

1 H.420

2 Introduced by Representatives Boutin of Barre City, Bosch of Clarendon,  
3 Casey of Montpelier, Galfetti of Barre Town, and Micklus of  
4 Milton

5 Referred to Committee on

6 Date:

7 Subject: Taxation and finance; education property tax; tax increment financing  
8 districts; municipal and county government; indebtedness; statewide  
9 tax increment financing; TIF

10 Statement of purpose of bill as introduced: This bill proposes to establish a tax  
11 increment financing project development program, administered by the  
12 Vermont Economic Progress Council, to authorize municipalities in flood-  
13 impacted communities to use statewide education property tax and municipal  
14 property tax increment to pay for improvements.

15 An act relating to tax increment financing for flood-impacted communities

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

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

18 Subchapter 7. Project-Based Tax Increment Financing

19 § 1906. DEFINITIONS

20 As used in this subchapter:

1           (1) “Affordable housing” has the same meaning as in section 4303 of  
2 this title.

3           (2) “Brownfield” has the same meaning as in 32 V.S.A.  
4 § 5404a(h)(4)(C).

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

7           (4) “Coordinating agency” means a nonmunicipal entity that a  
8 municipality designates to administer and coordinate a project.

9           (5) “Financing” means debt authorized by a municipality pursuant to  
10 section 1909 of this subchapter, including principal, interest, and any fees or  
11 charges directly related to that debt, to pay for a project.

12           (6) “Improvements” means:

13           (A) the installation or construction of infrastructure, including  
14 utilities, transportation, public facilities and amenities, land and property  
15 acquisition and demolition, brownfield remediation, site preparation, and flood  
16 remediation and mitigation; and

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

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

1           (8) “Municipality” means a city, town, or incorporated village.

2           (9) “Original taxable value” means the total valuation as determined in  
3 accordance with 32 V.S.A. chapter 129 of all taxable real property located  
4 within a project zone as of its creation date, as adjusted pursuant to section  
5 1910 of this subchapter.

6           (10) “Project” means an improvement or improvements authorized by a  
7 municipality pursuant to section 1907 of this subchapter.

8           (11) “Related costs” means expenses incurred and paid by a  
9 municipality, exclusive of the actual cost of constructing and financing a  
10 project, that are directly related to the creation and implementation of the  
11 municipality’s project, including reimbursement of sums previously advanced  
12 by the municipality for those purposes and any costs of a coordinating agency.  
13 Related costs may not include direct municipal expenses such as departmental  
14 or personnel costs.

15           (12) “Project zone” means an area encompassing a project authorized by  
16 a municipality pursuant to section 1907 of this subchapter, provided that no  
17 parcel within the project zone shall be divided or bisected by the project zone  
18 boundary.

19           § 1907. CREATION OF PROJECT AND PROJECT ZONE

20           (a) The legislative body of a municipality may create within its jurisdiction  
21 a project, which shall consist of improvements that serve a public purpose, and

1 a project zone, which shall consist of the parcel on which a project is installed  
2 or constructed and any immediately adjoining parcels.

3 (b) To create a project and project zone, a municipality shall:

4 (1) develop a project plan, including:

5 (A) a description of the proposed project and the proposed project  
6 zone;

7 (B) a development financing plan;

8 (C) a pro forma projection of expected costs;

9 (D) a projection of revenues;

10 (E) a demonstration that the proposed project would not proceed  
11 without the allocation of incremental tax revenues;

12 (F) evidence that the municipality is actively seeking or has obtained  
13 other sources of funding and investment; and

14 (G) a development schedule that includes a list, a cost estimate, and a  
15 schedule for the proposed project and projected private development to occur  
16 as a result of the proposed project;

17 (2) develop a plan describing the project zone by its boundaries and the  
18 properties therein, entitled “Proposed Project Zone (municipal name),  
19 Vermont”;

20 (3) hold one or more public hearings, after public notice, on the  
21 proposed project, including the plan developed pursuant to subdivision (2) of

1 this subsection; and

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

5 (c) The creation of a project zone shall occur at 12:01 a.m. on April 1 of the  
6 calendar year the Vermont Economic Progress Council approves the use of tax  
7 increment financing for the project pursuant to section 1908 of this subchapter.

