

16 VSA Chapter 123: State Aid for Capital Construction Costs

§ 3448. Approval and funding of school construction projects; renewable energy

(a) Construction aid.

(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the State Board by rule and shall specify the need for and purpose of the project.

(2) Approval of preliminary application.

- (A) When reviewing a preliminary application for approval, the Secretary shall consider:
- (i) regional educational opportunities and needs, including school building capacities across school district boundaries, and available infrastructure in neighboring communities;
 - (ii) economic efficiencies;
 - (iii) the suitability of an existing school building to continue to meet educational needs; and
 - (iv) statewide educational initiatives and the strategic plan of the State Board of Education.
- (B) The Secretary may approve a preliminary application if:
- (i) the project or part of the project fulfills a need occasioned by:
 - (I) conditions that threaten the health or safety of students or employees;
 - (II) facilities that are inadequate to provide programs required by State or federal law or regulation;
 - (III) excessive energy use resulting from the design of a building or reliance on fossil fuels or electric space heat; or
 - (IV) deterioration of an existing building;
 - (ii) the need addressed by the project cannot reasonably be met by another means; and
 - (iii) the proposed type, kind, quality, size, and estimated cost of the project are suitable for the proposed curriculum and meet all legal standards.

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

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

(B) Second priority is given to construction projects in excess of \$10,000.00 that address a need occasioned by deterioration of an existing building or equipment pursuant to subdivision (2)(A) of this subsection (a), and that extend the useful life of the building but that do not make additions or extensive alterations to existing school facilities in which students are provided services. Examples of projects given priority under this subdivision are replacement, addition, or repair to utilities; projects

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that address environmental quality issues; repair of a roof; replacement of an existing space-heating, water-heating, cooling, or refrigeration system; and replacement or upgrading of mechanical equipment.

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

(4) Request for legislative appropriation. By January 15 of each year, the State Board shall present the House Committee on Corrections and Institutions and the Senate Committee on Institutions with its annual capital construction funding request. Following receipt of the request, the Committees shall recommend a total school construction appropriation for the next fiscal year to the General Assembly. The General Assembly shall not revise the order of the project priorities presented by the State Board. The funding request to the Committees shall be in the form of separate line items as follows:

(A) a list of projects that have been assigned points in their order of priority, including the voted funds or authorized bond amount for each project;

(B) the cost of emergency projects that the State Board has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved in the coming year under subsection (d) of this section;

(C) the cost of projects to extend the life of a building that the State Board has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved by the State Board in the coming fiscal year under subdivision (3)(B) of this subsection (a).

(5) Final approval for construction aid.

(A) Unless approved by the Secretary for good cause in advance of commencement of construction, a school district shall not begin construction before the State Board approves a final application. A school district may submit a written final application to the State Board at any time following approval of a preliminary application.

(B) The State Board may approve a final application for a project provided that:

(i) the project has received preliminary approval;

(ii) the district has voted funds or authorized a bond for the total estimated cost of the project;

(iii) the district has made arrangements for project construction supervision by persons competent in the building trades;

(iv) the district has provided for construction financing of the project during a period prescribed by the State Board;

(v) the project has otherwise met the requirements of sections 3447-3456 of this title;

(vi) if the proposed project includes a playground, the project includes a requirement that the design and construction of playground equipment follow the guidelines set forth in the U.S. Consumer Product Safety Commission Handbook for Public Playground Safety; and

(vii) if the total estimated cost of the proposed project is less than \$50,000.00, no performance bond or irrevocable letter of credit shall be required.

(C) The board of trustees of an independent school may submit a written final application to the State Board for a project for which a preliminary application has been approved by the Secretary, provided that each municipality represented on the board of trustees has voted funds or authorized a bond issue for 100 percent of the municipality's estimated share of the project in an amount determined by the Secretary under this section.

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(D) The State Board may provide that a grant for a high school project is conditioned upon the agreement of the recipient to provide high school instruction for any high school pupil living in an area prescribed by the Board who may elect to attend the school.

