

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 426  
3 entitled “An act relating to addressing the needs and conditions of public  
4 school facilities in the State” respectfully reports that it has considered the  
5 same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS; INTENT

8 (a) The General Assembly finds that:

9 (1) In 2007 Acts and Resolves No. 52, Sec. 36, the General Assembly  
10 suspended State aid for school construction in order to permit the Secretary of  
11 Education and the Commissioner of Finance and Management to recommend a  
12 sustainable plan for State aid for school construction.

13 (2) In 2008 Acts and Resolves No. 200, Sec. 45, as amended by 2009  
14 Acts and Resolves No. 54, Sec. 22, the General Assembly, in the absence of a  
15 recommendation, extended the suspension until a sustainable plan for State aid  
16 for school construction is developed and adopted.

17 (3) Between Fiscal Years 2008 and 2016, the State honored its  
18 obligation to repay the remaining outstanding obligations for projects for  
19 which State aid had been committed prior to the suspension.

20 (b) The General Assembly also finds that:

1           (1) The State of Vermont is the only state in the Northeast that does not  
2           have a school construction program.

3           (2) Between 2008 and 2019, school districts in Vermont issued  
4           approximately \$211,000,000.00 in bonds for school construction projects. In  
5           2020, there was an estimated \$445,000,000.00 in bonding planned and  
6           proposed by school districts for future school construction projects statewide.

7           (c) The General Assembly also finds that the backlog in the State’s school  
8           construction projects has resulted in unsafe and unhealthy learning  
9           environments and disparities in the quality of education, including between  
10           wealthier communities and communities in need across the State.

11           (d) It is the intent of the General Assembly to develop a plan to address the  
12           needs and conditions of the State’s school buildings in order to create better  
13           learning environments for Vermont’s students and increase the equity in the  
14           quality of education around the State.

15       Sec. 2. SCHOOL CONSTRUCTION; FACILITIES STANDARDS;  
16                CAPITAL OUTLAY FINANCING FORMULA; AGENCY OF  
17                EDUCATION; STATE BOARD OF EDUCATION; UPDATE

18           (a) On or before January 15, 2023, the Secretary of Education, in  
19           consultation with the Executive Director of the Vermont Superintendents  
20           Association and the Chair of the State Board of Education, shall update the  
21           school construction facilities standards. The update shall reflect:

1           (1) changes in educational delivery models; and

2           (2) requirements for healthy and resource efficient school facilities,  
3 including natural light, indoor air quality, and water and energy efficiency.

4           (b) On or before January 15, 2023, the State Board of Education shall  
5 update and adopt the Capital Outlay Financing Formula.

6           (1) Pursuant to State Board Rule 6124.1, the Formula shall establish the  
7 maximum and minimum square footage parameters by school size and the  
8 grade range through a square footage allowance per student or program. The  
9 Formula shall also establish an allowable cost per square foot of construction.

10           (2) The State Board may also consider additional factors in the update,  
11 including facility condition, capacity and utilization, and energy performance  
12 in designing a system of financial support.

13           (c) The Agency of Education is authorized to use not more than  
14 \$100,000.00 of the amount appropriated in Sec. 3(d) of this act to hire a  
15 consultant to provide technical assistance to the State Board for the project  
16 described in subsection (b) of this section.

17 **Sec. 3. SCHOOL FACILITIES CONDITIONS ASSESSMENT; AGENCY**  
18 **OF EDUCATION; DEPARTMENT OF BUILDINGS AND**  
19 **GENERAL SERVICES**

20           (a) On or before September 1, 2021, the Secretary of Education, in  
21 coordination with the Commissioner of Buildings and General Services, shall

**Commented [RW1]:** Funds appropriated to AOE and not the State Board to provide technical assistance to update the Capital Outlay Financing Formula Rule.

**Commented [RW2]:** For Committee Discussion: Should AOE contract out for a facilities conditions assessment or focus on COVID-related projects? Or do both?

1 issue a request for proposal for a school facilities conditions assessment to  
2 inform the Agency of Education of the statewide school facilities needs and  
3 costs. The assessment shall include:

4 (1) A planning phase that utilizes the expertise of the consultant and  
5 other stakeholders to finalize the evaluation criteria and methodology for  
6 collection of data.

7 (2) A review of school facility conditions, space utilization, and  
8 suitability of the facility and its spaces to deliver educational and support  
9 services.

10 (3) Sufficient information to assist the General Assembly to establish a  
11 ranking system based on categories to prioritize schools with the highest needs  
12 for future school construction funding. The categories shall include:

13 (A) capacity and utilization;

14 (B) safety and security infrastructure;

15 (C) accessibility;

16 (D) technology infrastructure;

17 (E) capacity to deliver STEAM (science, technology, engineering,  
18 arts, and math) programming; and

19 (F) building systems' condition and performance, including:

20 (i) energy efficiency improvements and indoor air quality to  
21 address the health and safety of students and employees, and

1                    (ii) an assessment of the buildings' heating systems that includes  
2                    an estimate of the year the system should be replaced and, if it is a fossil fuel  
3                    heating system, a determination of which type of non-fossil fuel heating  
4                    system should replace it.

