Community Housing Infrastructure Program (CHIP)

House Committee on Commerce and Economic Development

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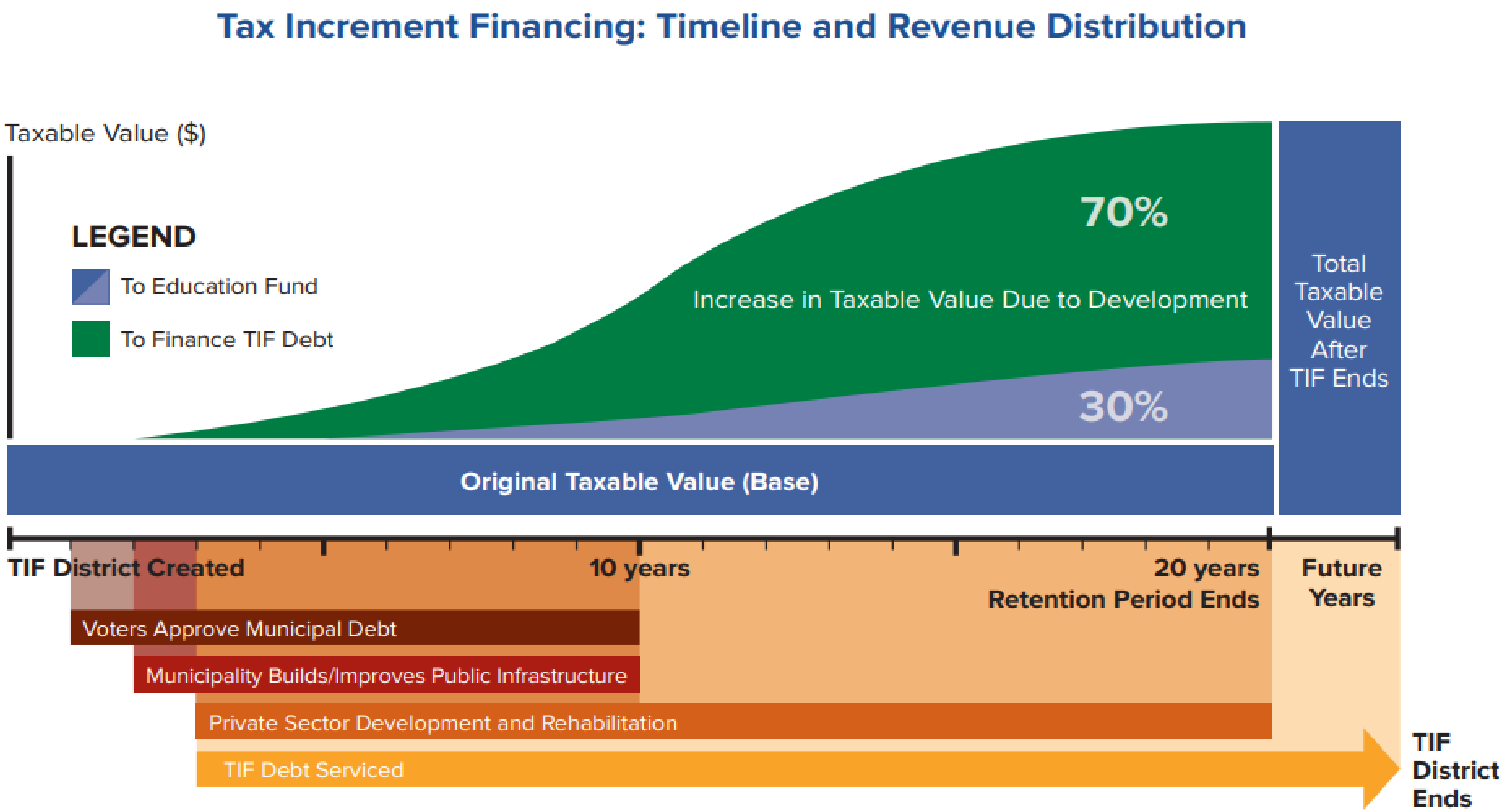
Outline

- Review of the counterfactual but-for test as it applies to tax increment financing (TIF)
- Outline of current housing unit creation in Vermont
- Intersections with recent Act 250 reforms
- Options to limit Education Fund exposure

What is TIF?



