

SB 342-FN - AS AMENDED BY THE SENATE

02/21/2024 0658s

2024 SESSION

24-2835

02/10

SENATE BILL

***342-FN***

AN ACT relative to school building aid funding.

SPONSORS: Sen. Lang, Dist 2; Sen. Gendreau, Dist 1; Sen. Innis, Dist 7; Sen. Carson, Dist 14; Sen. Birdsell, Dist 19; Sen. Pearl, Dist 17; Rep. Moffett, Merr. 4; Rep. Ladd, Graf. 5; Rep. Packard, Rock. 16

COMMITTEE: Education

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ANALYSIS

This bill establishes a new school district building aid funding program using state funds allocated to each district and makes an appropriation therefor.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to school building aid funding.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Department of Education; Rulemaking. Amend RSA 21-N:9, II(c) to read as follows:

2 (c) Standards for school building construction, ***including under the provisions of***  
3 ***RSA 198:15-a through RSA 198:15-z.***

4 2 New Section; School Construction Fund Established. Amend RSA 198 by inserting after  
5 section 39 the following new section:

6 198:39-a School Construction Fund Established.

7 I. There is hereby established in the state treasury the school construction fund, which shall  
8 be kept distinct and separate from all other funds and which shall be continually appropriated to the  
9 department of education. Moneys in such fund shall be nonlapsing and shall not be used by the  
10 department for any purpose other than to distribute funds to schools and approved chartered public  
11 schools pursuant to RSA 198:15-f for new school construction projects.

12 II. Beginning July 1, 2025, the state treasurer shall transfer \$30,000,000 to the school  
13 construction fund. Each year thereafter, this amount will be increased by \$5,000,000 until the  
14 amount reaches \$80,000,000. Each year thereafter, the state treasurer shall transfer \$80,000,000  
15 annually on July 1 to the school construction fund.

16 III. Any earnings on moneys within this fund shall be added to the school construction fund.

17 IV. For the fiscal year beginning July 1, 2025, and every fiscal year thereafter, the amount  
18 necessary to fund the grants under RSA 198:15-f is hereby appropriated to the department of  
19 education from the school construction fund created under this section. The governor is authorized  
20 to draw a warrant from the school construction fund to satisfy the state's obligation under this  
21 section. Such warrant for payment shall be limited to the balance of funds available in the school  
22 construction fund.

23 V. The department of education may retain up to 3 percent of the total annual appropriation  
24 of the school construction fund to be used to administer the program or for the department of  
25 education to support the development, implementation, and maintenance of a facility condition  
26 assessment for public elementary and secondary schools.

27 VI. This fund shall not be used for building projects approved by the department of  
28 education prior to July 2025.

29 3 School Building Aid; School Construction Allocation Grants for School Construction. Amend  
30 RSA 198:15-a to read as follows:

198:15-a ***School Building Aid and School Construction Allocation*** ~~[Grant]~~ ***Grants*** for School Construction.

I. To aid local ~~[school districts]~~ ***schools and chartered public schools*** in meeting the costs of school buildings, the department of education shall ~~[from funds appropriated by the general court to carry out the provisions of this subdivision,]~~ pay to the school districts of the state, sums in accordance with the provisions ~~[of this subdivision or the alternative school building aid provisions]~~ under ~~[RSA 198:15-u through RSA 198:15-w]~~ ***RSA 198:15-b and RSA 198:15-f.***

I-a. For purposes of this subdivision, "school ~~[district]~~" means any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, any receiving district operating an area school as defined in RSA 195-A:1, or any receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22.