(E) A district may begin construction upon receipt of final approval. However, a district shall not be reimbursed for debt incurred due to borrowing of funds in anticipation of aid under this section.

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Vermont State Board of Education Manual of Rules and Practices

Series 6000 - School Buildings and Sites

6100 BUILDING PROJECTS ELIGIBLE FOR STATE AID

6110 Statutory Authority 16 V.S.A. Chapter 123

6111 Policy and Purpose

(a) It is the policy of the State of Vermont to encourage renovation of, additions to, or construction of school facilities where necessary to meet the educational needs of Vermont pupils. Any such projects should be developed with standards of quality for public schools set forth in 16 V.S.A. § 165 in mind and in a cost and energy efficient manner. Further it is the policy of the State Board to encourage the use of existing infrastructure to meet the needs of Vermont students in accordance with the State Board policy on historic preservation. Joint construction projects between two or more school districts and consolidation of buildings within a district where feasible and educationally appropriate are also encouraged. The State Board, in favor of local objectives to better the learning environment, shall liberally construe these rules. These rules are intended to establish the extent to which a proposed project is eligible to receive state construction aid, but shall in no way limit the amount of construction that a local district may authorize or expend on a project.

(b) It is the purpose of these rules to provide the procedures and standards for school districts applying for school construction aid. In order for the State Board of Education to approve a construction aid project, it must comply with the applicable provisions of Rules 6100 et seq. Approval of the project may be for the whole of the project or only for such component parts as found by the State Board of Education to meet the requirements set forth herein.

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6112 Definitions

"Construction aid project" means construction of a school building, renovation or alteration of an existing school building or purchase of a school building for which a school board may seek a grant of financial aid pursuant to 16 V.S.A. § 3448. A construction aid project may include the purchase and installation of relocatable units, provided such units meet the minimum standards applicable to permanently constructed educational spaces.

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6114.4 Bond Amortization

School boards issuing bonds for capital construction shall repay the principal in not more than twenty years except as provided by 16 VSA § 777.

6115 Application Procedures for Construction Aid

6115.1 The application procedures for construction aid shall consist of two parts: the preliminary application and a final application. Both applications shall be made on forms prescribed by the Commissioner.

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6115.2 Each school district which has voted funds or issued bonds for the total cost to either construct or purchase a new school, or make extensive additions or alterations to its existing school plant to adequately house its pupils, or to conserve energy, can make application in writing to the State Board of Education for construction aid.

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6117 Facility Analysis

A facility analysis means a complete analysis of the existing facility. The analysis shall identify the areas of deficiency consistent with the criteria listed in 16 V.S.A. § 3448(a)(2)(A). The analysis shall include, as appropriate for the project, the following information:

- (a) demographic data and enrollment projections,
- (b) the current floor plan and useable square footage,
- (c) economic impact on the community, condition of the infrastructure of the existing building, including existing health and safety conditions, and
- (d) history of maintenance on the existing facility.

6118 Determining a Priority of Projects

Upon receipt of a preliminary application, the Commissioner will evaluate and rate the degree of need for construction in accordance with the System for Rating Proposed School Construction Projects adopted by the State Board of Education.

6119 Rating Eligible Projects:

6119.1 The State Board shall adopt and from time to time update a document entitled **System for Rating Proposed Capital Construction Projects** in order to determine the priorities for construction aid.

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6124 The Maximum Cost for State Participation

6124.1 The State Board of Education shall adopt and update annually a document entitled **Capital Outlay Financing Formula**. The capital outlay formula shall establish the maximum and minimum square footage parameters by school size, and grade range through a square footage allowance per student or program. The formula shall also establish an allowable cost per square foot of construction.

6124.2 The Commissioner shall determine the maximum eligible cost for construction aid for the proposed project using the information provided by the district and applying the Capital Outlay Formula. The cost and space parameters shall be fixed at the time the State Board approves the final application.

