

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 516
3 entitled “An act relating to miscellaneous tax changes” respectfully reports that
4 it has considered the same and recommends that the Senate propose to the
5 House that the bill be amended as follows:

6 First: By striking out the reader assistance heading before Sec. 1, and
7 inserting in lieu thereof a new reader assistance heading to read as follows:

8 * * * Administrative and Technical Provisions * * *

9 and by striking the reader assistance heading between Sec. 1 and Sec. 2

10 Second: By striking out Sec. 11 in its entirety and inserting in lieu thereof a
11 new Sec. 11 to read as follows:

12 Sec. 11. 3 V.S.A. chapter 10 is added to read:

13 CHAPTER 10. FEDERAL TAX INFORMATION

14 § 241. BACKGROUND INVESTIGATIONS

15 (a) “Federal tax information” or “FTI” means returns and return
16 information as defined in 26 U.S.C. § 6103(b) that are received directly from
17 the Internal Revenue Service or obtained through an IRS-authorized secondary
18 source, that are in the Recipient’s possession or control, and that are subject to
19 the confidentiality protections and safeguarding requirements of the Internal
20 Revenue Code and corresponding federal regulations and guidance.

1 (b) As used in this chapter, “Recipient” means the following authorities of
2 the Executive Branch of State government that receive FTI:

3 (1) Agency of Human Services, including:

4 (A) Department for Children and Families;

5 (B) Department of Health;

6 (C) Department of Mental Health; and

7 (D) Department of Vermont Health Access.

8 (2) Department of Labor.

9 (3) Department of Motor Vehicles.

10 (4) Department of Taxes.

11 (c) The Recipient shall conduct an initial background investigation of any
12 individual, including a current or prospective employee, volunteer, contractor,
13 or subcontractor, to whom the Recipient permits access to FTI for the purpose
14 of assessing the individual’s fitness to be permitted access to FTI. The
15 Recipient shall conduct, every 10 years at a minimum, periodic background
16 investigations of employees or other individuals to whom the Recipient
17 permits access to FTI.

18 (d) The Recipient shall request and obtain from the Vermont Crime
19 Information Center (VCIC) the Federal Bureau of Investigation and State and
20 local law enforcement criminal history records based on fingerprints for the
21 purpose of conducting a background investigation under this section.

1 (e) The Recipient shall sign and keep a user agreement with the VCIC.

2 (f) A request made under subsection (d) of this section shall be
3 accompanied by a release signed by the individual on a form provided by the
4 VCIC, a set of the individual's fingerprints, and a fee established by the VCIC
5 that shall reflect the cost of obtaining the record. The fee for a current or
6 prospective employee shall be paid by the Recipient. The release form to be
7 signed by the individual shall include a statement informing the individual of:

8 (1) the right to challenge the accuracy of the record by appealing to the
9 VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

10 (2) the Recipient's policy regarding background investigations and the
11 maintenance and destruction of records.

12 (g) Upon completion of a criminal history record check under subsection
13 (d) of this section, the VCIC shall send to the Recipient either a notice that no
14 record exists or a copy of the record. If a copy of a criminal history record is
15 received, the Recipient shall forward it to the individual and shall inform the
16 individual in writing of:

17 (1) the right to challenge the accuracy of the record by appealing to the
18 VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

19 (2) the Recipient's policy regarding background investigations and the
20 maintenance and destruction of records.

1 (h) Criminal history records and information received under this chapter
2 are exempt from public inspection and copying under the Public Records Act
3 and shall be kept confidential by the Recipient, except to the extent that federal
4 or State law authorizes disclosure of such records or information to specifically
5 designated persons.

6 (i) The Recipient shall adopt policies in consultation with the Department
7 of Human Resources to carry out this chapter and to guide decisions based on
8 the results of any background investigation conducted under this chapter.

