

1

H.209

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Introduced by Representatives LaLonde of South Burlington, Campbell of St.

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Johnsbury, Christie of Hartford, Cina of Burlington, Colburn of

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Burlington, Colston of Winooski, Conlon of Cornwall, Durfee

5

of Shaftsbury, Elder of Starksboro, Gardner of Richmond,

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Gonzalez of Winooski, Hooper of Burlington, Houghton of

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Essex, Jerome of Brandon, Killacky of South Burlington,

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Kimbell of Woodstock, Ode of Burlington, Pugh of South

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Burlington, Scheu of Middlebury, Sheldon of Middlebury,

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Squirrell of Underhill, Stevens of Waterbury, Till of Jericho,

11

and Wood of Waterbury

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Referred to Committee on

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Date:

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Subject: Education; school construction; capital needs assessment

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Statement of purpose of bill as introduced: This bill proposes to: (1) require

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the Agency of Education to oversee and hire a consultant to conduct periodic

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capital needs assessments of State school buildings, and (2) end the period of

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suspension of State aid for school construction projects beginning with

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consolidation projects.

1           An act relating to ending the suspension of State aid for school construction  
2           projects

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

4                         \* \* \* Capital Needs Assessment \* \* \*

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

6           § 3441. CAPITAL NEEDS ASSESSMENT

7                         (a) On or before June 30, 2022, and once every five years thereafter, the  
8                         Secretary of Education shall oversee a capital needs assessment, including an  
9                         assessment of deferred maintenance, of all school buildings in the State. The  
10                         Secretary is authorized to hire a consultant to conduct the assessments  
11                         described in this subsection. The Secretary shall issue a report on the results of  
12                         the capital needs assessment on or before September 30 following the due date  
13                         of each assessment under this section and submit the report to the House  
14                         Committees on Education and on Corrections and Institutions and the Senate  
15                         Committees on Education and on Institutions. The report shall also contain the  
16                         Secretary's recommendation on how to encourage and assist schools with  
17                         capital planning practices and consolidation projects.

18                         (b) Notwithstanding subsection (a) of this section, a school district may  
19                         notify the Secretary on or before June 30 of the first year of each five-year  
20                         period described in subsection (a) of this section that it will independently hire  
21                         a consultant to conduct the capital needs assessment for one or more of its  
22                         school buildings for that five-year period. Provided that the assessment is

completed and the report is provided to the Secretary on or before June 30 of  
the year preceding the end of the five-year period and meets appropriate  
standards, the Secretary may adopt the school district assessment for purposes  
of the capital needs assessment required by subsection (a) of this section.

5           (c) The capital needs assessment required by subsection (a) of this section  
6        shall include an assessment of:

7           (1) building condition, including an evaluation of major systems such as  
8           roofing, HVAC, windows, and flooring;  
9           (2) general environment, including building safety and accessibility,  
10          academic and program sufficiency, and instructional technology; and  
11          (3) capacity utilization.

12 Sec. 2. INITIAL CAPITAL NEEDS ASSESSMENT; SCHOOL DISTRICT  
13 CONSULTANT

14           Notwithstanding 16 V.S.A. § 3441(a), a school district may notify the  
15           Secretary on or before June 30, 2020 that it will independently hire a  
16           consultant, or has independently hired a consultant after July 1, 2015 to  
17           conduct a capital needs assessment of one or more of its school buildings.  
18           Provided that the assessment is completed and the report is provided to the  
19           Secretary on or before June 30, 2021 and meets appropriate standards, the  
20           Secretary may adopt the school district assessment for purposes of the capitol  
21           needs assessment required by 16 V.S.A. § 3441(a).

1                           \* \* \* Lifting Suspension of School Construction Aid \* \* \*

2       Sec. 3. 2007 Acts and Resolves No. 52, Sec. 36 is amended to read:

3                           **Sec. 36. STATE AID FOR SCHOOL CONSTRUCTION; SUSPENSION**

4                           (a) The commissioner of education shall not accept, review, or act on any  
5                           applications for state aid under chapter 123 of Title 16 submitted after  
6                           March 7, 2007 unless, prior to March 7, 2007, the electorate voted funds or  
7                           authorized bonds, and thereafter all periods for reconsideration of the vote  
8                           have expired, except for those projects which are:

- 9                           (1) eligible to be assigned first priority under 16 V.S.A. § 3448(a)(3);  
10                          (2) necessary to ensure the health and safety, as determined by the  
11                          commissioner, of students and employees using the building; or  
12                          (3) school consolidation projects eligible for 50 percent aid under  
13                          16 V.S.A. § 3448(a)(7)(C).

