

1 H.378

2 Introduced by Representatives Bartley of Fairfax, Canfield of Fair Haven,  
3 Bosch of Clarendon, Duke of Burlington, Graning of Jericho,  
4 Krasnow of South Burlington, Marcotte of Coventry, Micklus  
5 of Milton, Priestley of Bradford, and White of Bethel

6 Referred to Committee on

7 Date:

8 Subject: Taxation and finance; education property tax; tax increment

9 financing; municipal and county government; indebtedness; TIF

10 Statement of purpose of bill as introduced: This bill proposes to establish a  
11 housing infrastructure tax increment financing program, administered by the  
12 Vermont Economic Progress Council, to authorize municipalities to use  
13 statewide education property tax and municipal property tax increment to pay  
14 for financing undertaken by the municipality, a developer, or a sponsor for  
15 infrastructure that will stimulate housing development within a geographically  
16 eligible area.

17 An act relating to tax increment financing for housing infrastructure

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

19 Sec. 1. 24 V.S.A. chapter 53, subchapter 7 is added to read:

20 Subchapter 7. Housing Infrastructure Tax Increment Financing

1     § 1906. DEFINITIONS

2             As used in this subchapter:

3             (1) “Brownfield” means a property on which the presence or potential  
4 presence of a hazardous substance, pollutant, or contaminant complicates the  
5 expansion, development, redevelopment, or reuse of the property.

6             (2) “Committed” means pledged and appropriated for the purpose of the  
7 current and future payment of financing and related costs.

8             (3) “Developer” means the person undertaking to develop a housing  
9 infrastructure project.

10            (4) “Financing” means debt, including principal, interest, and any fees  
11 or charges directly related to that debt, incurred by a sponsor to pay for a  
12 housing infrastructure project and, in the case of a sponsor that is a  
13 municipality, authorized by the municipality pursuant to section 1910 of this  
14 subchapter.

15            (5) “Housing development site” means the parcel or parcels  
16 encompassing a housing infrastructure project authorized by a municipality  
17 pursuant to section 1907 of this subchapter.

18            (6) “Housing infrastructure project” means an improvement or  
19 improvements authorized by a municipality pursuant to section 1907 of this  
20 subchapter.

21            (7) “Improvements” means:

1           (A) the installation or construction of infrastructure, including  
2           utilities, transportation, public facilities and amenities, land and property  
3           acquisition and demolition, brownfield remediation, site preparation, and flood  
4           remediation and mitigation; and

5           (B) the funding of debt service interest payments for a period of up to  
6           three years, beginning on the date on which the first debt is incurred.

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

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

11          (10) “Original taxable value” means the total valuation as determined in  
12          accordance with 32 V.S.A. chapter 129 of a housing development site as of its  
13          creation date.

14          (11) “Public infrastructure agreement” means a legally binding  
15          agreement to develop a housing infrastructure project between a municipality  
16          and a sponsor or developer, or both.

17          (12) “Related costs” means expenses incurred and paid by a  
18          municipality, exclusive of the actual cost of constructing and financing a  
19          housing infrastructure project, that are directly related to the creation and  
20          implementation of the municipality’s housing infrastructure project, including  
21          reimbursement of sums previously advanced by the municipality for those

1 purposes. Related costs may not include direct municipal expenses such as  
2 departmental or personnel costs.

3 (13) “Sponsor” means the person undertaking to finance a housing  
4 infrastructure project. Any of a municipality, a developer, or an independent  
5 agency that meets State lending standards may serve as a sponsor for a housing  
6 infrastructure project.

7 § 1907. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND  
8 HOUSING DEVELOPMENT SITE

9 (a) The legislative body of a municipality may create within its jurisdiction  
10 a housing infrastructure project, which shall consist of improvements that  
11 stimulate the development of housing, and a housing development site, which  
12 shall consist of the parcel or parcels on which a housing infrastructure project  
13 is installed or constructed.

