



White Pine County School District

Recommendations for Financing the
Costs of New Construction, Design,
Maintenance and Repair of School
Facilities
(NRS 393.097)

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Introduction

Pursuant to NRS 393.097, school districts whose population is less than 100,000 are required to submit to the Director of the Legislative Counsel Bureau each even numbered year written recommendations for financing the costs of new construction, design, maintenance and improvements of school facilities. For many rural areas, existing means of financing improvements are either already being utilized, are insufficient to meet demand and/or at maximum limits. These financial challenges that historically have been rooted in smaller rural mining communities are becoming more and more common. The Washoe County School District, for example, has joined the list of counties that have reached the \$3.64 property tax cap and have to seek special legislation for capital funds. Property taxes remain the primary source of revenue to secure bonds for school construction but the capacity to fund demand is diminishing. The average combined rate for Nevada counties in the early 1980's was \$1.94 per \$100. Based on information provided by the Nevada Department of Taxation, the average combined rate in FY2022 for all counties was \$3.1037¹.

County	FY2022-23 Average Co. Wide Tax Rate	FY2021-22 Average Co. Wide Tax Rate	% of Change 19-20 to 20-21
Carson City	3.5411	3.5429	-0.051%
Churchill	3.0693	3.0449	0.801%
Clark	3.2396	3.0161	7.410%
Douglas	3.1161	3.1192	-0.099%
Elko	3.0255	3.1117	-2.770%
Esmeralda	3.1191	3.0441	2.464%
Eureka	1.8786	1.8780	0.032%
Humboldt	2.5143	2.4762	1.539%
Lander	3.3596	3.3591	0.015%
Lincoln	3.0564	3.0653	-0.290%
Lyon	3.4362	3.4253	0.318%
Mineral	3.6600	3.6600	0.000%
Nye	3.4058	3.4460	-1.167%
Pershing	3.1386	3.1447	-0.194%
Storey	3.4607	3.4607	0.000%
Washoe	3.6472	3.5228	3.531%
White Pine	3.6591	3.6591	0.000%
Average	3.1736	3.1037	2.252%

The combined property tax rates for fifteen (15) of seventeen (17), or 88.24% of all counties, have combined rates that exceed \$3.00. Seven (7) counties have tax rates within 20 cents of the tax cap and two (2) of the seven are at the \$3.64 cap or over. As more and more counties creep toward and reach statutory tax limitations, finding

¹ <https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/Meetings/Certification%20of%20Ad%20Valorem%20Tax%20Rates%20-%20FY%202022-2023%20REDBOOK%20-%20REVISED%206-23-22.pdf>

alternative means to finance capital improvements and school construction are vital and ultimately inevitable. Even if voters overwhelmingly agree that a school should be replaced, those school districts in counties whose combined rates are close to, or at the maximum limit, would not be able to issue bonds to construct new schools regardless of the apparent need or voter approval.

In White Pine County, facilities that were built in the early 1900's are still in existence and are currently used for education. Approximately 50% of the student population is housed in facilities that were originally constructed over a century ago. The original facility currently known as David E. Norman Elementary, White Pine's largest elementary school, was constructed in 1909. The historic White Pine Middle School, formerly White Pine High School, was originally constructed in 1913. These schools are among the oldest active schools, if not the oldest, in the state of Nevada. The care and maintenance required to keep these facilities suitable for education exceeds the demand required for newer schools. This creates an operating drain on the district's budget that takes funding away from the classroom, students and teachers.

In addition to operating budget concerns, there have been significant improvements with respect to building codes involving fire protection, public safety, public health and educational standards that have evolved to better serve the public interest and improve quality. These 100+ year old facilities simply do not have many of these upgrades because the school district cannot financially afford the improvements. Basic items such as employee parking lots and air conditioning systems may not have been considered for school construction at the beginning of the 20th century. Yet here we are in the 21st century still equipped with the same antiquated facilities students used 100 years ago with no financial ability to replace them. Three of seven schools have inadequate parking and student loading zones and four of the seven schools have no, or inadequate, air conditioning systems. Also, there is greater use of special techniques and materials to help school buildings withstand natural disasters that can not be implemented because funding is simply inadequate.

According to data obtained from the Nevada Public Agency Insurance Pool, there are approximately 140 school campuses and 49 operational sites throughout rural Nevada. These locations contain approximately 1,000 separate buildings that range in age from 4 to 129 years of age. More than 1/3 of the facilities are over 30 years of age and represent approximately 1/2 of the estimated value. Fifteen percent (15%) are over 50 and 1% are over 100 years. When each district was asked to rate their facilities as good, fair or poor; half of the facilities were rated as fair or poor. This would not pose a problem if school districts could afford to replace or renovate these facilities. A growing number of school districts simply do not have the financial means to adequately address their school improvement and construction needs. In some instances, given the current legislative restrictions and local tax base, some school districts will never be able to build or replace a school regardless of the condition of the facility(ies) or voter preference.

Construction demand from deferred maintenance, improvements, replacement or new construction, combined with a diminishing ability for schools to secure bonds makes the

need for a legislative change, or assistance, imminent. In order to achieve equity among school facilities, Nevada must become involved in school construction and explore alternative methods to finance school construction. It is the White Pine County School District's intent to ask the Nevada Legislature to authorize an appropriation to the Fund to Assist Schools with Capital Improvements sufficient to construct a new school facility in White Pine County to replace two schools that are over 110 years old.

Uniform System of Schools

The State of Nevada has a constitutional obligation to provide a "uniform system of schools" however for some reason this concept has not applied to the physical schools. Although public education is the State's responsibility, school construction has remained a local obligation for some reason. Because each school districts local wealth varies significantly, this local obligation concept has caused wide variations with respect to the affordability, quality and ability to construct and improve schools. Wealthier, diverse and growing economies simply have better school facilities than smaller, stagnant or depressed economies. Poor, local economies have a distinct disadvantage when it comes to building and adequately maintaining their facilities. Because the quality, condition and features of a school directly impact student performance, those students in the less affluent communities have a distinct disadvantage. One could argue that this creates inequity and may violate the Nevada constitution. Clear and convincing evidence to support a general lack of uniformity and quality can be easily obtained by visiting school districts in poor, economically disadvantaged communities.

In addition to a general inability to construct new (or replace) schools, many school districts struggle to meet basic facility needs. The result is a significant backlog of deferred construction, improvements and maintenance that will continue to increase until funding is sufficient to meet demand. A change in funding can only be accomplished through legislative action in the form of a direct appropriation or change in tax structure. Until that happens, student learning environments will continue to erode, projects will be deferred and operating inefficiencies will continue to drain money from the classroom and impair Nevada's ability to offer equitable facilities and services.

Unequal School Facilities and Court Cases

According to a background paper prepared for the Nevada Legislature by the Legislative Counsel Bureau (LCB) in 1997, there have been a number of lawsuits focused on inequity with respect to school construction. Arizona became the first state whose school funding system was declared unconstitutional based on the condition of school facilities. The state concluded that low wealth and property poor school districts did not have sufficient funds for school facilities which violated Arizona's constitutional provision to provide a "general and uniform" education. In Ohio, a lower court overturned the state's funding system and sited disparities in school facilities as a cause of inequity. The court found that taxpayers in property poor areas had to tax themselves at a greater rate compared with areas that have a higher level of assessed valuation per pupil. In 1987, the state of Texas had a series of court cases referred to as Edgewood I through Edgewood V

where the courts declared inequity in school facilities and concluded that these inequities were as unacceptable as inequities in operations.

