

1 S.263

2 Introduced by Senators Clarkson and Balint

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; economic development

6 Statement of purpose of bill as introduced: This bill proposes to encourage
7 new workers to relocate to Vermont, to provide flexibility for Economic
8 Recovery grants, to increase the capacity for the Capital Investment Program,
9 to enable project-based tax increment financing districts, and to promote
10 sustainable development and affordable housing.

11 An act relating to supporting economic development

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 * * * Relocating Employee Incentives * * *

14 Sec. 1. 10 V.S.A. § 4 is amended to read:

15 § 4. NEW RELOCATING EMPLOYEE INCENTIVES

16 (a) The Agency of Commerce and Community Development shall design
17 and implement a program to award incentive grants to relocating employees as
18 provided in this section and subject to the policies and procedures the Agency
19 adopts to implement the program.

1 (b) A relocating employee may be eligible for a grant under the program
2 for qualifying expenses, subject to the following:

3 (1) A base grant shall not exceed \$5,000.00.

4 (2) The Agency may award an enhanced grant, which shall not exceed
5 \$7,500.00, for a relocating employee who becomes a resident in a labor market
6 area in this State in which:

7 (A) the average annual unemployment rate in the labor market area
8 exceeds the average annual unemployment rate in the State; or

9 (B) the average annual wage in the State exceeds the annual average
10 wage in the labor market area.

11 (c) The Agency shall:

12 (1) adopt procedures for implementing the program, which shall include
13 a simple certification process to certify relocating employees and qualifying
14 expenses;

15 (2) promote awareness of the program, including through coordination
16 with relevant trade groups and by integration into the Agency's economic
17 development marketing campaigns;

18 (3) award grants to relocating employees on a first-come, first-served
19 basis beginning on July 1, 2021, subject to available funding; and

20 (4) adopt measurable goals, performance measures, and an audit strategy
21 to assess the utilization and performance of the program.

1 (d) On or before January 15, 2022, the Agency shall submit a report to the
2 House Committee on Commerce and Economic Development and the Senate
3 Committee on Economic Development, Housing and General Affairs
4 concerning the implementation of this section, including:

5 (1) a description of the policies and procedures adopted to implement
6 the program;

7 (2) the promotion and marketing of the program; and

8 (3) an analysis of the utilization and performance of the program,
9 including the projected revenue impacts and other qualitative and quantitative
10 returns on investment in the program based on available data and modeling.

11 (e) As used in this section:

12 (1) “Qualifying expenses” means the actual costs a relocating employee
13 incurs for relocation expenses, which may include moving costs, closing costs
14 for a primary residence, rental security deposit, one month’s rent payment, and
15 other relocation expenses established in Agency guidelines.

16 (2) “Relocating employee” means an individual who meets the
17 following criteria:

18 (A)(i) On or after July 1, 2021:

19 (I) the individual becomes a full-time resident of this State;

20 (II) the individual becomes a full-time employee at a Vermont
21 location of a for-profit or nonprofit business organization domiciled or

1 authorized to do business in this State, or of a State, municipal, or other public
2 sector employer; and

3 (III) ~~the individual becomes employed in one of the~~
4 ~~“Occupations with the Most Openings” identified by the Vermont Department~~
5 ~~of Labor in its “Short Term Employment Projections 2020-2022”;~~ and

6 (IV) the employer attests to the Agency that, after reasonable
7 time and effort, the employer was unable to fill the employee’s position from
8 among Vermont applicants; or

9 (ii) on or after February 1, 2022:

10 (I) the individual becomes a full-time resident of this State; and

11 (II) the individual is a full-time employee of an out-of-state
12 business and performs the majority of his or her employment duties remotely
13 from a home office or a co-working space located in this State.

14 (B) The individual receives gross salary or wages that equal or
15 exceed the Vermont livable wage rate calculated pursuant to 2 V.S.A. § 526.

16 (C) The individual is subject to Vermont income tax.

17 * * * Capital Investment Grant Program * * *

18 Sec. 2. 2021 Acts and Resolves No. 74, Sec. H.18 is amended to read:

19 Sec. H.18 CAPITAL INVESTMENT GRANT PROGRAM

20 (a) Creation; purpose; regional outreach.

1 (1) The Agency of Commerce and Community Development shall use
2 the \$10,580,000 appropriated to the Department of Economic Development in
3 Sec. G.300(a)(12) of this act to design and implement a capital investment
4 grant program consistent with this section.

5 (2) The purpose of the program is to make funding available for
6 transformational projects that will provide each region of the State with the
7 opportunity to attract businesses, retain existing businesses, create jobs, and
8 invest in their communities by encouraging capital investments and economic
9 growth.

10 (3) The Agency shall collaborate with other State agencies, regional
11 development corporations, regional planning commissions, and other
12 community partners to identify potential regional applicants and projects to
13 ensure the distribution of grants throughout the regions of the State.