14 (b) To create a housing infrastructure project and housing development  
15 site, a municipality shall:

16 (1) develop a housing development plan, including:

17 (A) a description of the proposed housing infrastructure project and  
18 the proposed housing development site;

19 (B) identification of a sponsor;

20 (C) a development financing plan;

21 (D) a pro forma projection of expected costs;

1           (E) a projection of revenues; and

2           (F) a development schedule that includes a list, a cost estimate, and a  
3           schedule for the proposed housing infrastructure project and projected private  
4           development to occur as a result of the proposed housing infrastructure project;

5           (2) develop a plan describing the housing development site by its  
6           boundaries and the properties therein, entitled “Proposed Housing  
7           Development Site (municipal name), Vermont”;

8           (3) hold one or more public hearings, after public notice, on the  
9           proposed housing infrastructure project, including the plans developed  
10          pursuant to this subsection; and

11          (4) adopt by act of the legislative body of the municipality the plan  
12          developed under subdivision (2) of this subsection, which shall be recorded  
13          with the municipal clerk and lister or assessor.

14          (c) The creation of a housing development site shall occur at 12:01 a.m. on  
15          April 1 of the calendar year in which the Vermont Economic Progress Council  
16          approves the use of tax increment financing for the housing infrastructure  
17          project pursuant to section 1909 of this subchapter.

18          § 1908. PUBLIC INFRASTRUCTURE AGREEMENT

19          (a) The public infrastructure agreement for a housing infrastructure project  
20          shall:

1           (1) clearly identify the developer and sponsor for the housing  
2           infrastructure project;

3           (2) clearly identify the housing development projected for the housing  
4           development site and identify the substantial completion target for certification  
5           pursuant to subsection 1910b(d);

6           (3) obligate the tax increments retained pursuant to section 1910b of this  
7           subchapter for not more than the financing and related costs for the housing  
8           infrastructure project;

9           (4) provide as consideration offered by the municipality not more than  
10          the tax increments retained pursuant to section 1910b of this subchapter; and

11          (5) ensure the municipality pursuing the housing infrastructure project is  
12          protected against developer or sponsor failure to perform.

13          (b) A municipality shall provide notice of the terms of the public  
14          infrastructure agreement governing the municipality's housing infrastructure  
15          project to the legal voters of the municipality and shall provide the same  
16          information as set forth in subsection 1910(e) of this subchapter.

17          § 1909. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

18                           VERMONT ECONOMIC PROGRESS COUNCIL

19          (a) A municipality, upon approval of its legislative body, may apply to the  
20          Vermont Economic Progress Council to use tax increment financing for a

1 housing infrastructure project. The Vermont Economic Progress Council may  
2 approve only applications meeting the standards of this section.

3 (b) Staff of the Council may approve applications submitted to meet either  
4 location criterion of subdivisions (d)(2)(A)–(B) of this section, but applications  
5 submitted to meet either location criterion of subdivisions (d)(2)(C)–(D) of this  
6 section shall require approval of the board.

7 (c) The Vermont Economic Progress Council shall review a municipality’s  
8 housing infrastructure project application to determine whether the  
9 municipality has:

10 (1) created a housing infrastructure project and housing development  
11 site pursuant to subsection 1907(b) of this subchapter;

12 (2) executed a public infrastructure agreement to develop the housing  
13 infrastructure project with a sponsor or developer, or both, adhering to the  
14 standards of subsection 1908(a) of this subchapter; and

15 (3) approved or pledged to use incremental municipal tax revenues for  
16 the housing infrastructure project in the proportion provided in subsection  
17 1910b(b) of this subchapter.

18 (d) The Vermont Economic Progress Council shall review a municipality’s  
19 housing infrastructure project application to determine whether the housing  
20 development plan meets the following criteria:

1           (1) at least 50 percent of the gross floor area of the projected private  
2           development is dedicated to housing; and

3           (2) the housing development site is located within one of the following  
4           areas:

5                   (A) an area designated Tier 1 pursuant to 10 V.S.A. chapter 151;

6                   (B) an area exempt from the provisions of 10 V.S.A. chapter 151  
7           pursuant to 10 V.S.A. § 6081(dd);

8                   (C) an existing settlement as that term is defined in 10 V.S.A.  
9           § 6001(16); or

10                   (D) an area within one half-mile of an existing settlement as that term  
11           is defined in 10 V.S.A. § 6001(16).

