School Construction Overview

Jon Gray, Legislative Counsel

March 31, 2026

Historical Overview

16 V.S.A. Chapter 123: State Aid for Capital Construction Costs

The General Assembly created the core of our current school construction aid program in 1996 A&R No. 185. This program:

- Authorizes the Treasurer to issue bonds to assist school districts
- Creates a two-step application process for construction aid, including approval by both the *Secretary of Education* and the *State Board of Education*
- Tasks the *State Board* with prioritizing projects and annually making a funding request to the Institutions committees
- Awards aid as a percentage of eligible construction costs based on project type
- Authorizes the *Secretary of Education* to grant aid to emergency projects
- Grants rulemaking power to the *State Board*

Historical Overview

16 V.S.A. Chapter 123: State Aid for Capital Construction Costs

- The General Assembly added provisions for career technical education facilities in 2001 A&R No. 149
- …and added further provisions to incentivize energy savings through energy performance contracting in 2003 A&R No. 121

Historical Overview

In Practice

- Resulting in a program that provided construction aid awards in varying amounts to projects:
  - Determined eligible by the *Secretary of Education*
  - Prioritized by the *State Board*
  - Funds for which were appropriated by the General Assembly following recommendation by the Institutions committees
- Prior to 2007, the General Assembly had been spending approximately 20% of total capital funds available (~$10M/year) on school construction and had also appropriated one-time General Fund revenues to help pay down State obligations
- The State fell behind on its obligations; the Joint Fiscal Office and the Office of Legislative Counsel in FY 2008 reported a State obligation of $74M

STATE OBLIGATIONS for SCHOOL CONSTRUCTION AID

FY2008 – FY2014

New projects under suspension per 2007 Capital Bill

Projection reflecting '08 appropriation and assuming $10M funding per year FY09 fwd.

estimates as of 12/18/2007

Project Category	Requested FY'08	Outstanding obligations FY09	Estimated Need FY'10	Estimated Need FY'11	Estimated Need FY'12	Estimated Need FY'13	Estimated Need FY'14
Unfunded need carried forward from previous year:			43,779,902	38,479,902	33,179,902	27,879,902	22,579,902
Major new construction and addition/renovations	16,419,687	**11,561,637**	0	0	0	0	0
Consolidation projects: new construction and add/renov. (assumes one new project to serve 500 students at $16M every other year)	0	**4,284,558**	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Emergency projects	1,800,000	**0**	700,000	700,000	700,000	700,000	700,000
Biomass projects	7,145,044	**13,986,445**	0	0	0	0	0
Performance Contracts	346,000	**390,480**	0	0	0	0	0
Limited-scope projects to extend the life of existing buildings	2,800,000	**3,245,362**	0	0	0	0	0
For equipping as Emergency Shelters	20,000	**0**	0	0	0	0	0
Aid obligated for technical education centers already under construction: Brattleboro, Essex, Hyde Park, Newport	4,030,033	**20,311,420**	0	0	0	0	0
Technical Center Capital Equipment	772,500	**0**	0	0	0	0	0
Total School Construction Aid Needed:	**33,333,264**	**53,779,902**	**48,479,902**	**43,179,902**	**37,879,902**	**32,579,902**	**27,279,902**
LESS ANNUAL APPROPRIATION	(12,709,014)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
BALANCE CARRIED FORWARD TO SUBSEQUENT YEAR	**20,624,250**	**43,779,902**	**38,479,902**	**33,179,902**	**27,879,902**	**22,579,902**	**17,279,902**

Historical Overview

Legislative Response: Moratorium

- 2007 A&R No. 52 suspended State Aid for most school construction with the goal of using the suspension period to develop a sustainable plan for State Aid
- 2008 A&R No. 200 extended the suspension while including measures to ensure school districts could deduct approved spending from their excess spending calculations
- 2009 A&R No. 54 clarified that a district could proceed with projects using funds besides State Aid
- 2011 A&R No. 40 tasked Education with providing a report on the costs of lifting the moratorium imposed in 2007
- 2013 A&R No. 5 expressed intent to maintain the suspension on State Aid and honor State obligations by FY 2016
- 2016 A&R No. 160 paid out the State's final aid obligations

Current Practice

- …the moratorium continues
- The State has awarded emergency aid throughout the moratorium, but note that no State Aid is available to projects arising from “significant deferred maintenance”
- School districts may pursue construction projects on their own; these projects increase the district’s education spending and impact property taxes across the State
- The General Assembly in 2018 A&R No. 190 authorized the Secretary of Education to accept applications for planning grants for capital construction that would result in consolidation and closure of at least one building but did not appropriate funds
- …and created a time-limited facilities master plan grant program in 2023 A&R No. 149 to encourage the development of a supervisory union-level vision for all school buildings that meets the educational needs and goals of the supervisory union

Current Law

Application for State Aid

16 V.S.A. § 3448 establishes the process for a school district to apply for State Aid:

- A **preliminary application** including information required by rule of the State Board. The *Secretary of Education*:
  - reviews the application
  - considers a number of factors, including regional, economic, and educational suitability factors, and
  - determines whether the application meets certain eligibility conditions.
- The school district submits a **final application** at any point following preliminary approval. The *State Board* may approve an application meeting specific functional requirements, like authorized funds, construction supervision, and financing.

