

S.127

Representatives Graning of Jericho, Kimbell of Woodstock, Kornheiser of Brattleboro, Marcotte of Coventry, and Mihaly of Calais move that the proposal of amendment as recommended by the Committee on Ways and Means be amended by striking out Secs. 25–27 and their reader assistance heading in their entireties and inserting in lieu thereof a new reader assistance heading and three new sections to be Secs. 25–27 to read as follows:

* * * Tax Increment Financing * * *

Sec. 25. 24 V.S.A. chapter 53, subchapter 7 is added to read:

Subchapter 7. Community and Housing Infrastructure Program

§ 1906. DEFINITIONS

As used in this subchapter:

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

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

(3) “Developer” means the person undertaking to construct a housing development.

(4) “Financing” means debt, including principal, interest, and any fees or charges directly related to that debt, incurred by a sponsor, or other

1 instruments or borrowing used by a sponsor, to pay for a housing infrastructure
2 project and, in the case of a sponsor that is a municipality, authorized by the
3 municipality pursuant to section 1910a of this subchapter.

4 (5) “Housing development” means the construction, rehabilitation, or
5 renovation of any building on a housing development site approved under this
6 subchapter.

7 (6) “Housing development site” means the parcel or parcels
8 encompassing a housing development as authorized by a municipality pursuant
9 to section 1908 of this subchapter.

10 (7) “Housing infrastructure agreement” means a legally binding
11 agreement to finance and develop a housing infrastructure project and to
12 construct a housing development among a municipality, a developer, and, if
13 applicable, a third-party sponsor.

14 (8) “Housing infrastructure project” means one or more improvements
15 authorized by a municipality pursuant to section 1908 of this subchapter.

16 (9) “Improvements” means:

17 (A) any of the following that will serve a public good and fulfill the
18 purpose of section 1907 of this subchapter:

19 (i) the installation or construction of:

1 (I) wastewater, storm water, water dispersal, water collection,
2 water treatment facilities and equipment, or related wastewater, storm water, or
3 water equipment;

4 (II) public roads, streets, bridges, multimodal facilities, public
5 transit stop equipment and amenities, street and sidewalk lighting, sidewalks,
6 streetscapes, way-finding signs and kiosks, traffic signals, medians, or turn
7 lanes; or

8 (III) digital or telecommunications infrastructure;
9 (ii) site preparation for development or redevelopment, including
10 land and property acquisition, demolition, brownfield remediation, or flood
11 remediation and mitigation; and

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

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

17 (11) “Lifetime education property tax increment retention” means the
18 total education property tax increment to be retained for a housing
19 infrastructure project across its lifetime.

1 (12) “Mixed-income housing” means housing that is subject to a
2 housing subsidy covenant, as defined in 27 V.S.A. § 610, of perpetual
3 duration.

4 (13) “Mixed-income housing development” means a housing
5 development of which at least 20 percent of the units are mixed-income
6 housing units.

7 (14) “Municipality” means a city, town, or incorporated village.

8 (15) “Original taxable value” means the total valuation as determined in
9 accordance with 32 V.S.A. chapter 129 of all taxable real property located
10 within a housing development site as of its creation date, provided that no
11 parcel within the housing development site shall be divided or bisected.

12 (16) “Related costs” means expenses incurred and paid by a
13 municipality, exclusive of the actual cost of constructing and financing
14 improvements, that are directly related to the creation and implementation of
15 the municipality’s housing infrastructure project, including reimbursement of
16 sums previously advanced by the municipality for those purposes. Related
17 costs may include direct municipal expenses such as departmental or personnel
18 costs related to creating or administering the housing infrastructure project to
19 the extent they are paid from the tax increment realized from municipal and not
20 education taxes and using only that portion of the municipal increment above

1 the percentage required for servicing debt as determined in accordance with
2 subsection 1910c of this subchapter.

3 (17) “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. PURPOSE

8 The purpose of the pilot Community and Housing Infrastructure Program is
9 to encourage the development of new primary residences for households of
10 low and moderate income across both rural and urban areas of all Vermont
11 counties that would not be created but for the infrastructure improvements
12 funded by the Program.

