

No. 72. An act relating to addressing the needs and conditions of public school facilities in the State.

(H.426)

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

Sec. 1. FINDINGS; INTENT; PURPOSE

(a) The General Assembly finds that:

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

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

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

(b) The General Assembly also finds that:

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

(2) Between 2008 and 2019, school districts in Vermont issued approximately \$211,000,000.00 in bonds for school construction projects.

In 2020, there was an estimated \$445,000,000.00 in bonding planned and proposed by school districts for future school construction projects statewide.

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

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

(e) The purpose of the funding appropriated in this act is to enable supervisory unions and supervisory districts to utilize their Elementary and Secondary School Emergency Relief Fund allocations to improve the conditions for health and safety of students and staff, to address other eligible facilities needs, and to position the State in addressing the backlog of school facilities needs in an efficient and equitable manner.

Sec. 2. SCHOOL CONSTRUCTION; FACILITIES STANDARDS;

CAPITAL OUTLAY FINANCING FORMULA; AGENCY OF
EDUCATION; STATE BOARD OF EDUCATION; UPDATE

(a) On or before January 15, 2023, the Secretary of Education, in consultation with the Executive Director of the Vermont Superintendents

Association and the Chair of the State Board of Education, shall update the school construction facilities standards. The update shall reflect:

(1) changes in educational delivery models; and

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

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

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

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

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

Sec. 3. SCHOOL FACILITIES INVENTORY AND CONDITIONS

ASSESSMENT; AGENCY OF EDUCATION; DEPARTMENT OF
BUILDINGS AND GENERAL SERVICES; REPORT

(a) On or before September 1, 2021, the Secretary of Education, in consultation with the Commissioner of Buildings and General Services, shall issue a request for proposal for a school facilities inventory and conditions assessment to ascertain the extent of need for additional support to school districts as a result of the COVID-19 pandemic and to inform the Agency of Education of the statewide school facilities needs and costs.

(b) The Secretary of Education shall contract with an independent third party to conduct the inventory and assessment described in subsection (a) of this section. The inventory shall be completed on or before January 15, 2022, and the assessment shall be completed on or before October 1, 2022.

(c) The independent third party hired pursuant to subsection (b) of this section shall conduct the inventory and assessment in two phases.

(1) The inventory phase of the contract shall include collecting information about the current state of school facilities and immediate plans to invest in school facilities, including:

(A) general information about facilities, age of buildings, and major mechanical systems;

(B) a review of school facility conditions, space utilization, and suitability of the facility and its spaces to deliver educational and support services;

(C) building systems' condition and performance to address the health and safety of students and employees, including energy efficiency

improvements and indoor air quality, accessibility to and within buildings, and condition of technology systems, and;

(D) a review of any information collected by Efficiency Vermont about school building systems as part of the School Indoor Air Quality Program, as established in 2020 Acts and Resolves No. 120, Sec. A.51.

(2) The assessment phase of the contract shall include:

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

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

(i) capacity and utilization;

(ii) safety and security infrastructure;

(iii) accessibility;

(iv) technology infrastructure;

(v) capacity to deliver STEAM (science, technology, engineering, arts, and math) programming; and

(vi) building systems' condition and performance, including energy efficiency improvements and indoor air quality to address the health and safety of students and employees.

(d) The Secretary is authorized to use not more than \$2,500,000.00 from the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 to conduct the inventory and assessment described in this section.

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

(f) On or before January 15, 2022, the Secretary of Education shall submit a report to the House and Senate Committees on Education presenting the findings of the inventory described in subsection (a) of this section and a progress update on the assessment phase.

(g) As used in this section, "school" means a public school as defined in 16 V.S.A. § 11.

Sec. 4. SCHOOL CONSTRUCTION FUNDING; AGENCY OF
EDUCATION; REPORT

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

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

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

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

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

Sec. 5. 16 V.S.A. § 837 is added to read:

§ 837. SCHOOL FACILITIES MANAGEMENT; TRAINING AND

CERTIFICATION

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

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

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

§ 838. CAPITAL IMPROVEMENT PLAN

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

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

Sec. 7. AGENCY OF EDUCATION; CREATION OF POSITIONS

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

(b) In fiscal year 2022, the Agency of Education is authorized to use not more than \$127,500.00 from the amount allocated to the Agency of Education Elementary and Secondary School Emergency Relief Fund pursuant to Section 313(e) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116–260 for the position described in subsection (a) of this section.