According to the Education Law Center, in 1998 the New Jersey Supreme Court ordered the state to invest in its poorest urban districts to make school facilities safe, healthy and educationally adequate (<https://edlawcenter.org/issues/school-facilities-program/>). This was the first time that the State was required to assume responsibility for the condition of school facilities. Four years later the Schools Development Authority (SDA) was established and started funding school construction.

In the December 29, 2021 edition of online version of The Seattle Times, small Washington school districts are suing the state for relying on local property taxes for school construction. The lawsuit contends that the State's failure to sufficiently fund capital needs perpetuates class inequality. In the example provided, one of the poorer school district's property tax rate would have to be \$4 per \$1,000 of assessed value while one of the wealthier school district's rate would be \$0.12 in order to raise \$30 million. The rate of \$4 is approximately 33 times the rate of the wealthier school district.

It seems clear that Nevada's reliance on local governments to meet school construction needs has been deemed unconstitutional, inequitable and oppressive in a number of jurisdictions. Because of this precedent, it seems inevitable that Nevada will become involved in school construction at some point either voluntarily or through litigation.

State Involvement

According to the United States General Accounting Office, approximately 70% of state governments in the U.S. participate in school construction. Only 15 states provide little or no funding². The majority of state governments in the United States acknowledge their role in school construction including Nevada through commissioned studies. Nevada is **required** to provide a uniform system of schools³, ensure a reasonably equal educational opportunity⁴, and supplement local financial ability to whatever extent necessary to meet the **State's** guarantee to support Nevada's public schools⁵. There is no clarification, separation, or defining statutes that differentiate a uniform system schools from the physical school facility. Despite an apparent legal and constitutional obligation, Nevada remains one of only 15 states that provide little or no funding for school construction.

In Nevada, school construction has been an issue and topic for legislative debate since the 1950's. Over the decades Nevada has commissioned the following studies:

²School Facilities: Construction Expenditures Have Grown Significantly in Recent Years (General Accounting Office/HEHS-00-41)

³ State of Nevada Constitution: Article 11; section 2

⁴ Nevada Revised Statutes 387.121

⁵ Nevada Revised Statutes 387.121

- 1954 – Governor’s School Survey Committee Report: “Public Education in Nevada” (a.k.a. the Peabody Report. Governor Charles H. Russell
 - “...the State should...be sure that the new school district can finance the costs of construction...” (Dean, 1954)
- 1971 – Governor O’Callaghan Study
 - “A rational facility need formula should be devised...This kind of aid to education could provide a greater equality of education for young people across the state.”
(<https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP97-04.pdf>)
- 1994 – Legislative Commission’s Subcommittee to Study Public Elementary and Secondary Education (S.C.R. 52 Committee)
 - “...the members acknowledged the possible need for additional sources of funding for capital construction.” (<https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP97-04.pdf>)
- 1996 – Legislative Commission’s Subcommittee to Study the Realignment of School Districts (S.C.R. 30 Committee)
 - “Specific recommendations from the subcommittee work session included: Full State Assumption..., State-Local Partnership...”
(<https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP97-04.pdf>)
- 1998 - Nevada School Needs Assessment (ISES Corporation Study)

These studies confirmed the need and requirement for state financial assistance; however, none of the studies provided long-term results or perpetual funding sources.

The following outcomes are the result of the studies listed above:

- ❖ State School Construction Relief Fund (1955-1979)
 - No continual funding source was established and the fund was eliminated.
- ❖ Account for State Assistance for School Construction (1979-1983)
 - No continual funding source was established and the fund was eliminated.
- ❖ Fund to Assist Schools With Capital Improvements (1999 – Present)
 - No continual funding source established

All of the programs contained specific criteria to qualify for funding and limit state liability. Other legislation has been confined to specific appropriations. The study consultant, Management Analysis and Planning Associates, hired pursuant to Senate Concurrent Resolution number 30 in 1995 provided funding alternatives that included full state assumption or state-local partnership. Under the full state assumption scenario, the State of Nevada would assume all costs for construction and maintenance of school facilities under a specified funding arrangement. Under the state-local partnership, the state would provide a portion of the funds needed for construction based on a wealth adjusted formula.

Although these initiatives have confirmed the state should be involved and has provided limited financial support, the assistance has been very superficial. None of the actions provided a permanent solution.

According to the Campaign for Fiscal Equity, a nonprofit corporation founded in New York in 1993, Nevada is one of only five states that have not had litigation challenging the constitutionality of K-12 school funding. Also, plaintiffs have been successful in 23

of 27 public school funding challenges since 1989⁶. Nevada appears to be destined to join the list of public funding challenges if circumstances remain unchanged. The perspectives that school facilities do not influence the quality of education; that it is acceptable for school buildings to vary in configuration and quality across school districts; and that the local communities should pay for school construction is inconsistent with the Nevada Constitution and successful legal challenges.

Given the increased demand for improved education and greater levels of accountability, it appears to be in each state's best interest to take an active role in improving education to "whatever extent necessary" to improve student performance. Improving education should also include the school facility because it has been proven that the physical environment influences the education of students.

School Construction Criteria

The condition, age of a school facility, useful life and the *need* for replacement should be the determining factors of whether a school is replaced or remains in service. School facilities are different than traditional governmental facilities because they work with the most precious resource known to man, our children. Within our educational system our traditions, values, culture and future are cast. Our children deserve to have the best education and best facilities we can provide. The *need* for school improvement or replacement should be the basis for school construction instead of less objective criteria such as voter approval. Voter approval is often based on a community's willingness to increase taxes instead of an objective assessment of the condition of a facility.

Because the tremendous growth in Nevada has been predicated, at least in part, on a lower tax burden it seems somewhat intuitive that voters would be less inclined to approve initiatives such as school construction bonds if lower taxes was one of their reasons for moving to Nevada. Successful school bond initiatives are critical for school districts to continue to improve aging, outdated and/or growing demand. According to a study from Hanover Research, Strategies to Increase Public Support for Bond Measures (May 2012), the percentage of passing bond measures in the United States declined from 75% in 1960 to 35% in 1989⁷, and that districts continue to struggle to "win" support for their bond issues. The key findings provide insight to garner public support for bond elections. These include:

- Needs Assessment
- Costs/Resource Assessment
- District Demographics
- Types of Projects (i.e. school, gymnasium, energy retrofit, etc.)