13 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
14 HOUSING DEVELOPMENT SITE

15 (a) The legislative body of a municipality may create within its jurisdiction
16 a housing infrastructure project, which shall consist of improvements that
17 stimulate the development of housing, and a housing development site, which
18 shall consist of the parcel or parcels on which a housing development is
19 installed or constructed.

20 (b) To create a housing infrastructure project and housing development
21 site, a municipality, in coordination with stakeholders, shall:

- 1 (1) develop a housing development plan, including:
- 2 (A) a description of the proposed housing infrastructure project, the
- 3 proposed housing development, and the proposed housing development site;
- 4 (B) identification of a sponsor;
- 5 (C) a tax increment financing plan meeting the standards of
- 6 subsection 1910(h) of this subchapter;
- 7 (D) a pro forma projection of expected costs of the proposed housing
- 8 infrastructure project;
- 9 (E) a projection of the tax increment to be generated by the proposed
- 10 housing development;
- 11 (F) a development schedule that includes a list, a cost estimate, and a
- 12 schedule for the proposed housing infrastructure project and the proposed
- 13 housing development; and
- 14 (G) a determination that the proposed housing development furthers
- 15 the purpose of section 1907 of this subchapter;
- 16 (2) develop a plan describing the housing development site by its
- 17 boundaries and the properties therein, entitled “Proposed Housing
- 18 Development Site (municipal name), Vermont”;
- 19 (3) hold one or more public hearings, after public notice, on the
- 20 proposed housing infrastructure project, including the plans developed
- 21 pursuant to this subsection; and

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

4 (c) The creation of a housing development site shall occur at 12:01 a.m. on
5 April 1 of the calendar year in which the Vermont Economic Progress Council
6 approves the use of tax increment financing for the housing infrastructure
7 project pursuant to section 1910 of this subchapter.

8 § 1909. HOUSING INFRASTRUCTURE AGREEMENT

9 (a) The housing infrastructure agreement for a housing infrastructure
10 project shall:

11 (1) clearly identify the sponsor for the housing infrastructure project;

12 (2) clearly identify the developer and the housing development for the
13 housing development site;

14 (3) obligate the tax increments retained pursuant to section 1910c of this
15 subchapter for not more than the financing and related costs for the housing
16 infrastructure project;

17 (4) provide terms and sufficient remedies or, if the municipality so
18 elects, an ordinance to ensure that any housing unit within the housing
19 development be offered exclusively as a bona fide domicile in perpetuity; and

20 (5) provide for performance assurances to reasonably secure the
21 obligations of all parties under the housing infrastructure agreement.

1 (b) A municipality shall provide notice of the terms of the housing
2 infrastructure agreement for the municipality’s housing infrastructure project
3 to the legal voters of the municipality and shall provide the same information
4 as set forth in subsection 1910a(e) of this subchapter.

5 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

6 VERMONT ECONOMIC PROGRESS COUNCIL

7 (a) Application. A municipality, upon approval of its legislative body, may
8 apply to the Vermont Economic Progress Council to use tax increment
9 financing for a housing infrastructure project.

10 (b) But-for test. The Vermont Economic Progress Council shall review
11 each application to determine whether the infrastructure improvements
12 proposed to serve the housing development site and the proposed housing
13 development would not have occurred as proposed in the application or would
14 have occurred in a significantly different and less desirable manner than as
15 proposed in the application but for the proposed utilization of the incremental
16 tax revenues. The review shall take into account:

17 (1) the amount of additional time, if any, needed to complete the
18 proposed housing development and the amount of additional cost that might be
19 incurred if the project were to proceed without education property tax
20 increment financing;

1 (2) how the proposed housing development components and size would
2 differ, if at all, including, if applicable to the housing development, in the
3 number of units of mixed-income housing, without education property tax
4 increment financing; and

5 (3)(A) the amount of additional revenue expected to be generated as a
6 result of the proposed housing development;

7 (B) the percentage of that revenue that shall be paid to the Education
8 Fund;

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

10 (D) the percentage of the revenue paid to the municipality that shall
11 be used to pay financing incurred for the infrastructure improvements.