9 § 242. RAP BACK PROGRAM

10 The Recipient may request the Vermont Crime Information Center (VCIC)
11 to provide Federal Bureau of Investigation “Rap Back” background
12 investigation services based on fingerprints for the purpose of assessing the
13 fitness of an individual with access to FTI, including a current employee,
14 volunteer, contractor, or subcontractor, to continue to be permitted access to
15 FTI. A Rap Back investigation authorized under this section may be requested
16 upon:

17 (1) obtaining informed written consent from the individual to authorize
18 the retention of fingerprints for future background investigation purposes;

19 (2) creating sufficient controls and processes to protect the
20 confidentiality and privacy of the records and information received;

1 (3) notifying the individual in a timely manner of new records and
2 information received; and

3 (4) notifying the individual of the background investigation policy
4 established by the Recipient in consultation with the Department of Human
5 Resources.

6 Third: In Sec. 13, 31 V.S.A. chapter 23, in subdivision 1201(5), by adding
7 a third sentence to read as follows:

8 An organization shall be considered a nonprofit organization under this
9 subdivision only if it certifies annually, on a form with whatever information is
10 required by the Commissioner, how it meets the definition under this
11 subdivision.

12 and in section 1203, by striking subsection (f) in its entirety, and inserting in
13 lieu thereof a new subsection (f) to read as follows:

14 (f) A nonprofit organization that sells break-open tickets, other than a club
15 as defined in 7 V.S.A. § 2(7), shall report to the Department of Liquor Control
16 on a quarterly basis the number of tickets purchased and distributed, and the
17 corresponding serial numbers of those tickets, the amount of revenue realized
18 by the nonprofit organization, and the amounts accounted for under
19 subdivisions (e)(2)(A)–(D) of this section. The nonprofit organization shall
20 also identify an individual from the organization responsible for the reporting
21 requirements under this subsection. If the Department of Liquor Control

1 determines that a nonprofit organization has failed to comply with the
2 requirements of this subsection, the Department of Liquor Control shall notify
3 the nonprofit organization and any licensed distributors of this failure, and any
4 licensed distributor that continues to sell break-open tickets to that nonprofit
5 organization after notice shall be considered in violation of the requirements of
6 this chapter, until the Department of Liquor Control has determined the
7 nonprofit organization is back in compliance with this subsection.

8 Fourth: By striking out Sec. 15 (health information technology report) in its
9 entirety, and inserting in lieu thereof a new Sec. 15 to read as follows:

10 Sec. 15. HEALTH INFORMATION TECHNOLOGY REPORT

11 (a) The Secretaries of Administration and of Human Services shall conduct
12 a comprehensive review of the State's Health-IT Fund established by
13 32 V.S.A. § 10301, Health Information Technology Plan established by
14 18 V.S.A. § 9351, and Vermont Information Technology Leaders administered
15 pursuant to 18 V.S.A. § 9352.

16 (b) The report shall:

17 (1) review the need for a State-sponsored Health-IT Fund;

18 (2) review how past payments from the Fund have or have not promoted
19 the advancement of health information technology adoption and utilization in
20 Vermont;

1 (3) review the past development, approval process, and use of the
2 Vermont Health Information Technology Plan;

3 (4) review the Vermont Information Technology Leaders (VITL)
4 organization, including:

5 (A) its maintenance and operation of Vermont’s Health Information
6 Exchange (VHIE);

7 (B) the organization’s ability to support current and future health care
8 reform goals;

9 (C) defining VITL’s core mission;

10 (D) identifying the level of staffing necessary to support VITL in
11 carrying out its core mission; and

12 (E) examining VITL’s use of its staff for activities outside its core
13 mission;

14 (5) recommend whether to continue the Health-IT Fund, including with
15 its current revenue source as set forth in 32 V.S.A § 10402;

16 (6) recommend any changes to the structure of VITL, including whether
17 it should be a public or private entity, and any other proposed modifications to
18 18 V.S.A § 9352;

19 (7) review property and ownership of the VHIE, including identifying
20 all specific tangible and intangible assets that comprise or support the VHIE

1 (especially in regards to VITL’s current and previous agreements with the
2 State), and the funding sources used to create this property;

3 (8) evaluate approaches to health information exchange in other states,
4 including Maine and Michigan, in order to identify opportunities for reducing
5 duplication in Vermont’s health information exchange infrastructure; and

6 (9) recommend any accounting or financial actions the State should take
7 regarding State-owned tangible and intangible assets that comprise or support
8 the VHIE.

