

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; school construction; facilities; grant program; PCBs

4 Statement of purpose of bill as introduced: This bill proposes to:

5 (1) create the Facilities Master Plan Grant Program to support
6 supervisory unions and independent career and technical education districts to
7 support the development of a master plan that complies with State construction
8 aid requirements;

9 (2) require the Department of Buildings and General Services to
10 establish a list of prequalified architecture and engineering consultants;

11 (3) create the State Aid for School Construction Working Group to
12 study and design a plan for a statewide school construction aid program;

13 (4) require the Joint Fiscal Office to model stable perpetual revenue
14 sources to fund a statewide school construction aid program; and

15 (5) pause PCB testing in schools.

16 An act relating to the development of an updated State aid to school
17 construction program

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

19 Sec. 1. 16 V.S.A. § 3441 is added to read:

20 § 3441. FACILITIES MASTER PLAN GRANT PROGRAM; **REPORT**

1 (a) Intent. It is the intent of the General Assembly that the Facilities
2 Master Plan Grant Program established pursuant to this section shall enable
3 school districts and supervisory unions to develop a district or supervisory
4 union level vision for all school buildings that meets the educational needs and
5 goals of the district or supervisory union. The goal of a facilities master plan
6 shall be to facilitate an evaluation of the capacity of existing facilities to
7 deliver on identified educational goals. A facilities master plan shall also
8 enable and require school districts and supervisory unions to engage in
9 intentional and robust conversations with the larger community that will
10 hopefully lead to the successful passage of bonds needed to support the
11 renovation or construction needs of the district or supervisory union.

12 (b) Establishment. There is established the Facilities Master Plan Grant
13 Program to be administered by the Agency of Education, from funds
14 appropriated for this purpose, to supervisory unions and independent career
15 and technical education districts to support the development of educational
16 facilities master plans. Grant funds may be used to hire a consultant to assist
17 in the development of the master plan with the goal of developing a final
18 master plan that complies with State construction aid requirements. Grants
19 shall be issued on an annual basis for a maximum of five consecutive years.

20 (c) Standards for the disbursement of funds. The Agency shall develop
21 standards for the disbursement of grant funds in accordance with the following:

1 (1) Grants shall be awarded to applicants with the highest facilities
2 needs. The Agency shall develop a prioritization formula based on an
3 applicant's [TBD poverty metric] and average facilities condition index score.
4 The Agency may give priority to applications with a regionalization focus that
5 consist of more than one supervisory union or independent career and technical
6 education district that apply as a consortium.

7 (2) Award amounts shall be commensurate with the gross square
8 footage of buildings located within the applicable supervisory union or career
9 and technical education district.

10 (3) Grants shall include a funding match from other sources, including
11 grants from businesses, foundations, or other federal or local funding, in an
12 amount equal to [decision point—flat rate or tiered based on need]

13 (4) The Agency shall develop minimum requirements for an educational
14 facilities master plan, which shall include, at a minimum, the following
15 elements:

16 (A) a description of the educational mission, vision, and goals of the
17 supervisory union;

18 (B) a description of educational programs and services offered by the
19 supervisory union;

20 (C) the performance of a space utilization assessment;

21 (D) the identification of new program needs;

- 1 (E) the development of enrollment projections;
2 (F) the performance of a facilities assessment; and
3 (G) information regarding the various design options explored to
4 address the supervisory union’s identified needs.

5 (d) Report. Annually on or before December 31, the Agency shall submit
6 to the House and Senate Committees on Education a written report with
7 information on the implementation of the grant program created in this section.

8 Sec. 2. REPEAL; FACILITIES MASTER PLAN GRANT PROGRAM

9 16 V.S.A. § 3441 (Facilities Master Plan Grant Program) as added by this
10 act is repealed on June 30, 2029.

11 Sec. 3. PREQUALIFIED ARCHITECTURE AND ENGINEERING
12 CONSULTANTS

13 On or before October 15, 2024, the Agency of Education shall coordinate
14 with the Department of Buildings and General Services to develop
15 prequalification criteria for architecture and engineering firms specializing in
16 kindergarten through grade 12 school design and construction. The
17 Department shall assist the Agency in distributing requests for qualifications
18 and in reviewing the resulting responses for approval and prequalification.
19 The Department shall maintain the list of prequalified firms and shall make the
20 list available to school districts and supervisory unions.

1 Sec. 4. STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP;
2 REPORT

3 (a) Creation. There is created the State Aid for School Construction
4 Working Group to study and design a plan for a statewide school construction
5 aid program.

6 (b) Membership. The Working Group shall be a legislative working group
7 composed of the following six members:

8 (1) three current members of the House of Representatives, not all from
9 the same political party, who shall be appointed by the Speaker of the House;

10 and

11 (2) three current members of the Senate, not all from the same political
12 party, who shall be appointed by the Committee on Committees.