6125 Assigning a Priority to Projects

After all appeals under rule 6119.3 have been concluded, but in no case later than December 1 of each calendar year, the State Board of Education shall list in priority order those projects that have received preliminary approval from the Commissioner and voter approval. The State Board shall approve the priority order of projects at its December meeting. The order of priority shall be as follows:

1. The State Board shall assign first priority to emergency projects which address threats to the health and safety of students and staff.
2. The Board shall assign second priority to voter approved construction projects in excess of \$ 10,000 which extend the useful life of the building but which do not make extensive additions or alterations to existing facilities to house or educate pupils.
3. All other voter approved projects shall receive a priority based on consideration of the relative degree of need as determined by The System for Rating Proposed School Construction Projects and 16 VSA § 3448(a)(2)(A) and (B).

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4. By January 15th of the following year, the State Board of Education shall present the house and senate institutions committees with a list of projects in priority order with the estimated cost of each project.

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6134 Costs Eligible for Construction Aid

1. Emergency projects costs required to address imminent threats to safety and health of students or employees for which construction is necessary
2. Fees for permits, clerk-of-the-works, legal, architectural and engineering services
3. Razing existing on-site structures
4. Installation of utilities and associated costs either on-site or where legal right-of-way is obtained by the school district, including grading, drainage facilities, power plants, sewer, water, wells and pumps, waste treatment, electricity, roads, walks, parking areas and lighting
5. Athletic fields and other site development projects necessary to provide exterior facilities to carry out an approved educational program
6. Landscaping incidental to the construction
7. Construction to meet state agency regulations, including but not limited to fire and safety, environmental, and VOSHA
8. Roof replacement if:
 - (a) it is a structural improvement which will extend the life of the building, or
 - (b) the roof has exceeded its life expectancy and will be completely replaced and upgraded
9. School building construction or purchase, and extensive additions, alterations and renovations to existing schools consistent with 16 V.S.A. § 3448(a)(2)(A)
10. Fixed equipment approved by the Commissioner

6135 Partially Eligible Costs

1. Swimming pools, skating rinks, theaters, and other structures with valid education functions but primarily programmed for community use and/or revenue production are to be counted into the total space allowances eligible for construction aid at a percentage which is the ratio of educational use to total use; such percentage to be determined in each case by the Commissioner. Auxiliary spaces, such as locker rooms, changing rooms, spectator areas and mechanical equipment areas may be included as partially eligible costs.
2. School construction on land or buildings which are part of a permanent deeded easement or right-of-way is eligible for state participation as a partially eligible cost at a percentage to be determined by the Commissioner.

6136 Non-eligible Costs

1. Structures or spaces designed exclusively for use of other agencies or services such as community centers, town offices, or civil defense shelters
2. Repair or maintenance projects that do not amount to extensive additions, alterations or renovations
3. Stadiums
4. School furniture, computers, computer hardware, cleaning equipment and supplies
5. Interest on bonding or short term borrowing
6. Time spent on the construction project by school board members or employees of the district
7. Deferred Maintenance. No state construction aid shall be available for any proposed project which has arisen in whole or in part from significant deferred maintenance. For the purpose of this section, "deferred maintenance" means the lack of reasonable and timely maintenance including periodic minor repairs of school buildings and mechanical systems.

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- 8. Office space for supervisory union personnel, including but not limited to, space for the superintendents of schools, business managers, special education coordinators, curriculum coordinators or their staff.
- 9. All costs associated with land acquisition.

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6119.1 The State Board shall adopt and from time to time update a document entitled ***System for Rating Proposed Capital Construction Projects*** (SEE PAGES 7 AND 8) in order to determine the priorities for construction aid.

6119.2 The rating system for prioritizing proposed capital construction projects shall require consideration of projects according to objective criteria and a review of data submitted by school districts. The rating system shall include consideration of the following factors:

- (a) type of space requested;
- (b) current space availability;
- (c) current health and safety status;
- (d) physical condition of the facility;
- (e) impacts of maintenance on condition of facilities;
- (f) short and long-range enrollment projections; and
- (g) consolidation or union district formation

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6124.1 The State Board of Education shall adopt and update annually a document entitled ***Capital Outlay Financing Formula***. (SEE PAGES 9 AND 10)

The capital outlay formula shall establish the maximum and minimum square footage parameters by school size, and grade range through a square footage allowance per student or program. The formula shall also establish an allowable cost per square foot of construction.