⁶ Equity and Adequacy (American School and University, May 2005)

⁷ 1 Theobald, N. and Meier, K. 2002. "The Politics of School Finance: Passing School Bonds." Paper presented at the annual National Meeting of the Midwest Political Science Association. April 25-28, 2002. P. 2. <http://teep.tamu.edu/pubs/bonds.pdf>

Each of these factors is important but despite an objective need to replace or build a school facility, the decision ultimately rests in the hands of voters. In at least three Nevada counties, bonds are not an option even if voters overwhelmingly support a bond initiative. In these instances, what do communities do when they have identified construction needs but are unable to issue bonds. Despite the apparent *need* and desire to improve schools, districts cannot make the necessary improvements that would be in the best interests of their community and students. The old, outdated facilities remain in service, unchanged with the same physical barriers that diminish the quality of education, burden operating budgets and increase the risk to public health and safety. In White Pine County, for example, two schools have already served the communities for more than 110 years (built in 1909 & 1913). Think of the advancements of transportation, technology, ergonomics, energy efficiency, air quality, building codes, public safety, ADA, educational standards, etc. that have evolved over the years. Without the ability to adapt to these changes, the physical limitations of facilities become obstacles or barriers that suppress quality, innovation and efficiency. Many of these barriers involve the following:

- Integration of technology that would improve instruction and allow educational resources beyond the physical limitations of the classroom
- Natural lighting and ergonomics that complement the learning environment
- Life, health, safety, and energy efficiency improvements that have evolved over the years and create operational efficiency and save money
- Surveillance/security and communication systems
- Prevention or mitigation of natural disasters
- Americans with Disabilities Act (1990)

An inability to replace or improve schools can only have an adverse effect on students, communities and the quality of education.

School Conditions and Student Achievement

According to a report commissioned by the American Civil Liberties Union Foundation of Maryland, Buildings for Academic Excellence (June 2010), there has been considerable research over the past three decades that has demonstrated a direct link between student achievement and the condition of school facilities. The condition, design and maintenance of schools affect student performance and teacher workplace satisfaction. In addition to the AFLU report, there is sufficient research to state “without equivocation” that the condition of a school facility does in fact influence learning. For example:

- ✓ The cognitive requirements for learning and teaching are affected by the physical surroundings where they take place (Schneider, 2002)
- ✓ The research linking acoustics to learning is consistent and convincing (Schneider 2002)
- ✓ The amount of natural light, the indoor air quality and temperature impact student learning (Earthman, 2004)

- ✓ Students in non-modernized buildings scored lower in basic skills assessments than students in modernized or new buildings (AFLU, 2010)
- ✓ Poor building conditions greatly increase employee absenteeism and turnover that directly affect the quality of education (AFLU, 2010)
- ✓ Students in poor buildings perform less well than students in more functional buildings (AFLU, 2010)
- ✓ Researchers found that students in poor buildings scored between 5 to 10 percentile rank points lower than students in functional buildings, after controlling for socioeconomic status (AFLU, 2010)
- ✓ There is a consensus in the research that newer and better school buildings contribute to higher student scores on standardized tests.”⁸

A joint published report called 2021 State of our Schools states: “The quality of our educational facilities impacts the quality of American education. Studies show that the physical environment in which kids learn affects everything from student behavior and truancy rates to memory and academic achievement... The evidence is clear. No matter how good the curriculum, the teachers or administrators, we can’t achieve world-class education with crumbling school facilities” (<https://education.wellcertified.com/hubfs/IWBI%20-%20State%20of%20Our%20Schools%202021.pdf>). 2021 State of Our Schools: America’s PK–12 Public School Facilities is a joint publication of the 21st Century School Fund, Inc., the International WELL Building Institute pbc, and the National Council on School Facilities.

As we emerge from the COVID-19 pandemic and look back at the dynamic changes required of instruction and our reaction to inadequate and inflexible facilities including technology, we can take some comfort in our collective efforts to patch together a distance delivery system of education that was functional although not ideal. On the flipside, the pandemic put into sharp focus the following flaws:

- public school facilities were built to address education needs of our history, not our future
- public school facilities have physical barriers that threaten our ability to adapt to emerging demand
- school facilities have limited ability to provide or expand technology, and
- school facilities have inadequate lighting, heating, cooling and air circulation that threaten the health and well-being of students, staff and families

Education is a social enterprise that is dependent upon the quality of the school buildings and grounds to keep students, staff and the community safe, healthy and productive. These deficiencies combined with those identified by numerous campus threats from a school safety perspective involving violence, shooting and intruders should make improving school facilities a universal and primary concern.

⁸ Schnieder, 2002, p. 8.

In Nevada, school construction has historically been left to local communities. Basically school districts that can afford to improve and construct schools have and others have not. Because facilities affect learning, students in more affluent communities have a distinct advantage. When low-income students attend schools that need improvement, they are even further disadvantaged. In addition, failure to improve an old or failing facility may convey a message to students that the system values them less. When a school district does not have the means to improve its facilities or meet construction, then what?

School Facilities and Economic Development

Research confirms that school facilities not only affect student performance, but they also influence economic development. Education is a key component with respect to economic development and is a critical component of a community's appeal. In smaller rural areas, school facilities are the icons of their communities. Schools influence the reputation of the community, quality of life, vitality of neighborhoods, and are first impressions for tourists, visitors and businesses. The appearance and condition of a school facility can speak volumes about a community's investment in education. Poor conditions and old schools translate into lost economic opportunities.

Based on economic research, the following positive impacts can be realized from quality schools⁹:

- ✓ School quality has a direct and positive impact on property values or tax base (Kane et al. 2003);
- ✓ School quality affects the quality of life and ability to attract businesses and workers (Salveson and Renski 2002);
- ✓ Investments in the construction and maintenance of school facilities bring money into local economies through job creation and supply purchases (Economics Center for Education Research 2003);
- ✓ Investments in a community have a multiplier affect that indirectly affects local merchants, local tax revenue, and the labor force.
- ✓ New or well-maintained school facilities can help revitalize distressed neighborhoods (Local Government Commission 2002)
- ✓ Environments that are in a well ordered condition may stop vandalism as well as crime (http://www.manhattan-institute.org/pdf/_atlantic_monthly-broken_windows.pdf).

In addition to these qualitative factors, school construction creates JOBS. After suffering through the Great Recession followed by the COVID-19 pandemic recession, government officials have been pressured to stimulate their economies. On January 27, 2020 Governor Sisolak requested a list of capital projects from local officials with the intention of accelerating the projects in order to get Nevadan's back to work. In this letter the Governor said that he spoke about the need for the State to collaborate with local partners to find ways to create good paying jobs and economic opportunity for our

⁹ Growth and Disparity: A Decade of U.S. Public School Construction, October 2006

residents to reenergize our State's economy. What better way to reenergize our economy by building better school facilities that will not only help develop and grow our economy but will help develop and grow our future leaders.

The federal government has also recognized the need for school construction and made attempts to provide assistance. The Education Infrastructure Act of 1994 was enacted to provide federal assistance to address school infrastructure issues but the program was not funded. Proposals have also been submitted to Congress over the years that, if enacted, would have provided new federal financing for school construction. One proposal allowed the Federal Home Loan Bank to guarantee \$500 million annually in public bonds for school construction but the proposal was not passed¹⁰. One effort that was successful was included in The Tax Payer Relief Act of 1997. This act authorized Qualified Zone Academy Bonds (QZAB's). QZABs allow certain qualified schools to borrow money at extremely attractive terms. The purchaser of the QZAB is entitled to a Federal Tax Credit that subsidizes much, if not all, of the school districts interest cost. The proceeds from the sale of the issue can only go towards qualified projects in connection with the establishment of a partnership with the private sector. All fifty states and U.S. possessions have individual allocations of QZABs based on poverty levels.