13 (c) Powers and duties.

14 (1) The Working Group shall study and create a recommended plan for
15 a statewide school construction aid program, including recommendations on
16 implementation. To facilitate its understanding of school construction projects
17 and other school construction state aid programs, the Working Group may
18 travel to conduct site visits at schools or other state programs. In creating its
19 recommendations, the Working Group shall address the following topics,
20 building from the recommendations contained in the report of the School

1 Construction Aid Task Force, created in 2023 Acts and Resolves No. 78, Sec.

2 E.131.1:

3 (A) Governance. The Working Group shall study other state
4 governance models for school construction aid programs, including inviting
5 testimony from school officials from those states, and make a recommendation
6 for a governance model for Vermont that aligns with the other funding and
7 programmatic recommendations of the Working Group. Governance
8 recommendations shall include recommendations on staffing levels and a
9 stable appropriation for the funding of the recommended governance structure.

10 (B) Prioritization criteria. The Working Group shall make
11 recommendations on state aid prioritization criteria that will drive funding
12 towards projects that are aligned to the State’s educational policies and
13 priorities.

14 (C) Eligibility criteria. The Working Group shall consider the
15 following state aid eligibility criteria:

16 (i) appropriate maintenance and operations budgeting at the
17 supervisory union level;

18 (ii) a requirement for eligible supervisory unions to have a five
19 year capital plan;

1 (iii) a facility condition index maximum level that would preclude
2 eligibility but may qualify a building for a State share percentage bonus to
3 replace the building;

4 (iv) a requirement for a supervisory union master planning process
5 that would require consideration of the adaptive reuse of schools for housing or
6 other social infrastructure; and

7 (v) a prohibition on exclusionary zoning regulations that would
8 preclude lesser resourced families from living in the applicable school district.

9 **(D) State base share.** The Working Group shall make
10 recommendations for tiered levels of State support based on student or
11 community poverty factors. The Working Group shall consider factors such as
12 local taxing capacity, student poverty data, environmental justice metrics, and
13 energy burden metrics.

14 **(E) Incentives.** The Working Group shall consider the use of
15 incentives or State share bonuses that align with Vermont’s educational
16 priorities with the goal of using taxpayer supported school construction aid to
17 improve student learning environments and opportunities. The Working
18 Group shall consider appropriate limits on cumulative incentives and whether
19 incentives shall be bundled for eligibility. Policy areas to consider for
20 incentives include:

21 (i) school safety and security;

- 1 (ii) health;
- 2 (iii) educational enhancements;
- 3 (iv) overcrowding solutions;
- 4 (v) environmental performance;
- 5 (vi) newer and fewer buildings;
- 6 (vii) major renovations to improve prek-12 systems educational
- 7 alignment and capacity; and
- 8 (viii) replacement of facilities with a current facility condition
- 9 index of 65 percent or higher, in combination with other policy area incentives.

10 **(F) Assurance and certification process.**

- 11 (i) The Working Group shall make recommendations for an
- 12 assurance and certification process that requires the following:
- 13 (I) a district’s commitment to adequate funding for ongoing
- 14 maintenance and operations of any State-funded improvements;
- 15 (II) a district to assure to adequate training for facilities and
- 16 custodial staff to properly operate and maintain systems funded through State
- 17 aid;
- 18 (III) a district to complete a full commissioning process as a
- 19 requirement to receive State funds at the end of the project; and
- 20 (IV) a clerk of the works throughout the lifespan of the project.

1 (ii) The Working Group shall also consider whether the assurance
2 and certification process shall be eligible for State funding support, as well as
3 whether a preferred vendor list for the commissioning process and clerk of the
4 works is advisable.

5 **(G) Environmental hazards and contaminants.** The Working
6 Group shall make recommendations that approach environmental hazards and
7 contaminants in a comprehensive manner, incorporating existing programs into
8 the school construction aid program where possible.

9 **(H) Pre-program construction aid.** The Working Group shall
10 consider whether and to what extent State aid should be made available to
11 school districts that begin construction projects prior to the establishment or
12 renewal of a State school construction aid program.

13 **(I) Current law.** The Working Group shall review State statutes and
14 State Board of Education rules that concern or impact school construction and
15 make recommendations to the General Assembly for any amendments
16 necessary to align with the Working Group’s proposed construction aid
17 program.

18 **(J) Efficiencies.** The Working Group shall identify areas where
19 economizations or efficiencies might be gained in the creation of the program,
20 including consideration of the following:

1 (i) a prequalification process for consultants with experience in the
2 planning, renovation, and construction of kindergarten through grade 12
3 schools; and

4 (ii) cost containment strategies such as the use of building
5 templates for new construction.

6 **(K) Fiscal modeling.** The Working Group shall align the proposed
7 construction aid program with fiscal modeling produced by the Joint Fiscal
8 Office.