***I-b. For the purposes of this subdivision, "chartered public school" means any chartered public school established in accordance with RSA 194-B.***

II. Beginning with construction authorized by a ~~[local]~~ school ~~[district]~~ on or after July 1, 2013, office facilities for school administrative units and the purchase or lease-purchase of temporary space for any purpose, including but not limited to modulars, trailers, or other similar structures to be used as classroom, office, or storage space shall not be eligible for school building aid grants ***or for school construction allocation grants.***

III. Facilities constructed using school building aid grants ***or for school construction allocation grants*** shall be used as instructional facilities for kindergarten through grade 12 for at least 20 years. A school ~~[district]~~ ***or chartered public school*** that discontinues the use of the facilities within 20 years shall be required to repay the state 100 percent of the state grant received. Upon a showing of good cause by the school ~~[district]~~ ***or chartered public school***, the commissioner of the department of education may waive this penalty in whole or part on a case by case basis.

IV. ***Beginning July 1, 2025, the legislature shall make an appropriation from the education trust fund in the annual grant amount approved by the department of education for building aid projects approved prior to 2013.***

V. Beginning July 1, ~~[2013]~~ ***2025***, ~~[and every fiscal year thereafter,]~~ ***the annual appropriation for*** school building aid grants ~~[for construction or renovation projects approved by the department of education]~~ shall not exceed \$50,000,000 ~~[per fiscal year less any debt service payments owed in the fiscal year]~~ ***for new projects***, unless otherwise provided by an act of the general court. School building aid grants shall be funded from appropriations in the state operating budget and no state bonds shall be authorized or issued for the purpose of funding such school building aid grants.

VI. ***The amount in paragraph V shall be decreased by \$5,000,000, each year thereafter, until the amount is reduced to zero.***

[V-] **VII.** The department of education shall develop and maintain a 10-year school facilities plan of potential school building grant projects. Potential projects shall include, but not be limited to, criteria pursuant to RSA 198:15-c, II(b). The 10-year plan is intended to create a method to identify and enhance school facilities in a safe, healthy, and efficient manner while providing adequate learning environments for New Hampshire's students. The 10-year plan shall be updated every biennium to provide the department a summary of projects and school facility capital expenditures that are anticipated for the next 10 years. The plan shall identify new construction, renovation, and emergency projects, and describe the overall condition of projects contained in the plan. In support of the 10-year plan, it is recommended that each ~~[district]~~ **school or chartered public school** have in place and provide the department a long-range capital improvement program that identifies school facility goals, provides projected expenditures, and outlines procedures and guidelines to be followed to accomplish goals. Each ~~[district]~~ **school or chartered public school** is encouraged to review and update the ~~[district's]~~ **school's or chartered public school's** anticipated school facility capital improvement plan on a 2-year recurring basis or as needed. The department shall use this information to better plan, prioritize, and project new anticipated capital construction and renovation expenditures relative to the state building aid program. The state board of education shall adopt rules pursuant to RSA 541-A relative to this paragraph.

4 School Building Aid; Amount of Grant. Amend the heading of RSA 198:15-b, through paragraph I to read as follows:

198:15-b Amount of Grant **for School Building Aid.**

I.(a) For construction authorized by a school district on or before July 1, 2013, the amount of the annual grant to any school district shall be the grant amount approved by the department of education at the time of final approval of the project.

(b)(1) For construction authorized by a school district after July 1, 2013, the amount of **the school building aid** grant to the school district shall be calculated based on the criteria set forth in RSA 198:15-u through RSA 198:15-w.

(2) The state board of education shall approve the disbursement of 80 percent of the eligible **school building aid** grant amount upon approval of the application for school building aid grants by the state board of education, and shall disburse the balance of the grant amount upon completion of the construction and verification of the final cost of construction by the department of education.

(3) The amount of the **school building aid** grant to any chartered public school established in accordance with RSA 194-B:3-a shall be 30 percent of the eligible cost of construction.

(4) Funds received from federal grants or grants from other state programs shall be subtracted from total project costs when computing grants under this paragraph.

5 Approval of Plans; Specifications, and Costs of Construction or Purchase. Amend the heading of RSA 198:15-c, through paragraph I to read as follows:

198:15-c **School Building Aid** Approval of Plans; Specifications, and Costs of Construction or Purchase.