8 § 1908. PROJECT APPLICATION; VERMONT ECONOMIC PROGRESS  
9 COUNCIL

10 (a) A municipality, upon approval of its legislative body, may apply to the  
11 Vermont Economic Progress Council to use tax increment financing for a  
12 project. The Vermont Economic Progress Council may approve only  
13 applications meeting the standards of this section.

14 (b) The Vermont Economic Progress Council shall review a municipality's  
15 project application to determine whether the municipality meets each of the  
16 following criteria:

17 (1) the municipality is located in a county subject to a major disaster  
18 declaration issued by the Federal Emergency Management Agency in 2023 or  
19 2024;

20 (2) the municipality has created a project and project zone pursuant to  
21 subsection 1907(b) of this subchapter; and

1           (3) the municipality has approved or pledged to use incremental  
2           municipal tax revenues for the project in the proportion set in subsection  
3           1910a(b) of this subchapter;

4           (c) The Vermont Economic Progress Council shall review a municipality's  
5           project application to determine whether the project plan meets any of the  
6           following criteria:

7           (1) the projected private development includes new or rehabilitated  
8           affordable housing;

9           (2) the project or projected private development will stimulate the  
10          remediation and redevelopment of a brownfield;

11          (3) the projected private development includes at least one entirely new  
12          business or business operation or expansion of an existing business within the  
13          project zone, and the business will provide new, quality, full-time jobs that  
14          meet or exceed the prevailing wage for the region as reported by the  
15          Department of Labor;

16          (4) the project or projected private development will enhance  
17          transportation by creating improved traffic patterns and flow or creating or  
18          improving public transportation systems; or

19          (5) the project substantially improves flood resiliency or remediates  
20          flood damage.

21          (d) The Vermont Economic Progress Council shall review a municipality's

1 project application to determine whether the municipality has demonstrated  
2 each of the following:

3 (1) the project and projected development are compatible with  
4 confirmed municipal and regional development plans;

5 (2) the project has clear local and regional significance for employment,  
6 housing, brownfield remediation, transportation improvements, or flood  
7 remediation and mitigation;

8 (3) the municipality is leveraging sources of revenue from local, State,  
9 or federal programs and requires additional funding to undertake the project;  
10 and

11 (4) the municipality possesses the requisite experience to manage the  
12 project, which the municipality may demonstrate through use of a coordinating  
13 agency; and

14 (5) the municipality has developed a plan for fiscal viability.

15 (e) The Vermont Economic Progress Council shall review a municipality's  
16 project application to determine that the project and any proposed development  
17 in the project zone would not have occurred as proposed in the application, or  
18 would have occurred in a significantly different and less desirable manner than  
19 as proposed in the application, but for the proposed utilization of incremental  
20 tax revenues, considering:

21 (1) the amount of additional time needed to complete the project and

1 any projected private development within the project zone and the amount of  
2 additional cost that might be incurred if the project were to proceed without  
3 education property tax increment financing;

4 (2) how the proposed project or projected private development  
5 components and size, including, if applicable, the number of units of  
6 affordable housing, would differ without education property tax increment  
7 financing; and

8 (3)(A) the amount of additional revenue expected to be generated as a  
9 result of the project;

10 (B) the percentage of that revenue that shall be paid to the Education  
11 Fund;

12 (C) the percentage that shall be paid to the municipality; and

13 (D) the percentage of that revenue paid to the municipality that shall  
14 be used to pay financing incurred to pay for the project.