Source: VEPC 2024 TIF Report

Community Housing Infrastructure Program (CHIP) Key Features

- Allows a municipality or sponsor to incur debt to develop infrastructure in support of a housing project
- Projects qualify if one or more buildings include housing and are in Tier 1A, 1B, or Tier 2 areas on land use and development plans or are within one-half mile of an existing settlement
- The municipality or sponsor has up to 5 years to incur debt, plus an additional 3 years if approved by the Vermont Economic Progress Council (VEPC)
- To make payments on the debt, the municipality can retain:
  - 100% of municipal increment
  - 80% of Education Fund increment for 20 years

Community Housing Infrastructure Program (CHIP) Key Features

	Current TIF Program	CHIP – S.127
'But-for' test or Counterfactual	32 V.S.A. § 5404a(1)(A)	None
Who can borrow	Municipalities only	Sponsors, which "means the person undertaking to finance a housing infrastructure project. Any of a municipality, a developer, or an independent agency that meets State lending standards may serve as a sponsor for a housing infrastructure project"
Definition of 'improvements'	"installation, new construction, or reconstruction of infrastructure that will serve a **public purpose**…including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation" Bond anticipation notes for **two** years	"the installation or construction of infrastructure that will serve a **public good**… including utilities, **digital infrastructure**, transportation, **public recreation**, public facilities and amenities, land and property acquisition and demolition, **brownfield remediation**, site preparation, and **flood remediation and mitigation**" Bond anticipation notes for **four** years
Increment Retention	70% Education Fund; 85% Municipal	80% Education Fund; 100% Municipal

Community Housing Infrastructure Program (CHIP) Key Features

	Current TIF Program	CHIP - S.127
Location Criteria	2 of 3 criteria below (32 V.S.A. § 5404a(3)) 1. Development is compact, high density, or located in existing industrial area 2. District is within an approved growth center, designated downtown, designated village center, new town center, or neighborhood development area 3. The development will occur in an area that is economically distressed	Any Tier 1A, 1B, or Tier 2 area. Locations within ½ mile of an existing settlement as defined in 10 V.S.A. § 6001(16)
Project Criteria	3 of 5 criteria below (32 V.S.A. § 5404a(4)) 1. The development requires substantial public investment over and above the normal municipal operating or bonded debt expenditures. 2. New or rehabilitated affordable housing 3. Remediation and redevelopment of a brownfield 4. Development will include one entirely new business or expansion of an existing business 5. The development will enhance transportation	"The Vermont Economic Progress Council shall review a municipality's housing infrastructure project application to determine whether the projected housing development includes housing"
Program Limits	No more than 6 TIF districts beyond the districts listed in 24 V.S.A. § 1892	New applications allowed for 10 years; no cap on the number of projects eligible

Fiscal Impacts to the State

- JFO is unable to provide an official estimate of the impact of CHIP on the Education Fund
- The overall impact depends on:
  - The number of projects;
  - Where those projects occur;
  - The type and amount of debt incurred; and
  - The number of projects that would have happened in the absence of financing from incremental tax revenues

Fiscal Impacts to the State

- Statutory "but-for" requirement (32 V.S.A. § 5404a(h)(1)(A)) – current law
  - "Review each application to determine that the **infrastructure improvements** proposed to serve the tax increment financing district **and the proposed development** in the district would not have occurred as proposed in the application, or would have occurred in a **significantly different and less desirable manner** than as proposed in the application, ***but for*** the proposed utilization of the incremental tax revenues"

Many Expressions of the Counterfactual

- <u>The counterfactual</u>: the development would not have occurred *elsewhere in the state* without the use of TIF
  - If 100% true, then TIF provides a benefit to the Education Fund and municipal budgets
  - If 0% true, then TIF costs the Education Fund and municipal budgets
- Some current examples:
  - Housing developer going to build in Chittenden County
    - Builds in Williston = 100% benefit to Education Fund
    - Builds in South Burlington TIF District = only 25% benefit to the Education Fund; 75% goes to TIF district debt
  - Manufacturer looking to locate a new facility in New England
    - Builds in Hartford TIF district = 25% benefit to the Education Fund
    - Builds in New Hampshire = no benefit to the Education Fund
  - Many situations exist beyond these two examples
    - TIF could allow a project to move forward more quickly than it would have without the financing
    - TIF could change the scope of projects within the district area

