

**COMMITTEE ON BUDGET, APPROPRIATIONS  
AND FINANCE**

04/11/2023-AMENDED AND REPORTED OUT TO THE FLOOR

04/04/2023-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

**BILL NO. 35-0050**

**Thirty-Fifth Legislature of the Virgin Islands**

**March 2, 2023**

An Act amending the Virgin Islands Code, title 3 , chapter 7, by designating the existing provisions as subchapter I and adding a subchapter II establishing the Bureau of School Construction and Maintenance within the Virgin Islands Department of Education for budgetary purposes; amending title 33, chapter 111, section 3092a, changing the Education Maintenance Fund to the School Construction, Maintenance and Capital Fund; and making an appropriation of \$2,000,000 and an appropriation of \$5,500,000 from the Virgin Islands Education Initiative Fund to the School Construction, Maintenance and Capital Fund and an appropriation and for other related purposes

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**PROPOSED BY:** Senators Donna A. Frett-Gregory, Marise C. James,  
Angel L. Bolques, Jr., and Marvin A. Blyden  
Co-sponsor: Ray Fonseca

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1       **WHEREAS** the physical state of public schools in the Territory has been deteriorating  
2 for more than two decades due to inconsistent maintenance and limited resources;

3       **WHEREAS**, some schools in the Territory have experienced preventable structural  
4 failures, resulting in injuries and the closure of entire school buildings;

5       **WHEREAS**, it is imperative that students, teachers, and support staff be provided with  
6 safe, clean, and secure school facilities that support a nurturing and learning environment;

7       **WHEREAS**, it is important that the school facilities be economical, efficient, and  
8 modernized;

9       **WHEREAS**, the primary focus of the Commissioner of the Department of Education and  
10 the District Superintendents should be on student learning and academic achievement, and not  
11 on school construction and maintenance;

1           **WHEREAS**, to achieve this objective, the Legislature of the Virgin Islands will establish  
2 the Bureau of School Construction and Maintenance within the Department of Education with  
3 the responsibility to construct and maintain public schools and other educational facilities;

4           **WHEREAS**, one of the first tasks of the Bureau of School Construction and Maintenance  
5 will be to draft a 20-year Master School Construction, Maintenance and Capital Plan;

6           **WHEREAS**, the Master School Construction, Maintenance and Capital Plan will be  
7 critical, strategic, long-term planning documents to guide the long-term construction of schools  
8 and the maintenance of school facilities and grounds;

9           **WHEREAS**, primary objective of a Master Construction, Maintenance and Capital Plan  
10 is to design, construct, and maintain safe, environmentally sound, modernized, technologically  
11 advanced public schools in a cost-effective manner, to achieve the highest standard of  
12 excellence in safety, quality, and integrity; and

13           **WHEREAS**, Master School Construction, Maintenance and Capital Plan will:

14           (1) identify the Territory's needs and provide recommendations to achieve those  
15 needs;

16           (2) allow the Territory to pursue the long-term construction and maintenance  
17 goals of the Territory, even as personnel change; and

18           (3) determine the use, development, and maintenance of school facilities within  
19 the Territory; Now, Therefore,

20 ***Be it enacted by the Legislature of the Virgin Islands:***

21           **SECTION 1.** Title 3 Virgin Islands Code, chapter 7 is amended by designating the  
22 existing provisions of the chapter as subchapter I and adding a subchapter II that reads as  
23 follows:

24           **“Subchapter II. Bureau of School Construction and Maintenance**

25           **§ 101. Establishment; duties and responsibilities of the Bureau of School**  
26 **Construction and Maintenance**

1 (a) There is established within the Department of Education, for budgetary purposes  
2 only, the Bureau of School Construction and Maintenance. The Bureau shall acquire, establish,  
3 operate, develop, repair, maintain, renovate, improve, upgrade, inspect, modernize, manage,  
4 and construct all public educational facilities, including, schools, educational centers, facilities,  
5 and other structures that will be used for or occupied by students, faculty, staff, and  
6 administration under the jurisdiction of the Virgin Islands Department of Education or its  
7 successor department or agency. The mandate of the Bureau is to create affordable, sustainable,  
8 and energy-efficient public schools, buildings, facilities, and grounds throughout the Territory  
9 for a safe, secure, and comfortable environment for learning and administration.