9 (c) On or before November 15, 2017, the Secretaries of Administration and
10 of Human Services shall submit this report to the House Committees on Health
11 Care, on Appropriations, on Energy and Technology, and on Ways and Means
12 and the Senate Committees on Health and Welfare, on Appropriations, and on
13 Finance.

14 Fifth: By striking out Sec. 18 in its entirety and inserting in lieu thereof a
15 reader assistance and five new sections to be Secs. 18–18d to read as follows:

16 * * * Health Care Provisions; Home Health Agency Provider Tax * * *

17 Sec. 18. 33 V.S.A. § 1951 is amended to read:

18 § 1951. DEFINITIONS

19 As used in this subchapter:

20 (1) “Assessment” means a tax levied on a health care provider pursuant
21 to this chapter.

1 (2)(A) ~~“Core home~~ Home health care services” means any of the
2 following:

3 (i) those medically necessary, intermittent, skilled nursing, home
4 health aide, therapeutic, and personal care attendant services, provided
5 exclusively in the home by home health agencies. Core home health services
6 do not include private duty nursing, hospice, homemaker, or physician
7 services, or services provided under early periodic screening, diagnosis, and
8 treatment (EPSDT), traumatic brain injury (TBI), high technology programs,
9 or services provided by a home for persons who are terminally ill as defined in
10 subdivision 7102(3) of this title home health services provided by Medicare-
11 certified home health agencies of the type covered under Title XVIII
12 (Medicare) or XIX (Medicaid) of the Social Security Act;

13 (ii) services covered under the adult and pediatric High
14 Technology Home Care programs as of January 1, 2015;

15 (iii) personal care, respite care, and companion care services
16 provided through the Choices for Care program contained within Vermont’s
17 Global Commitment to Health Section 1115 demonstration; and

18 (iv) hospice services.

19 (B) The term “home health services” shall not include any other
20 service provided by a home health agency, including:

21 (i) private duty services;

1 (ii) case management services, except to the extent that such
2 services are performed in order to establish an individual’s eligibility for
3 services described in subdivision (A) of this subdivision (2);

4 (iii) homemaker services;

5 (iv) adult day services;

6 (v) group-directed attendant care services;

7 (vi) primary care services;

8 (vii) nursing home room and board when a hospice patient is in a
9 nursing home; and

10 (viii) health clinics, including occupational health, travel, and flu
11 clinics.

12 (C) The term “home health services” shall not include any services
13 provided by a home health agency under any other program or initiative unless
14 the services fall into one or more of the categories described in subdivision (A)
15 of this subdivision (2). Other programs and initiatives include:

16 (i) the Flexible Choices or Assistive Devices options under the
17 Choices for Care program contained within Vermont’s Global Commitment to
18 Health Section 1115 demonstration;

19 (ii) services provided to children under the early and periodic
20 screening, diagnostic, and treatment Medicaid benefit;

1 prepared in accordance with generally accepted accounting principles. The
2 amount of the tax shall be determined by the Commissioner based on the home
3 health net patient revenue attributable to services reported on the agency's
4 ~~most recent audited financial statements~~ statement at the time of submission, a
5 copy of which shall be provided on or before May 1 of each year to the
6 Department.

7 (3) For providers who ~~begin~~ began operations as a home health agency
8 after January 1, 2005, the tax shall be assessed as follows:

9 (1)(A) Until such time as the home health agency submits audited
10 financial statements for its first full year of operation as a home health agency,
11 the Commissioner, in consultation with the home health agency, shall annually
12 estimate the amount of tax payable and shall prescribe a schedule for interim
13 payments.