Fiscal Impacts to the State – Counterfactual

- CHIP does not require a but-for test to participate in the program
- Many housing developments with infrastructure costs would be able to participate and retain increment, even if they were going to happen anyway
- The amount of forgone revenue resulting from CHIP depends on the amount of existing housing development
  - Housing development has increased in recent years, increasing the amount of potential forgone revenue from any type of TIF program

Fiscal Impacts to the State – Counterfactual

- Two ways of measuring counterfactual growth
- Growth in total listed value
  - Data from the Department of Taxes shows the long-term increase in the Grand List resulting from development
  - These data are controlled for value increases resulting from reappraisals
  - Includes all types of development, including:
    - Housing
    - Commercial
    - Industrial
- US Census Bureau
  - Survey on new, privately-owned residential construction
  - Includes information on the number value of the new units permitted
    - There is a lag between when projects are permitted and when they are developed and get added to the Grand List
  - Permit data has challenges, particularly in Vermont due to its small sample size, however, these data track with other sources of data on Vermont construction

Long-Term Total Listed Value

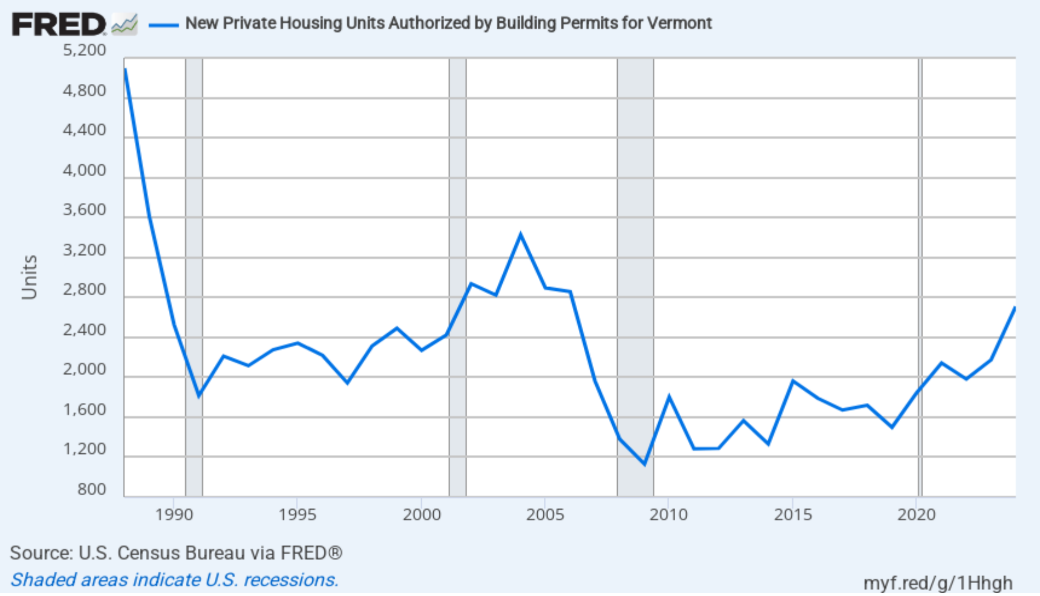
- Growth in total listed value
  - Long-term averages show limited Grand List growth from all types of development
    - This does not include GL growth caused by real estate appreciation
  - Of the 260 jurisdictions analyzed, 251 had a growth rate below 2%
  - 111 of the 260 had a growth rate below 1%

