

1 H.871

2 An act relating to the development of an updated State aid to school
3 construction program

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

5 * * * State Aid to School Construction * * *

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

7 § 3441. FACILITIES MASTER PLAN GRANT PROGRAM; REPORT

8 (a) Intent. It is the intent of the General Assembly that the Facilities
9 Master Plan Grant Program established pursuant to this section shall enable
10 supervisory unions and independent career and technical education districts to
11 develop a supervisory union level vision for all school buildings that meets the
12 educational needs and goals of the supervisory union. The goal of a facilities
13 master plan shall be to facilitate an evaluation of the capacity of existing
14 facilities to deliver on identified 21st century educational goals. A facilities
15 master plan shall also enable and require supervisory unions to engage in
16 intentional and robust conversations with the larger community that will
17 hopefully lead to the successful passage of bonds needed to support the
18 renovation or construction needs of the supervisory union. It is the intent of
19 the General Assembly that awards shall be granted in accordance with this
20 section and in a manner that allows a maximum number of supervisory unions
21 and independent career and technical education districts to successfully
22 complete facilities master plans.

1 (b) Definition. As used in this section, “supervisory union” has the same
2 meaning as in subdivision 11(a)(23) of this title and includes supervisory
3 districts and independent career and technical education districts.

4 (c) Establishment. There is established the Facilities Master Plan Grant
5 Program to be administered by the Agency of Education, from funds
6 appropriated for this purpose to supervisory unions and independent career and
7 technical education districts to support the development of educational
8 facilities master plans. Grant funds may be used to hire a consultant to assist
9 in the development of the master plan with the goal of developing a final
10 master plan that complies with State construction aid requirements.

11 (d) Standards for the disbursement of funds. The Agency shall develop
12 standards for the disbursement of grant funds in accordance with the following:

13 (1) Grants shall be awarded to applicants with the highest facilities
14 needs. The Agency shall develop a prioritization formula based on an
15 applicant’s poverty factor and average facilities condition index score. The
16 Agency shall develop or choose a poverty metric to use for the prioritization
17 formula. The Agency may give priority to applications with a regionalization
18 focus that consist of more than one supervisory union or independent career
19 and technical education district that apply as a consortium.

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

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

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

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

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

12 (D) the identification of new program needs;

13 (E) the development of enrollment projections;

14 (F) the performance of a facilities assessment; and

15 (G) information regarding the various design options explored to
16 address the supervisory union's identified needs.

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

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

2 16 V.S.A. § 3441 (Facilities Master Plan Grant Program) as added by this
3 act is repealed on June 30, 2029.

4 Sec. 3. PREQUALIFIED ARCHITECTURE AND ENGINEERING
5 CONSULTANTS

6 On or before October 15, 2024, the Agency of Education shall coordinate
7 with the Department of Buildings and General Services to develop
8 prequalification criteria for alternative project delivery consultants and
9 architecture and engineering firms specializing in kindergarten through grade
10 12 school design and construction. The Department shall assist the Agency in
11 distributing requests for qualifications and in reviewing the resulting responses
12 for approval and prequalification. The Department shall maintain the list of
13 prequalified firms and consultants and shall make the list available to school
14 districts and supervisory unions.

15 Sec. 4. STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP;

16 REPORT

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

20 (b) Membership. The Working Group shall be composed of the following
21 members:

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

3 (2) three current members of the Senate, not all from the same political
4 party, who shall be appointed by the Committee on Committees; and

5 (3) the Secretary of Education, or designee.

6 (c) Powers and duties.

7 (1) The Working Group shall study and create a recommended plan for
8 a statewide school construction aid program, including recommendations on
9 implementation. To facilitate its understanding of school construction projects
10 and other school construction state aid programs, the Working Group may
11 travel to conduct site visits at schools or other state programs. In creating its
12 recommendations, the Working Group shall address the following topics,
13 building from the recommendations contained in the report of the School
14 Construction Aid Task Force, created in 2023 Acts and Resolves No. 78, Sec.
15 E.131.1:

16 (A) Governance. The Working Group shall study other state
17 governance models for school construction aid programs, including inviting
18 testimony from school officials from those states, and make a recommendation
19 for a governance model for Vermont that aligns with the other funding and
20 programmatic recommendations of the Working Group. Governance

1 recommendations shall include recommendations on staffing levels and a
2 stable appropriation for the funding of the recommended governance structure.