Sec. 8. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) Cost threshold. When the cost exceeds ~~\$15,000.00~~ \$40,000.00, a school board or supervisory union board shall publicly advertise or invite three

or more bids from persons deemed capable of providing items or services if costs are in excess of ~~\$15,000.00~~ \$40,000.00 for any of the following:

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

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

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

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Sec. 9. SCHOOL FACILITIES; HEALTH AND SAFETY PROJECTS;

COVID-19

(a) On or before September 30, 2023, the Agency of Education shall contract with an independent third party to assist any school district using funds allocated to it from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(d) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 and any other federal sources, to improve the overall health and safety of any of the district's school facilities as a result of the COVID-19 pandemic. The contractor's responsibilities shall include:

(1) project coordination;

(2) serving as a liaison:

(A) between the school district, the Agency of Education, the Department of Health, and any other relevant entities in the State that may be

leveraged to support the work, including to coordinate the use of federal funding programs and maximize funding, labor, and equipment resources;

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

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

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

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

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

(b)(1) The Agency of Education is authorized to allocate not more than \$500,000.00 of the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 for the purpose described in subsection (a) of this section.

(2) The Agency of Education shall reserve not more than \$1,000,000.00 from the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of

the American Rescue Plan Act of 2021, Pub. L. No. 117-2 if a school district has used all of the funds allocated to it from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(d) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 and needs additional funding to plan and implement improvements to its facilities pursuant to this section.

Sec. 10. STATE ENERGY MANAGEMENT PROGRAM; FINANCING
FOR SCHOOLS

On or before January 15, 2023, the Agency of Education, in consultation with the Department of Buildings and General Services, shall submit a report to the House Committees on Corrections and Institutions and on Education and the Senate Committees on Education and on Institutions to determine how the State Energy Management Program, established in 29 V.S.A. § 168, shall support schools to implement needed energy efficiency and conservation measures, including those identified in the inventory and assessment required by Sec. 3 of this act.

Sec. 11. RENEWABLE AND EFFICIENT HEATING SYSTEMS IN
SCHOOLS; GRANT PROGRAM; EFFICIENCY VERMONT

(a) Program established. In fiscal year 2022, there is established the Renewable and Efficiency Heating Systems Grant Program (Program) to award grants for renewable and efficient heating systems in schools. Renewable and efficient heating systems grants shall be used to make necessary improvements to address building systems in covered schools to

improve health, safety, and efficiency in response to the COVID-19 emergency.

(b) Definition. As used in this section, “covered school” means public schools and approved independent schools as defined under 16 V.S.A. § 11.

(c) Administration; implementation.

(1) Efficiency Vermont shall administer the Program, which shall:

(A) provide consulting services to covered schools;

(B) award grant funds to covered schools of not more than 50 percent of the total cost for the improvement or repair of existing heating systems, with a focus on renewable energy systems, energy efficiency, and providing appropriate space conditioning; and

(C) award grant funds to covered schools for the installation of renewable or efficiency electric space heating and conditioning systems.

(2) Grant program design. Efficiency Vermont, in consultation with the Agency of Education; the Vermont Superintendents Association; and experts in the field of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program design shall establish:

(A) an outreach and education plan, including specific tactics to reach and support all covered schools;

(B) an equitable system for distributing grants statewide based on geographic location, school size, grant dollar amount, and assessed need, with

an emphasis on schools that may not have administrative support to apply for grants; and

(C) guidelines for thermal enclosure and renewable and energy efficiency buildings systems resilience, durability, health, and efficiency measures and costs that will be eligible for grant funding.

(d) Costs and fees.

(1) Efficiency Vermont is authorized to use up to \$150,000.00 of the amounts appropriated to the Program for direct labor costs.

(2) As the entity appointed to serve as Efficiency Vermont, the Vermont Energy Investment Corp. (VEIC) is also authorized to collect their federal-approved indirect rate of 9.3 percent on the funds expended in this section.

(3) Nothing shall prohibit Efficiency Vermont from supplementing total project costs completed under this section with a portion of its Public Utility Commission-approved budget for the purpose of achieving higher levels of efficiency and claiming efficiency savings toward the completing of performance targets pursuant to 30 V.S.A. § 209(d).

(e) Coordination. Efficiency Vermont shall coordinate with the Agency of Education and any other State entities and agencies working with covered schools to provide grants for the Program.

(f) Disclosures. Efficiency Vermont shall require that any school that receives a grant through the Program shall authorize Efficiency Vermont to

release the school name and grant amount in any report requested by the General Assembly.

(g) Funding. During the 2022 legislative session, the General Assembly shall determine the source of funding for the Program and the necessary reporting requirements.

Sec. 12. RADON TESTING; SCHOOL FACILITIES

(a) On or before June 30, 2023, each public school and approved independent school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-2014) on any facility that has not had a test completed in five or more years; provided, however, that any public school or approved independent school that is engaged in implementing an indoor air quality improvement project prior to June 30, 2023 shall perform a radon measurement on or before June 30, 2024.

(b) Each public school and approved independent school shall make available the results of the radon measurement described in subsection (a) of this section to each employee and student at the school.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 8, 2021