

# **Report on Act 46 of 2015**

**An act relating to making amendments to education funding, education spending, and education governance**

**Sec. 14 Review Requirement to Refund Received State Aid Upon Sale**

**REPORT**  
November 2015

**Submitted to House Education; House Corrections and Institutions; Senate Institutions; and Senate Education Committees**

**Submitted by Secretary of Education  
Rebecca Holcombe**



## **Legislation**

[Act 46 of 2015](#) *An act relating to making amendments to education funding, education spending, and education governance*

Link to complete text of legislation on Vermont Legislature website:

<http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT046/ACT046%20As%20Enacted.pdf>.

## **Objective of Report**

*Sec. 14. REVIEW OF THE REFUND UPON SALE REQUIREMENT*

*(a) The Secretary of Education shall review school districts subject to the provisions of 16 V.S.A. § 3448(b). The review shall include:*

- (1) each school district that has received State aid for school construction;*
- (2) the total amount of State aid for school construction that has been refunded to the State;*
- (3) the percentage of the sale price that each school district would be required to refund to the State upon the sale of a school building; and*
- (4) a list of all school buildings that are not in use for any purpose.*

*(b) In addition, the Secretary shall consider:*

- (1) whether and to what extent the State should exempt school districts from the provisions of 16 V.S.A. § 3448(b), including when a former school building is purchased by a nonprofit entity or is used for a community purpose; and*
- (2) the potential cost of providing State aid to school districts for the renovation or construction of school buildings conducted in connection with the merger of school district governance structures, and possible funding sources.*

*(c) On or before December 1, 2015, the Secretary shall report to the House Committees on Education and on Corrections and Institutions and the Senate Committees on Education and on Institutions on the work required by this section.*

## **Agency Response**

### **Subsection (a)**

The Agency does not have the data required to respond to subsection (a). The request would require the Agency staff to review information from a variety of sources including public records, State Board archives, multiple databases, and paper records for each construction project where aid was involved since July 1970 to create a consolidated database. When a school is considering the sale of a building the Agency does the research on a case by case basis.

### **Subsection (b)(1)**

Upon the sale of a school building, 16 V.S.A. § 3448(b) requires school districts that have received school construction aid to refund the state the lesser of either:

1. A percentage of the sale price equal to the percentage of construction aid received or,
2. The actual state construction aid received.

The refunded dollars must be deposited with the state treasurer and used for school construction aid awards.

Current statute requires the districts to refund construction aid for projects dating back to July 1970. In many cases, the project components for which the aid was paid have since been replaced or renovated again. For instance a boiler that a district received construction aid for in 1985 has likely already been replaced and therefore adds no existing value at the time of the sale of the building.

### **Recommendations:**

1. The Agency suggests setting a new timeframe for the repayment of school construction aid:

Upon the sale of a school building, school districts would be required to refund the state for school construction aid received in the twenty years prior to the sale date.

The amount of aid to be refunded would continue to be calculated as the lesser of either:

- a. A percentage of the sale price equal to the percentage of construction aid received or,
  - b. The actual state construction aid received in the twenty years prior to the sale date.
2. Due to the unique structure of a school building, a district will often sell the building to a municipality. The Agency believes if the municipality agrees to purchase the building and use the building for municipality purposes for a minimum of five years, the district should be exempt from the requirements of 16 V.S.A. § 3448(b).

## **Section (b)(2)**

There are several factors which make it difficult to accurately estimate the “cost” of ending the school construction aid suspension in connection with the merger of school district governance structures.

1. During the suspension on state school construction aid, the Agency is only reviewing projects at the request of districts wishing to exclude the costs from their excess spending calculation. As a result, Agency staff may be unaware of school construction and renovations projects that move forward without state assistance, especially smaller infrastructure projects such as roof and boiler replacements. Therefore, the department’s ability to determine the volume of projects under construction, as well as to gauge the demand for new projects, is limited. Nonetheless, it is our opinion that few school districts are delaying necessary projects waiting for the school construction aid suspension to end and that most projects that are occurring are a result of obsolescence vs. insufficient capacity. Many Vermont school districts have experienced declining enrollments for ten years or more. This has reduced the need to increase the size of school buildings, and has in fact resulted in excess school building capacity in some towns.
2. The cost would also be impacted by the percentage of state aid paid. School construction aid in the past has ranged from 20% - 90% depending on the nature of the project.
3. The Agency reassigned staff after the suspension on school construction aid. If state school construction aid were to be reinstated, the Agency would require one additional FTE to administer the program.

### **Recommendation:**

The Agency recommends that if and when a state- level funding mechanism for school facilities is re-established, such funds should be part of the education fund.

### **Agency Contact**

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