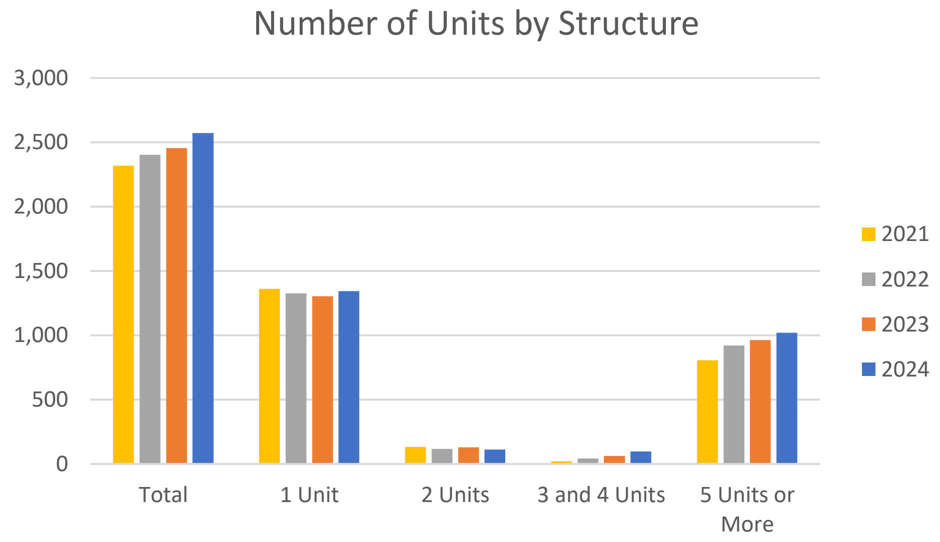
Table 1: **2004-2024 GL growth from development**

2004-2024 Growth Rate	Number of Jurisdictions
<0%	5
0 - 0.5%	36
0.5% - 1%	108
1% - 1.5%	83
1.5% - 2%	19
More than 2%	9
Total	**260**

Source: Vermont Department of Taxes

US Census Bureau Housing Unit Data

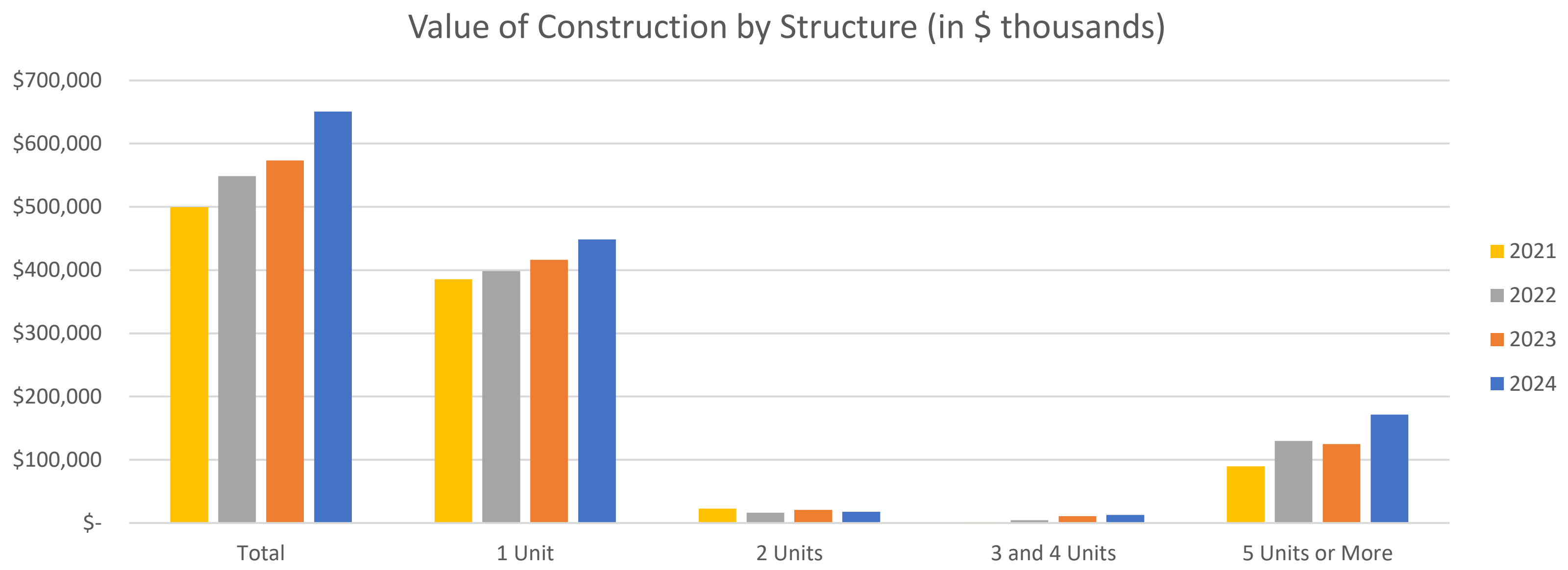




Source: US Census Building Permit Survey

- Overall, about 2,500 new housing units were permitted in 2024
- Permitting rates have increased from lows during the previous decade, but remain well below the goals set in the 2025 Housing Needs Assessment of 25,000 to 36,000 units created by 2029
- In the past few years, there has been an increase in number of new projects with 3 units or more, which are more likely to need infrastructure investment and could leverage CHIP