15 (f) The Vermont Economic Progress Council shall review a municipality's  
16 project application to determine that there is a nexus between the project and  
17 the expected development and outcomes in the project zone.

18 (g) The Vermont Economic Progress Council shall approve a  
19 municipality's tax increment financing plan prior to a public vote to  
20 pledge the credit of the municipality under section 1909 of this subchapter.

21 The tax increment financing plan shall include all information related to the



1 proposed financing necessary for approval by the Council and to ensure its  
2 viability and consistency with the project plan developed pursuant to  
3 subdivision 1907(b)(1) of this subchapter.

4 § 1909. INDEBTEDNESS

5 (a) A municipality approved under section 1908 of this subchapter may  
6 incur indebtedness against revenues of the project zone at any time during a  
7 period of up to five years following the creation of the project zone. If no debt  
8 is incurred during this five-year period, the project zone shall terminate.

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

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

18 (d) The project zone shall continue until the date and hour the indebtedness  
19 is retired or, if no debt is incurred, five years following the creation of the  
20 project zone.

1       (e) A municipal legislative body shall provide information to the public  
2       prior to the public vote required under subsection (b) of this section. This  
3       information shall include the amount and types of debt and related costs to be  
4       incurred, including principal, interest, and fees; terms of the debt; the project to  
5       be financed; the expected development to occur because of the project; and  
6       notice to the voters that if the tax increment received by the municipality from  
7       any property tax source is insufficient to pay the principal and interest on the  
8       debt in any year, the municipality shall remain liable for the full payment of  
9       the principal and interest for the term of the indebtedness. If interfund loans  
10       within the municipality are used, the information must also include  
11       documentation of the terms and conditions of the loan. If interfund loans  
12       within the municipality are used as the method of financing, no interest shall  
13       be charged.

14       § 1910. ORIGINAL TAXABLE VALUE; TAX INCREMENT

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

1       (b) The original taxable value shall be increased each year by the lesser of  
2       three percent and the property tax growth rate in the municipality.

3       (c) Throughout the life of the project zone, the lister or assessor shall  
4       include not more than the original taxable value of the real property in the  
5       assessed valuation upon which the treasurer computes the rates of all taxes  
6       levied by the municipality and every other taxing district in which the project  
7       zone is situated, but the treasurer shall extend all rates so determined against  
8       the entire assessed valuation of real property for that year.

9       (d) Throughout the life of the project zone, a municipality shall remit not  
10       less than the aggregate tax due on the original taxable value to the Education  
11       Fund.

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

18       (f) Not more than the percentages established pursuant to section 1910a of  
19       this subchapter of the municipal and State education tax increments received  
20       with respect to the project zone and committed for the payment for financing  
21       for improvements and related costs shall be segregated by the municipality in a

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

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

14 § 1910a. USE OF TAX INCREMENT; RETENTION PERIOD

15 (a) Education property tax increment. For only debt incurred within the  
16 period permitted under subsection 1909(a) of this subchapter and related costs,  
17 up to 70 percent of the education property tax increment may be retained for  
18 the period determined by the Vermont Economic Progress Council pursuant to  
19 subsection (c) of this section, beginning the first year in which debt is incurred  
20 for the project. Upon incurring the first debt, a municipality shall notify the

1 Department of Taxes and the Vermont Economic Progress Council of the  
2 beginning of the retention period of the education tax increment.

3 (b) Municipal property tax increment. For only debt incurred within the  
4 period permitted under subsection 1909(a) of this subchapter and related costs,  
5 not less than 85 percent of the municipal property tax increment may be  
6 retained, beginning the first year in which debt is incurred for the project.

7 (c) Retention period. The Vermont Economic Progress Council shall  
8 determine the shortest retention period for a project consistent with the project  
9 plan. In no case shall a retention period exceed 20 years.

10 (d) Excess tax increment.