14 (b) Eligible applicants.

15 (1) To be eligible for a grant, an applicant shall meet the following
16 criteria:

17 (A) The applicant is located within this State.

18 (B) The applicant is:

19 (i)(I) a for-profit entity with not less than a 10 percent equity
20 interest in the project; or

21 (II) a nonprofit entity; and

1 (ii) grant funding from the Program represents not more than 50
2 percent of the total project cost.

3 (C) The applicant demonstrates:

4 (i) community and regional support for the project;

5 (ii) that grant funding is needed to complete the project;

6 (iii) leveraging of additional sources of funding from local, State,
7 or federal economic development programs; and

8 (iv) an ability to manage the project, with requisite experience and
9 a plan for fiscal viability.

10 (2) The following are ineligible to apply for a grant:

11 (A) a State or local government-operated business;

12 (B) a municipality;

13 (C) a business that, together with any affiliated business, owns or
14 operates more than 20 locations, regardless of whether those locations do
15 business under the same name or within the same industry; and

16 (D) a publicly-traded company.

17 (c) Awards; amount; eligible uses.

18 (1) An award shall not exceed the lesser of ~~\$1,500,000.00~~ \$3,000,000.00
19 or the estimated net State fiscal impact of the project based on Agency
20 modeling.

1 (2) A recipient may use grant funds for the acquisition of property and
2 equipment, construction, renovation, and related capital expenses.

3 (3) A recipient may combine grant funds with funding from other
4 sources but shall not use grant funds from multiple sources for the same costs
5 within the same project.

6 (4) The Agency shall release grant funds upon determining that the
7 applicant has met all Program conditions and requirements.

8 (5) Nothing in this section is intended to prevent a grant recipient from
9 applying for additional grant funds if future amounts are appropriated for the
10 program.

11 (d) Data model; approval.

12 (1) The Agency shall collaborate with the Legislative Economist to
13 design a data model and related methodology to assess the fiscal, economic,
14 and societal impacts of proposals and prioritize them based on the results.

15 (2) The Agency shall present the model and related methodology to the
16 Joint Fiscal Committee for its approval not later than September 1, 2021.

17 (e) Application process; decisions; awards.

18 (1)(A) The Agency shall accept applications on a rolling basis for three-
19 month periods and shall review and consider for approval the group of
20 applications it has received as of the conclusion of each three-month period.

1 (B) The Agency shall make application information available to the
2 Legislative Economist and the Executive Economist in a timely manner.

3 (2) Using the data model and methodology approved by the Joint Fiscal
4 Committee, the Agency shall analyze the information provided in an
5 application to estimate the net State fiscal impact of a project, including the
6 following factors:

7 (A) increase to grand list value;

8 (B) improvements to supply chain;

9 (C) jobs impact, including the number and quality of jobs; and

10 (D) increase to State GDP.

11 (3) The Secretary of Commerce and Community Development shall
12 appoint an interagency team, which may include members from among the
13 Department of Economic Development, the Department of Housing and
14 Community Development, the Agency of Agriculture, Food and Markets, the
15 Department of Public Service, the Agency of Natural Resources, or other State
16 agencies and departments, which team shall review, analyze, and recommend
17 projects for funding based on the estimated net State fiscal impact of a project
18 and on other contributing factors, including:

19 (A) transformational nature of the project for the region;

20 (B) project readiness, quality, and demonstrated collaboration with
21 stakeholders and other funding sources;

1 (C) alignment and consistency with regional plans and priorities; and

2 (D) creation and retention of workforce opportunities.

3 (4) The Secretary of Commerce and Community Development shall
4 consider the recommendations of the interagency team and shall give final
5 approval to projects.

6 (f) Grant agreements; post award monitoring. If selected by the Secretary,
7 the applicant and the Agency shall execute a grant agreement that includes
8 audit provisions and minimum requirements for the maintenance and
9 accessibility of records that ensures that the Agency and the Auditor of
10 Accounts have access and authority to monitor awards.

11 (g) Report. On or before December 15, 2021 the Agency shall submit a
12 report to the House Committee on Commerce and Economic Development and
13 the Senate Committee on Economic Development, Housing and General
14 Affairs concerning the implementation of this section, including:

15 (1) a description of the implementation of the program;

16 (2) the promotion and marketing of the program;

17 (3) an analysis of the utilization and performance of the program,

18 including the projected revenue impacts and other qualitative and quantitative
19 returns on investment in the program based on available data and modeling.

1 * * * Economic Recovery Grants * * *

2 Sec. 3. 2021 Acts and Resolves No. 74, Sec. H.19 is amended to read:

3 Sec. H.19 ECONOMIC RECOVERY GRANTS

4 (a) The Agency of Commerce and Community Development shall use ~~the~~
5 ~~\$20,000,000.00~~ \$15,000,000.00 appropriated to it in Sec. G.300(a)(13) of this
6 act for Economic Recovery grants and the amounts appropriated to it in 2021
7 Acts and Resolves No. 9, Sec. 3 to provide grants to businesses ~~consistent with~~
8 ~~the requirements of that Sec. 3 and further subject to the following: that have~~
9 suffered economic harm due to COVID-19.