6124.2 The Commissioner shall determine the maximum eligible cost for construction aid for the proposed project using the information provided by the district and applying the Capital Outlay Formula. The cost and space parameters shall be fixed at the time the State Board approves the final application.

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The ***Vermont School Construction Planning Guide*** (SEE PAGES 11 AND 12) is to be used in conjunction with State Board of Education Rules for Capital Construction and is not intended to be used in isolation or to supersede any other agency rules for school construction. The specific rules of the several agencies of the state that apply to school construction are beyond the scope of this document. This document is not a comprehensive summary of such rules here; rather, its intent is to identify key state agencies, and the stage or stages in the development of a school project at which each agency should be consulted.

Described here are the procedures which school officials should follow in the development of a project. If these procedures are adhered to, the Department of Education will coordinate the preliminary review functions of all the relevant state agencies so that a project receives the necessary permits and approvals as expeditiously as possible.

System for Rating Proposed School Construction Project

The “System for Rating Proposed School Construction Projects” is used to establish funding priority for major projects such as new schools and addition/renovation projects.

Department of Education staff will visit and score existing facilities following the submission of a completed preliminary application form, including enrollment projections, existing floor plans, and a facility analysis prepared by a qualified professional. Needs and deficiencies of existing facilities are the bases for scoring .

The maximum available score is 140. A high score means a higher placement on the State Board’s prioritized list for school construction aid. Using the facility analysis, points will be assigned to rated criteria as follows:

Point System for Rating

The following points will be applied to components based on a current facility analysis and a site inspection.

- 0- Excellent Conditions ideal or comparable to new. A zero score may also indicate no information was provided on which to score.
- 1- Good Adequate for programs, services, enrollment. Condition suggests reasonable useful life remaining.
- 2- Fair Demonstrating signs of need. Shows wear. Component may be nearing the end of its useful life.
- 3- Poor Demonstrating problems. Needs repair. Has exceeded its expected useful life. Non-compliant with current life safety codes.
- 4- Unsatisfactory Inadequate for programs, services, enrollment. Code violation. Lack of action poses a threat to the health and safety of students.

The following points will be applied for overcrowded conditions based upon enrollment projections, current enrollment, and building capacity.

- 0- Enrollment is not projected to reach or exceed building capacity or available space.
- 5- Enrollment is projected to reach or exceed capacity within ten years.
- 10 to 20- Enrollment is at or above student capacity for facility and is not projected to decline significantly.

System for Rating Proposed School Construction Project (continued)

DEFINITIONS OF CRITERIA

Health and Safety:

The purpose of this section is to assess the degree to which students and staff are exposed to hazards and potential threats to physical well-being.

Structure / Infrastructure:

The overall condition of the physical plant will be rated according to the needs and deficiencies of building systems.

Adequacy of Facilities:

The existence and condition of specific facilities and their ability to provide an appropriate learning environment will be rated according to the impact of deficiencies on the educational program.

Individual Program Areas:

The evaluation under this component is based upon the availability of educational space to meet the needs of the curriculum and of required programs and services. Core facilities include library, cafeteria, gymnasium, storage areas, health services, art and music rooms, science labs, and administration areas.

Enrollment Versus Capacity:

Points in this component are based upon evidence that current space available for general classroom use is insufficient to accommodate enrollments. The department will compare current enrollment, projected enrollment, and the capacity of the existing building.

If the student capacity of a building has been determined by the department within the previous eight years, and no major construction has taken place in the interim, the capacity on record will stand unless otherwise determined by the commissioner.