12 (c) Process requirements. The Vermont Economic Progress Council shall
13 review a municipality's housing infrastructure project application to determine
14 whether the municipality has:

15 (1) created a housing infrastructure project and housing development
16 site pursuant to section 1908 of this subchapter;

17 (2) executed a housing infrastructure agreement for the housing
18 infrastructure project that adheres to the standards of section 1909 of this
19 subchapter with a developer and, if the municipality is not financing the
20 housing infrastructure project itself, a sponsor; and

1 (3) approved or pledged to use incremental municipal tax revenues for
2 the housing infrastructure project in the proportion provided for municipal tax
3 revenues in section 1910c of this subchapter.

4 (d) Project criterion. The Vermont Economic Progress Council shall
5 review a municipality’s housing infrastructure project application to determine
6 whether at least 65 percent of the floor area of the projected housing
7 development is dedicated to housing.

8 (e) **Mixed**-income criterion. The Vermont Economic Progress Council
9 shall review a municipality’s housing infrastructure project application to
10 determine whether the projected housing development is a **mixed**-income
11 housing development for purposes of the increased education property tax
12 increment retention percentage under section 1910c of this subchapter.

13 (f) Tax increment financing plan. The Vermont Economic Progress
14 Council shall approve a municipality’s tax increment financing plan prior to a
15 sponsor’s incurrence of debt for the housing infrastructure project, including, if
16 the sponsor is a municipality, prior to a public vote to pledge the credit of the
17 municipality under section 1910a of this subchapter. The tax increment
18 financing plan shall include:

19 (1) a statement of costs and sources of revenue;

20 (2) estimates of assessed values within the housing development site;

1 (3) the portion of those assessed values to be applied to the housing
2 infrastructure project;

3 (4) the resulting tax increments in each year of the financial plan and the
4 lifetime education property tax increment retention;

5 (5) the amount of bonded indebtedness or other financing to be incurred;

6 (6) other sources of financing and anticipated revenues; and

7 (7) the duration of the financial plan.

8 (g) Approval. The Vermont Economic Progress Council shall approve or
9 deny an application submitted pursuant to this section not later than 45 days
10 following receipt of the completed application. The Vermont Economic
11 Progress Council shall only approve tax increment financing for applications:

12 (1) that meet the but-for test, the process requirements, and the project
13 criterion of this section;

14 (2) for which the Council has approved the tax increment financing
15 plan; and

16 (3) that are submitted on or before December 31, 2031.

17 (h) Limit. The Vermont Economic Progress Council shall not annually
18 approve more than \$40,000,000.00 in aggregate lifetime education property tax
19 increment retention. The Vermont Economic Progress Council may increase
20 this limit by not more than \$5,000,000.00 upon application by the Governor to,
21 and approval of, the Joint Fiscal Committee. In evaluating the Governor's

1 request, the Joint Fiscal Committee shall consider the economic and fiscal
2 condition of the State, including recent revenue forecasts and budget
3 projections. The Vermont Economic Progress Council shall provide the Joint
4 Fiscal Committee with testimony, documentation, housing infrastructure
5 project application data, and any other information the Committee requests to
6 demonstrate that increasing the cap will create an opportunity for the creation
7 of additional housing to meet the needs of a municipality or municipalities and
8 the State.

9 § 1910a. INDEBTEDNESS

10 (a) A municipality approved for tax increment financing under section
11 1910 of this subchapter may incur indebtedness against revenues of the
12 housing development site at any time during a period of up to five years
13 following the creation of the housing development site. The Vermont
14 Economic Progress Council may extend this debt incursion period by up to
15 three years.

16 (b) Notwithstanding any provision of any municipal charter, each instance
17 of borrowing by a municipality to finance or otherwise pay for a housing
18 infrastructure project shall occur only after the legal voters of the municipality,
19 by a majority vote of all voters present and voting on the question at a special
20 or annual municipal meeting duly warned for the purpose, authorize the

1 legislative body to pledge the credit of the municipality, borrow, or otherwise
2 secure the debt for the specific purposes so warned.