3 (B) Prioritization criteria. The Working Group shall make
4 recommendations on State aid prioritization criteria that will drive funding
5 towards projects that are aligned to the State's educational policies and
6 priorities.

7 (C) Eligibility criteria. The Working Group shall consider, at a
8 minimum, the following State aid eligibility criteria:

9 (i) appropriate maintenance and operations budgeting at the
10 supervisory union level;

11 (ii) a requirement for eligible supervisory unions to have a five-
12 year capital plan;

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

16 (iv) a requirement for a supervisory union master planning process
17 that would require consideration of the adaptive reuse of schools;

18 (v) a prohibition on exclusionary zoning regulations that would
19 preclude lesser resourced families from living in the applicable school district;

20 and

1 (vi) whether costs associated with repurposing a non-school
2 building to use as a school should be included in a State aid to school
3 construction program.

4 (D) State base share. The Working Group shall make
5 recommendations as to whether to include a State base share and if so, whether
6 it shall be based on student or community poverty factors. The Working
7 Group shall consider factors such as local taxing capacity, student poverty
8 data, environmental justice metrics, and energy burden metrics.

9 (E) Incentives. The Working Group shall consider the use of
10 incentives or State share bonuses that align with Vermont's educational
11 priorities with the goal of efficient and sustainable use of taxpayer supported
12 school construction aid to improve student learning environments and
13 opportunities. The Working Group shall consider appropriate limits on
14 cumulative incentives and whether incentives shall be bundled for eligibility.
15 Policy areas to consider for incentives include:

16 (i) school safety and security;

17 (ii) health;

18 (iii) educational enhancements;

19 (iv) overcrowding solutions;

20 (v) environmental performance;

21 (vi) newer and fewer buildings;

1 (vii) historic preservation;

2 (viii) major renovations to improve PreK–12 systems educational
3 alignment and capacity;

4 (ix) replacement of facilities with a current facility condition index
5 of 65 percent or higher, in combination with other policy area incentives; and

6 (x) schools identified with actionable levels of airborne PCBs and
7 other identified environmental hazards in critical education spaces.

8 (F) Assurance and certification process.

9 (i) The Working Group shall make recommendations for an
10 assurance and certification process and shall consider, at a minimum, the
11 following:

12 (I) a district’s commitment to adequate funding for ongoing
13 maintenance and operations of any State-funded improvements;

14 (II) a district’s assurance that it will provide adequate training
15 for facilities and custodial staff to properly operate and maintain systems
16 funded through State aid;

17 (III) a district to complete a full commissioning process as a
18 requirement to receive State funds at the end of the project; and

19 (IV) a clerk of the works throughout the lifespan of the project.

20 (ii) The Working Group shall also consider whether the assurance
21 and certification process shall be eligible for State funding support, as well as

1 whether a preferred vendor list for the commissioning process and clerk of the
2 works is advisable.

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

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

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

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

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

1 (ii) cost containment strategies such as the use of building
2 templates for new construction, alternative project delivery, and consideration
3 of risk transfer.

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

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

11 (M) Population considerations. The Working Group shall consider
12 and make recommendations as to whether, and if so, how, the unique needs of
13 different populations shall be taken into account in developing a statewide
14 school construction aid program, including the following populations:

15 (i) elementary students;

16 (ii) high school students;

17 (iii) supervisory unions with low population density, as defined by
18 16 V.S.A. § 4010(b)(2); and

19 (iv) any other population the Working Group deems relevant to its
20 work and recommendations.

1 (N) Grant opportunities. The Working Group shall consider and
2 make recommendations as to whether, and if so, how State and federal grant
3 opportunities shall impact the Working Group’s proposed construction aid
4 program.

5 (O) Utilization of renewable energy. The Working Group shall make
6 recommendations that approach the utilization of renewable energy in a
7 comprehensive manner, incorporating existing programs and laws into the
8 school construction aid program where possible.

9 (P) Additional considerations. The Working Group may consider
10 any other topic, factor, or issue that it deems relevant to its work and
11 recommendations.