I.(a) A school ~~[district]~~ maintaining approved schools, desiring to avail itself of the **school building aid** grants herein provided shall submit schematic design plans, cost estimates, and other items determined by the department of education for an eligible school construction project prior to the start of the construction. Projects with approval from the school district's legislative body to construct, not subject to receiving building aid, are not eligible.

(b) Beginning January 1, 2025 and each year thereafter, to be considered for a school building aid grant, the complete building aid application shall be submitted no later than April 1 of the fiscal year that immediately precedes the fiscal year in which the school desires to seek the district's legislative body's approval for construction. The application shall include at a minimum, schematic design plans, cost estimates, educational needs assessment, existing facility conditions assessment including, but not limited to a review of the mechanical, electrical, plumbing, and structural components of the building, proof of an annual school budget to support good maintenance, and other documentation as required by the department and identified in the department's school building construction rules.

(c) As deemed appropriate, emergency projects that are recommended by the commissioner of education **for school building aid grants** shall be addressed on a case-by-case basis by the state board of education at any time during the school year. A school construction project requiring the replacement of all or a significant portion of a school facility which is declared uninhabitable or is identified as an imminent danger or substantial risk by the state fire marshal or a state or federal agency, and which results from an unanticipated and sudden natural or human disaster, shall qualify as an emergency project.

6 School Building Aid; Time Computation. Amend RSA 198:15-d to read as follows:

198:15-d Time of Computation of Grant. As of January 1 in each year, the department of education shall cause to be computed the amount of the annual grants for school building aid to be paid to eligible ~~[school-districts]~~ **schools or chartered public schools** in the succeeding fiscal year. The computation shall be based upon the total of eligible costs of construction of school buildings approved by the **school's or chartered public school's** legislative body ~~[of the school-district]~~ and the department of education for which loans are outstanding in each school district for the fiscal year in which the computations are made.

7 School Building Construction Allocation Program. RSA 198:15-f is repealed and reenacted to read as follows:

198:15-f School Construction Allocation Program.

I. New moneys shall be deposited into this fund each fiscal year pursuant to RSA 198:39-a, including appropriated amounts and interest earned. Funds shall be administered as follows:

1 (a) The department of education may retain up to 3 percent of the total annual  
2 appropriation of the school construction fund to be used to administer the program or for the  
3 department of education to support the development, implementation, and maintenance of a facility  
4 condition assessment for public elementary and secondary schools.

5 (b) The total annual appropriation of the school construction fund, less any amount  
6 retained by the department of education allowed by subparagraph (a) above, shall be allocated  
7 annually to each school and chartered public school based on per pupil average daily membership in  
8 attendance, as defined in RSA 189:1-d, III for grades K-12 who are legal residents of the school  
9 pursuant to RSA 193:12 or RSA 193:27, IV and attend a state-approved public or nonpublic school as  
10 assigned by the school district in which the pupil resides, or by the state, or attend an approved  
11 chartered public school; and

12 (c) The interest earned the previous year shall be prorated based on the fund balance  
13 and allocated annually to each school and chartered public school.

14 II. A school maintaining approved schools, desiring to avail itself of the school construction  
15 allocation grants herein provided shall submit schematic design plans, cost estimates, and other  
16 items determined by the department of education no later than 120 days prior to the desired date of  
17 construction. The commissioner shall review the applications to determine eligibility as determined  
18 by the rules of the department of education.

19 III. School construction allocation grants may be expended for the following purposes:

20 (a) New building construction, including land acquisition and development of a site;

21 (b) Capital renovations of existing buildings, including land acquisition and development  
22 of a site; or

23 (c) Security improvements.

24 IV. For construction authorized by the school's or chartered public school's legislative body,  
25 for an approved school construction allocation grant, the amount of grant shall be the eligible  
26 amount requested by the school or the assigned balance in the school's construction allocation fund,  
27 whichever is less.