14                          (b) It is the intent of the general assembly to use the time that state aid for  
15                          school construction is suspended to review the recommendations of the  
16                          commissioner of education and the commissioner of finance and management  
17                          reported under Sec. 38 of this act and, based on those recommendations,  
18                          develop a sustainable plan for state aid to school construction. If no plan is in  
19                          place by July 1, 2008, the general assembly will extend the period of  
20                          suspension until a plan is in place; provided, however, that any extension of the  
21                          period of suspension shall end on June 30, 2019.

1 Sec. 4. 2008 Acts and Resolves No. 200, Sec. 45, as amended by 2009 Acts  
2 and Resolves No. 54, Sec. 22 is further amended to read:

**Sec. 45. CONTINUATION OF SUSPENSION OF STATE AID FOR  
SCHOOL CONSTRUCTION**

5                     (a) In Sec. 36 of No. 52 of the Acts of 2007, the general assembly  
6 suspended state aid for school construction in order to provide time to enable  
7 the commissioner of education and the commissioner of finance and  
8 management to make recommendations for a sustainable plan for state aid to  
9 school construction. In the absence of a viable plan for funding school  
10 construction, the general assembly hereby extends the period of suspension  
11 until a plan is developed and adopted; provided, however, that the period of  
12 suspension shall end on June 30, 2019.

13 \* \* \*

14 Sec. 5. 2013 Acts and Resolves No. 51, Sec. 45 is amended to read:

15            Sec. 45. STATE AID FOR SCHOOL CONSTRUCTION; EXTENSION  
16            OF SUSPENSION

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

(b) 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.

5                   (c) State aid remains suspended pursuant to the terms of 2008 Acts and  
6 Resolves No. 200, Sec. 45 as amended by 2009 Acts and Resolves No. 54,  
7 Sec. 22 until June 30, 2019.

\* \* \*

9 Sec. 6. STATE AID FOR SCHOOL CONSTRUCTION; END OF  
10 SUSPENSION

11       (a) Beginning in fiscal year 2020, the Secretary of Education shall accept  
12       and review any applications for State aid pursuant to 16 V.S.A. chapter 123  
13       submitted after March 7, 2019.

14        (b) Beginning on January 15, 2020, the Secretary of Education shall  
15        present its annual capital construction funding request to the House Committee  
16        on Corrections and Institutions and the Senate Committee on Institutions.

17 \* \* \* Aid for School Consolidation \* \* \*

18 Sec. 7. 16 V.S.A. § 3448 is amended to read:

19       § 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION  
20                   PROJECTS; RENEWABLE ENERGY

## 21 (a) Construction aid.

1                   (1) Preliminary application for construction aid. A district or  
2 independent school eligible for assistance under section 3447 of this title; that  
3 intends to construct or purchase a new school, or make extensive additions or  
4 alterations to its existing school; and desires to avail itself of State school  
5 construction aid, shall submit a written preliminary application to the  
6 Secretary. A preliminary application shall include information required by the  
7 State Board by rule and shall specify the need for and purpose of the project.  
8 A preliminary application shall also include information concisely providing  
9 details addressing the ways in which the proposed project:  
10                  (A) will cause the district to provide education in a manner that is  
11 more educationally appropriate;  
12                  (B) will cause the district to provide education in a manner that  
13 provides greater educational opportunities in a more equitable manner;  
14                  (C) will result in or lead to sustained financial savings for the  
15 district; and  
16                  (D) will result in or lead to more efficient use of statewide education  
17 funds.  
18                  (2) Approval of preliminary application.  
19                  (A) When reviewing a preliminary application for approval, the  
20 Secretary, in consultation with the Department of Public Service, as well as

1       other energy efficiency experts and public and private entities at the  
2       Secretary's discretion, shall consider:  
3               (i) the goals outlined in subdivision (1) of this subsection (a);  
4               (ii) the project's ability to support increased connectivity, energy  
5       efficiency, and use of renewable resources;  
6               (iii) regional educational opportunities and needs, including  
7       school building capacities across school district boundaries, and available  
8       infrastructure in neighboring communities;  
9               (iv) economic efficiencies;  
10              (v) the suitability of an existing school building to continue to  
11       meet educational needs; and  
12              (vi) statewide educational initiatives and the strategic plan of  
13       the State Board of Education.  
14              (B) The Secretary may approve a preliminary application if:  
15              (i) the project or part of the project fulfills a need occasioned by:  
16                  (I) conditions that threaten the health or safety of students or  
17       employees;  
18                  (II) inefficient use of State or local resources;  
19                  (III) facilities that are inadequate to provide programs required  
20       by State or federal law or regulation;

1                   (III)(IV) excessive energy use resulting from the design of a  
2 building or reliance on fossil fuels or electric space heat; or  
3                   (IV)(V) deterioration of an existing building;  
4                   (ii) the need addressed by the project cannot reasonably be met by  
5 another means; and  
6                   (iii) the proposed type, kind, quality, size, and estimated cost of  
7 the project are suitable for the proposed curriculum and meet all legal  
8 standards.