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

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

16 (B) to place in a special project account required pursuant to  
17 subsection 1910(d) of this subchapter and use for future financing payments; or

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

19 (2) Any remaining portion of the excess education property tax  
20 increment shall be distributed to the Education Fund. Any remaining portion  
21 of the excess municipal property tax increment shall be distributed to the city,

1 town, or village budget in the proportion that each budget bears to the  
2 combined total of the budgets unless otherwise negotiated by the city, town, or  
3 village.

4 § 1910b. INFORMATION REPORTING

5 (a) A municipality with an active project shall:

6 (1) develop a system, segregated for the project, to identify, collect, and  
7 maintain all data and information necessary to fulfill the reporting  
8 requirements of this section, including performance measures;

9 (2) provide timely notification to the Department of Taxes and the  
10 Vermont Economic Progress Council of any project debt, public vote, or vote  
11 by the municipal legislative body immediately following the debt incurrence or  
12 public vote on a form prescribed by the Council, including copies of public  
13 notices, agendas, minutes, vote tally, and a copy of the information provided to  
14 the public pursuant to subsection 1909(e) of this subchapter; and

15 (3) annually on or before October 15, submit on a form prescribed by  
16 the Vermont Economic Progress Council an annual report to the Council and  
17 the Department of Taxes, including the information required by subdivision (2)  
18 of this subsection if not previously submitted, the information required for  
19 annual audit under section 1910c of this subchapter, and any information  
20 required by the Council or the Department of Taxes for the report required  
21 pursuant to subsection (b) of this section.

1       (b) Annually on or before January 1, the Vermont Economic Progress  
2       Council and the Department of Taxes shall submit a report to the Senate  
3       Committees on Economic Development, Housing and General Affairs and on  
4       Finance and the House Committees on Commerce and Economic Development  
5       and on Ways and Means on projects approved pursuant to this subchapter,  
6       including for each:

7               (1) the date of approval;

8               (2) a description of the project;

9               (3) the original taxable value of the project zone;

10              (4) the scope and value of projected and actual improvements and  
11       developments in the project zone;

12              (5) projected and actual incremental revenue amounts;

13              (6) the allocation of incremental revenue;

14              (7) projected and actual financing;

15              (8) performance measures developed by the Vermont Economic

16       Progress Council; and

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

18       § 1910c. AUDITING

19              Annually on or before April 1 until the year following the end of the period  
20       for retention of education property tax increment, a municipality with a project  
21       approved under this subchapter shall ensure that the project is subject to the

1 annual audit prescribed in 24 V.S.A. § 1681 or 1690 and submit a copy to the  
2 Vermont Economic Progress Council. If a project is subject only to the audit  
3 under 24 V.S.A. § 1681, the Council shall ensure a process is in place to  
4 subject the project to an independent audit. Procedures for the audit must  
5 include verification of the original taxable value and annual and total  
6 municipal and education property tax increments generated, expenditures for  
7 financing and related costs, and current balance.

8 § 1910d. GUIDANCE

9 (a) The Secretary of Commerce and Community Development, after  
10 reasonable notice to a municipality and an opportunity for a hearing, may issue  
11 decisions to a municipality on questions and inquiries concerning the  
12 administration of projects, statutes, rules, noncompliance with this subchapter,  
13 and any instances of noncompliance identified in audit reports conducted  
14 pursuant to section 1910c of this subchapter.

15 (b) The Vermont Economic Progress Council shall prepare  
16 recommendations for the Secretary of Commerce and Community  
17 Development prior to any decision issued pursuant to subsection (a) of this  
18 section. The Council may prepare recommendations in consultation with the  
19 Commissioner of Taxes, the Attorney General, and the State Treasurer. In  
20 preparing recommendations, the Council shall provide a municipality with a  
21 reasonable opportunity to submit written information in support of its position.



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

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

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

12       § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

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

20               (3) project-based tax increment financing pursuant to 24 V.S.A. chapter  
21       53, subchapter 7.

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2025.