9 **(L) School Construction Planning Guide.** The Working Group
10 shall review the Vermont School Construction Planning Guide and make
11 recommendations for any amendments necessary to align with the Working
12 Group’s proposed construction aid program.

13 (2) The Working Group shall consult with the following entities in
14 developing its proposed plan to ensure all applicable areas of Vermont law and
15 federal funding opportunities are taken into consideration:

16 (A) the Agency of Education;

17 (B) the Agency of Natural Resources;

18 (C) the Department of Public Safety, Division of Fire Safety;

19 (D) the Natural Resources Board;

20 (E) the Agency of Commerce and Community Development,
21 Division for Historic Preservation;

1 (F) the U.S. Department of Education;

2 (G) U.S. Department of Agriculture, Rural Development; and

3 (H) any other entity the Working Group deems relevant to its work.

4 (d) Assistance. The Working Group shall have the administrative,
5 technical, and legal assistance of the Agency of Education, the Office of
6 Legislative Counsel, the Joint Fiscal Office, and the Office of Legislative
7 Operations.

8 (e) Report. On or before December 15, 2024, the Working Group shall
9 submit a written report to House and Senate Committees on Education with its
10 proposed plan for a statewide school construction aid program, which shall
11 include recommendations for each topic included in subsection (c). The report
12 shall also include recommendations for legislative action.

13 (f) Meetings.

14 (1) The Office of Legislative Counsel shall call the first meeting of the
15 Working Group to occur on or before July 15, 2024.

16 (2) The Working Group shall select co-chairs from among its members
17 at the first meeting, one a member of the House and the other a member from
18 the Senate.

19 (3) A majority of the membership shall constitute a quorum.

20 (4) The Working Group shall cease to exist on December 31, 2024.

1 (g) Compensation and reimbursement. For attendance at meetings during
2 adjournment of the General Assembly, members of the Study Committee shall
3 be entitled to per diem compensation and reimbursement of expenses pursuant
4 to 2 V.S.A. § 23 for not more than 10 meetings. These payments shall be
5 made from monies appropriated to the General Assembly.

6 **Sec. 5. APPROPRIATION; STATE AID FOR SCHOOL CONSTRUCTION**

7 **WORKING GROUP**

8 The sum of \$5,000.00 is appropriated from the General Fund to the General
9 Assembly in fiscal year 2025 for the purpose of funding travel by the State Aid
10 for School Construction Working Group pursuant to Sec. 4, subsection (c).

11 **Sec. 6. REVENUE SOURCES**

12 On or before December 1, 2024, the Joint Fiscal Office shall model
13 potential sources of funding to sustainably support a school construction aid
14 program. Modeling shall be performed at the direction of the chairs of the
15 House Committee on Ways and Means, the House Committee on
16 Appropriations, the Senate Committee on Finance, and the Senate Committee
17 on Appropriations, and in consultation with the chairs of the House and Senate
18 Committees on Education.

19 **Sec. 7. PCB TESTING PAUSE**

20 (a) Notwithstanding subsection (b) of this section, if a school is required to
21 test for the presence of polychlorinated biphenyls (PCBs) pursuant to 2021

1 Acts and Resolves No. 74, Sec. E.709.1, the Agency of Natural Resources
2 (ANR) shall conduct the testing or pay for testing conducted by the school.

3 (b) In order to better incorporate PCBs testing into long- range school
4 construction planning, testing for PCBs in schools shall cease according to the
5 following terms:

6 (1) Notwithstanding the requirements and authority under 2021 Acts and
7 Resolves No. 74, Sec. E.709.1 for ANR to test the indoor air quality of schools
8 for PCBs, ANR shall not initiate testing for PCBs at any school in the State
9 after the effective date of this act.

10 (2) If ANR has initiated on-site testing for PCBs in indoor air quality of
11 a school prior to the effective date of this act, the Agency shall complete the
12 testing. If ANR has only approved a workplan or cost estimate to conduct an
13 inventory or testing at a school but no on-site testing has been conducted, ANR
14 shall not conduct on-site testing at that school under the authority set forth in
15 this subdivision.

16 (3) At the end of fiscal year 2024, any funds remaining from the
17 appropriation to the Agency of Natural Resources in 2021 Acts and Resolves
18 No. 74, Sec. E.709.1 for PCBs testing of schools shall revert to the Education
19 Fund to be held in reserve for future school construction needs.

20 (4) Pursuant to the nonappropriations clause in the standard terms and
21 conditions of State contracts required by Administrative Bulletin 3.5, ANR

1 shall, at the end of fiscal year 2024, cancel any contracted services for PCBs
2 testing of indoor air quality of schools scheduled to be initiated after the
3 effective date of this act.

4 Sec. 8. EFFECTIVE DATE

5 This act shall take effect on July 1, 2024.