



NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS

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April 3, 2026

RE: Opposition to H.944 waiving and/or increasing statutory bond threshold requirements for VT DOT projects

Submitted via email to: Megan.Cannella@vtleg.gov

Dear Chair Westman, Vice Chair White, and honored members of the Senate Committee on Transportation,

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association representing firms employing surety bond producers, including licensed resident and non-resident agents placing contract surety bonds in Vermont, I am contacting you regarding our strong opposition to H.944, which amends 19 V.S.A. § 10 by waiving and/or increasing statutory bond threshold requirements for VT DOT projects from \$100,000 to \$250,000. Such a bond threshold increase is \$100,000 greater than the federal bonding requirement of \$150,000 and makes Vermont a distinct outlier to the surrounding New England States of Maine, \$125,000 bond threshold, Massachusetts, \$25,000 bond threshold, and New Hampshire, \$75,000 bond threshold. By allowing the waiver of bonds in emergency situations (note that bonds do not delay construction procurements) and by increasing the bond threshold so substantially, many more construction contracts will be procured without the benefit of performance and payment bond guarantees, removing essential protections from Vermont taxpayers and Vermont businesses.

These statutory changes will have a pronounced, negative impact on businesses, especially small businesses, which supply labor and materials on VT DOT construction projects when the prime contractor fails to perform or becomes insolvent. Small businesses often cannot compete as prime contractors on public construction contracts, so they participate at subcontractor and supplier levels. At that level, the only practical remedy for these businesses in the event of nonpayment by the prime contractor is to claim on the statutorily required payment bond, as litigation against the prime contractor is costly and not expedient. If the prime contractor becomes insolvent, subcontractors and suppliers would not have an alternative means to recover their wages, costs, and expenses in the absence of a payment bond. They cannot sue the procuring agency, because they do not have a direct contract with that agency, and they cannot place a mechanics lien against public property, so the existence of the payment bond is of utmost importance to their payment recovery and their viability as ongoing business.

Likewise, these statutory changes will mean that many more taxpayer-funded VT DOT construction contracts will be procured without the vital assurance of performance bond guarantees. Vermont taxpayer dollars are at risk when projects are awarded without the protection of performance bonds, as performance bonds transfer the risk of contractor defaults from the public procuring agency to the regulated surety company. In the absence of a performance bond, additional taxpayer funds will be required to complete projects when prime contractors default. In such circumstances, public officials and public resources will be diverted to address and mitigate contract defaults, including finding and contracting with suitable replacement contractors.

The results of a recent study undertaken by Ernest & Young for the Surety & Fidelity Association of America (<https://surety.org/news/ey-report-surety-bonding-provides-strong-economic-value-and-strengthens-performance-for-public-and-private-construction-projects/>) verifies the importance of performance and payment bonds in averting project defaults and saving costs. That study found that contractor defaults are ten times more

frequent on unbonded projects and that these unbonded project defaults result in 85% higher costs and take twice as long to complete. Further, the study indicated that 75% of public project owners reported that contractor pricing decreases by an average of 3.2% when surety bonds are in place.

For the forgoing reasons, NASBP strongly opposes H.944 and respectfully urges you to not advance this legislation, as it constitutes fiscally unwise policy and will deprive Vermont businesses and taxpayers of critical payment and performance protections.

Respectively submitted for your consideration,

A handwritten signature in black ink, appearing to read "Larry LeClair". The signature is written in a cursive, flowing style.

Lawrence E. LeClair
Director, Government Relations

cc: Members of the Senate Committee on Transportation