28 V. Annually by October 1 each year the department of education shall calculate the total  
29 amount a school or chartered public school may apply for. This amount shall be any appropriations  
30 and accumulated interest made through the life of this program less any payments previously  
31 made under this program.

32 VI. All school construction plans and specifications shall comply with the rules of the  
33 department of education in requesting a distribution from the fund for payment or reimbursement of  
34 school construction approved under this section, notwithstanding any requirements for authorization  
35 of bonds or notes or payment of debt service unless such project contains an authorization of bonds  
36 as a component of funding.

**SB 342-FN - AS AMENDED BY THE SENATE**

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1           8   New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after  
2   subparagraph (394) the following new subparagraph:

3                   (395) Moneys deposited in the school building construction allocation program fund  
4   established under RSA 198:39-a.

5           9   Effective Date. This act shall take effect July 1, 2024.

SB 342-FN- FISCAL NOTE  
AS AMENDED BY THE SENATE (AMENDMENT #2024-0658s)

AN ACT                    relative to school building aid funding.

FISCAL IMPACT:    ☒ State                    ☐ County                    ☒ Local                    ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures	\$0	Transfer to School Construction Fund (Source Not Identified) - FY 2026 - \$30,000,000 FY 2027 - \$35,000,000  School Construction Fund - FY 2026 & FY 2027 - Indeterminable  DOE Personnel Costs - \$106K in FY25, \$109K in FY26, and \$113K in FY27		
Funding Source(s)	General Fund, Education Trust Fund, School Construction Fund			
Appropriations	\$0	\$0	Transfer to School Construction Fund (Source Not Identified) - FY 2026 - \$30,000,000 FY 2027 - \$35,000,000  School Construction Fund - Indeterminable (Continually Appropriated)	
Funding Source(s)	General Fund, Education Trust Fund, School Construction Fund			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ See Below
- Does this bill authorize new positions to implement this bill? ☒ No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Local Revenue	\$0	\$0	Indeterminable	
Local Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill establishes a new school building construction allocation program for district and charter public schools, along with a dedicated fund, to be administered by the Department of



Education, and makes changes to the existing school building aid program. Various components of this bill are discussed below:

School Construction Allocation Program and Fund

This bill creates an allocation program to which funds will be designated for public district and public charter schools, based on enrollments, to be used for certain purposes. This bill directs the state treasurer to transfer funds, as follows, to the School Construction Fund:

Year	Gross Annual Transfer*	Less: Department of Education Administration (3%)	Net Available to School Construction Fund	
			Annual	Cumulative
<b>FY 2026</b>	\$30,000,000	(\$900,000)	<b>\$29,100,000</b>	<b>\$29,100,000</b>
<b>FY 2027</b>	\$35,000,000	(\$1,050,000)	<b>\$33,950,000</b>	<b>\$63,050,000</b>
<b>FY 2028</b>	\$40,000,000	(\$1,200,000)	<b>\$38,800,000</b>	<b>\$101,850,000</b>
<b>FY 2029</b>	\$45,000,000	(\$1,350,000)	<b>\$43,650,000</b>	<b>\$145,500,000</b>
<b>FY 2030</b>	\$50,000,000	(\$1,500,000)	<b>\$48,500,000</b>	<b>\$194,000,000</b>
<b>FY 2031</b>	\$55,000,000	(\$1,650,000)	<b>\$53,350,000</b>	<b>\$247,350,000</b>
<b>FY 2032</b>	\$60,000,000	(\$1,800,000)	<b>\$58,200,000</b>	<b>\$305,550,000</b>
<b>FY 2033</b>	\$65,000,000	(\$1,950,000)	<b>\$63,050,000</b>	<b>\$368,600,000</b>
<b>FY 2034</b>	\$70,000,000	(\$2,100,000)	<b>\$67,900,000</b>	<b>\$436,500,000</b>
<b>FY 2035</b>	\$75,000,000	(\$2,250,000)	<b>\$72,750,000</b>	<b>\$509,250,000</b>
<b>FY 2036**</b>	\$80,000,000	(\$2,400,000)	<b>\$77,600,000</b>	<b>\$586,850,000</b>
*Source of funds for transfer is not identified in this bill (e.g., general fund, education trust fund, etc.)				
**Annual transfer amount in FY 2037 and beyond would be \$80,000,000				