14 (2)(B) At such time as the full-year audited financial statement is filed,
15 the final assessment shall be determined, and the home health agency shall pay
16 any underpayment or the Department shall refund any overpayment. The
17 assessment for the State fiscal year in which a provider commences operations
18 as a home health agency shall be prorated for the proportion of the State fiscal
19 year in which the new home health agency was in operation.

20 * * *

1 Sec. 18b. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

2 Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL
3 ~~YEARS YEAR 2017 AND 2018~~

4 Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for
5 fiscal ~~years year 2017 and 2018~~ only, the amount of the home health agency
6 assessment under 33 V.S.A. § 1955a for each home health agency shall be
7 3.63 percent of its annual net patient revenue.

8 Sec. 18c. TRANSITIONAL PROVISION FOR FISCAL YEAR 2018

9 Notwithstanding any provision of 33 V.S.A. § 1955a(a)(2) to the contrary,
10 for fiscal year 2018 only, the Commissioner of Vermont Health Access may
11 determine the amount of a home health agency's provider tax based on such
12 documentation as the Commissioner deems acceptable.

13 Sec. 18d. REPEAL

14 33 V.S.A. § 1955a (home health agency assessment) is repealed on July 1,
15 2019.

16 Sixth: After Sec. 24, by adding a Sec. 24a to read as follows:

17 Sec. 24a. SMALL BUSINESS TAXPAYER OUTREACH AND
18 EDUCATION WORKING GROUP

19 The Taxpayer Advocate at the Department of Taxes shall convene a
20 working group of interested stakeholders to examine the ways the Department
21 can improve outreach and education to small business taxpayers. On or before

1 November 15, 2017, the Taxpayer Advocate shall report to the House
2 Committee on Ways and Means and the Senate Committee on Finance
3 recommendations to improve the relationship between the Department and
4 small businesses. In considering the recommendations, the Taxpayer Advocate
5 shall examine the following:

6 (1) identifying complex areas of the law that could be simplified to
7 enhance voluntary compliance;

8 (2) compiling a list of common issues on which the Department may
9 focus its outreach and education efforts;

10 (3) considering how the Department can maximize its existing resources
11 to provide additional guidance targeted to small businesses;

12 (4) directing the Department to identify existing organizations and
13 resources for small businesses and how to provide tax guidance through those
14 organizations;

15 (5) providing for a plan to contact and provide direction to new small
16 businesses in Vermont within one year of their operation in the State;

17 (6) recommending guidelines to forgive tax penalties and interest under
18 certain circumstances; and

19 (7) making other recommendations as appropriate.

20 Seventh: By striking out Sec. 26 (clean water working group) in its entirety
21 and inserting in lieu thereof a new Sec. 26 to read as follows:

1 Sec. 26. CLEAN WATER WORKING GROUP

2 (a) Creation. There is created the Working Group on Water Quality
3 Funding (Working Group) to develop a recommended method of assessing a
4 statewide impervious surface fee, per parcel fee, per acre fee, or some
5 combination of the foregoing, in order to generate revenue to be deposited in
6 the Clean Water Fund under 10 V.S.A. § 1388 to fund water quality restoration
7 and conservation in the State.

8 (b) Membership. The Working Group shall be composed of the following
9 13 members:

10 (1) the Secretary of Natural Resources or designee;

11 (2) one current member of the House of Representatives, who shall be
12 appointed by the Speaker of the House;

13 (3) one current member of the Senate, who shall be appointed by the
14 Committee on Committees;

15 (4) one member from the Vermont League of Cities and Towns,
16 appointed by the Board of Directors of that organization;

17 (5) one member from the Vermont Municipal Clerks and Treasurers
18 Association, appointed by the Executive Board of that organization;

19 (6) one member from the Vermont Mayors' Coalition appointed by that
20 organization;

1 (7) one member representing commercial or industrial business interests
2 in the State, to be appointed by the Lake Champlain Regional Chamber of
3 Commerce, after consultation with other business groups in the State;

4 (8) the Commissioner of Environmental Conservation or designee;

5 (9) the Commissioner of Forests, Parks and Recreation or designee;

6 (10) a representative of an environmental advocacy group, appointed by
7 the Speaker of the House;

8 (11) a representative of the agricultural community appointed by the
9 Vermont Farm Bureau;

10 (12) a representative of University of Vermont Extension, appointed by
11 the President Pro Tempore of the Senate; and

12 (13) the Secretary of Agriculture, Food and Markets or designee.