There are so many benefits to students and communities for quality school facilities it is difficult to understand why Nevada has not taken an active role to develop equitable facilities in areas that cannot afford them. Nevada's own research has concluded State involvement is necessary in addition to its existing constitutional and legal obligations. The positive impacts school facilities would perpetuate economic growth and vitality that would broaden a communities tax base and provide a return on investment for Nevada. There seems to be a clear and convincing case for Nevada to become involved in school construction at least for those communities that have no other option.

Student Safety & Security

Acts of terror on campuses have heightened the discussion and need for security, surveillance and other measures to help reduce the risks associated with acts of terror on K-12 campuses. In recent years, school shootings have happened with alarming frequency. Various sources indicate there have been approximately 83 school shootings worldwide since 1996. Sixty-four (64) of these shootings have happened in the United States. In response to this looming threat and improve public safety, school districts have reassessed their facilities and abilities to prevent and reduce the risk of harm. With respect to facilities, improvements range from relatively low cost items such as window blinds to more costly improvements such as physical barriers, electronic surveillance and early detection systems.

A school district's inability to mitigate these exposures will not only increase the potential liability of the school district, it will also increase the exposure and potential

¹⁰School Facilities: Construction Expenditures Have Grown Significantly in Recent Years (General Accounting Office/HEHS-00-41)

liability of the State. In addition to physical campus threats, there are increasing occurrences of cyber threats that were not considered as part of the school technology infrastructure just a few years ago.

Security integration to reduce the risk of physical and cyber terrorism will become an integral part of school construction from now on. For school districts that have funding available to improve and construct schools, they will be able to address these and other emerging threats. School districts without the financial ability to mitigate these threats will continue to expose their students, staff and public to these risks. Because schools and education are ultimately the State's responsibility, losses would almost certainly affect the State in addition to the school district. Students within schools that cannot adapt to these changing threats and changes in technology are exposed to risks as well as being subject to academic disadvantages.

Recommendations – State Involvement

Legal and constitutional obligations aside, the overwhelming need and positive impacts that would be gained from improved school facilities should be sufficient cause for state involvement. Also, because the educational system is a derivative of the State and it is Nevada's responsibility to provide a uniform system of schools, the solution to providing reasonably equitable facilities *requires* state involvement to some degree. Questions such as: What components and physical make-up should every school in Nevada have? What are the dimensions for classrooms? How should schools be designed to maximize student and public safety? What amenities should be available to students and staff? In other words, what physical qualities should Nevada require of every school built in Nevada that defines and truly constitutes a uniform system of schools.

If Nevada were to become involved in school construction, the following steps would provide a framework to develop a uniform system of schools:

- ✓ Define the State's role in school construction
- ✓ Establish a board or department responsible for school construction to establish a uniform system of schools
- ✓ Establish criteria for replacement or other construction needs
- ✓ Provide state assistance to identify construction needs and develop long-term plans
- ✓ Identify and certify school construction needs for each District
- ✓ Quantify/estimate cost of school construction needs for each District
- ✓ Establish a fund for school construction
- ✓ Identify a perpetual funding source
- ✓ Determine level of financial support or a school District's ability to afford
- ✓ Establish guidelines to request and receive financial assistance
- ✓ Develop a method of administering the program

Keep in mind that the State can limit its financial liability, as it has done in the past, by adopting legislation that provides funding under extreme situations. Funding can be broadened or constricted as State resources permit.

✓ **Define the State's Role**

Despite various studies and case law that identify school construction as a state issue, school facilities in Nevada are still largely unrecognized as a component of education quality, equity, or student achievement.

As a direct result of prior legislative and executive branch studies, school construction funds have been created but were not sustained. Nevada has commissioned five studies and established three funds for school construction but has never identified a sustainable program. Recent attempts to replenish the Fund to Assist Schools with Capital Improvements (NRS 387.333) in a prior legislative session failed. This fund is realizing the same fate as its predecessors.

Although previous studies and initiatives have concluded the State should be involved in school construction, the role has never been specifically identified through statute. Whether the role is to simply identify criteria in which schools are to be replaced, certify the need for school construction and/or financial involvement, the role needs to be clarified and defined.

In response to an Arizona Supreme Court decision in the case of *Roosevelt v Bishop*, the court forced the legislature to equalize capital costs as it had equalized operating funds. This resulted in the Students FIRST (Fair and Immediate Resources for Students Today) legislation signed into law in July 1998. The Arizona legislature established the Arizona School Facilities Board and assigned it with the task of creating school construction standards and administering appropriations. Whether Nevada establishes a similar board or uses existing departments to deal with school construction, a similar method would be helpful in many ways such as identifying need, criteria, funding, etc. Consideration should be given to the following:

- Broaden the definition of a “uniform system of schools” to include school facilities
- Designate state boards and/or officials to administer and establish criteria for a uniform system of schools as it applies to school construction
- Define the basis upon which uniformity will be measured
- Provide administrative support for local governments to determine long-term school construction and infrastructure demands
- Define the basic components of school facilities

This level of involvement would be somewhat superficial but would set forth the basic framework within which the rest of the process would function and could be implemented with nominal impact to the State's budget. In fact, it is possible to

implement the steps above through existing administration. These few steps could also assist local school districts pass local bond initiatives.

✓ Nevada School Facilities Board

An independent state board designed with the specific charter to review and assess school facilities and construction would be beneficial in many ways. Just an independent validation based on objective criteria establishing a need for construction may be enough for local governments to gain voter approval. Special legislation may be required to create such a board or this function could be performed through the Nevada Public Works Division. In the event a catchy acronym would be helpful, the legislation could be called Ensuring Quality and Uniform Institutions for Today's Youth (EQUITY). A sample of the formulation and steps for such a board could be as follows:

- ❖ Formulate State Board or Department
 - Appoint and Organize
 - Research existing models and identify framework
 - Define nature and extent of state involvement
 - ◆ Define standard to measure uniformity
 - Assess construction demand and local government ability to finance
 - Identify potential funding sources
 - Determine formula or method of state funding
 - ◆ Craft new legislation or voter authorization
 - ◆ Prioritize construction
 - ◆ Implement program

This process should create uniformity and equity with respect to school facilities, assist with local initiatives, and provide financial support when appropriate or necessary.

✓ Establish Criteria for School Construction Needs

It can be difficult for a local government to convince its voters to approve bonds for school construction. There are many factors that influence voting that have nothing to do with an objective assessment of whether a school facility should be replaced. Local governments must break barriers involving indifference, cultural values, socioeconomic, level of education, family values and anti-government sentiment.

Simply establishing criteria upon which the need for replacement is based would validate local school board decisions and lend credibility to school construction issues.

