
  - The town’s property tax burden per capita relative to its peers
  - A comparison of the town’s tax rate relative to its peers.
- Statute could also require a town to first submit a debt vote to voters. If rejected, it could demonstrate need.

VEPC’s Role

- **The Legislature may want to consider requiring VEPC to provide more detailed updates on district developments.**
- In addition to the Annual Report information, VEPC could provide:
  - Whether district tax increments are flowing according to their latest financing plans.
  - Whether there were any delays in infrastructure or private development that may impact tax increment.
  - Any additional information that would impact the financial viability of a TIF district.
- Other information that could be presented to committees each session:
  - New applications and or application interest
  - Updates on developments on a district-by-district basis

VEPC's Role

- **The Legislature or VEPC could consider requiring districts to create contingency plans in the event their tax increments do not materialize as planned.**
- At the moment, if a TIF district is struggling to maintain viability using increment alone, there is not much recourse beyond Legislative action.
  - This puts the Legislature in a difficult position because immediate action is required.
- Contingency plan would at least require municipalities to exhaust all options before seeking a Legislative remedy.
  - If a town needed to enact part of its contingency plan, it would give the Legislature notice.

TIF Administration and Resolution Process

- **The unpredictability and complexity of TIF makes administering the program challenging since statute cannot address all ambiguous issues.**
- There are always going to be issues in TIF districts that will require some level of administrative determination:
  - Circumstantial: outside factors that prevent a town from carrying out its TIF as planned could include:
  - Regulatory: ambiguous issues that arise within TIF districts where statute or TIF rule does not provide a clear direction could include:
- Since the last report, there have been several examples of issues that have come up in TIF districts where VEPC has sought Legislative clarity.

TIF Administration and Resolution Process

- The Legislature is probably not best positioned to deal with "in the weeds" TIF issues:
  - Not designed to act quickly to make rulings on regulatory issues
  - TIF statute and rules are complex requiring legislators to become well-versed in TIF to understand the smallest of issues.
  - Legislative remedies create carve outs, making the program more difficult to understand.
- **The Legislature could consider creating a more formal process for determining what requires legislative action, and what can be administratively determined by VEPC.**
  - For example, if an issue has an impact on the Education Fund of greater than a certain dollar amount, it must be resolved by the Legislature.
- If the Legislature does not want to delegate more administrative power to VEPC, consider ways to make the arrangement more workable.

Opportunities for Direct State Assistance to Municipalities

- **Legislators should ask whether TIF's complexity and administrative burden to the State and towns are clearly more beneficial than some other means of providing the same level of funding for downtowns.**
- In other words, is there something intrinsic about TIF, *beyond the money that it provides to towns,* that make it more clearly desirable to another tool?

Opportunities for Direct State Assistance to Municipalities

- **In light of large State surpluses in revenue and Federal largesse, strong consideration should be given to other economic development tools that could finance infrastructure improvements in towns.**
- Since the last report, the State has seen a huge influx of Federal money that have expanded the revenue base.
- Legislators should give strong consideration about whether surpluses or where possible, Federal Funds, can achieve the same goals as TIF in a simpler way.

Questions?