Current Law

Prioritization & Funding Request

- Following preliminary approval by the *Secretary of Education* and a vote by a district to fund or authorize bonds for the total estimated cost of the project, the *State Board* places the school on a priority list by assigning priority points
- Priorities are based on a need-based point system under 16 V.S.A. § 3448(a)(3):
  - First priority: emergency projects over $100,000
  - Second priority: projects addressing deterioration of a building or equipment over $10,000
  - Remaining priorities: based on point system
- The *State Board* makes an annual capital construction funding request to the House Committee on Corrections and Institutions and the Senate Committee on Institutions

Current Law

Award of State Aid

Award of construction aid is spelled out under 16 V.S.A. § 3448(a)(7):

- **Most projects**. 30% of the approved cost of the project.
- **Renewable energy projects**. 75% of the approved cost of those elements of the project specifically related to the renewable fuel source being used.
- **Consolidation projects**. 50% of the approved cost of a project or applicable portion of a project (if preliminary approved received by June 30, 2013).
- **Career technical centers**. 50% of the approved cost of the project. (see § 3448e)

Only portions of a project meeting space and cost parameters adopted by the State Board are eligible for construction aid; the State Aid percentages are only of the *approved cost* of the project

Current Law

- **Repayment as a condition of aid**. Under 16 V.S.A. § 3448(b), a school district is required to refund to the State a percentage of the sale price of the building that is equal to the percentage of construction aid received, provided that the refunded amount shall not be more than the amount of the aid received.
- **Emergency aid**. Under 16 V.S.A. § 3448(e), the *Secretary of Education* may grant aid to a project the Secretary deems to be an emergency, up to a total project cost of $100,000
- **Rulemaking authority**. The *State Board* is authorized to adopt rules on school construction and capital outlay.
- **Appeal**. School districts aggrieved by an order, allocation, or award of the *State Board* may appeal to the Superior Court within 30 days
- **Deferred maintenance**. No aid is available to projects where the *Secretary of Education* finds the need for the project has arisen from significant deferred maintenance.

Legislative Response

- 2021 A&R No. 72 required the Agency of Education to conduct a facilities assessment of the statewide portfolio of public school buildings.
- 2023 A&R No. 78 created the School Construction Aid Task Force, which produced a report recommending:
  - The new program should be centered on the efficient use of public funds to modernize school infrastructure in alignment with current educational needs
  - The program should use the levers of eligibility, prioritization criteria, and the assurance/certification process to drive funding toward desired projects
  - Implementation should prioritize decisions that enshrine continuity of financial and technical resources in law
  - Access to school construction funds must include CTE centers

Legislative Response

- The School Construction Aid Task Force also recommended that the General Assembly engage in a longer planning process to create a clearly articulated school construction aid program.
- This led to 2024 A&R No. 149, which created the State Aid for School Construction Working Group, tasked with studying and designing a plan for a statewide school construction aid program.
- The legislative members of the Working Group last session introduced a bill in each chamber setting out the framework for a new school construction program: S.39 and H.129.
- 2025 AR No. 73 enacted the recommendations of the Working Group, with most State Aid provisions going into effect July 1, 2026.

Act 73, Secs. 12-20; State aid to school construction

- Establishes a new State Aid program in the *Agency of Education*, assigning responsibility for review, rulemaking, and an annual school construction funding request to the Agency
- Stands up a time-limited Advisory Board to function as a public-facing advisory check on the Agency
- Creates a School Construction Aid Special Fund to award aid to school construction projects, grants through the facilities master plan grant program, funding for administrative costs, and emergency aid
- Builds an approval process modeled on existing § 3448 with added eligibility criteria and tasks the Agency with adopting rules to establish new priority points
- Awards aid in the form of a debt service subsidy at a base amount of 20% of eligible cost, with up to an additional 20% award available in the form of bonus incentives

Policy levers

- **Eligibility conditions**: *who can access State funds*?
  - Current law hinges eligibility on a project fulfilling one of four specific needs; the need cannot by met by other means; and the proposed type/size/cost are suitable for the curriculum.
  - Act 73 sets out new eligibility conditions related to consolidation, district quality standards, and the facilities master planning process.
- **Prioritization points**: *who has first access to State funds*? Current law prioritizes emergency projects but does not facilitate a particular educational vision.
- **Bonus incentives**: *what kinds of projects does the State want to incentivize through additional aid*?

Questions?