Renovation, replacement or construction should be based on objective criteria and could include the following:

- Age of the facility

- Compliance, or noncompliance, with current building codes
 - Health, fire, safety
- Cost to renovate vs new construction
- Energy efficiency
- Physical or geographical barriers (e.g. parking, handicap access, athletic fields, etc.)
- Technology
- Configuration/Security
- Components
- Natural lighting

Establishing criteria would create consistency with respect to the types of facilities that are replaced (or improved) and identify common, acceptable parameters that will determine school construction needs and provide equity among school facilities if applied over time.

There is already a designation for “schools in need of improvement” for curriculum. The same concept could apply to the physical school facility.

✓ **Identify construction needs and develop long-term plans**

The demographics in each of Nevada's 17 school districts varies greatly. Some districts have individual positions that support many functions within the District while other districts have the ability to hire staff that can specialize in certain areas. In small school districts, it is not uncommon for the superintendent to assume the duties of the chief financial officer, facilities manager, human resources officer, and other duties. Many Districts lack the financial and human resources to devote to construction management. If the State were to provide staff and resources to assist with the assessment and development of mid and long-term construction needs and develop uniform means of determining school construction, districts would be more proactive and better equipped to deal with facilities management. The construction demand would need to be based on generally accepted architectural standards, engineering and education space specifications and other standards for school facilities. This measure may help validate local school board construction initiatives and assist local voter approval without requiring additional state involvement.

✓ **Certify School Construction Needs**

Credibility is always an issue when it comes to persuading the public to expend funds. If an assessment tool were implemented that was based on generally accepted construction standards, an objective assessment of construction could be obtained. This assessment would provide credibility to a local government and validate their efforts to renovate or replace school facilities. Certification can come from the Nevada Department of Public Works, Department of Education, or contract architectural/engineering firm. Local

construction initiatives that are consistent with certified construction needs may also be beneficial in obtaining local voter approval without requiring state financial assistance.

✓ **Quantify and estimate construction costs**

In addition to identifying the need for school construction, there must be a means of quantifying the demand or cost. Other states have determined formulas. For example, the dollar amount provided for a school construction project in Delaware is determined by the square footage allocated by a school construction formula times a cost per square foot. According to a representative from the Delaware Department of Education, this formula stratifies the cost per square foot by level of instruction as follows:

- Elementary Schools = \$230 per square foot
- Middle Schools = \$250 per square foot
- High Schools = \$290 per square foot

Whether this or a similar method is considered, it would be important to consider local characteristics that may cause construction costs to escalate relative to other areas. Having a standard to measure or gauge the construction costs may also eliminate controversy with respect to project costs and assist with local bond initiatives.

✓ **Establish a School Construction Fund**

In order to fund construction and school improvements, funds must exist and be available outside of the local revenue. There is clear research that indicates school facilities (schools) are a key component of the educational process and play an important role in student development. Some school districts have sufficient local wealth to raise funds for school construction. Unfortunately, as has been the case in Clark County, voters do not always approve the initiatives. For smaller counties, it is simply not possible for a number of school districts to build, replace, or significantly improve school facilities without financial assistance. Currently, (15) of seventeen (17) counties, or 88.24% of all counties, have combined property tax rates that exceed \$3.00. Seven (7) counties have tax rates within 20 cents of the tax cap and three (3) of the seven are at the \$3.64 cap or over. There are taxes other than property taxes that are available for capital improvements; however, per capita taxes simply do not raise sufficient funds to pay for school construction in smaller counties. As more and more counties exhaust their primary source of funding for school construction (property taxes), the larger the problem will become and more difficult to solve. The State needs to move with a sense of urgency to find a solution for school construction to avoid a crisis.

NRS 387.333 established the Fund to Assist Schools with Capital Improvements and NRS 387.3335 has identified application procedures and guidelines. These laws limit the State's financial liability and provide a basic framework that could be modified to fulfill a broader scope and purpose. This law essentially would provide funding for school districts that do not have the ability to adequately fund school improvements or

construction without obligating the State to become involved in school construction in counties that can afford it.

✓ **Determine a Perpetual Funding Source**

In prior years, studies have concluded that State assistance is necessary, however, the extent of involvement is debatable. State funds have been appropriated and accounts established but a permanent solution has yet to be developed. Nevada has been unwilling or unable to establish a school construction fund with a perpetual funding mechanism. Funding sources that have been proposed or implemented in other states, and Nevada in the past, consisted of one or more of the following:

- State bond issue (voter approval required)
 - Nevada has issued bonds in the past for statewide initiatives for cultural affairs and parks and recreation (e.g. Question 1 Bonds). Why not education?
- Incorporate school construction with the State's capital projects and provide a local funding formula to assist with construction
- State appropriations (this measure has provided intermittent and short-term support)
- Interest earnings from idle funds earmarked for construction
- Proceeds from state and federal land sales and other state products (e.g. something similar to the Southern Nevada Public Land Management Act proceeds)
- Implement a lottery. Proceeds from the lottery can fund school construction.
- Property and other tax assessments contributed to a school construction fund
 - Example: 0.1% of taxable sales = \$33,417,117 based on FY2009 activity. This could be implemented for a few years and then sunset. An accumulation of this tax for 5 years would be in excess of \$189,000,000 including interest.
- Federal initiatives
 - School construction and modernization tax incentives to provide interest-subsidized bonds
 - Allow the Federal Home Loan Bank to guarantee public bonds for school construction
 - Appropriate funds to United States Department of Agriculture Rural Development to allow grants up to 100% of planning and construction costs

Based on employment data provided by the United States Department of Labor Bureau of Labor Statistics, there are approximately 1,266,700 people employed in Nevada for the month of June 2014. A \$5 contribution per month for each employee would generate approximately \$76,002,000 per year. If this were accumulated over 10 years, the State could amass a fund of approximately \$760,000,000 excluding interest. If you apply 3% interested compounded monthly, the fund would in excess of \$10 billion. This statistic is not provided to support a personal income tax, or payroll tax. It is simply provided to

demonstrate that the level of effort, or per capita tax, for this type of solution would not be burdensome to any individual or family.

✓ **Determine level of State involvement**

Other states that participate in school construction have some sort of index or criteria that determines the level of support based on the districts ability to fund construction.

Assembly Bill 597, passed during the 1999 legislative session, authorized the State to offer direct assistance to school districts through an application process. A school district may apply to the director of the department of administration for a grant of money from the fund created pursuant to [NRS 387.333](#). In order to qualify for assistance, districts must meet the following conditions identified in NRS 387.3335:

- (a) The combined ad valorem tax rate of the county is at the limit imposed by [NRS 361.453](#); and
- (b) At least:
 - (1) One building that is located on the grounds of a school within the school district has been condemned;
 - (2) One of the facilities that is located on the grounds of a school within the school district is unsuitable for use as a result of:
 - (I) Structural defects;
 - (II) Barriers to accessibility; or
 - (III) Hazards to life, health or safety, including, without limitation, environmental hazards and the operation of the facility in an unsafe manner; or
 - (3) One of the facilities that is located on the grounds of a school within the school district is in such a condition that the cost of renovating the facility would exceed 40 percent of the cost of constructing a new facility.

