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H.871

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

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* State Aid to School Construction \* \* \*

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

§ 3441. FACILITIES MASTER PLAN GRANT PROGRAM; REPORT

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

1 and independent career and technical education districts to successfully  
2 complete facilities master plans.

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

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

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

15 (1) Grants shall be awarded to applicants with the highest facilities  
16 needs. The Agency shall develop a prioritization formula based on an  
17 applicant’s poverty factor and average facilities condition index score. The  
18 Agency shall develop or choose a poverty metric to use for the prioritization  
19 formula. The Agency may give priority to applications with a regionalization  
20 focus that consist of more than one supervisory union or independent career  
21 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.