10 (1) ~~The value of a grant shall not exceed the lesser of a business's net~~
11 ~~adjusted loss, three months of fixed expenses, or \$150,000.00.~~

12 (2) ~~The Agency shall defer final calculation and payment of grant~~
13 ~~awards for a reasonable period of time to determine the availability of COVID-~~
14 ~~19-related financial assistance from other State and federal sources.~~

15 (3) ~~The Agency may adjust the calculation of tax loss for non-COVID-~~
16 ~~19-related items, including carryforward losses and depreciation.~~

17 (b) The Agency of Commerce and Community Development shall provide
18 grants to businesses subject to the provisions and guidance controlling
19 economic relief funds that are available through the American Rescue Plan Act
20 of 2021, as follows:

21 (1) Program to respond to economic harm.

1 (A) The Agency shall design and implement the economic recovery
2 grant program to ensure that grants provided to businesses respond to the
3 public health emergency with respect to the Coronavirus Disease 2019
4 (COVID-19) or its negative economic impacts.

5 (B) In assessing whether a program or service “responds to” the
6 COVID-19 public health emergency, the Agency shall, first, identify a need or
7 negative impact of the COVID-19 public health emergency and, second,
8 identify how the program addresses the identified need or impact.

9 (2) Program response is related and proportional to harm.

10 (A) The Agency shall ensure that its program response is related and
11 reasonably proportional to the extent and type of harm experienced.

12 (B) Uses that bear no relation or are grossly disproportionate to the
13 type or extent of harm experienced are not eligible uses.

14 (3) Economic harm resulting from or exacerbated by COVID-19.

15 (A) The Agency shall design and implement the economic recovery
16 grant program to address economic harms resulting from or exacerbated by the
17 public health emergency.

18 (B) The Agency shall assess the connection between the negative
19 economic harm and the COVID-19 public health emergency, the nature and
20 extent of that harm, and how the use of this funding would address such harm.

1 (C) While recognizing that economic impacts may either be
2 immediate or delayed, the Agency shall not provide assistance to a business
3 that did not experience a negative economic impact from the public health
4 emergency and that therefore would not be an eligible recipient of funds.

5 (4) Recognizing harm to certain industries.

6 (A) The Agency shall recognize that certain industries, such as
7 tourism, travel, and hospitality, were disproportionately and negatively
8 impacted by the COVID-19 public health emergency. Aid provided to
9 tourism, travel, and hospitality industries should respond to the negative
10 economic impacts of the pandemic on those and similarly impacted industries.

11 (B) Aid may be considered responsive to the negative economic
12 impacts of the pandemic if it supports businesses, attractions, business
13 districts, and Tribal development districts operating prior to the pandemic and
14 affected by required closures and other efforts to contain the pandemic.

15 (C) When considering providing aid to industries other than tourism,
16 travel, and hospitality, the Agency shall consider the extent of the economic
17 impact as compared to tourism, travel, and hospitality.

18 (D) The Agency shall also consider whether impacts were due to the
19 COVID-19 pandemic, as opposed to longer-term economic or industrial trends
20 unrelated to the pandemic.

1 (c) On or before December 15, 2021, the Agency shall submit a report to
2 the House Committee on Commerce and Economic Development and the
3 Senate Committee on Economic Development, Housing and General Affairs
4 concerning the implementation of this section, including detailed information
5 concerning business grant recipients and recommendations for any necessary
6 legislative action to adjust program criteria and benefits.

7 * * * Reallocation of COVID-19 Relief Funds * * *

8 Sec. 4. ACCD; REALLOCATION OF FUNDS

9 Of the \$20,000,000.00 appropriated to the Agency of Commerce and
10 Community Development in 2021 Acts and Resolves No. 74, Sec.
11 G.300(a)(13) for Economic Recovery grants, the Agency shall reallocate not
12 more than \$5,000,000.00 for brownfield revitalization or other eligible
13 programs that have demonstrated need, subject to and consistent with federal
14 law.

15 * * * Community Development Tax Stabilization Pilot Fund * * *

16 Sec. 5. COMMUNITY DEVELOPMENT TAX STABILIZATION PILOT
17 PROGRAM; APPROPRIATION

18 Of the amounts available from the federal COVID-19 relief funds, the
19 amount of \$5,000,000.00 is appropriated to the Agency of Commerce and
20 Community Development to design and implement the Community
21 Development Tax Stabilization Pilot Program to provide reimbursement for

1 foregone tax revenue to municipalities in which the grand list has decreased
2 over the past 10 years and that grant tax stabilization for new commercial
3 development projects.