13 (c) Powers and duties. The Working Group shall recommend to the
14 General Assembly draft legislation to establish a statewide method of assessing
15 an impervious surface fee, a per parcel fee, a per acre fee, or some combination
16 of the foregoing, in order to generate revenue to fund water quality restoration
17 and conservation in the State. In developing the draft legislation, the Working
18 Group shall address:

19 (1) whether the fee or fees shall be assessed on impervious surface, per
20 parcel, per acre, or some combination of the foregoing;

1 (2) whether the fee or fees shall be tiered to reflect the amount of
2 impervious surface, size of a parcel, acreage of a parcel, type of property,
3 usage of the property, impact of the property on water quality, or other factors;

4 (3) the amount of fee or fees to be assessed;

5 (4) how the fee or fees shall be collected and remitted to the State;

6 (5) whether any property shall be exempt from the fee or fees;

7 (6) how an owner of property subject to a municipal stormwater utility
8 fee or other revenue mechanism for funding water quality improvements shall
9 receive a credit or reduced fee for payment of the municipal fee; and

10 (7) how to provide for abatement, delinquency, and enforcement of the
11 required fee or fees.

12 (d) Assistance. The Working Group shall have the administrative,
13 technical, and legal assistance of the Agency of Natural Resources and the
14 Department of Taxes. The Working Group shall have the technical assistance
15 of the Vermont Center for Geographic Information or designee.

16 (e) Report. On or before January 15, 2018, the Working Group shall
17 submit to the General Assembly a summary of its activities and the draft
18 legislation establishing a statewide method of assessing an impervious surface
19 fee, per parcel fee, per acre fee, or some combination of the foregoing.

1 ~~days after the date of the determination, entry of the final order, or settlement~~
2 ~~agreement if the Commissioner determines that the settlement value is the fair~~
3 ~~market value of the parcel, the Commissioner~~ made pursuant to section 4461 of
4 this title, a municipality may submit a request for the Director of Property
5 Valuation and Review to recalculate its education property tax liability for the
6 education grand list value lost due to a determination, declaratory judgment, or
7 settlement. The Director shall recalculate the municipality's education
8 property tax liability for ~~the~~ each year at issue, in accord with the reduced
9 valuation, provided that:

10 (A) ~~the~~ The reduction in valuation is the result of an appeal under
11 chapter 131 of this title to the Director of Property Valuation and Review or to
12 a court, with no further appeal available with regard to that valuation, or any
13 judicial decision with no further right of appeal, or a settlement of either an
14 appeal or court action if the ~~Commissioner~~ Director determines that the
15 settlement value is the fair market value of the parcel;

16 (B) ~~the~~ The municipality ~~notified the Commissioner of the appeal or~~
17 ~~court action, in writing, within 10 days after notice of the appeal was filed~~
18 ~~under section 4461 of this title or after the complaint was served; and~~ submits
19 the request on or before January 15 for a request involving an appeal or court
20 action resolved within the previous calendar year.

1 (C) ~~as a result of the valuation reduction of the parcel, the value of~~
2 ~~the municipality's grand list is reduced at least one percent.~~ [Repealed.]

3 (D) The Director determines that the municipality's actions were
4 consistent with best practices published by the Property Valuation and Review
5 in consultation with the Vermont Assessors and Listers Association. The
6 municipality shall have the burden of showing that its actions were consistent
7 with the Director's best practices.

8 (2) A determination of the Director made under subdivision (1) of this
9 subsection (a) may be appealed within 30 days by an aggrieved municipality to
10 the Commissioner for a hearing to be held in accordance with 3 V.S.A.
11 §§ 809–813. The Commissioner's determination may be further appealed to
12 Superior Court, which shall review the Commissioner's determination using
13 the record that was before the Commissioner. The Commissioner's
14 determination may only be overturned for abuse of discretion.