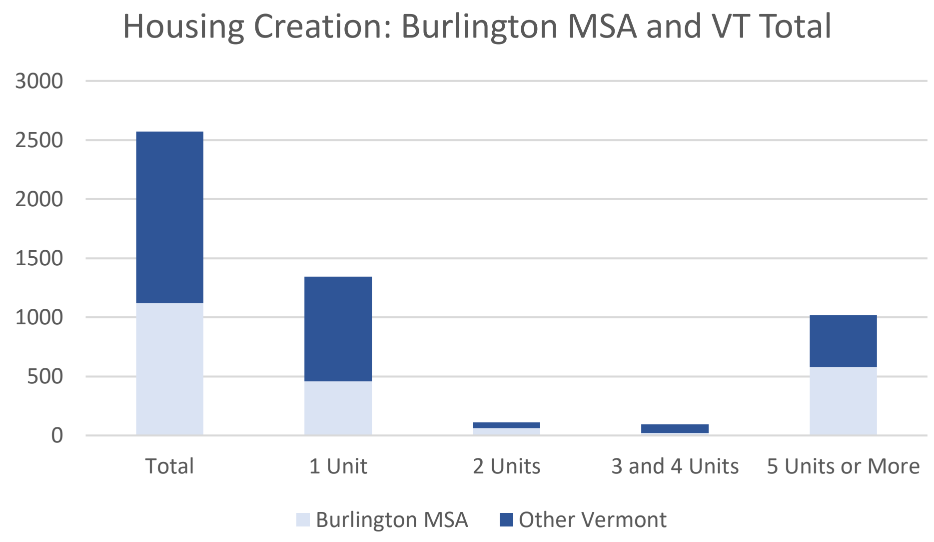
Fiscal Impacts to the State – Counterfactual



Source: US Census Building Permit Survey

- The value of construction in Vermont has increased substantially since the pandemic
  - In 2024, over $650 million in new, private construction in Vermont
  - Of that figure, $184 million came from projects with 3 or more units
  - Since 2021, a 30.2% increase in construction value overall and a 91.5% increase in construction value in projects with 5 or more units
- When evaluating the but-for, the cost of any forgone revenue increases with the median price of new construction