4 * * * Project-Based Tax Increment Financing * * *

5 Sec. 6. 24 V.S.A. 1892(d) is amended to read:

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

8 (1) the City of Burlington, Downtown;

9 (2) the City of Burlington, Waterfront;

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

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

12 (5) the City of Winooski;

13 (6) the ~~Town of Colchester~~;

14 (~~7~~) the Town of Hartford;

15 (~~8~~)(7) the City of St. Albans;

16 (~~9~~)(8) the City of Barre;

17 (~~10~~)(9) the Town of Milton, Town Core; and

18 (~~11~~)(10) the City of South Burlington.

1 Sec. 7. 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 (1) In a municipality with one or more approved districts, the Council
13 shall not approve an additional district until the municipality retires the debt
14 incurred for all of the districts in the municipality.

15 (2) The Council shall not approve more than ~~six~~ four districts in the
16 State, and not more than two per county, provided:

17 (A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted
18 against the limits imposed in this subdivision (2).

19 (B) The Council shall consider complete applications in the order
20 they are submitted, except that if during any calendar month the Council
21 receives applications for more districts than are actually available in a county,

1 the Council shall evaluate each application and shall approve the application
2 that, in the Council's discretion, best meets the economic development needs
3 of the county.

4 (C) If, while the General Assembly is not in session, the Council
5 receives applications for districts that would otherwise qualify for approval
6 but, if approved, would exceed the ~~six-district~~ four-district limit in the State,
7 the Council shall make one or more presentations to the Emergency Board
8 concerning the applications, and the Emergency Board may, in its discretion,
9 increase the six-district limit.

10 (D) The Council shall not approve more than one district in
11 Bennington County and one district in Washington County.

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 (h) To approve utilization of incremental revenues pursuant to subsection
19 (f) of this section:

20 * * *

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

4 * * *

5 (C) The project will affect the remediation and redevelopment of a
6 brownfield located within the district. In the case of a brownfield, the Vermont
7 Economic Progress Council is authorized to adopt rules pursuant to
8 subsection (j) of this section to clarify what is a reasonable improvement, as
9 defined in 24 V.S.A. § 1891, to remediate and stimulate the development or
10 redevelopment in the district. As used in this section, "brownfield" means an
11 area in which a hazardous substance, pollutant, or contaminant is or may be
12 present, and that situation is likely to complicate the expansion, development,
13 redevelopment, or reuse of the property.

14 * * *

15 Sec. 8. TAX INCREMENT FINANCING PROJECT DEVELOPMENT;

16 PILOT PROGRAM

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

18 (1) "Committed" means pledged and appropriated for the purpose of the
19 current and future payment of tax increment financing and related costs as
20 defined in this section.

1 (2) “Coordinating agency” means any public or private entity from
2 outside the municipality’s departments or offices and not employing the
3 municipality’s staff, which has been designated by a municipality to administer
4 and coordinate a project during creation, public hearing process, approval
5 process, or administration and operation during the life of the project,
6 including overseeing infrastructure development, real property development
7 and redevelopment, assisting with reporting, and ensuring compliance with
8 statute and rule.

9 (3) “Financing” means debt incurred, including principal, interest, and
10 any fees or charges directly related to that debt, or other instruments or
11 borrowing used by a municipality to pay for improvements and related costs
12 for the approved project, only if authorized by the legal voters of the
13 municipality in accordance with 24 V.S.A. § 1894. Payment for eligible
14 related costs may also include direct payment by the municipality using the
15 district increment. However, such anticipated payments shall be included
16 in the vote by the legal voters of the municipality in accordance with
17 subsection (f) of this section. If interfund loans within the municipality are
18 used as the method of financing, no interest shall be charged. Bond
19 anticipation notes may be used as a method of financing and may qualify as a
20 municipality’s first incurrence of debt. A municipality that uses a bond
21 anticipation note during the third or sixth year that a municipality may incur

1 debt pursuant to subsection (f) of this section shall incur all permanent
2 financing not more than one year after issuing the bond anticipation note.

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

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

12 (6) “Municipality” means a city, town, or incorporated village.

13 (7) “Nexus” means the causal relationship that must exist between the
14 improvements and the expected development and redevelopment in the TIF
15 Project Zone or the expected outcomes in the TIF Project Zone.

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

20 (9) “Project” means a public improvement, as defined in subdivision (4)
21 of this subsection (a), with a total debt ceiling, including related costs, and

1 principal and interest payments, of not more than \$5,000,000.00. A project
2 must:

3 (A) clearly require substantial public investment over and above the
4 normal municipal operating or bonded debt expenditures;

5 (B) only include public improvements that are integral to the
6 expected private development; and

7 (C) meet one of the following four criteria:

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

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

1 (iv) The development will enhance transportation by creating
2 improved traffic patterns and flow or creating or improving public
3 transportation systems.