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

5 (d) The housing development site shall continue until the date and hour the
6 indebtedness is retired or, if no debt is incurred, the debt incursion period ends.

7 (e) A municipal legislative body shall provide information to the public
8 prior to the public vote required under subsection (b) of this section. This
9 information shall include the amount and types of debt and related costs to be
10 incurred, including principal, interest, and fees; terms of the debt; the housing
11 infrastructure project to be financed; the housing development projected to
12 occur because of the housing infrastructure project; and notice to the voters
13 that if the tax increment received by the municipality from any property tax
14 source is insufficient to pay the principal and interest on the debt in any year,
15 the municipality shall remain liable for the full payment of the principal and
16 interest for the term of the indebtedness. If interfund loans within the
17 municipality are used, the information must also include documentation of the
18 terms and conditions of the loan.

19 (f) If interfund loans within the municipality are used as the method of
20 financing, no interest shall be charged.

1 (g) The use of a bond anticipation note shall not be considered a first
2 incurrence of debt pursuant to subsection (a) of this section.

3 § 1910b. ORIGINAL TAXABLE VALUE; TAX INCREMENT

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

11 (b) Annually throughout the life of the housing development site, the lister
12 or assessor shall include not more than the original taxable value of the real
13 property in the assessed valuation upon which the treasurer computes the rates
14 of all taxes levied by the municipality and every other taxing district in which
15 the housing development site is situated, but the treasurer shall extend all rates
16 so determined against the entire assessed valuation of real property for that
17 year.

18 (c) Annually throughout the life of the housing development site, a
19 municipality shall remit not less than the aggregate education property tax due
20 on the original taxable value to the Education Fund.

1 (d) Annually throughout the life of the housing development site, the
2 municipality shall hold apart, rather than remit to the taxing districts, that
3 proportion of all taxes paid that year on the real property within the housing
4 development site that the excess valuation bears to the total assessed valuation.
5 The amount held apart each year is the “tax increment” for that year. The tax
6 increment shall only be used for financing and related costs.

7 (e) Not more than the percentages established pursuant to section 1910c of
8 this subchapter of the municipal and State education tax increments received
9 with respect to the housing development site and committed for the payment
10 for financing for improvements and related costs shall be segregated by the
11 municipality in a special tax increment financing account and in its official
12 books and records until all capital indebtedness incurred for the housing
13 infrastructure project has been fully paid. The final payment shall be reported
14 to the treasurer, who shall thereafter include the entire assessed valuation of the
15 housing development site in the assessed valuations upon which the municipal
16 and other tax rates are computed and extended, and thereafter no taxes from
17 the housing development site shall be deposited in the special tax increment
18 financing account.

19 (f) Notwithstanding any charter provision or other provision, all property
20 taxes assessed within a housing development site shall be subject to the
21 provisions of this section. Special assessments levied under chapter 76A or 87

1 of this title or under a municipal charter shall not be considered property taxes
2 for the purpose of this section if the proceeds are used exclusively for
3 operating expenses related to properties within the housing development site
4 and not for improvements within the housing development site.

5 § 1910c. USE OF TAX INCREMENT; RETENTION PERIOD

6 (a) Uses of tax increments. A municipality may apply tax increments
7 retained pursuant to this subchapter to debt incurred within the period
8 permitted under section 1910a of this subchapter, to related costs, and to the
9 direct payment of the cost of a housing infrastructure project. A municipality
10 may provide tax increment to a sponsor only upon receipt of an invoice for
11 payment of the financing, and the sponsor shall confirm to the municipality
12 once the tax increment has been applied to the financing. Any direct payment
13 shall be subject to the same public vote provisions of section 1910a of this
14 subchapter as apply to debt.

15 (b) Education property tax increment.