Fiscal Impacts to the State – Counterfactual



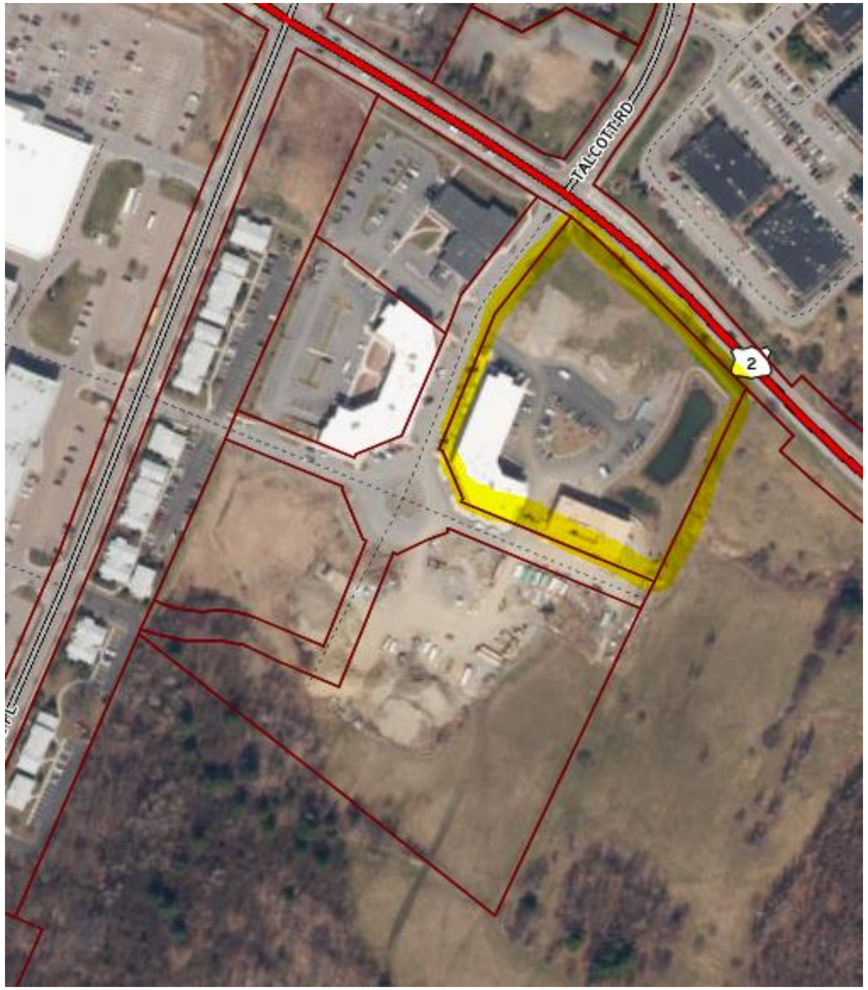
- In 2024, the Burlington Metropolitan Statistical Area (MSA) – Chittenden, Grand Isle, and Franklin County represented 43.5% of housing unit creation in the state
- The share of housing development within the Burlington MSA changes depending on the size of the development
    - The Burlington MSA represented 34% of single unit creation
    - It represented 56.8% of projects with 5 or more units

CHIP Project Example - 323 Connor Way

- Located near Taft Corners in Williston
- 15 1-bedroom and 6 2-bedroom apartments
- Built in 2024 as part of the Creekwood Crossing development
- The development “penciled out” without tax increment financing
    - 100% of incremental tax value goes to the Education Fund
    - If CHIP had existed when the development was constructed, only 20% of the incremental value would go to the Education Fund

323 Connor Way – Adjoining Parcel Value

- In downtowns and commercial areas, adjoining parcels can hold substantial value
- At 323 Connor Way, the listed value of the immediately adjoining parcels is $26.2 million
- Absent CHIP, 100% of the increase in the value of those parcels, which include existing development, would go to the Education Fund
- With CHIP, 80% of the increase in those adjoining parcels would instead be retained to pay for infrastructure improvements once the municipality or sponsor incurred debt



Source: Vermont Parcel Viewer

CHIP Project Example - 501 Main Street

- This project in Fairlee has been cited as an example of the type of project that could be supported with TIF
- Construction has completed, so if CHIP was in effect, it would have created forgone revenue
- Since the surrounding area is not as developed, the value of adjoining parcels is smaller – approximately $2.39 million