10 (b) The Bureau is responsible for:

11 (1) Identification, planning, development, budgeting, and execution of projects  
12 associated with the maintenance, repairs, and construction of all public educational  
13 facilities and grounds;

14 (2) Acquisition of property for the construction of schools and determining which  
15 schools will no longer be used as schools in conjunction with the Commissioner of the  
16 Department of Education and the Commissioner of the Department of Property and  
17 Procurement;

18 (3) Construction of new buildings and the renovation of existing buildings, to  
19 include maintaining the structural integrity of the buildings;

20 (4) Preventative and emergency maintenance and repair for the daily operations  
21 of public educational facilities and grounds, but preventive, emergency repair or repair  
22 for the daily operations of the school which require school closures must be conducted in  
23 consultation with the Commissioner of Education;

24 (5) Equipment and fixtures permanently affixed to buildings to include energy  
25 management systems;

1           (6) Improvements to the buildings to meet new health and safety requirements,  
2 reduce environment risks, and improve energy efficiency;

3           (5) Improvements to buildings to meet changes in educational, technological, and  
4 social needs; and

5           (6) The development of Master School Construction, Maintenance and Capital  
6 Plan.

7           (c) The Bureau may not issue negotiable bonds or notes or other instruments of debt,  
8 unless otherwise specifically authorized by law.

9           **§ 102. Executive Director of the Bureau**

10          (a) The Bureau is managed by:

11           (1) an Executive Director, appointed by the Governor, who must be either an  
12 architect or engineer licensed in the Virgin Island; an individual with seven or more years’  
13 experience in construction, capital project management, or maintenance management;

14           (2) an Assistant Director of School Construction, who is an architect or engineer  
15 licensed in the Virgin Islands; and

16           (3) an Assistant Director of School Maintenance, who has experience in building  
17 or construction maintenance.

18          (b) The Executive Director shall:

19           (1) report to the Governor and work at the pleasure of the Governor;

20           (2) work closely with the Commissioner of Education and the Superintendent  
21 from each district to determine the current and future needs of public educational  
22 facilities;

23           (3) provide annual status reports by April 30 of each year to the Governor, the  
24 Commissioner of Education, the Board of Education, and the Legislature, regarding the  
25 maintenance and construction projects of school buildings, facilities and grounds; the

1 financial status of the Bureau; recommendations on policies and regulations; and other  
2 information required by the Governor or Legislature;

3 (4) perform the administrative functions of the Bureau, including the hiring and  
4 retention of technical and support staff, either permanently or temporarily, or by contract  
5 or otherwise, and determine their qualifications, duties, tenure, and compensation, to  
6 include the Assistant Director of School Construction, Assistant Director of School  
7 Maintenance, Chief Financial Officer, the Chief Engineer; the Chief Operations Officer  
8 and the Chief Legal Counsel;

9 (5) present the Bureau's annual budget to the Legislature;

10 (6) engage in public-private development partnerships;

11 (7) direct the expenditure of capital and operating funds, monies received from  
12 the School Construction, Maintenance and Capital Fund and any other funding source;  
13 and

14 (8) solicit proposals for and award financing to public-public and public-private  
15 partnerships for the:

16 (A) purchasing of a school site and improvements to those site;

17 (B) constructing or purchasing of buildings to be used as schools;

18 (C) completing or partially furnishing and equipping of schools; and

19 (D) repairing and renovating school buildings;

20 (9) approve and authorize decisions at every stage pertaining to the infrastructure  
21 of public schools and other public educational building, facilities, and grounds, including  
22 maintenance, repair, renovation, modernization, planning, design, procurement, and  
23 construction;

24 (10) contract with any agency, department, semiautonomous agency, autonomous  
25 agency or instrumentality of the Government of the Virgin Islands or federal government  
26 for services the Bureau may request, including professional and technical assistance by

