

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 871  
3 entitled “An act relating to the development of an updated State aid to school  
4 construction program” respectfully reports that it has considered the same and  
5 recommends that the Senate propose to the House that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

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

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

10 § 3441. FACILITIES MASTER PLAN GRANT PROGRAM; REPORT

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

1 the General Assembly that awards shall be granted in accordance with this  
2 section and in a manner that allows a maximum number of supervisory unions  
3 and independent career and technical education districts to successfully  
4 complete facilities master plans.

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

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

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

17 (1) Grants shall be awarded to applicants with the highest facilities  
18 needs. The Agency shall develop a prioritization formula based on an  
19 applicant’s poverty factor and average facilities condition index score. The  
20 Agency shall develop or choose a poverty metric to use for the prioritization  
21 formula. The Agency may give priority to applications with a regionalization

1 focus that consist of more than one supervisory union or independent career  
2 and technical education district that apply as a consortium.

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

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

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

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

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

14 (D) the identification of new program needs;

15 (E) the development of enrollment projections;

16 (F) the performance of a facilities assessment;

17 (G) information regarding the various design options explored to  
18 address the supervisory union's identified needs; and

19 (H) an energy audit with long-term planning for the reduction of  
20 carbon dioxide and energy use.

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

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

5       16 V.S.A. § 3441 (Facilities Master Plan Grant Program) as added by this  
6       act is repealed on June 30, 2029.

7       Sec. 3. PREQUALIFIED ARCHITECTURE AND ENGINEERING

8               CONSULTANTS **AND ENERGY SERVICE COMPANIES**

9       On or before October 15, 2024, the Agency of Education shall coordinate  
10       with the Department of Buildings and General Services to develop  
11       prequalification criteria for **energy service companies and** architecture and  
12       engineering firms specializing in kindergarten through grade 12 school design,  
13       construction, **and energy auditing**. The Department shall assist the Agency in  
14       distributing requests for qualifications and in reviewing the resulting responses  
15       for approval and prequalification. The Department shall maintain the list of  
16       prequalified firms and shall make the list available to school districts and  
17       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 composed of the following  
7               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                      (2) three current members of the Senate, not all from the same political  
11                      party, who shall be appointed by the Committee on Committees; and

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

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, at a  
15 minimum, the 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;

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

9                    (vi) a requirement for supervisory unions to perform an energy  
10                  audit on a building that would evaluate the building's energy use and provide  
11                  recommendations and costs that reduce energy consumption and carbon  
12                  dioxide emissions, including a long-term plan for moving off of fossil fuels;  
13                  and

14                  (vii) a requirement for supervisory unions to analyze State and  
15                  federal grant and rebate opportunities to determine the viability in regards to  
16                  the needs of supervisory unions.

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

1           (E) Incentives. The Working Group shall consider the use of  
2           incentives or State share bonuses that align with Vermont’s educational  
3           priorities with the goal of efficient and sustainable use of taxpayer supported  
4           school construction aid to improve student learning environments and  
5           opportunities. The Working Group shall consider appropriate limits on  
6           cumulative incentives and whether incentives shall be bundled for eligibility.

7           Policy areas to consider for incentives include:

- 8                   (i) school safety and security;  
9                   (ii) health;  
10                  (iii) educational enhancements;  
11                  (iv) overcrowding solutions;  
12                  (v) environmental performance;  
13                  (vi) newer and fewer buildings;  
14                  (vii) major renovations to improve PreK–12 systems educational  
15           alignment and capacity;  
16                  (viii) replacement of facilities with a current facility condition  
17           index of 65 percent or higher, in combination with other policy area incentives;  
18                  (ix) schools identified with actionable levels of airborne PCBs and  
19           other identified environmental hazards in critical education spaces; and  
20                  (x) energy use index and fuel consumption.

21           (F) Assurance and certification process.



1                    (i) The Working Group shall make recommendations for an  
2                    assurance and certification process and shall consider, at a minimum, the  
3                    following:

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

6                    (II) a district to assure to adequate training for facilities and  
7                    custodial staff to properly operate and maintain systems funded through State  
8                    aid;

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

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

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

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

20                   (H) Pre-program construction aid. The Working Group shall  
21                   consider whether and to what extent State aid should be made available to

1 school districts that begin construction projects prior to the establishment or  
2 renewal of a State school construction aid program.