5                    (b) The Secretary of Education shall contract with an independent third  
6                    party to conduct the assessment described in subsection (a) of this section. The  
7                    assessment shall be completed on or before October 1, 2022.

8                    (c) The Agency of Education shall create a database to enter the  
9                    information from the assessment described in subsection (a) of this section.  
10                   This information shall include a school's physical address and GIS  
11                   coordinates.

12                   (d) The total cost for the assessment described in this section shall not  
13                   exceed \$2,500,000.00, of which the Secretary is authorized to expend as  
14                   follows:

15                   (1) Of the initial expenditures, not more than the \$627,500.00 shall be  
16                   used from the amount allocated to the Agency of Education from the  
17                   Coronavirus Aid, Relief, and Economic Security Act pursuant to Secs.  
18                   18003(e), 2020, Pub. L. No. 116-136.

19                   (2) Of the remaining expenditures, not more than \$1,872,500.00 shall be  
20                   used from the amount allocated to the Agency of Education Elementary and

**Commented [RW3]:** Amends category for buildings systems' condition and performance to include an assessment of heating systems

1 Secondary School Emergency Relief Fund pursuant to Section 313(e) of the  
2 Consolidated Appropriations Act, 2021, Pub. L. No. 116–260.

3 (e) On or before January 15, 2022, the Secretary of Education shall submit  
4 a report to the House and Senate Committees on Education with an update on  
5 the status of the request for proposal described in subsection (a) of this section.

6 (f) As used in this section, “school” means a public school as defined in  
7 16 V.S.A. § 11.

8 **Sec. 4. SCHOOL CONSTRUCTION FUNDING; AGENCY OF**  
9 **EDUCATION; REPORT**

10 (a) On or before January 15, 2023, the Secretary of Education shall submit  
11 a report to the General Assembly that shall include the following:

12 (1) an analysis of the challenges and opportunities to the State of  
13 funding school construction projects;

14 (2) recommendations for a funding source for school construction  
15 projects that are linked to the inventory, needs, and conditions of all Vermont  
16 schools; and

17 (3) an analysis of how other states are funding school construction  
18 projects.

19 (b) As used in this section, “school” means a public school as defined in  
20 16 V.S.A. § 11.

**Commented [RW4]:** For Committee Discussion: AOE proposed revising the statutory framework for school construction aid. Would you like this report to also include recommended language for a new program along with a funding source?

1 Sec. 5. 16 V.S.A. § 165 is amended to read:

2 § 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL

3 OPPORTUNITIES; INDEPENDENT SCHOOL MEETING

4 EDUCATION QUALITY STANDARDS

5 (a) In order to carry out Vermont's policy that all Vermont children will be  
6 afforded educational opportunities that are substantially equal in quality, each  
7 Vermont public school, including each career technical center, shall meet the  
8 following education quality standards:

9 \* \* \*

10 (3) The school substantially meets standards adopted by rule of the State  
11 Board regarding conditions, practices and resources of schools. The standards  
12 shall address those aspects of the following that are most closely associated  
13 with improving student performance:

14 (A) school leadership, staffing, and support services;

15 (B) instructional practices and curriculum leadership, content, and  
16 coordination;

17 (C) educational materials and school facilities;

18 (D) access to current technology.

19 \* \* \*

**Commented [RW5]:** For Committee Discussion: Amend educational quality standards to focus on districts and not schools?

1 **Sec. 6. 16 V.S.A. § 559 is amended to read:**

2 **§ 559. PUBLIC BIDS**

3 (a) Cost threshold. When the cost exceeds ~~\$15,000.00~~ \$40,000.00, a  
4 school board or supervisory union board shall publicly advertise or invite three  
5 or more bids from persons deemed capable of providing items or services if  
6 costs are in excess of ~~\$15,000.00~~ \$40,000.00 for any of the following:

**Commented [RW6]:** Bid threshold for construction projects raised to \$40,000

7 (1) the construction, purchase, lease, or improvement of any school  
8 building;

9 (2) the purchase or lease of any item or items required for supply,  
10 equipment, maintenance, repair, or transportation of students; or

11 (3) a contract for transportation, maintenance, or repair services.

12 \* \* \*

13 (g) Violations. The State Board may deny State aid for school construction  
14 and for debt service on a project that proceeds in violation of this section.

**Commented [RW7]:** For Committee Discussion – the penalty for noncompliance is no longer enforceable without a school construction aid program in place

15 Sec. 7. 16 V.S.A. § 837 is added to read:

16 **§ 837. SCHOOL FACILITIES MANAGEMENT; TRAINING AND**  
17 **CERTIFICATION**

18 (a) The Secretary of Education, in consultation with facilities management  
19 industry and school operations experts, shall establish guidelines for the  
20 training and certification of each person designated as responsible for facilities  
21 management for a school district or supervisory union.