4 (10) “Related costs” means expenses incurred and paid by the
5 municipality, exclusive of the actual cost of constructing and financing
6 improvements, that are directly related to the creation and implementation of
7 the project, including reimbursement of sums previously advanced by the
8 municipality for those purposes. Related costs may not include direct
9 municipal expenses such as departmental or personnel costs.

10 (11) “TIF project zone” means an area located within one or more active
11 designations approved by the Vermont Downtown Development Board under
12 24 V.S.A. chapter 76A for the parcels in a municipality that have nexus to the
13 project.

14 (b) Pilot program. Beginning on January 1, 2022 and ending on December
15 31, 2026, the Vermont Economic Progress Council is authorized to approve a
16 total of not more than 10 tax increment financing projects, with not more than
17 three projects per year; provided, however, that there shall not be more than
18 one project per municipality.

19 (c) General authority. Under the pilot program established in
20 subsection (b) of this section, a municipality, upon approval of its
21 legislative body, may apply to the Vermont Economic Progress Council

1 pursuant to the process set forth in subsection (e) of this section to use tax
2 increment financing for a project.

3 (d) Eligibility.

4 (1) A municipality is only authorized to apply for a project under this
5 section if:

6 (A) the project will serve one or more active designations approved
7 by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A;
8 and

9 (B) the proposed infrastructure improvements and the projected
10 development or redevelopment are compatible with confirmed municipal and
11 regional development plans and the project has clear local and regional
12 significance for employment, housing, or transportation improvements.

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

16 (e) Approval process. The Vermont Economic Progress Council shall do
17 all of the following to approve an application submitted pursuant to
18 subsection (c) of this section:

19 (1)(A) Review each application to determine that the infrastructure
20 improvements proposed to serve the project and the proposed development in
21 the project would not have occurred as proposed in the application, or would

1 have occurred in a significantly different and less desirable manner than as
2 proposed in the application, but for the proposed utilization of the incremental
3 tax revenues.

4 (B) The review shall take into account:

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

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

13 (iii)(I) the amount of additional revenue expected to be generated
14 as a result of the proposed project;

15 (II) the percentage of that revenue that shall be paid to the
16 Education Fund;

17 (III) the percentage that shall be paid to the municipality; and

18 (IV) the percentage of the revenue paid to the municipality that
19 shall be used to pay financing incurred for development of the project.

20 (2) Process requirements. Determine that each application meets all of
21 the following requirements:

1 (A) The municipality held public hearings and established a project.

2 (B) The municipality has developed a tax increment financing project
3 plan, including a project description; a development financing plan; a pro
4 forma projection of expected costs; a projection of revenues; a statement and
5 demonstration that the project would not proceed without the allocation of a
6 tax increment; evidence that the municipality is actively seeking or has
7 obtained other sources of funding and investment; and a development schedule
8 that includes a list, a cost estimate, and a schedule for public improvements
9 and projected private development to occur as a result of the improvements.

10 (f) Incurring indebtedness.

11 (1) A municipality approved under the process set forth in subsection (e)
12 of this section may incur indebtedness against revenues to provide funding to
13 pay for improvements and related costs for tax increment financing project
14 development.

15 (2) Notwithstanding any provision of any municipal charter, the
16 municipality shall only require one authorizing vote to incur debt through one
17 instance of borrowing to finance or otherwise pay for the tax increment
18 financing project improvements and related costs; provided, however, that a
19 municipality may present one or more subsequent authorization votes in the
20 event a vote fails. The municipality shall be authorized to incur indebtedness
21 only after the legal voters of the municipality, by a majority vote of all voters

1 present and voting on the question at a special or annual municipal meeting
2 duly warned for the purpose, authorize the legislative body to pledge the credit
3 of the municipality, borrow, or otherwise secure the debt for the specific
4 purposes so warned. The creation of the project shall occur at 12:01 a.m. on
5 April 1 of the calendar year the municipal legislative body votes to approve the
6 tax increment financing project plan.

7 (3) Any indebtedness shall be incurred within three years from the date
8 of approval by the Vermont Economic Progress Council, unless the Vermont
9 Economic Progress Council grants an extension of an additional three years
10 pursuant to the substantial change process set forth in the 2015 TIF Rule;
11 provided, however, that an updated plan is submitted prior to the three-year
12 termination date of the project.

13 (g) Original taxable value. As of the date the project is approved by the
14 legislative body of the municipality, the lister or assessor for the municipality
15 shall certify the original taxable value and shall certify to the legislative body
16 in each year thereafter during the life of the project the amount by which the
17 total valuation as determined in accordance with 32 V.S.A. chapter 129 of all
18 taxable real property located within the project has increased or decreased
19 relative to the original taxable value.

20 (h) Tax increments.