15 (3) ~~The municipality's~~ Upon the Director's request, a municipality
16 submitting a request under subdivision (1) of this subsection (a) shall include a
17 copy of the agreement, determination or final order, and any other
18 documentation necessary to show the existence of these conditions.

19 (b) To the extent that the municipality has paid that liability, the
20 ~~Commissioner~~ Director shall allow a credit for any reduction in education tax
21 liability against the next ensuing year's education tax liability ~~or, at the request~~

1 ~~of the municipality, may refund to the municipality an amount equal to the~~
2 ~~reduction in education tax liability.~~

3 (c) If a listed value is increased as the result of an appeal under chapter 131
4 of this title or court action, whether adjudicated or settled and the
5 ~~Commissioner~~ Director determines that the settlement value is the fair market
6 value of the parcel, with no further appeal available with regard to that
7 valuation, the ~~Commissioner~~ Director shall recalculate the municipality's
8 education property tax for each year at issue, in accord with the increased
9 valuation, and shall assess the municipality for the additional tax at the same
10 time the ~~Commissioner~~ Director assesses the municipality's education tax
11 liability for the next ensuing year, unless the resulting assessment would be
12 less than \$300.00. Payment under this section shall be due with the
13 municipality's education tax liability for the next ensuing year.

14 (d) Recalculation of education property tax under this section shall have no
15 effect other than to reimburse or assess a municipality for education property
16 tax changes ~~which~~ that result from property revaluation.

17 (e) A reduction made under this section shall be an amount equal to the loss
18 in education grand list value multiplied by the tax rate applicable to the subject
19 property in the year the request is submitted. However, the total amount for all
20 reductions made under this section in one year shall not exceed \$1,000,000.00.
21 If total reductions for a calendar year would exceed that amount, the Director

1 shall instead prorate the reductions proportionally among all municipalities
2 eligible for a reduction so that total reductions equal \$1,000,000.00.

3 (f) Prior to the issuance of a final administrative determination or judicial
4 order, a municipality may request that the Director certify that best practices
5 were followed for purposes of meeting the requirements of subdivision
6 (a)(1)(D) of this section. The Director may choose to grant certification, deny
7 certification, or refrain from a decision until a request is submitted under
8 subdivision (a)(1) of this section. The Director shall consider the potential
9 impact on the Education Fund, the unique character of the subject property or
10 properties, and any extraordinary circumstances when deciding whether to
11 grant certification under this subsection. The Director shall be bound by a
12 decision to grant certification unless the municipality agrees to a settlement
13 after such certification was made.

14 Sec. 28. GRAND LIST LITIGATION ASSISTANCE; STUDY

15 (a) The Attorney General, in consultation with the Vermont League of
16 Cities and Towns, property owners, and other interested stakeholders, shall
17 study approaches to assisting municipalities with expenses incurred during
18 litigation pursuant to chapter 131 of this title, including assigning an Assistant
19 Attorney General to the Division of Property Valuation and Review to support
20 municipalities litigating complex matters.

1 (b) On or before December 1, 2017, the Attorney General shall submit a
2 report to the Senate Committee on Finance and the House Committee on Ways
3 and Means on the findings of the study described in subsection (a) of this
4 section. The report shall include recommendations for legislative action based
5 on the findings of the study.

6 Sec. 29. REIMBURSEMENT OF EDUCATION TAX LIABILITY;

7 REPORT

8 (a) On or before December 1, 2019, the Director of Property Valuation and
9 Review shall submit a report to the Senate Committee on Finance and the
10 House Committee on Ways and Means on the reimbursement of education tax
11 liabilities to municipalities pursuant to Sec. 26a of this act.

12 (b) The report shall include:

13 (1) the annual number of reductions to the education grand list;

14 (2) the annual amount reimbursed to municipalities from the Education
15 Fund; and

16 (3) the annual increase, if any, to the education grand list.