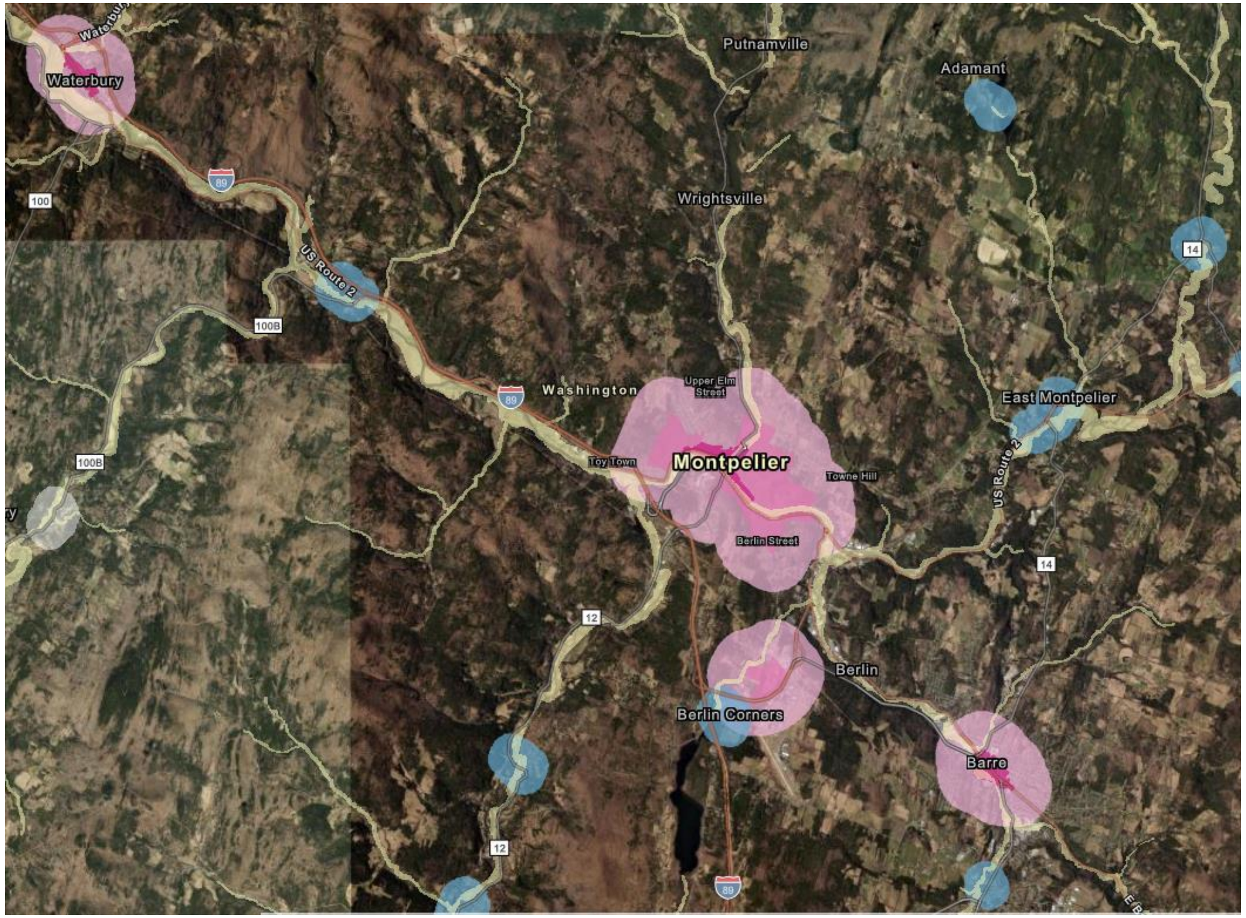
Source: https://brickandmortar.substack.com/p/project-spotlight-501-main

Housing Reforms and Exemptions

- Recent housing bills created exemptions from Act 250 jurisdiction
  - Act 47 (2023) increased the jurisdictional threshold for housing units from 10 to 25 in Designated Downtowns, Neighborhood Development Areas, Growth Centers, and Villages with zoning and subdivision regulations
    - Created Priority Housing Projects, which receive an Act 250 exemption for mixed income or mixed-use housing developments located in certain areas
  - Act 181 (2024) created Act 250 exemptions for housing projects in designated downtowns, projects of 75 units or less in Neighborhood Growth Centers or Neighborhood Development Areas, and projects of 50 units or less in Village Centers

Act 250 Housing Exemptions

- The Land Use Review Board and Department of Housing and Community Development developed a map showing potential areas where housing may be built without triggering Act 250 review. On the map:
  - Dark Pink = Downtown District Area
    - Unlimited construction without Act 250 review
  - Medium Pink = Town and Growth Centers and Neighborhood Development Areas
    - Up to 75 units
  - Light Pink = Priority Housing Projects
    - Various exemptions depending on location
  - Light Blue = Village Centers and Buffer
    - Up to 50 units