1        (b) The superintendent for each school district or supervisory union shall  
2        designate a person with responsibility for facilities management for the school  
3        district or supervisory union. The designee for each school district or  
4        supervisory union shall receive training and certification pursuant to the  
5        guidelines established in subsection (a) of this section.

6        Sec. 8. 16 V.S.A. § 838 is added to read:

7        § 838. CAPITAL IMPROVEMENT PLAN

8        (a) Each school district shall develop and maintain a five-year capital  
9        operations and improvement plan for the school district and supervisory union,  
10       which shall be updated annually.

11       (b) The capital operations and improvement plan described in subsection  
12       (a) of this section shall be in a form developed and prescribed by the Secretary  
13       of Education after consultation with facilities management and school  
14       operations experts.

15       Sec. 8. AGENCY OF EDUCATION; CREATION OF POSITION

16       (a) One limited-service position funded through January 15, 2023 is created  
17       in the Agency of Education to implement this act by using an existing position  
18       in the position pool.

19       (b) In fiscal year 2022, the Agency of Education is authorized to use not  
20       more than \$127,500.00 from the amount allocated to the Agency of Education  
21       from the Elementary and Secondary School Emergency Relief Fund pursuant

**Commented [RW8]:** Committee discussion: Should this position be a limited-service position or should AOE contract out for these services?

1 to Section 313(e) of the Consolidated Appropriations Act, 2021, Pub. L. No.  
2 116–260 for the position described in subsection (a) of this section.

3 **Sec. 9. MUNICIPAL ENERGY LOAN PILOT PROGRAM; FINANCING**  
4 **FOR SCHOOLS**

5 On or before January 15, 2023, the Agency of Education, in coordination  
6 with the Department of Buildings and General Services, shall submit a report  
7 to the House Committees on Corrections and Institutions and on Education and  
8 the Senate Committees on Education and on Institutions to determine how the  
9 Municipal Energy Loan Pilot Program, established in Sec. E.112 of the Fiscal  
10 2022 Appropriations Act, shall support schools to implement needed energy  
11 efficiency and conservation measures, including those identified in the  
12 assessment required by Sec. 3 of this act.

13 **Sec. 10. SCHOOL FACILITIES; HEALTH AND SAFETY PROJECTS;**

14 **COVID-19**

15 (a) On or before [DATE], Agency of Education shall contract with an  
16 independent third party to assist any school district using funds allocated to it  
17 from the Elementary and Secondary School Emergency Relief Fund pursuant  
18 to Section 313(f) of the Consolidated Appropriations Act, 2021, Pub. L. No.  
19 116–260, and any other federal sources, to improve the overall health and  
20 safety of any of the district’s school facilities as a result of the COVID-19  
21 pandemic. The contractor’s responsibilities shall include:

**Commented [RW9]:** Directs AOE and BGS to determine how to use the Municipal Energy Loan Pilot Program for school projects

**Commented [RW10]:** Authorizes AOE to use ESSR funds to hire a contractor to assist districts with planning and making health and safety improvements as a result of COVID-19

1           (1) project coordination;

2           (2) serving as a liaison:

3                 (A) between the school district, the Agency of Education, and any  
4           other relevant entities in the State that may be leveraged to support the work,  
5           including to coordinate the use of federal funding programs and maximize  
6           funding, labor, and equipment resources;

7                 (B) between the school district and the Agency of Education to:

8                     (i) facilitate the district prioritization of school safety and health  
9           issues;

10                    (ii) support a school district, in coordination with the Agency of  
11           Education, in defining their investment strategies for the improvement of  
12           school facilities in a manner consistent with the intent and purpose of any  
13           funding source; and

14                    (iii) develop communications to support the prioritization of  
15           projects; and

16                 (C) provide status updates and a final report on project work to the  
17           school district and the Agency of Education, including recommendations on  
18           how to maintain the facility after the performance period of the grant funds.

19                 (b)(1) The Agency is authorized to allocate not more than \$500,000.00 of  
20           the amount allocated to the Agency of Education from the Elementary and  
21           Secondary School Emergency Relief Fund pursuant to Section 313(f) of the

1 Consolidated Appropriations Act, 2021, Pub. L. No. 116–260 for the purpose  
2 described in subsection (a) of this section.

3 (2) The Agency of Education shall reserve not more than \$1,000,000.00  
4 from the amount allocated to the Agency of Education from the Elementary  
5 and Secondary School Emergency Relief Fund pursuant to Section 313(f) of  
6 the Consolidated Appropriations Act, 2021, Pub. L. No. 116–260 if a school  
7 district has used all of the funds allocated to it from the Elementary and  
8 Secondary School Emergency Relief Fund pursuant to Section 313(e) of the  
9 Consolidated Appropriations Act, 2021, Pub. L. No. 116–260 and needs  
10 additional funding to plan and implement improvements to its facilities  
11 pursuant to this section.

12 Sec. 11. EFFECTIVE DATES

13 This act shall take effect on passage, except that Sec. 8 (16 V.S.A. § 838)  
14 shall take effect on July 1, 2023.

15  
16  
17  
18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_  
20 Senator \_\_\_\_\_

21 FOR THE COMMITTEE