17 * * * Premium Tax Credit; Captive Insurance Companies * * *

18 Sec. 30. 8 V.S.A. § 6014(k) is amended to read:

19 (k) A captive insurance company first licensed under this chapter on or
20 after January 1, ~~2011~~ 2017 shall receive a nonrefundable credit of \$7,500.00

- 1 (2) the City of Burlington, Waterfront;
2 (3) the Town of Milton, North and South;
3 (4) the City of Newport;
4 (5) the City of Winooski;
5 (6) the Town of Colchester;
6 (7) the Town of Hartford;
7 (8) the City of St. Albans;
8 (9) the City of Barre; ~~and~~
9 (10) the Town of Milton, Town Core; and
10 (11) the City of South Burlington, New Town Center.

11 * * *

12 § 1894. POWER AND LIFE OF DISTRICT

13 * * *

14 (c) Use of the municipal property tax increment. For only debt incurred
15 within the period permitted under subdivision (a)(1) of this section after
16 creation of the district, and related costs, not less than an equal share plus five
17 percent of the municipal tax increment pursuant to subsection (f) of this section
18 shall be retained to service the debt, beginning the first year in which debt is
19 incurred, pursuant to subsection (b) of this section.

20 * * *

1 (f) Equal share required. If any tax increment utilization is approved
2 pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State
3 property tax increment and no less than an equal percent, plus five percent, of
4 the municipal tax increment may be approved by the Council or used by the
5 municipality to service this debt.

6 * * *

7 Sec. 34. 32 V.S.A. § 5404a is amended to read:

8 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
9 FINANCING DISTRICTS

10 * * *

11 (f) A municipality that establishes a tax increment financing district under
12 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties
13 contained within the district and apply up to 75 percent of the State education
14 property tax increment, and not less than an equal share plus five percent of the
15 municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of
16 financing of the improvements and related costs for up to 20 years pursuant to
17 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council
18 pursuant to this section, subject to the following:

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

1 (2) The Council shall not approve more than two districts in a single
2 county, and not more than an additional 14 districts in the State, provided:

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

5 (B) The Council shall consider complete applications in the order
6 they are submitted, except that if during any calendar month the Council
7 receives applications for more districts than are actually available in a county,
8 the Council shall evaluate each application and shall approve the application
9 that, in the Council's discretion, best meets the economic development needs
10 of the county.

11 (C) If, while the General Assembly is not in session, the Council
12 receives applications for districts that would otherwise qualify for approval
13 but, if approved, would exceed the 14-district limit in the State, the Council
14 shall make one or more presentations to the Emergency Board concerning the
15 applications, and the Emergency Board may, in its discretion, increase the 14-
16 district limit.

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 (3)(A) of this
21 subsection, 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 not approve any additional districts on or after
4 July 1, 2024.

5 * * *

6 (h) Criteria for approval. To approve utilization of incremental revenues
7 pursuant to subsection (f) of this section, the Vermont Economic Progress
8 Council shall do all the following:

9 (1) Review each application to determine that the ~~new real property~~
10 proposed infrastructure improvements and the proposed development would
11 not have occurred or would have occurred in a significantly different and less
12 desirable manner but for the proposed utilization of the incremental tax
13 revenues. The review shall take into account:

14 (A) the amount of additional time, if any, needed to complete the
15 proposed development within the tax increment district and the amount of
16 additional cost that might be incurred if the project were to proceed without
17 education property tax increment financing;

18 (B) how the proposed development components and size would
19 differ, if at all, without education property tax increment financing, including,
20 if applicable to the development, the number of units of affordable housing, as
21 defined in 24 V.S.A. § 4303; and

1 (C) the amount of additional revenue expected to be generated as a
2 result of the proposed development; the percentage of that revenue that shall be
3 paid to the education fund; the percentage that shall be paid to the
4 municipality; and the percentage of the revenue paid to the municipality that
5 shall be used to pay financing incurred for development of the tax increment
6 financing district.