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

15 (A) the Agency of Education;

16 (B) the Agency of Natural Resources;

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

18 (D) the Natural Resources Board;

19 (E) the Agency of Commerce and Community Development,

20 Division for Historic Preservation;

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

- 1 (G) U.S. Department of Agriculture, Rural Development;
2 (H) the Vermont School Boards Association;
3 (I) the Vermont Superintendents Association;
4 (J) the Vermont Principals' Association;
5 (K) the Vermont National Education Association;
6 (L) the Vermont Bond Bank;
7 (M) the Vermont Legal Aid Disability Law Project;
8 (N) the Department of Disabilities, Aging, and Independent Living,
9 Deaf, Hard of Hearing, DeafBlind Services;
10 (O) Vermont's Congressional Delegation; and
11 (P) any other entity the Working Group deems relevant to its work.

12 (d) Assistance. The Working Group shall have the administrative,
13 technical, and legal assistance of the Agency of Education, the Office of
14 Legislative Counsel, the Joint Fiscal Office, and the Office of Legislative
15 Operations.

16 (e) Proposed legislation. On or before December 15, 2024, the Working
17 Group shall submit its findings and recommendations in the form of proposed
18 legislation to the General Assembly.

19 (f) Meetings.

20 (1) The Office of Legislative Counsel shall call the first meeting of the
21 Working Group to occur on or before August 1, 2024.

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

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

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

6 (g) Compensation and reimbursement. For attendance at meetings during
7 adjournment of the General Assembly, members of the Working Group shall
8 be entitled to per diem compensation and reimbursement of expenses pursuant
9 to 2 V.S.A. § 23 for not more than six meetings unless additional meetings are
10 authorized jointly by the Speaker of the House and the President Pro Tempore,
11 with a maximum of up to 10 meetings. These payments shall be made from
12 monies appropriated to the General Assembly.

13 Sec. 5. [Deleted.]

14 * * * Public Construction Bids * * *

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

16 § 559. PUBLIC BIDS

17 * * *

18 (b) High-cost construction contracts. When a school construction contract
19 exceeds ~~\$500,000.00~~ \$2,000,000.00:

20 (1) The State Board shall establish, in consultation with the
21 Commissioner of Buildings and General Services and with other

1 knowledgeable sources, general rules for the prequalification of bidders on
2 such a contract. The Department of Buildings and General Services, upon
3 notice by the Secretary, shall provide to school boards undergoing construction
4 projects suggestions and recommendations on bidders qualified to provide
5 construction services.

6 (2) At least 60 days prior to the proposed bid opening on any
7 construction contract to be awarded by a school board that exceeds
8 ~~\$500,000.00~~ \$2,000,000.00, the school board shall publicly advertise for
9 contractors interested in bidding on the project. The advertisement shall
10 indicate that the school board has established prequalification criteria that a
11 contractor must meet and shall invite any interested contractor to apply to the
12 school board for prequalification. All interested contractors shall submit their
13 qualifications to the school board, which shall determine a list of eligible
14 prospective bidders based on the previously established criteria. At least 30
15 days prior to the proposed bid opening, the school board shall give written
16 notice of the board's determination to each contractor that submitted
17 qualifications. The school board shall consider all bids submitted by
18 prequalified bidders meeting the deadline.

19 (c) Contract award.

20 (1) A contract for any such item or service to be obtained pursuant to
21 subsection (a) of this section shall be ~~awarded to one of~~ selected from among

1 the three or fewer lowest responsible bids conforming to specifications, with
2 consideration being given to quantities involved, time required for delivery,
3 purpose for which required, competency and responsibility of bidder, and ~~his~~
4 ~~or her~~ the bidder's ability to render satisfactory service. A board shall have the
5 right to reject any or all bids.

6 (2) A contract for any property, construction, good, or service to be
7 obtained pursuant to subsection (b) of this section shall be awarded to the
8 lowest responsible bid conforming to specifications. However, when
9 considering the base contract amount and without considering cost overruns, if
10 the two lowest responsible bids are within one percent of each other, the board
11 may award the contract to either bidder. A board shall have the right to reject
12 any bid found not to be responsible or conforming to specifications or to reject
13 all bids.

14 * * *

15 * * * Effective Date * * *

16 Sec. 7. EFFECTIVE DATE

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