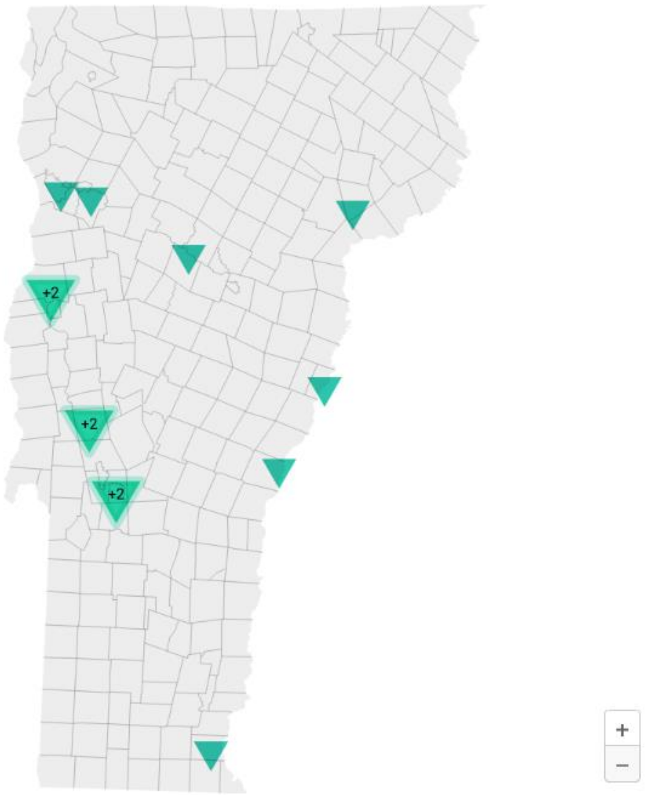


Source: https://experience.arcgis.com/experience/d96022b7dce64945a326e7bf98a2f365/

Housing Reforms and CHIP

- Hard to know how many projects are constrained by regulatory barriers, cost barriers or both
- However, there are indications that regulatory reforms are having a positive effect
- CHIP could increase forgone revenue to the Education Fund if it is used to support projects that were only constrained by regulatory barriers

Interim Act 250 housing exemptions in use



Source: Vermont Public; Act 250 Database, https://vtdigger.org/2024/12/11/vermont-loosened-act-250-rules-for-housing-heres-where-developers-are-responding/

Considerations

Considerations

- The program differs from current TIF statute in many ways
- The following slides are not policy recommendations from JFO, but do illustrate ways to minimize the potential impact of CHIP on the Education Fund

Limit CHIP to Municipal Tax Increment?

- Current statute for municipal tax increment districts (24 V.S.A. § 1903-4) would allow individual municipalities to create their own CHIP-type projects, bond for infrastructure, and retain increment
  - However, unlike the proposed CHIP, current municipal tax increment statute limits bonding to municipalities
- The CHIP proposal relies on a housing infrastructure agreement, which is negotiated at the local level
  - VEPC staff, rather than the full council, would then approve projects if they meet the proposed criteria
- In fiscal year 2024, TIF districts generated $4.9 million in municipal increment, approximately 35% of the $12.1 million of the total increment generated
  - Municipal increment represented 38.4% of increment dedicated to district debt

Change the Education Fund Retention Percentage?

- Current TIF statute allows for 70% education property tax increment retention for districts created after 2017
- This proposal expands increment retention to 80% for CHIP projects
- The retention percentage is a policy choice
- The lower the retention percentage, the lower the impact to the Education Fund

Table 2: Varying Increment Retention Percentages for Current TIF Projects

Percent Retention	Total Education Increment from FY24 TIF Report	Amount Retained by District	Amount to Education Fund
50	$9,214,223	$4,607,112	$4,607,112
60	9,214,223	5,528,534	3,685,689
70	9,214,223	6,449,956	2,764,267
80	9,214,223	7,371,378	1,842,845

Source: VEPC 2025 Annual TIF Report

Other Options to Limit Education Fund Exposure

- Change the definition of improvements
  - In TIF districts, infrastructure is designed to serve *a public purpose*
  - In CHIP, the definition of improvements includes examples of infrastructure that would be developed solely for the development (e.g., parking)
  - Narrowing the list of allowable expenses in CHIP would decrease the amount of increment that can be retained compared to a more expansive definition
- Narrow project and location criteria
  - CHIP location criteria allow for projects to occur in Tier 1A, 1B, *or* Tier 2 areas as opposed to the 2 of 3 location criteria required of current TIF applications
  - As passed by the Senate, the proposed development only needs to have one or more buildings that include housing to meet the CHIP project criterion
  - Narrowing project and/or location criteria would limit the amount of exposure to the Education Fund
- Allow for recalibration of percentages once the project has stabilized
  - 24 VSA 1894(g) requires municipalities to submit an updated plan to VEPC that would allow the Council to determine whether increment retention percentages need to be lowered
  - Lowering increment retention would allow additional funds to accrue to the Education Fund before the end of the 20-year retention period

Questions?