7 (2) Process requirements. Determine that each application meets all of
8 the following four requirements:

9 (A) The municipality held public hearings and established a tax
10 increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

11 (B) The municipality has developed a tax increment financing district
12 plan, including: a project description; a development financing plan; a pro
13 forma projection of expected costs; a projection of revenues; a statement and
14 demonstration that the project would not proceed without the allocation of a
15 tax increment; evidence that the municipality is actively seeking or has
16 obtained other sources of funding and investment; and a development schedule
17 that includes a list, a cost estimate, and a schedule for public improvements
18 and projected private development to occur as a result of the improvements.

19 (C) The municipality has approved or pledged the utilization of
20 incremental municipal tax revenues for purposes of the district in the same
21 proportion as the utilization of education property tax revenues approved by

1 the Vermont Economic Progress Council for the tax increment financing
2 district.

3 (D) The proposed infrastructure improvements and the projected
4 development or redevelopment are compatible with approved municipal and
5 regional development plans, and the project has clear local and regional
6 significance for employment, housing, and transportation improvements.

7 (3) Location criteria. Determine that each application meets one of the
8 following criteria:

9 (A) The development or redevelopment is compact, high density, and
10 located in or near existing industrial areas.

11 (B) The proposed district is within an approved growth center,
12 designated downtown, designated village center, ~~or~~ new town center, or
13 neighborhood development area.

14 (C) The development will occur in an area that is economically
15 distressed, which for the purposes of this subdivision means that the ~~area has~~
16 ~~experienced patterns of increasing unemployment, a drop in average wages, or~~
17 ~~a decline in real property values~~ municipality in which the area is located has
18 at least one of the following:

19 (i) a median family income that is not more than 80 percent of the
20 statewide median family income as reported by the Vermont Department of
21 Taxes for the most recent year for which data is available;

1 (ii) an annual average unemployment rate that is at least one
2 percent greater than the latest annual average statewide unemployment rate as
3 reported by the Vermont Department of Labor; or

4 (iii) a median sales price for residential properties under six acres
5 that is not more than 80 percent of the statewide median sales price for
6 residential properties under six acres as reported by the Vermont Department
7 of Taxes.

8 (4) Project criteria. Determine that the proposed development within a
9 tax increment financing district will accomplish at least ~~three~~ two of the
10 following ~~five~~ four criteria:

11 (A) ~~The development within the tax increment financing district~~
12 ~~clearly requires substantial public investment over and above the normal~~
13 ~~municipal operating or bonded debt expenditures.~~

14 (B) The development includes new or rehabilitated affordable
15 housing ~~that is affordable to the majority of the residents living within the~~
16 ~~municipality and is developed at a higher density than at the time of~~
17 ~~application. “Affordable” has the same meaning as in 10 V.S.A. § 6001(29),~~
18 as defined in 24 V.S.A. § 4303.

19 (C)(B) The project will affect the remediation and redevelopment of
20 a brownfield located within the district. As used in this section, “brownfield”
21 means an area in which a hazardous substance, pollutant, or contaminant is or

1 may be present, and that situation is likely to complicate the expansion,
2 development, redevelopment, or reuse of the property.

3 ~~(D)~~(C) The development will include at least one entirely new
4 business or business operation or expansion of an existing business within the
5 district, and this business will provide new, ~~quality~~ high-quality, full-time jobs
6 that meet or exceed the prevailing wage for the region as reported by the
7 department of labor.

8 ~~(E)~~(D) The development will enhance transportation by creating
9 improved traffic patterns and flow or creating or improving public
10 transportation systems.

11 * * *

12 * * * Repeals * * *

13 Sec. 35. REPEALS

14 The following are repealed:

15 (1) 32 V.S.A. chapter 239 (games of chance).

16 (2) 32 V.S.A. § 10010(c) (requirement that form for payment of land
17 gains tax set out penalties in large type).

18 (3) 2007 Acts and Resolves No. 81, Secs. 7a (amendment to sales tax
19 exemption for aircraft parts) and 7b (effective date).

20 (4) 2008 Acts and Resolves No. 190, Sec. 43 (extension of sales tax
21 exemption for aircraft parts).