1 (1) In each year following the approval of the project, the lister or
2 assessor shall include not more than the original taxable value of the real
3 property in the assessed valuation upon which the treasurer computes the rates
4 of all taxes levied by the municipality and every other taxing district in which
5 the project is situated, but the treasurer shall extend all rates so determined
6 against the entire assessed valuation of real property for that year. In each year
7 for which the assessed valuation exceeds the original taxable value, the
8 municipality shall hold apart, rather than remit to the taxing districts, that
9 proportion of all taxes paid that year on the real property within the project that
10 the excess valuation bears to the total assessed valuation. The amount held
11 apart each year is the “tax increment” for that year. Not more than the
12 percentages established pursuant to subsection (i) of this section of the
13 municipal and State education tax increments received with respect to the
14 project and committed for the payment for financing for improvements and
15 related costs shall be segregated by the municipality in a special tax increment
16 financing project account and in its official books and records until all capital
17 indebtedness of the project has been fully paid. The final payment shall be
18 reported to the treasurer, who shall thereafter include the entire assessed
19 valuation of the project in the assessed valuations upon which municipal and
20 other tax rates are computed and extended and thereafter no taxes from the
21 project shall be deposited in the project’s tax increment financing account.

1 (2) Notwithstanding any charter provision or other provision, all
2 property taxes assessed within a project shall be subject to the provision of
3 subdivision (1) of this subsection. Special assessments levied under 24 V.S.A.
4 chapter 76A or 87 or under a municipal charter shall not be considered
5 property taxes for the purpose of this section if the proceeds are used
6 exclusively for operating expenses related to properties within the project and
7 not for improvements within the district as defined in subdivision (a)(3) of this
8 section.

9 (3) Amounts held apart under subdivision (1) of this subsection shall
10 only be used for financing and related costs as defined in subsection (a) of this
11 section.

12 (i) Use of tax increment.

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

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

6 (3) The Vermont Economic Progress Council shall determine there is a
7 nexus between the improvement and the expected development and
8 redevelopment for the project and expected outcomes in the TIF Project Zone.

9 (j) Distribution. Of the municipal and education tax increments received in
10 any tax year that exceed the amounts committed for the payment of the
11 financing for improvements and related costs for the project, equal portions of
12 each increment may be retained for the following purposes: prepayment of
13 principal and interest on the financing, placed in a special account required by
14 subdivision (g)(1) of this section and used for future financing payments or
15 used for defeasance of the financing. Any remaining portion of the excess
16 municipal tax increment shall be distributed to the city, town, or village
17 budget, in the proportion that each budget bears to the combined total of the
18 budgets, unless otherwise negotiated by the city, town, or village, and any
19 remaining portion of the excess education tax increment shall be distributed to
20 the Education Fund.

1 (k) Information reporting. Every municipality with an approved project
2 pursuant to this section shall:

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

6 (2) Provide, as required by events, notification to the Vermont
7 Economic Progress Council and the Department of Taxes regarding any tax
8 increment financing development project debt obligations, public votes, or
9 votes by the municipal legislative body immediately following such obligation
10 or vote on a form prescribed by the Council, including copies of public notices,
11 agendas, minutes, vote tally, and a copy of the information provided to the
12 public in accordance with 24 V.S.A. § 1894(i).

13 (3) Annually:

14 (A) Ensure that the tax increment financing project account required
15 by subdivision (h)(1) is subject to the annual audit prescribed in subsection (m)
16 of this section. Procedures must include verification of the original taxable
17 value and annual and total municipal and education tax increments generated,
18 expenditures for debt and related costs, and current balance.

19 (B) On or before February 15 of each year, on a form prescribed by
20 the Council, submit an annual report to the Vermont Economic Progress
21 Council and the Department of Taxes, including the information required by

1 subdivision (2) of this section if not already submitted during the year, all
2 information required by subdivision (A) of this subdivision (3), and the
3 information required by 32 V.S.A. § 5404a(i), including performance measures
4 and any other information required by the Council or the Department of Taxes.

5 (l) Annual report. The Vermont Economic Progress Council and the
6 Department of Taxes shall submit an annual report to the Senate Committees
7 on Economic Development, Housing and General Affairs and on Finance and
8 the House Committees on Commerce and Economic Development and on
9 Ways and Means on or before April 1 each year. The report shall include the
10 date of approval, a description of the project, the original taxable value of the
11 property subject to the project development, the scope and value of projected
12 and actual improvements and developments in the TIF Project Zone, projected
13 and actual incremental revenue amounts, and division of the increment revenue
14 between project debt, the Education Fund, the special account required by
15 subdivision (h)(1) and the municipal General Fund, projected and actual
16 financing, and a set of performance measures developed by the Vermont
17 Economic Progress Council, which may include outcomes related to the
18 criteria for which the municipality applied and the amount of infrastructure
19 work performed by Vermont firms.