This criterion significantly limits the State's liability and offers school districts that have severe financial conditions an opportunity to obtain assistance. The language is so restrictive; however, it is unlikely that more than one or two districts *will* qualify for assistance. Only two school districts, White Pine and Lincoln County, have benefited from this process in the past. The fund has essentially become dormant. If this statute were less restrictive and allowed participation on a broader basis to help support construction based on a district's ability to fund its capital demand, this could allow more districts an opportunity to receive full, or partial, funding. If this remained a grant program the "State" funds could also be used as a source of matching funds for federal programs.

Funding a "construction fund" is the critical component. Existing revenue for school operations must not be sacrificed or impaired to create this fund.

Funding Options

Based on historic studies, it appears that the existing taxes and revenue authorized by statutes are not sufficient to adequately fund school construction on a local or state-wide basis. The current economic crisis has prompted another look at how Nevada funds public services. School construction needs to be part of this discussion. Some counties have the ability to issue bonds sufficient to meet demand; however, many counties can

not. For those counties that have had the development and growth that have generated the tax base to support growth, the existing method to secure bonds with property taxes seems to be sufficient for now providing they can gain voter approval. However, we know that as time progresses more and more counties will reach the tax cap and will eventually be unable to secure bonds sufficient to meet demand. A plan needs to exist before it reaches this critical point. Existing revenue and tax structures must be analyzed in addition to alternative methods that currently are not part of the equation.

Other Funding Sources:

1. Eliminate combined rate tax
2. Exempt the school district debt rate from the combined rate
3. State Bond Issue
4. Personal Income
5. Corporate Income
6. Lottery
7. Public Land Sales
8. Distributive School Account Reversion
9. State appropriations

1. Eliminate or extend the combined property tax cap (i.e. \$3.64): As mentioned earlier, the average combined ad valorem (or property tax) rate in the 1980's was \$1.94 and now (30 years later) the average is \$3.12. It seems based on this simple analysis that there is a natural progression of all counties to eventually reach the tax cap and essentially eliminate or restrict their primary means of funding school construction. Also keep in mind all local governments within a county compete for a portion(s) of the \$3.64 cap. When one entity is capped, ALL entities are capped. Not only will school districts not be able to build schools, but counties will not be able to issue bonds to build county facilities (e.g. parks, roads, juvenile detention facilities, courthouses, etc.). Because it is the State's responsibility to provide a uniform system of schools, local government functions should not be squeezed by a State obligation. For example, the operating and debt rates for education should not compete against local programs and services. Given the current structure, local governments and the citizens could determine how much of a tax burden they were willing to assume to pay for services they collectively desire if the cap were eliminated. If the voters want to spend more than \$3.64, why should they be limited by an arbitrary tax cap? Even the Constitutional cap of \$5.00 is arbitrary; however, a cap of \$5.00 would provide sufficient room for county entities (including school districts) to meet demand providing voters agree. Simply removing the cap may not be sufficient, however, because each local government entity has "allowable" rates. Removing the cap could simply authorize local governments to move their rates to their maximum levels without voter approval. If the cap were removed, perhaps voter approval should be required for incremental increases in excess of \$3.64 to maintain local control and voter authority.

2. Exempt the school debt rate from the combined rate: It is clear that education is the State's responsibility and as mentioned in the prior section, State

functions should not compete against local functions. If debt related to school construction were exempt from (or outside) the combined rate, communities would not have to choose between school buildings OR other local government facilities. Instead, voters may be able to choose to build schools AND other local government facilities. School construction would be limited by debt limits with NRS and the constitutional limit of \$5.00.

3. State General Obligation Bonds: In 2002, voters approved a conservation and resource protection program known as the “Question 1 Program”. When voters passed Question 1, they authorized the State of Nevada to issue general obligation bonds in an amount not to exceed \$200 million

“...to preserve water quality; protect open space, lakes, rivers, wetlands, and wildlife habitat; and restore and improve parks, recreational areas, and historic and cultural resources.”

Of the total bond issue, funding allocations were made as follows:

1. \$27 million to the Nevada Division of State Parks for property acquisition or capital improvements and renovations;
2. \$27.5 million to the Nevada Department of Wildlife for property acquisition, facility development and renovation, or wildlife habitat improvements;
3. \$25 million to the Las Vegas Springs Preserve in Clark County for planning and developing the preserve, providing wildlife habitat, and constructing support facilities;
4. \$10 million to Clark County for development of a regional wetlands park at the Las Vegas Wash;
5. \$35 million to Nevada’s Department of Cultural Affairs to establish a museum at the Las Vegas Springs Preserve;
6. \$10 million to Washoe County for enhancement and restoration of the Truckee River corridor; and
7. \$65.5 million to the Nevada Division of State Lands to provide grants for state agencies, local governments, or qualifying private nonprofit organizations for various programs including recreational trails, urban parks, habitat conservation, open spaces, and general natural resource protection projects.

\$97.5 million went directly to Clark County, \$10 million went to Washoe, and the remainder went to State agencies. This was all secured and funded through a \$0.17 state-wide ad valorem tax that was outside the \$3.64 tax cap. One could argue that several of the items mentioned and funded through this initiative are more of a local issue than education. Nonetheless, \$200 million was raised for a state-wide initiative and only cost seventeen cents per \$100 of assessed valuation. For a home with a market value of \$250,000, this initiative would cost the owner \$148.75 per year (excluding depreciation) or about \$12.40 per month. Also, most of the money was spent for projects in Clark and Washoe County which means that residents in 15 other counties supported and paid for projects in Clark and Washoe County

4. State Personal Income: Personal income initiatives are not popular and I would guess that they have a remote chance of happening in Nevada; however, it is still another option to assist with school construction. Personal income taxes would help balance and diversify Nevada's revenue structure which would make Nevada's budgets less susceptible to economic changes. In addition, personal income taxes are more directly related to demand. Further, because state income taxes are deductible from federal returns, Nevada would be sending less to the federal government. Since Nevada does not get its fair share of federal revenue, a personal income tax would keep the money in Nevada serving Nevada's instead of serving residents in other states.

5. Corporate Income Tax: Corporate income taxes have been a topic of debate for years and the lack of corporate income taxes has been a compelling reason for businesses to move to Nevada. However, tax climate ranks below education when businesses make decisions with respect to location. Nevada has skirted the issue by adopting a modified business tax that is based on the size of work force instead of whether the company made money. This type of tax should be eliminated and a corporate tax based on net income before taxes should be adopted.

Research indicates that business development, or growth, directly impacts education. Businesses that move to Nevada need a trained work force and have families that require public education. Enacting a corporate tax is complicated by the fact that many businesses relocate or establish their business in Nevada to avoid taxes.

Enacting a corporate income tax even at a nominal level would diversify and stabilize Nevada's tax structure, would help more adequately fund public education and assist with school construction.

6. Nevada State Lottery: According to information obtained from the United States Government's web-site www.usa.gov, Nevada is only one of seven states that do not have a lottery. Arkansas joined the list of lottery states in 2008 when a constitutional amendment was approved on November 4, 2008 that allowed the General Assembly to establish a State of Arkansas lottery. The proceeds are used to fund college scholarships. In 2011, the Arkansas Lottery transferred over \$94 million to the Arkansas Department of Higher Education. By the end of fiscal year 2010-2011, the Lottery had raised more than \$177 million for college scholarships and had sold more than \$847.7 million in lottery products since inception.