1 planning experts, engineers, architects and any other staff; for the use of the premises,  
2 personnel or equipment; access to data necessary to develop reasonable student-  
3 population projections; and access to building permits and construction data;

4 (11) enter and execute contracts and all other instruments necessary or convenient  
5 for the exercise of its functions, powers, and duties;

6 (12) accept any gifts, grants, or other financial aid in any form from the federal  
7 government or any agency or instrumentality of the federal government, from the Virgin  
8 Islands Government or any agency or instrumentality the Government, or from any other  
9 source, for any purposes specified in this subchapter, and the Bureau shall comply with,  
10 subject to the provisions of this subchapter, the terms and conditions of the loan or grant;

11 (13) collect data necessary to develop reasonable student-population projections;  
12 and access to building permits and construction data;

13 (14) adopt policies, regulations, and procedures governing the procurement of  
14 goods, materials, and services; and

15 (15) perform all things necessary or convenient to carry out and exercise the  
16 powers granted under this subchapter.

17 (c) The Executive Director serves as a liaison between the Office of the Governor, the  
18 Department of Education, the Department of Public Works, the Department of Planning and  
19 Natural Resources, the Board of Education, and any other government entity or instrumentality  
20 for all matters relating to the statutory purpose of the Bureau.

21 (d) The Executive Director shall evaluate solicited proposals based on adherence to the  
22 Master School Construction, Maintenance and Capital Plan and determine whether the  
23 proposals:

24 (1) are appropriately designed for educational and school-based programs,  
25 support services, and extracurricular activities;

1           (2) include well-designed physical systems and components that promote  
2 learning, culture, safety, energy efficiency, and effective structural resistance to hurricane  
3 and seismic events;

4           (3) create connections to the surrounding community and support for community  
5 activities; and

6           (4) are cost-effective to build, operate, repair, and maintain the facilities.

7           (e) To perform the duties and responsibilities granted in this subchapter, the Executive  
8 Director may procure goods and services and enter into contracts for architectural, construction,  
9 engineering and maintenance-related projects not to exceed \$1,000,000 without the need to  
10 comply with title 31 Virgin Islands Code, chapter 23. But the Executive Director shall comply  
11 with title 31 Virgin Islands Code, chapter 23 to procure goods and services of more than  
12 \$1,000,000. The Department of Education acting through its superintendents or principals in  
13 consultation with the Bureau of School Construction and Maintenance may expend not more  
14 than \$1,000 of available funds of the Department of Education for minor, emergency, school  
15 maintenance repairs.

16           **§103. Master School Construction, Maintenance and Capital Plan; Review Panel**

17           (a) There is established a Master Construction, Maintenance and Capital Plan Review  
18 Panel (“Review Panel”), who shall review and approve the Master School Construction,  
19 Maintenance and Capital Plan. The Review Panel consists of the Commissioner of the  
20 Department of Education, the St. Croix Insular Superintendent, the St. Thomas/St. John Insular  
21 Superintendent, and the members of the Virgin Islands Board of Education School Plants and  
22 Facilities Committee or its successor. A quorum consists of six members, with one being an  
23 Insular Superintendent.

24           (b) The Executive Director shall prepare an initial 20-year Master School Construction,  
25 Maintenance and Capital Plan and submit it to the School Construction and Maintenance  
26 Review Panel for its evaluation and approval.

1 (c) The initial Master School Construction, Maintenance and Capital Plan must include  
2 information regarding current and future needs for student housing, quality of the existing  
3 facilities, facilities renovation, facilities expansion requirements, or new construction required  
4 to support the Territory's educational and programmatic goals and a complete territory-wide  
5 inventory of all schools, whether in use or not in use. The Plan must also include accurate  
6 projections regarding enrollment and careful determination of school site location and capacity  
7 and must be flexible, implementable and must address the need to provide capacity for  
8 projected student enrollment.

9 (d) The Review Panel shall convene not later than 45 days after receipt of the Master  
10 Construction, Maintenance and Capital Plan to evaluate and approve the Plan. Failure to  
11 convene within the 45-day time-period or to otherwise vote on the Master Construction,  
12 Maintenance and Capital Plan, constitutes approval by the Review Panel.