12           (e) The Vermont Economic Progress Council shall approve a  
13           municipality's tax increment financing plan prior to a sponsor's incurrence of  
14           debt for the housing infrastructure project, including, if the sponsor is a  
15           municipality, prior to a public vote to pledge the credit of the municipality  
16           under section 1910 of this subchapter. The tax increment financing plan shall  
17           include all information related to the proposed financing necessary for  
18           approval by the Council and to ensure its viability and consistency with the  
19           housing development plan developed pursuant to subdivision 1907(b)(1) of  
20           this subchapter.



1     § 1910. INDEBTEDNESS

2           (a) A municipality approved for tax increment financing under section  
3           1909 of this subchapter may incur indebtedness against revenues of the  
4           housing development site at any time during a period of up to two years  
5           following the creation of the housing development site. If no debt is incurred  
6           for the housing infrastructure project during this two-year period, whether by  
7           the municipality or sponsor, the housing development site shall terminate.

8           (b) Notwithstanding any provision of any municipal charter, each instance  
9           of borrowing by the municipality to finance or otherwise pay for a housing  
10           infrastructure project shall occur only after the legal voters of the municipality,  
11           by a majority vote of all voters present and voting on the question at a special  
12           or annual municipal meeting duly warned for the purpose, authorize the  
13           legislative body to pledge the credit of the municipality, borrow, or otherwise  
14           secure the debt for the specific purposes so warned.

15           (c) Any indebtedness incurred under this section may be retired over any  
16           period authorized by the legislative body of the municipality.

17           (d) The housing development site shall continue until the date and hour the  
18           indebtedness is retired or, if no debt is incurred, two years following the  
19           creation of the housing development site.

20           (e) A municipal legislative body shall provide information to the public  
21           prior to the public vote required under subsection (b) of this section. This

1 information shall include the amount and types of debt and related costs to be  
2 incurred, including principal, interest, and fees; terms of the debt; the housing  
3 infrastructure project to be financed; the private development projected to  
4 occur because of the housing infrastructure project; and notice to the voters  
5 that if the tax increment received by the municipality from any property tax  
6 source is insufficient to pay the principal and interest on the debt in any year,  
7 the municipality shall remain liable for the full payment of the principal and  
8 interest for the term of the indebtedness. If interfund loans within the  
9 municipality are used, the information must also include documentation of the  
10 terms and conditions of the loan. If interfund loans within the municipality are  
11 used as the method of financing, no interest shall be charged.

12 § 1910a. ORIGINAL TAXABLE VALUE; TAX INCREMENT

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

20 (b) Throughout the life of the housing development site, the lister or  
21 assessor shall include not more than the original taxable value of the real

1 property in the assessed valuation upon which the treasurer computes the rates  
2 of all taxes levied by the municipality and every other taxing district in which  
3 the housing development site is situated, but the treasurer shall extend all rates  
4 so determined against the entire assessed valuation of real property for that  
5 year.

6 (c) Throughout the life of the housing development site, a municipality  
7 shall remit not less than the aggregate tax due on the original taxable value to  
8 the Education Fund.

9 (d) Throughout the life of the housing development site, the municipality  
10 shall hold apart, rather than remit to the taxing districts, that proportion of all  
11 taxes paid that year on the real property within the housing development site  
12 that the excess valuation bears to the total assessed valuation. The amount  
13 held apart each year is the “tax increment” for that year. The tax increment  
14 shall only be used for financing and related costs.

15 (e) Not more than the percentages established pursuant to section 1910b of  
16 this subchapter of the municipal and State education tax increments received  
17 with respect to the housing development site and committed for the payment  
18 for financing for improvements and related costs shall be segregated by the  
19 municipality in a special tax increment financing account and in its official  
20 books and records until all capital indebtedness incurred for the housing  
21 infrastructure project has been fully paid. The final payment shall be reported

1 to the treasurer, who shall thereafter include the entire assessed valuation of the  
2 housing development site in the assessed valuations upon which the municipal  
3 and other tax rates are computed and extended, and thereafter no taxes from  
4 the housing development site shall be deposited in the special tax increment  
5 financing account.