Of the states west of Texas, Nevada Utah and Wyoming do not have lotteries. California, Oregon, Washington Idaho, Montana and Arizona have state lotteries that contribute significant amounts to fund public services. Each of the lotteries provides funding to education as well as other public services (refer to the table below).

State	Government Services			
	Health & Welfare	Economic Development	Environment	Education
Arizona	Yes	Yes	Yes	Yes
California	No	No	No	Yes
Colorado	No	No	Yes	Yes
Idaho	No	No	No	Yes
Montana	Yes	Yes	No	Yes
New Mexico	No	No	No	Yes
Oregon	Yes	Yes	Yes	Yes
Washington	Yes	Yes	No	Yes

The majority of lotteries provide significant contributions to school construction in addition to scholarships and special programs and services. For example, in FY2011 the State of Idaho returned \$17 million to the Department of Education for their School Building Fund Account. School districts have flexibility in how these funds are spent for building operations and maintenance projects to keep school facilities in optimal condition. "Optimal condition" would not be an accurate description of Nevada schools especially in rural areas. Lotteries in each state proclaim their financial successes. The following are excerpts from a sample of state lotteries:

"The Florida Lottery proudly supports the Classrooms First and Classrooms for Kids programs, which utilizes Florida Lottery revenue to fund school district projects for new construction, renovation, remodeling and major repair and maintenance of educational facilities..."

<http://www.flalottery.com/inet/educationSchoolConstruction.do>

"In November 2000 voters approved Initiative Measure 728 redirecting Lottery revenue contributions from the State General Fund to the Student Achievement Fund and the Education Construction Fund. The Education Construction dollars are used for the maintenance and repair of higher education institutions and to build, remodel, and renovate K-12 schools.

Washington Lottery <http://www.walottery.com/AboutUs/FAQ/default.aspx>

"North Carolina Education Lottery made its final transfer of lottery revenues to the state for the 2011 fiscal year. All in all, the Lottery has given more than \$2 billion in total contributions to educational systems throughout the state since it was established in March of 2006.

One hundred percent of the net lottery proceeds are used to fund education and school construction in North Carolina."

<http://raleighdurham.about.com/od/artsandentertainment/a/Nc-Lottery.htm>

"Funds in excess of \$35 million go to the Colorado Department of Education, Public School Capital Construction Assistance Fund."

<http://www.coloradolottery.com/GIVING-BACK/WHERE-THE-MONEY-GOES/>

Lottery initiatives that have been brought before the voters have received overwhelming support. These initiatives have passed with 60% to 70% of the vote so it appears they are

popular among registered voters as a means to fund public services. Perhaps one of the more appealing features of the lottery is that it is, in essence, an elective tax. Only those individuals that live in Nevada or visit that choose to purchase lottery tickets actually contribute to the lottery fund. With such a large volume of visiting tourists, it stands to reason that a significant population outside of Nevada would support Nevada public programs and services through lottery ticket sales. This would enable Nevada to reach beyond its borders to obtain revenue for programs and services which is an advantage that has been lauded with sales taxes. This is unlike other taxes that are borne by individuals and businesses residing or registered in Nevada. Based on information from Idaho, first year lottery ticket sales grossed \$65 million and the first dividend check of \$17,225,000 was given to then Governor Cecil D. Andrus on behalf of the "People of the State of Idaho". A check of this size could solve construction issues in certain rural communities for 50 years.

Previous attempts to start a lottery in Nevada have met resistance. The gaming industry perceives this as a threat to the most prominent industry in Nevada. There is fear that a state lottery would significantly impact gaming revenue which, in turn, would significantly impact the State's budget. Based on lottery ticket sales in the kiosks that border Nevada, it appears that there are droves of Nevadans that choose to fund public services in Arizona and California through lottery ticket sales. If these individuals are willing to travel to border kiosks to purchase lottery tickets and it has not interfered with gaming thus far, it stands to reason that these same individuals would be willing to drive a much shorter distance to a local kiosk.

Gaming in Las Vegas is entertainment; however, buying a lottery ticket is not. People play slots, video poker, tables, roulette, etc., for entertainment. Buying a lottery ticket(s) is something you do when you are buying fuel or a beverage at a convenience store. It does not appear that one would conflict with the other. Further, if gaming establishments were allowed to provide lottery kiosks, it may provide another means to attract customers and may boost revenue. The odds in traditional forms of gaming are far better than the odds of winning a lottery. Your actual odds of winning the lottery depend on where you play, but single state lotteries usually have odds of about 18 million to 1 while multiple state lotteries have odds as high as 120 million to 1. If traditional forms of gambling sported odds similar to the lottery, Las Vegas probably would not exist.

If a lottery were an option currently, Governor Brian Sandoval who has pledged not to raise taxes, would be able to increase revenue without implementing new or increase existing taxes. Nevadans win because public services would be funded by those individuals that choose to participate. Further, people visiting the area from outside the state would also contribute to Nevada's public services if they choose to participate. If the initiative were approved by registered voters, politicians would be representing the public interest so voters would win and the public interest would be served. From many aspects it appears that a lottery would be a proactive means to fund school construction without the State of Nevada having to address the issue through litigation.

7. Public Land Sales: Approximately 84.5% of Nevada is owned by the federal government. In White Pine County, federal ownership exceeds 90%. To a certain degree, federal ownership is an obstacle for economic development and diversification in Nevada and most certainly in White Pine County. Nevada has had limited success urging the federal government to sell its holdings in Nevada. Given the vast federal holding in Nevada, the federal government could convert public property to private property through land sales through a similar process identified in the Southern Nevada Public Lands Management Act.

Through the sale of \$3 billion in public land in Clark County, cities and counties throughout Nevada have built hundreds of parks and trails, pollution has been kept out of Lake Tahoe and forest fires have been prevented. The majority of the funding has affected and benefitted Clark County. If as little as 10% of this funding were available to fund school construction, schools across Nevada could have had access to approximately \$300 million over the past decade. This would have taken care of school construction needs in many rural counties for several decades. Based on the age of current facilities in White Pine, it is conceivable that this funding could take care of school construction for a century since there are two campuses with facilities that are 100+ years old.

8. State Education Fund Reversion: Each year the State budgets an amount for public education but does not expend 100% of those funds. At the end of each year, any fund balance is rolled back into the State's budget and reallocated among the various State functions in the subsequent fiscal year or biennium. School districts have requested that the funds allocated for education remain within education and should not be distributed for other purposes. Over the past years, if this reversion had been set aside in a "rainy day" fund specifically for education, the current financial crisis would have been significantly abated and less disruptive. If a portion of this reversion were to be allocated specifically to school construction, this could provide funding at some level to assist with school construction.