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

4 (1) On or before January 1, submit an annual report to the Vermont
5 Economic Progress Council, which shall provide sufficient information for the
6 Vermont Economic Progress Council to prepare its report required by
7 subsection (i) of this section.

8 (2) On or before April 1, ensure that the project is subject to the annual
9 audit prescribed in 24 V.S.A. § 1681 or 1690. In the event that the audit is
10 only subject to the audit under 24 V.S.A. § 1681, the Vermont Economic
11 Progress Council shall ensure a process is in place to subject the project to an
12 independent audit. Procedures for the audit must include verification of the
13 original taxable value and annual and total municipal and education tax
14 increments generated, expenditures for debt and related costs, and current
15 balance.

16 (n) Authority to issue decisions.

17 (1) The Secretary of Commerce and Community Development, after
18 reasonable notice to a municipality and an opportunity for a hearing, is
19 authorized to issue decisions to a municipality on questions and inquiries
20 concerning the administration of projects, statutes, rules, noncompliance with

1 this section, and any instances of noncompliance identified in audit reports
2 conducted pursuant to subsection (m) of this section.

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

16 (o) The Vermont Economic Progress Council is authorized to adopt
17 policies that are consistent with the 2015 TIF Rule, as may be modified by
18 subsequent rule, to implement this section.

19 Sec. 9. 24 V.S.A. § 1891 is amended to read:

20 § 1891. DEFINITIONS

21 ~~When~~ As used in this subchapter:

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* * *

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

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

* * *

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements and related costs may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by

1 subdivision 1901(2)(B) of this subchapter. If interfund loans within the
2 municipality are used as the method of financing, no interest shall be charged.
3 Bond anticipation notes may be used as a method of financing and may qualify
4 as a district's first incurrence of debt. A municipality that uses a bond
5 anticipation note during the fifth year or tenth year that a district may incur
6 debt pursuant to section 1894 of this title shall incur all permanent financing
7 not more than one year after issuing the bond anticipation note.

8 * * *

9 Sec. 10. 24 V.S.A. § 1895 is amended to read:

10 § 1895. ORIGINAL TAXABLE VALUE

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

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

1 * * * Municipal Planning Grants * * *

2 Sec. 11. 24 V.S.A. § 4306 is amended to read:

3 § 4306. MUNICIPAL AND REGIONAL PLANNING FUND

4 (a)(1) The Municipal and Regional Planning Fund for the purpose of
5 assisting municipal and regional planning commissions to carry out the intent
6 of this chapter is hereby created in the State Treasury.

7 (2) The Fund shall be composed of 17 percent of the revenue from the
8 property transfer tax under 32 V.S.A. chapter 231 and any monies from time to
9 time appropriated to the Fund by the General Assembly or received from any
10 other source, private or public. All balances at the end of any fiscal year shall
11 be carried forward and remain in the Fund. Interest earned by the Fund shall
12 be deposited in the Fund.

13 (3) Of the revenues in the Fund, each year:

14 (A) 10 percent shall be disbursed to the Vermont Center for
15 Geographic Information;

16 (B) 70 percent shall be disbursed to the Secretary of Commerce and
17 Community Development for performance contracts with regional planning
18 commissions to provide regional planning services pursuant to section 4341a
19 of this title; and

20 (C) 20 percent shall be disbursed to municipalities.

21 * * *

1 (d) New funds allocated to municipalities under this section may take the
2 form of special purpose grants in accordance with section 4307 of this title.

3 Sec. 12. 24 V.S.A. § 4307 is added to read:

4 § 4307. MUNICIPAL BYLAW MODERNIZATION GRANTS

5 (a) There are created Municipal Bylaw Modernization Grants to assist
6 municipalities in updating their land use and development bylaws to support a
7 development pattern that is pedestrian oriented and consistent with the smart
8 growth principles established in section 2791 of this title. The Grants shall be
9 funded by monies allocated from the municipality allocation of the Municipal
10 and Regional Planning Funds established in subdivision 4306 (a)(3)(C) of this
11 title and any other monies appropriated for this purpose.

12 (b) A municipality that receives a grant shall use the funds for the adoption
13 of bylaws that increase housing choice, affordability, and opportunity in smart
14 growth areas. These smart growth areas shall be areas that reflect the smart
15 growth principles established in section 2791 of this title, that are located
16 outside important natural resource areas, and are located outside identified
17 flood hazard areas and river corridors or are acceptable for infill development
18 as defined in § 29–201 of the Vermont Flood Hazard Area and River Corridor
19 Rule.

20 (c) Disbursement to municipalities shall be administered by the Department
21 of Housing and Community Development through a competitive process

1 providing the opportunity for all regions and any eligible municipality to
2 compete regardless of size. The Department shall, to the extent reasonably
3 possible, ensure that grants are awarded with the intent of achieving
4 geographic distribution across the State.

5 (d) Funds may be disbursed by the Department in installments to ensure the
6 municipal bylaw updates meet the goals of this section.