6 (f) Notwithstanding any charter provision or other provision, all property  
7 taxes assessed within a housing development site shall be subject to the  
8 provisions of this section. Special assessments levied under chapter 76A or 87  
9 of this title or under a municipal charter shall not be considered property taxes  
10 for the purpose of this section if the proceeds are used exclusively for  
11 operating expenses related to properties within the housing development site  
12 and not for the housing infrastructure project.

13 § 1910b. USE OF TAX INCREMENT; RETENTION PERIOD;

14 SUBSTANTIAL COMPLETION

15 (a) Education property tax increment. For only debt incurred within the  
16 period permitted under subsection 1910(a) of this subchapter and related costs,  
17 up to 80 percent of the education property tax increment may be retained for  
18 up to 20 years, beginning on July 1 of the year in which the Vermont  
19 Economic Progress Council certifies substantial completion of the housing  
20 development pursuant to subsection (d) of this section.

1       (b) Municipal property tax increment. For only debt incurred within the  
2       period permitted under subsection 1910(a) of this subchapter and related costs,  
3       not less than 80 percent of the municipal property tax increment may be  
4       retained, beginning on July 1 of the year in which the Vermont Economic  
5       Progress Council certifies substantial completion of the housing development  
6       pursuant to subsection (d) of this section.

7       (c) Excess tax increment.

8           (1) Of the municipal and education property tax increments received in  
9       any tax year that exceed the amounts committed for the payment of the  
10       financing and related costs for a housing infrastructure project, equal portions  
11       of each increment may be retained for the following purposes:

12           (A) to prepay principal and interest on the financing;

13           (B) to place in a special tax increment financing account required  
14       pursuant to subsection 1910a(e) of this subchapter and use for future financing  
15       payments; or

16           (C) to use for defeasance of the financing.

17           (2) Any remaining portion of the excess education property tax  
18       increment shall be distributed to the Education Fund. Any remaining portion  
19       of the excess municipal property tax increment shall be distributed to the city,  
20       town, or village budget in the proportion that each budget bears to the

1 combined total of the budgets unless otherwise negotiated by the city, town, or  
2 village.

3 (d) Substantial completion certification. A municipality shall promptly  
4 notify the Vermont Economic Progress Council upon completion of 50 percent  
5 of the housing development projected in the housing development plan  
6 developed pursuant to subdivision 1907(b)(1). The Vermont Economic  
7 Progress Council shall confirm and certify substantial completion of the  
8 housing development against the housing development plan for the purpose of  
9 starting the tax increment retention periods pursuant to subsections (a) and (b)  
10 of this section.

11 § 1910c. INFORMATION REPORTING

12 (a) A municipality with an active housing infrastructure project shall:

13 (1) develop a system, segregated for the housing infrastructure project,  
14 to identify, collect, and maintain all data and information necessary to fulfill  
15 the reporting requirements of this section, including performance measures;

16 (2) provide timely notification to the Department of Taxes and the  
17 Vermont Economic Progress Council of any housing infrastructure project  
18 debt, public vote, or vote by the municipal legislative body immediately  
19 following the debt incurrence or public vote on a form prescribed by the  
20 Council, including copies of public notices, agendas, minutes, vote tally, and a

1 copy of the information provided to the public pursuant to subsection 1910(e)  
2 of this subchapter; and

3 (3) annually on or before October 15, submit on a form prescribed by  
4 the Vermont Economic Progress Council an annual report to the Council and  
5 the Department of Taxes, including the information required by subdivision (2)  
6 of this subsection if not previously submitted, the information required for  
7 annual audit under section 1910d of this subchapter, and any information  
8 required by the Council or the Department of Taxes for the report required  
9 pursuant to subsection (b) of this section.