9. School Trust Lands: What are school trust lands? The United States Congress set aside certain blocks of land with the specific intent that these lands would support education. This land is commonly referred to as school trust lands. States were granted two sections of every township with the intention that any revenue generated from land use or sales would be pledged to support public education. Before Nevada became the battle born state, the children of Nevada were bestowed this endowment as a condition of statehood. This land grant was the federal government's way of contributing to public education and was not unique to Nevada. *All new* states were granted land upon entering the Union.

So What happened to Nevada's school trust lands? Nevada was initially granted four million (4,000,000) acres. After the initial land grant became official, state policymakers realized that much of the land was mountainous, arid and otherwise inaccessible rendering sections in these areas essentially worthless and ultimately of no benefit for public schools. In 1880, Nevada made a trade with Congress and agreed to give up roughly half of its school trust lands in exchange for the

opportunity to designate the remaining sections in better locations. Later, Utah, Arizona, and New Mexico were each granted twice as much land as Nevada because their lands were considered arid and worthless. In retrospect, the agreement of 1880 may not have been such a bargain for Nevada's children and public schools. With the growth and development of Nevada's population, unique location of mining interests, recreational opportunities and energy development; many of the lands that were once considered "unusable" are now productive. Restoring four million acres of school trust lands would provide an opportunity to generate much needed revenue and honor the original intention of the federal government to provide a meaningful contribution to Nevada's children and education. After all, the federal government is the largest landowner in Nevada. Approximately 85% of Nevada is federally owned and generates little, or no, revenue for Nevada residents. While this land remains in federal control, it significantly reduces the opportunity for economic development, land sales or other uses that might help contribute to Nevada's demographic and economic needs. If 4 million acres of children's trust lands were restored, the earnings potential from this land could generate more revenue that would provide a much needed boost to education funding. In addition, the federal government would *still* own approximately 80% of Nevada which is significantly more than any other state. Alaska has the second highest percent of federal ownership at 69.1%. A portion of the revenue generated from school trust lands could be deposited into an account to be used for school construction.

How will school trust lands fund education? In order to get an idea of how public lands can benefit Nevadan's, the Southern Nevada Public Land Management Act (SNPLMA) provides a current working model and example. The SNPLMA became law in 1998 and allows the Bureau of Land Management to sell approximately 67,921 of public land within a specific boundary around Las Vegas, Nevada. The revenue derived from land sales is split between the State of Nevada General Education fund (5%), the Southern Nevada Water Authority (10%) and deposited into a special account available to the Secretary of the Interior for:

- Parks, Trails, and Natural Areas
- Capital Improvements
- Conservation Initiatives
- Multi-Species Habitat Conservation Plan (MSHCP)
- Environmentally Sensitive Land Acquisitions
- Hazardous Fuels Reduction and Wildfire Prevention
- Eastern Nevada Landscape Restoration Project
- Lake Tahoe Restoration Projects

There are other provisions in the Act but the main reason for this comparison is to illustrate how revenue can be generated from public lands to meet needs within Nevada. A similar result and comparison could be accomplished with respect to education through school trust lands. From inception, SNPLMA has generated approximately \$3.2 billion in revenue from sales of approximately 38,835 acres (<https://www.blm.gov/SNPLMA>). Imagine the benefits to Nevada's children and education if the 4,000,000 acre school land trust were to be endowed with the federal

lands that were originally intended. This would help Nevada more adequately fund education and school construction without creating a tax burden for Nevadans.

10. Other Sources: Below is a list of taxes that are either authorized by NRS or are common in other states. The list is not in priority order.

1. Sales
2. Gasoline
3. Diesel Fuel
4. Tobacco/Cigarette
5. Property Taxes (ad valorem)
6. Net Proceeds of Minerals (ad valorem)
7. Inheritance and Estate
8. Water Use
9. Government Services Tax - Vehicle Registration
10. Gasohol
11. Tire Tax
12. Modified Business Tax
13. Franchise Tax
14. Residential Construction Tax
15. Live Entertainment Tax
16. Intoxicating Liquor
17. Controlled Substances
18. Gaming
19. Room tax

Increases to one or more of any of these existing taxes for school facilities could help school districts improve their facilities. Minor adjustments to individual taxes may not be significant but minor adjustments to several taxes over time could provide significant revenue.

9. State Appropriations: Some states use direct appropriations to assist with school construction including Nevada. This has not been systematically or equitably distributed and would put a significant financial strain on the State's operating budget. State appropriations could be used in conditions of objective need and local inability to fund this need. In this manner, the state would limit its involvement to those school districts with an identified need and no means of financing. NRS 387.333 created the Fund to Assist School Districts in Financing Capital Improvements in the State Treasury. Criteria already exists to limit the states involvement for those school districts that meet certain emergency conditions.

Conclusion

State involvement in school construction is not only a statutory and constitutional obligation, it is an inevitability. As more and more school districts and counties creep

closer to the statutory property tax cap and eliminate their primary source of funding for school construction; the greater the public risk. The looming threat of litigation and *need* for state assistance will force involvement in one way or another.

Thirty-five (35) states currently participate in school construction and 23 out of 27 court cases since 1989 have been successful challenging the constitutionality of K-12 funding. In addition, Nevada has commissioned reports since 1954 that have recognized the State's role in school construction but the State has not provided any long-term solution. In other words Nevada has already acknowledged through several commissioned reports that the State should be involved to some extent. Based on studies, litigation and Nevada's constitutional duty to provide a uniform system of schools, it seems there is a clear and present obligation for Nevada to become involved in school construction.

In addition to legal and constitutional responsibilities, there are also social and economic considerations for state involvement. The various positive benefits on student behavior, learning, and growth; and the direct positive impacts to local economies are well documented. State involvement with school construction would directly and positively impact student performance and economic development.

Nevada's obligation to establish a uniform system of schools, provide a reasonably equal educational opportunity, and supplement to whatever extent necessary to meet the State's guarantee to support Nevada's public schools should not stop at classroom materials, programs and services. This is analogous to providing someone with the gears to a watch but not providing the housing. No part can be separated from the whole in order to make the system work. Studies have proven that the physical make-up of a school facility impacts the quality of education. Varying levels of quality is the definition of inequity. Supreme Court decisions throughout the nation have concluded a state's practice of allowing local communities to determine capital expenditures, or school construction costs, violates the concept of a general and uniform public school system or uniform system of schools.

It is vital that the State become proactive and define its role in school construction and develop criteria to identify demand, estimate costs, and provide administrative and financial support. Doing nothing is guaranteed to be more costly in financial terms as well as public risk and will ultimately result in intervention through catastrophic failure or litigation. Even if financial assistance is excluded, there is value defining generally accepted principals, identifying and certifying need, planning, and estimating demand for schools in need of improvement or replacement. Identifying generally acceptable criteria to define construction needs and certifying the results may help with local initiatives and assist local governments that have the financial means to raise local revenue. For those districts that have no (or insufficient) financial means to meet school construction needs, financial assistance is necessary!

The bottom line is that a uniform system of schools is ultimately the State's responsibility and this obligation should not exclude school facilities. Nevada's own studies confirm the need for involvement and independent studies confirm that facilities impact learning

as well as community and economic development. In order to fulfill its constitutional obligation, Nevada must be involved in school construction.

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