7 (e) Funding may be used for mapping, the cost of regional planning
8 commission staff or consultant time, carrying out the provisions of
9 subchapters 5 through 10 of this chapter, and any other purpose approved by
10 the Department.

11 (f) To receive a grant, the municipality shall:

12 (1) identify any municipal water supply and wastewater disposal
13 capacity, opportunities, and constraints within mapped service areas in both
14 traditional water and wastewater systems and smaller scale municipal systems,
15 including soil-based wastewater treatment and decentralized water and
16 wastewater systems;

17 (2) allow, at a minimum, duplexes within smart growth areas to the
18 same extent that single-family dwellings are allowed;

19 (3) require parking waiver provisions in appropriate smart growth areas
20 and situations;

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

8 (3) “Qualified code improvement project” means a project:

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

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

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

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

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

11 * * *

12 Sec. 14. 24 V.S.A. § 2793a is amended to read:

13 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

14 * * *

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

18 * * *

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

1 ~~(A) A State historic rehabilitation tax credit of ten percent under~~
2 ~~32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation~~
3 ~~tax credit.~~

4 ~~(B) A State façade improvement tax credit of 25 percent under~~
5 ~~32 V.S.A. § 5930cc(b).~~

6 ~~(C) A State code improvement tax credit of 50 percent under~~
7 ~~32 V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program~~
8 ~~described in 32 V.S.A. § 5930aa et seq.~~

9 * * *

10 Sec. 15. 24 V.S.A. § 2793e is amended to read:

11 § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
12 NEIGHBORHOOD DEVELOPMENT AREAS

13 * * *

14 (f) Neighborhood development area incentives for developers. Once a
15 municipality has a designated neighborhood development area or has a
16 Vermont neighborhood designation pursuant to section 2793d of this title, any
17 proposed development within that area shall be eligible for each of the benefits
18 listed in this subsection. These benefits shall accrue upon approval by the
19 district coordinator, who shall review the density requirements set forth in
20 subdivision (c)(7) of this section to determine benefit eligibility and issue a

1 jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density
2 requirements are met. These benefits are:

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

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

7 (3) ~~The~~ the exclusion from the land gains tax provided by 32 V.S.A.
8 § 10002(p); and

9 (4) eligibility for the Downtown and Village Center Tax Credit Program
10 described in 32 V.S.A. § 5930aa et seq.

11 * * *

12 Sec. 16. 24 V.S.A. § 2794 is amended to read:

13 § 2794. INCENTIVES FOR PROGRAM DESIGNEES

14 (a) Upon designation by the Vermont Downtown Development Board
15 under section 2793 of this title, a downtown development district and projects
16 in a downtown development district shall be eligible for the following:

17 (1) Priority consideration by any agency of the State administering any
18 State or federal assistance program providing funding or other aid to a
19 municipal downtown area with consideration given to such factors as the costs
20 and benefits provided and the immediacy of those benefits, provided the
21 project is eligible for the assistance program.

1 period that credits are available under this subdivision (B). Of the total first-
2 year credit allocations made under this subdivision (B), \$250,000.00 shall be
3 used each fiscal year for manufactured home purchase and replacement.

4 (2) If the full amount of first-year credits authorized by an award are not
5 allocated to a taxpayer, the Agency may reclaim the amount not allocated and
6 re-award such allocations to other applicants, and such re-awards shall not be
7 subject to the limits set forth in subdivision (1) of this subsection.

8 * * * Down Payment Assistance Program * * *

9 Sec. 18. 32 V.S.A. § 5930u is amended to read:

10 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

11 * * *

12 (h)(1) In fiscal year 2016 through fiscal year 2019, the allocating agency
13 may award up to \$125,000.00 in total first-year credit allocations for loans
14 through the Down Payment Assistance Program created in subdivision (b)(2)
15 of this section.

16 (2) In fiscal year 2020 through fiscal year ~~2026~~ 2022, the allocating
17 agency may award up to \$250,000.00 in total first-year credit allocations for
18 loans through the Down Payment Assistance Program created in subdivision
19 (b)(3) of this section.

20 (3) In fiscal year 2023 and subsequent years, the allocating agency may
21 award up to \$500,000.00 in total first-year credit allocations for loans through

1 the Down Payment Assistance Program created in subdivision (b)(3) of this
2 section.

3 * * * Downtown Tax Credit * * *

4 Sec. 19. 32 V.S.A. § 5930ee is amended to read:

5 § 5930ee. LIMITATIONS

6 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
7 credits to all qualified applicants under this subchapter, provided that:

8 (1) the total amount of tax credits awarded annually, together with sales
9 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~
10 \$4,750,000.00;

11 * * *

12 * * * Effective Date * * *

13 Sec. 20. EFFECTIVE DATE

14 This act shall take effect on July 1, 2022.