13 (e) After approval of the initial Plan, the Executive Director shall update the Plan every  
14 five years and submit it to the Review Panel for review and approval.

15 **SECTION 2.** (a) Not later than 90 days after the effective date of this act, the Bureau of  
16 School Construction and Maintenance shall promulgate regulations necessary to effectuate its  
17 statutory purpose.

18 (b) Not later than 120 days after the effective date of this act, the Department of  
19 Education's maintenance and engineering division, including all personnel and the portion of  
20 the Department of Education's budget allocated for these purposes, must be transferred under  
21 the jurisdiction of the Bureau of School Construction and Maintenance. Employees are  
22 transferred to the Bureau without impairment of seniority and without reduction in  
23 compensation, and without loss of accrued rights to holidays, sick or annual leave or any other  
24 benefits notwithstanding any changes in job titles or duties. All employees transferred to the  
25 Bureau continue to be covered by and subject to the Government Employees' Retirement  
26 System and the Workers' Compensation Act.



1 (c) Not later than 180 days after the effective date of this act, the Bureau of School  
2 Construction and Maintenance shall present the initial Master School Construction,  
3 Maintenance and Capital Plan to the Legislature of the Virgin Islands. At this presentation, the  
4 Bureau shall also advise the Legislature of the status of the Bureau.

5 **SECTION 3.** Title 17 Virgin Islands Code, chapter 5, section 60d is amended by striking  
6 subsection (b) in its entirety.

7 **SECTION 4.** Title 20 Virgin Islands Code, chapter 38, section 425, subsection (d) is  
8 amended by striking “Education Maintenance Fund” and inserting “Bureau of School  
9 Construction, Maintenance and Capital Fund” and by striking subsections (e), (f), (g), and (h).

10 **SECTION 5.** Title 33 Virgin Islands Code, chapter 111 is amended in section 3092a as  
11 follows:

12 (1) by changing the name of the fund from the “Education Maintenance Fund” to the  
13 “School Construction, Maintenance and Capital Fund”;

14 (2) In subsection (a), by striking “Education Maintenance Fund” and inserting “School  
15 Construction, Maintenance and Capital Fund” and at the end of the second sentence, by  
16 inserting “, and 100 percent of the proceeds generated from the leasing of properties that were  
17 previously used as schools, or such other percentage of the leasing proceeds as the  
18 Commissioner of Property and Procurement and the Director may negotiate. The  
19 Commissioner of the Department of Property and Procurement, along with the Director of the  
20 Bureau, may negotiate the percentage of business income from the lease of a property that was  
21 previously used as a school to be deposited into the Fund.”

22 (3) In subsection (c) in the first sentence by inserting “from this Fund must be used  
23 exclusively to support the activities of the Bureau of School Construction and Maintenance as  
24 established pursuant to title 3 Virgin Islands Code, chapter 7, subchapter II and” after “Monies”  
25 and by striking “Commissioner of Education” and inserting “the Executive Director of the  
26 Bureau of School Construction and Maintenance”.



1 director. The existing Education Maintenance Fund is renamed the School Construction,  
2 Maintenance and Capital Fund, under the administration of the Commissioner of Finance and  
3 Director. The money in the Fund will be used exclusively to support activities of the Bureau.  
4 The Funds will consist of appropriations and money realized from properties that were once  
5 utilized by schools and are now leased by the Department of Property and Procurement to other  
6 entities. The bill provides that not later than 120 days after the enactment of this bill, the  
7 Department of Educations' engineering and maintenance employees must be placed under the  
8 purview of the Bureau. The Bureau must present to the Legislature of the Virgin Islands, not  
9 later than 180 days after the enactment of this bill, the Master School Construction,  
10 Maintenance and Capital Plan, which must include a complete territory-wide inventory of all  
11 school and a new proposed updated school inventory. Finally, the bill provides for a  
12 \$5,500,000 appropriation to the Fund for the fiscal year ending September 30, 2023, and for  
13 the Legislature to make appropriations to the Fund of not less than \$5,000,000 in each fiscal  
14 year thereafter.

15 **BR23-0043/February 28, 2023/SLR**

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