9                   (3) Priorities. Following approval of a preliminary application and  
10 provided that the district has voted funds or authorized a bond for the total  
11 estimated cost of a project, the State Board shall assign points to the project so  
12 that the project can be placed on a priority list based on the number of points  
13 received. Once a project receives points, if it does not receive funding in a  
14 given year, it shall not lose points in subsequent years and, pursuant to rule of  
15 the Board and provided the scope of the project remains the same, it shall gain  
16 points due to length of time on the list and may gain points for any other  
17 reason. The points shall be assigned in the following priority:

18                   (A) First priority is given to emergency projects in excess of  
19 \$100,000.00 that address threats to the safety and health of students or  
20 employees created by unanticipated circumstances or events.

1                   (B) Second priority is given to projects that result in consolidation of  
2                   two or more school buildings in order to serve the educational needs of  
3                   students in a more cost-effective and educationally appropriate manner.

4                   (C) Third priority is given to construction projects in excess of  
5                   \$10,000.00 that address a need occasioned by deterioration of an existing  
6                   building or equipment pursuant to subdivision (2)(A) of this subsection (a),  
7                   and that extend the useful life of the building but that do not make additions or  
8                   extensive alterations to existing school facilities in which students are provided  
9                   services. Examples of projects given priority under this subdivision are  
10                  replacement, addition, or repair to utilities; projects that address environmental  
11                  quality issues; repair of a roof; replacement of an existing space-heating,  
12                  water-heating, cooling, or refrigeration system; and replacement or upgrading  
13                  of mechanical equipment.

14                  (D) Remaining projects are given priority based on consideration  
15                  of the relative degree of need pursuant to subdivision (2)(A) of this  
16                  subsection (a).

17                  (E) Within each priority level, different numbers of points shall be  
18                  given so as to rank projects in accordance with their ability to promote the  
19                  goals in subdivision (2) of this subsection (a).

20                  \* \* \*

1                   (7) Award of construction aid. Awards.

2                   (A) ~~Except as provided in other subdivisions of this subdivision (7)~~  
3                   ~~and elsewhere in law, the~~  The amount of an award shall be 30 percent of the  
4                   approved cost of the project.

5                   (B) ~~The amount of an award for the incremental costs associated with~~  
6                   ~~the installation of a space heating, water heating, cooling, or refrigeration~~  
7                   ~~system that uses biomass, a geothermal ground source, wind, or solar energy~~  
8                   ~~as the primary heating or cooling source shall be 75 percent of the approved~~  
9                   ~~cost of those elements of the project specifically related to the renewable fuel~~  
10                   ~~source being used; provided that those elements may include the costs of~~  
11                   ~~necessary equipment, a chimney, air quality technology, and additional square~~  
12                   ~~footage necessary to house the heating unit and fuel; and further provided that~~  
13                   ~~those elements shall not include the costs of staff areas, site improvements~~  
14                   ~~relating to fuel delivery, and other ancillary costs as determined by the~~  
15                   Secretary.

16                   (C) ~~The amount of an award shall be 50 percent of the approved cost~~  
17                   ~~of a project or applicable portion of a project that results in consolidation of~~  
18                   ~~two or more school buildings and that will serve the educational needs of~~  
19                   ~~students in a more cost effective and educationally appropriate manner as~~  
20                   ~~compared to individual projects constructed separately. A decision of the~~  
21                   ~~Secretary as to eligibility for aid under this subdivision (C) shall be final. This~~

1 subdivision (C) shall apply only to a project that has received preliminary  
2 approval by June 30, 2013.

3 \* \* \*

4 (g) District-wide capital stewardship plan. Any district that receives an  
5 award of funds for school construction under this section shall maintain a  
6 district-wide capital stewardship plan. The district shall submit a report every  
7 two years to the Secretary detailing the district's compliance with its  
8 stewardship plan. The district's first report shall be due two years after the  
9 initial award to the district.

10 Sec. 8. STATE AID FOR SCHOOL CONSTRUCTION; SUSPENSION

11 The Secretary of Education shall not accept, review, or act on any  
12 applications for State aid under 16 V.S.A. chapter 123 submitted after  
13 March 7, 2022.

14 Sec. 9. AGENCY OF EDUCATION STAFF POSITION

15 The Secretary shall hire a staff person to administer the school construction  
16 aid program and capital needs assessment required by this act. The Secretary  
17 shall receive general funds to support this position.

18 \* \* \* Effective Date \* \* \*

19 Sec. 10. EFFECTIVE DATE

20 This act shall take effect on passage.