16 (1) For a housing infrastructure project that does not satisfy the **mixed-**
17 income criterion of section 1910 of this subchapter, up to 60 percent of the
18 education property tax increment may be retained for up to 20 years, beginning
19 the first year in which debt is incurred for the housing infrastructure project.

20 (2) For a housing infrastructure project that satisfies the **mixed-**income
21 criterion of section 1910 of this subchapter, up to 80 percent of the education

1 property tax increment may be retained for up to 20 years, beginning the first
2 year in which debt is incurred for the housing infrastructure project.

3 (3) Upon incurring the first debt, a municipality shall notify the
4 Department of Taxes and the Vermont Economic Progress Council of the
5 beginning of the retention period of the education property tax increment.

6 (c) Municipal property tax increment. Not less than 85 percent of the
7 municipal property tax increment may be retained, beginning the first year in
8 which debt is incurred for the housing infrastructure project.

9 (d) Excess tax increment.

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

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

15 (B) to place in a special tax increment financing account required
16 pursuant to subsection 1910b(e) of this subchapter and use for future financing
17 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 (e) Adjustment of percentage. During the fifth year following the creation
5 of a housing development site, the municipality shall submit an updated tax
6 increment financing plan to the Vermont Economic Progress Council that shall
7 include adjustments and updates of appropriate data and information sufficient
8 for the Vermont Economic Progress Council to determine, based on tax
9 increment financing debt actually incurred and the history of increment
10 generated during the first five years, whether the percentages approved under
11 this section should be continued or adjusted to a lower percentage to be
12 retained for the remaining duration of the retention period and still provide
13 sufficient municipal and education increment to service the remaining debt.

14 § 1910d. INFORMATION REPORTING

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

16 (1) develop a system, segregated for the housing infrastructure project,
17 to identify, collect, and maintain all data and information necessary to fulfill
18 the reporting requirements of this section;

19 (2) provide timely notification to the Department of Taxes and the
20 Vermont Economic Progress Council of any housing infrastructure project
21 debt, public vote, or vote by the municipal legislative body immediately

1 following the debt incurrence or public vote on a form prescribed by the
2 Council, including copies of public notices, agendas, minutes, vote tally, and a
3 copy of the information provided to the public pursuant to subsection 1910a(e)
4 of this subchapter; and

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

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

18 (1) the date of approval;

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

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

1 (4) the scope and value of projected and actual improvements and
2 developments in the housing development site, including the number of
3 housing units created;

4 (5) the expected or actual sale and rental prices of any housing units;

5 (6) the number of housing units known to be occupied on a basis other
6 than as primary residences;

7 (7) the number and types of housing units for which a permit is being
8 pursued under 10 V.S.A. chapter 151 (State land use and development plans)
9 and, for each applicable housing development, the current stage of the
10 permitting process;

11 (8) projected and actual incremental revenue amounts;

12 (9) the allocation of incremental revenue, including the amount
13 allocated to related costs;

14 (10) projected and actual financing; and

15 (11) an evaluation of the amount of public funds flowing to private
16 ownership or usage.

17 (c) On or before January 15, 2030, the Vermont Economic Progress
18 Council shall submit a report to the Senate Committees on Economic
19 Development, Housing and General Affairs and on Finance and the House
20 Committees on Commerce and Economic Development, on General and
21 Housing, and on Ways and Means evaluating the success of the Community

1 and Housing Infrastructure Program in achieving its purpose, as stated in
2 section 1907 of this chapter, including by identifying the amount and kinds of
3 housing produced through the Program and by determining whether housing
4 development pursued through the Program meets the project criterion of
5 section 1910 of this chapter.