For purposes of determining the capacity of an existing building, the department will divide total classroom space square footage by 30 square feet. Classrooms available for use by pre-K through grade 6 will be taken at no more than thirty students per undivided room. Allowances may be made for spaces not provided, such as library or arts, as determined by the commissioner.

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Capital Outlay Financing Formula

Maximum Eligible Building Costs for State Participation Purposes:

The formulas and procedures that follow are intended to determine the maximum eligible cost for state participation purposes on any school construction project eligible for state construction aid under Vermont statutes and State Board of Education policy. The maximum eligible cost shall be determined by the Commissioner applying the formulas to the approved educational specifications for the proposed project, but shall in no way limit the amount of construction cost that a local district may authorize or expend on a project. If the local district wishes to authorize construction costs in excess of this figure, it may, but the state construction aid will be calculated on the basis of the maximum eligible cost. Any costs in excess of this will be borne by the local district. The space allocation formulas and allowable cost per square foot of construction shall be subject to review by the State Board of Education every year.

Definitions: For purposes of determining eligibility, the following definitions shall apply:

Costs Eligible for Construction Aid

1. Emergency project costs required to address imminent threats to safety and health of students or employees for which construction is necessary.
2. Fees for permits, clerk of the works, and legal, architectural and engineering services.
3. Razing existing on-site structures.
4. Installation of utilities and associated costs either on-site or where legal right-of-way is obtained by the school district, including grading, drainage facilities, power plants, sewer, water, wells and pumps, waste treatment, electricity, roads, walks, parking areas and lighting. Athletic fields and other site development projects necessary to provide exterior facilities to carry out an approved educational program.
5. Landscaping incidental to the construction.
6. Construction to meet state agency regulations, including but not limited to fire and safety, environmental, and VOSHA.
7. Roof replacement if:
 1. (a) it is a structural improvement which will extend the life of the building, or
 2. (b) the roof has exceeded its life expectancy and will be completely replaced and upgraded.
8. School building construction or purchase, and extensive additions, alterations and renovations to existing schools consistent with 16 VSA §3448(a)(2)(A).
9. Fixed equipment approved by the Commissioner.

Partially Eligible Costs:

1. Swimming pools, skating rinks, theaters, and other structures with valid education functions but primarily programmed for community use and/or revenue production are to be counted into the total space allowances eligible for construction aid at a percentage which is the ratio of educational use to total use; such percentage to be determined in each case by the Commissioner. Auxiliary spaces, such as locker rooms, changing rooms, spectator areas and mechanical equipment areas may be included as partially eligible costs.
2. School Construction on land or buildings which are part of a permanent deeded easement or right-of-way is eligible for state participation as a partially eligible cost at a percentage to be determined by the Commissioner.
3. Office space for administration.

Capital Outlay Financing Formula (continued)

Non-eligible Costs

1. Structures or spaces designed exclusively for use of other agencies or services such as community centers, town offices, or civil defense shelters.
2. Repair or maintenance projects that do not amount to extensive additions, alterations or renovations.
3. Stadiums
4. School furniture, computers, computer hardware, cleaning equipment and supplies.
5. Interest on bonding or short term borrowing costs.
6. Time spent on the construction project by school board members or employees of the district.
7. Deferred Maintenance. No state construction aid shall be available for any proposed project or construction which has arisen in whole or in part from significant deferred maintenance. For the purpose of this section, "deferred maintenance" means costs for construction repairs or other improvements necessitated by the lack of reasonable and timely maintenance including periodic minor repairs of school buildings and mechanical systems.

Questionable Costs of Spaces

1. Costs or spaces not falling clearly within the list of eligible or partially eligible costs or spaces and not specifically excluded as non-eligible shall be submitted to the Commissioner for status determination prior to project commencement, or shall automatically be considered as not eligible for construction aid.
 2. Districts aggrieved by the decision of the Commissioner regarding eligible cost may appeal to the State Board of Education. The State Board after opportunity for hearing may affirm, modify, or reverse the decision of the Commissioner.
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VERMONT SCHOOL CONSTRUCTION PLANNING GUIDE

Updated June 2008

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