This bill allocates the net available funds above, as well as any fund interest earned, annually to each school and chartered public school based on per pupil average daily membership in attendance (ADMA), as defined in the bill. Based on the 2022-2023 school year AMDA of 163,732, the initial \$29,100,000 transfer would be allocated as \$177.73 (rounded to \$178) per pupil. The Department of Education states the average number of pupils in a school district is approximately 800, operating on an average of three (3) schools. Therefore, the Department estimates this allocation program would be, in FY 2026, approximately \$142,184 per district (\$178 x 800 pupils) and \$47,395 per school (\$142,184 ÷ 3 schools). Assuming static ADMA, below is the estimated per pupil allocation amount in FY 2026 through FY 2036, as well as the cumulative total:

Year	Annual Net Available to School Construction Fund	Allocations <i>Based on ADMA of 163,732, and Average of 800 Pupils and Three (3) Schools Per District</i>			
		Annual Per Pupil	Annual Per District	Cumulative Per District	Cumulative Per School

FY 2026	\$29,100,000	\$178	\$142,184	\$142,184	\$47,395
FY 2027	\$33,950,000	\$207	\$165,881	\$308,064	\$102,688
FY 2028	\$38,800,000	\$237	\$189,578	\$497,642	\$165,881
FY 2029	\$43,650,000	\$267	\$213,275	\$710,918	\$236,973
FY 2030	\$48,500,000	\$296	\$236,973	\$947,890	\$315,963
FY 2031	\$53,350,000	\$326	\$260,670	\$1,208,560	\$402,853
FY 2032	\$58,200,000	\$355	\$284,367	\$1,492,927	\$497,642
FY 2033	\$63,050,000	\$385	\$308,064	\$1,800,992	\$600,331
FY 2034	\$67,900,000	\$415	\$331,762	\$2,132,754	\$710,918
FY 2035	\$72,750,000	\$444	\$355,459	\$2,488,212	\$829,404
FY 2036	\$77,600,000	\$474	\$379,156	\$2,867,369	\$955,790

To access funds, schools would apply to the Department of Education, pursuant to administrative rules yet to be established. It cannot be estimated how much may be requested and approved, nor in which each fiscal year(s).

#### School Building Aid Program

This bill, effective in FY 2026, modifies the existing school building aid program by amending the \$50,000,000 annual cap on expenditures, which currently applies to new projects, payments on previously approved projects (“tail payments”), and debt service payments on previously issued state bonds, to only apply to new projects. This bill further reduces the \$50,000,000 cap by \$5,000,000 in each fiscal year (FY 2027 assumed to be the first year), until it is eliminated entirely in FY 2036. Since this bill provides no funding for school building aid projects, and impact associated with these changes would be the result of a future appropriation, if any, in other legislation and/or the state operating budget.

#### Department of Education Administrative Costs

Under this bill, the Department would be allowed to retain up to 3% of the transfers to the School Construction Fund, to be used to administer the school construction allocation program, or to support the development, implementation, and maintenance of a facility condition assessment for public elementary and secondary schools (this facility condition assessment is already a statutory requirement of the Department). In FY 2026 alone, this administrative retention would be \$900,000, with an increase of \$150,000 per year until the maximum annual amount of \$2,400,000 is reached in FY 2036 (see table above). The Department states it would need one new administrator II position (labor grade 29) to help develop, implement, and administer the new program established by this bill. The Department estimates the total position cost to be \$106,000 in FY 2025, \$109,000 in FY 2026, and \$113,000 in FY 2027, based on a hire date of July 1, 2024. This bill provides no authorization for new personnel.

#### **AGENCIES CONTACTED:**

Department of Education