10 (b) Annually on or before January 1, the Vermont Economic Progress  
11 Council and the Department of Taxes shall submit a report to the Senate  
12 Committees on Economic Development, Housing and General Affairs and on  
13 Finance and the House Committees on Commerce and Economic Development  
14 and on Ways and Means on housing infrastructure projects approved pursuant  
15 to this subchapter, including for each:

16 (1) the date of approval;

17 (2) a description of the housing infrastructure project;

18 (3) the original taxable value of the housing development site;

19 (4) the scope and value of projected and actual improvements and  
20 developments in the housing development site;

21 (5) projected and actual incremental revenue amounts;

1           (6) the allocation of incremental revenue;

2           (7) projected and actual financing;

3           (8) performance measures developed by the Vermont Economic  
4 Progress Council; and

5           (9) the amount of infrastructure work performed by Vermont firms.

6           § 1910d. AUDITING

7           Annually on or before April 1 until the year following the end of the period  
8 for retention of education property tax increment, a municipality with a  
9 housing infrastructure project approved under this subchapter shall ensure that  
10 the housing infrastructure project is subject to the annual audit prescribed in  
11 section 1681 or 1690 of this title and submit a copy to the Vermont Economic  
12 Progress Council. If a housing infrastructure project is subject only to the  
13 audit under section 1681 of this title, the Council shall ensure a process is in  
14 place to subject the housing infrastructure project to an independent audit.  
15 Procedures for the audit must include verification of the original taxable value  
16 and annual and total municipal and education property tax increments  
17 generated, expenditures for financing and related costs, and current balance.

18           § 1910e. GUIDANCE

19           (a) The Secretary of Commerce and Community Development, after  
20 reasonable notice to a municipality and an opportunity for a hearing, may issue  
21 decisions to a municipality on questions and inquiries concerning the



1 administration of housing infrastructure projects, statutes, rules,  
2 noncompliance with this subchapter, and any instances of noncompliance  
3 identified in audit reports conducted pursuant to section 1910d of this  
4 subchapter.

5 (b) The Vermont Economic Progress Council shall prepare  
6 recommendations for the Secretary of Commerce and Community  
7 Development prior to any decision issued pursuant to subsection (a) of this  
8 section. The Council may prepare recommendations in consultation with the  
9 Commissioner of Taxes, the Attorney General, and the State Treasurer. In  
10 preparing recommendations, the Council shall provide a municipality with a  
11 reasonable opportunity to submit written information in support of its position.

12 (c) The Secretary of Commerce and Community Development shall review  
13 the recommendations of the Council and issue a final written decision on each  
14 matter within 60 days following receipt of the recommendations. The  
15 Secretary may permit an appeal to be taken by any party to a Superior Court  
16 for determination of questions of law in the same manner as the Supreme Court  
17 may by rule provide for appeals before final judgment from a Superior Court  
18 before issuing a final decision.

19 (d) The Vermont Economic Progress Council may adopt policies that are  
20 consistent with the 2015 TIF Rule, as modified by subsequent rulemaking, to  
21 implement this subchapter.

1 Sec. 2. 32 V.S.A. § 3325 is amended to read:

2 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

3 (a) Creation. The Vermont Economic Progress Council is created to  
4 exercise the authority and perform the duties assigned to it, including its  
5 authority and duties relating to:

6 (1) the Vermont Employment Growth Incentive Program pursuant to  
7 subchapter 2 of this chapter; ~~and~~

8 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,  
9 subchapter 5 and section 5404a of this title; and

10 (3) housing infrastructure tax increment financing pursuant to 24 V.S.A.  
11 chapter 53, subchapter 7.

12 \* \* \*

13 (g) Decisions not subject to review. A decision of the Council to approve  
14 or deny an application under subchapter 2 of this chapter, ~~or~~ to approve or  
15 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,  
16 subchapter 5 and section 5404a of this title, or to approve or deny a housing  
17 infrastructure project pursuant to 24 V.S.A. chapter 53, subchapter 7 is an  
18 administrative decision that is not subject to the contested case hearing  
19 requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

20 Sec. 3. EFFECTIVE DATE

21 This act shall take effect on July 1, 2025.