3 (I) Current law. The Working Group shall review State statutes and  
4 State Board of Education rules that concern or impact school construction and  
5 make recommendations to the General Assembly for any amendments  
6 necessary to align with the Working Group’s proposed construction aid  
7 program.

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

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

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

16 (K) Fiscal modeling. The Working Group shall align the proposed  
17 construction aid program with fiscal modeling produced by the Joint Fiscal  
18 Office.

19 (L) School Construction Planning Guide. The Working Group shall  
20 review the Vermont School Construction Planning Guide and make

1 recommendations for any amendments necessary to align with the Working  
2 Group’s proposed construction aid program.

3 (M) Additional considerations. The Working Group may consider  
4 any other topic, factor, or issue that it deems relevant to its work and  
5 recommendations.

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

10 (i) elementary students;

11 (ii) high school students;

12 (iii) supervisory unions with low population density, as defined by  
13 16 V.S.A. § 4010(b)(2); and

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

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

19 (A) the Agency of Education;

20 (B) the Agency of Natural Resources;

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

1           (D) the Natural Resources Board;

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

3           Division for Historic Preservation;

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

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

6           (H) the Vermont School Boards Association;

7           (I) the Vermont Superintendents Association;

8           (J) energy performance contractors;

9           (K) the Vermont Legal Aid Disability Law Project;

10          (L) the Department of Disabilities, Aging, and Independent Living,

11          Deaf, Hard of Hearing, DeafBlind Services; and

12          (M) any other entity the Working Group deems relevant to its work.

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

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

20          (f) Meetings.

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

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

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

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

8           (g) Compensation and reimbursement. For attendance at meetings during  
9           adjournment of the General Assembly, members of the Working Group shall  
10           be entitled to per diem compensation and reimbursement of expenses pursuant  
11           to 2 V.S.A. § 23 for not more than 10 meetings. These payments shall be  
12           made from monies appropriated to the General Assembly.

13       Sec. 5. APPROPRIATION; STATE AID FOR SCHOOL CONSTRUCTION

14               WORKING GROUP

15           The sum of \$15,000.00 is appropriated from the General Fund to the  
16           General Assembly in fiscal year 2025 for the purpose of funding travel by the  
17           State Aid for School Construction Working Group pursuant to Sec. 4,  
18           subsection (c) of this act and per diem compensation and reimbursement of  
19           expenses pursuant to Sec. 4, subsection (g) of this act.

20                               \* \* \* Public Construction Bids \* \* \*

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

1 § 559. PUBLIC BIDS

2 \* \* \*

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

5 (1) The State Board shall establish, in consultation with the  
6 Commissioner of Buildings and General Services and with other  
7 knowledgeable sources, general rules for the prequalification of bidders on  
8 such a contract. The Department of Buildings and General Services, upon  
9 notice by the Secretary, shall provide to school boards undergoing construction  
10 projects suggestions and recommendations on bidders qualified to provide  
11 construction services.

12 (2) At least 60 days prior to the proposed bid opening on any  
13 construction contract to be awarded by a school board that exceeds  
14 ~~\$500,000.00~~ \$2,000,000.00, the school board shall publicly advertise for  
15 contractors interested in bidding on the project. The advertisement shall  
16 indicate that the school board has established prequalification criteria that a  
17 contractor must meet and shall invite any interested contractor to apply to the  
18 school board for prequalification. All interested contractors shall submit their  
19 qualifications to the school board, which shall determine a list of eligible  
20 prospective bidders based on the previously established criteria. At least 30  
21 days prior to the proposed bid opening, the school board shall give written

1 notice of the board's determination to each contractor that submitted  
2 qualifications. The school board shall consider all bids submitted by  
3 prequalified bidders meeting the deadline.

4 (c) Contract award.

5 (1) A contract for any such item or service to be obtained pursuant to  
6 subsection (a) of this section shall be ~~awarded to one of~~ selected from among  
7 the three or fewer lowest responsible bids conforming to specifications, with  
8 consideration being given to quantities involved, time required for delivery,  
9 purpose for which required, competency and responsibility of bidder, and ~~his~~  
10 ~~or her~~ the bidder's ability to render satisfactory service. A board shall have the  
11 right to reject any or all bids.

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

20 \* \* \*

21 \* \* \* Effective Date \* \* \*

1       Sec. 7. EFFECTIVE DATE

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

3

4

5

6

7

8

9           (Committee vote: \_\_\_\_\_)

10

\_\_\_\_\_

11

Senator \_\_\_\_\_

12

FOR THE COMMITTEE