6 § 1910e. 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 special tax increment financing account required by section 1910b of this
11 subchapter is subject to the annual audit prescribed in section 1681 or 1690 of
12 this title and submit a copy to the Vermont Economic Progress Council. If an
13 account is subject only to the audit under section 1681 of this title, the Council
14 shall ensure a process is in place to subject the account 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 § 1910f. RULEMAKING

19 The Vermont Economic Progress Council may adopt rules that are
20 reasonably necessary to implement this subchapter. The Council shall
21 specifically adopt rules to:

1 (1) govern the prioritization of applications submitted for approval of
2 tax increment financing under this subchapter that take into consideration the
3 purpose of section 1907 of this subchapter, vacancy or dilapidation, regional
4 equity and verifiable housing shortages, and labor sheds;

5 (2) determine the appropriate floor area measure for purposes of the
6 project criterion under subsection 1910(e) of this subchapter; and

7 (3) supplement the but-for test under subsection 1910(c) of this
8 subchapter giving due consideration to any rulemaking undertaken to
9 supplement the but-for test under 32 V.S.A. § 5404a(h)(1)(A).

10 § 1910g. GUIDANCE

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

18 (b) The Vermont Economic Progress Council shall prepare
19 recommendations for the Secretary of Commerce and Community
20 Development prior to any decision issued pursuant to subsection (a) of this
21 section. The Council may prepare recommendations in consultation with the

1 Commissioner of Taxes, the Attorney General, and the State Treasurer. In
2 preparing recommendations, the Council shall provide a municipality with a
3 reasonable opportunity to submit written information in support of its position.

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

11 Sec. 26. 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) the Community and Housing Infrastructure Program pursuant to 24
21 V.S.A. chapter 53, subchapter 7.

1 (b) Membership.

2 (1) The Council shall have 11 voting members:

3 (A) nine residents of the State appointed by the Governor with the
4 advice and consent of the Senate who are knowledgeable and experienced in
5 the subjects of community development and planning, education funding
6 requirements, economic development, State fiscal affairs, property taxation, or
7 entrepreneurial ventures and represent diverse geographical areas of the State
8 and municipalities of various sizes;

9 (B) one member of the Vermont House of Representatives appointed
10 by the Speaker of the House; and

11 (C) one member of the Vermont Senate appointed by the Senate
12 Committee on Committees.

13 (2)(A) The Council shall have two regional members from each region
14 of the State, one appointed by the regional development corporation of the
15 region and one appointed by the regional planning commission of the region.

16 (B) A regional member shall be a nonvoting member and shall serve
17 during consideration by the Council of an application from ~~his or her~~ the
18 member's region.

19 (3) Exclusively for purposes of reviewing and approving housing
20 infrastructure project applications under the Community and Housing
21 Infrastructure Program, the Council shall additionally have:

1 (A) two voting members as follows:

2 (i) the Executive Director of the Vermont Housing Finance
3 Agency or designee; and

4 (ii) the Executive Director of the Vermont Housing and
5 Conservation Board or designee; and

6 (B) as a nonvoting member, the Commissioner of Housing and
7 Community Development or designee.

8 * * *

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

16 Sec. 27. 32 V.S.A. § 5404a(f) is amended to read:

17 (f) A municipality that establishes a tax increment financing district under
18 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties
19 contained within the district and apply not more than 70 percent of the State
20 education property tax increment, and not less than 85 percent of the municipal
21 property tax increment, to repayment of financing of the improvements and

1 related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by
2 the Vermont Economic Progress Council pursuant to this section, subject to the
3 following:

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

7 (2) The Council shall not approve more than six districts in the State,
8 and not more than two per county, provided:

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

11 (B) The Council shall consider complete applications in the order
12 they are submitted, except that if during any calendar month the Council
13 receives applications for more districts than are actually available in a county,
14 the Council shall evaluate each application and shall approve the application
15 that, in the Council's discretion, best meets the economic development needs
16 of the county.

17 (3)(A) A municipality shall immediately notify the Council if it resolves
18 not to incur debt for an approved district within five years of approval or a
19 five-year extension period as required in 24 V.S.A. § 1894.

20 (B) Upon receiving notification pursuant to subdivision (A) of this
21 subdivision (3), the Council shall terminate the district and may approve a new

- 1 district, subject to the provisions of this section and 24 V.S.A. chapter 53,
- 2 subchapter 5.
- 3 (4) The Council shall only approve under this section applications for
- 4 tax increment financing submitted prior to December 31, 2031.