



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 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 and 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. Recently, Washoe County School District joined the list of counties that have reached the \$3.64 property tax cap. They had to seek special legislation for capital funds. Property taxes remain the primary source of revenue to secure bonds for school construction. 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 FY2015 for all counties was \$3.1232¹. Fourteen of seventeen (82%) county's combined property tax rates exceed \$3.00. Twelve counties have tax rates within 10 cents of the tax cap and 8 counties have rates that are at the cap. As more and more counties creep toward and reach statutory property tax limitations, 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 rate is at the maximum limit would not be able to issue bonds to construct new schools regardless of the apparent need or desire.

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 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 school facilities require care and maintenance that exceeds the demand for newer schools. Also, changes in building codes and materials; and educational standards, curriculum and learning environments have changed. Basic items such as employee parking lots and air conditioning systems way 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 and 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.

Throughout rural Nevada there are approximately 140 school campuses and 49 operational sites. These locations contain approximately 1,000 separate buildings. The facilities range from 4 to 129 years of age. Hillside Elementary School in Virginia City is the oldest school facility and was built in 1885. More than 1/3 of the facilities are over

¹ <http://tax.nv.gov/LocalGovt/PolicyPub/ArchiveFiles/Redbook/>

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; however, 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 and economic climate, some school districts will never be able to build or replace a school regardless of the condition of the facility 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 imminent. In order to achieve equity among school facilities, Nevada must become involved in school construction and explore alternative methods to finance school construction.

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 school facilities. Although public education is the State’s responsibility, school construction has remained a local obligation. Because each school district’s local wealth varies significantly, this local obligation concept has caused wide variations with respect to school construction, maintenance and improvement. 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 disadvantage.

A clear conclusion can be drawn by assessing the quality of school facilities from district to district that there is no “uniform system of schools”.

Another obstacle involving school construction is the tremendous backlog of deferred construction, improvements and maintenance that has amassed over the years. It is unclear whether this is the reason why the State has opted to limit its involvement but the situation is guaranteed to get worse if the status quo is maintained. More and more school districts simply cannot keep pace with the capital demands from technology, infrastructure, equipment and transportation, as well as risk mitigation (or public safety) measures as a result of school shootings.

Until funding can be secured, facility improvements and new construction must be deferred until tax laws change and/or local economic conditions improve drastically. Meanwhile, these learning environments continue to erode and their inefficiencies continue to waste operating revenue and tax payer dollars. It is clear that with respect to

school facilities Nevada falls short of fulfilling its constitutional obligation of a uniform system of schools.

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. In fact, in 1994 the Arizona Supreme Court determined that the state's practice of allowing local communities to determine capital expenditures, or school construction costs, violated Arizona's obligation to provide a "general and uniform" public school system which is very similar to Nevada's requirement to provide a "uniform system of schools"⁶. 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:

- 1954 – Peabody Report
- 1971 – Governor O'Callaghan Study
- 1994 – Legislative Commission's Subcommittee to Study Public Elementary and Secondary Education (S.C.R. 52 Committee)
- 1996 – Legislative Commission's Subcommittee to Study the Realignment of School Districts (S.C.R. 30 Committee)
- 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 continual funding source.

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)

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

⁶ Roosevelt v Bishop

- 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

Although these initiatives have confirmed the state should be involved and provided limited financial support, the assistance has been very superficial and none of the actions provided a permanent solution. A permanent solution is not only necessary, it is inevitable. 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 1989⁷. 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; 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 caused by No Child Left Behind, it appears to be in each state's best interest to take an active role in improving education to "whatever extent necessary" which should include making certain there is a uniformity and equity with respect to school facilities.

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.

Frequently voter initiatives are met with resistance because they require an increase in taxes. You can probably count on one hand the number of political candidates that have won a major election based on a platform to increase taxes. Factors that may adversely influence attempts for voter approval can be attributable to one or more of the following:

- The tremendous growth in Nevada has been predicated upon tax advantages corporations and individuals gain by moving to Nevada. What incentive is there for individuals to raise taxes when they have moved to Nevada to avoid taxes?

⁷ Equity and Adequacy (American School and University, May 2005)

- In communities in which the predominant population base is retirees, what incentive is there for this segment to increase their taxes when they have fixed income?
- People that have paid taxes to other communities to support education are less likely to approve an initiative to pay for school construction if they do not have children in the school system.
- Communities with fewer school aged children do not have the same vested interest in education as parents.
- The halls, classrooms and grounds hold fond memories for alumni and create an emotional attachment. This emotion can cloud an objective assessment of the need for replacement.

Each of these factors is important but do not objectively assess whether a facility has outlived its useful life, impairs the quality of education or otherwise should be replaced. Simply establishing a set of objective criteria to determine need may help school districts pass bond initiatives.

In a number of Nevada counties, school districts lack the revenue or tax capacity to construct schools even if the community overwhelmingly supported construction. What do communities when they have identified construction needs but are unable to issue bonds because the combined tax rate would exceed the maximum allowable limit? In these instances, despite the apparent *need* and desire to improve; the facility remains in service, unchanged and retains the same physical barriers that diminish the quality of education and operating efficiency. In White Pine County, for example, it is simply not possible to construct a new school given the current economic conditions, tax structure and construction costs. Two schools have already served the communities for a century (1909 & 1913). Think of the advancements of transportation, technology, ergonomics, energy efficiency, building codes, public safety, ADA, etc. that have evolved over the years. Without the ability to adapt to these changes, the physical limitations of the 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)

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

School Conditions and Student Achievement

According to a report commissioned by the American Civil Liberties Union Foundation of Maryland 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. 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
- ✓ Poor building conditions greatly increase employee absenteeism and turnover that directly affect the quality of education
- ✓ Students in poor buildings perform less well than students in more functional buildings
- ✓ 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.
- ✓ There is a consensus in the research that newer and better school buildings contribute to higher student scores on standardized tests.”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 not only contributes to economic development, it is also a critical component of a community’s appeal that effects economic growth. In smaller rural areas, school facilities are the icons of their communities. Schools influence the reputation of the community, quality of life, vitality

⁸ Schnieder, 2002, p. 8.

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 effect 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).

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 would not be interesting in a statewide solution. Nevada's own research has concluded State involvement is necessary in addition to existing constitutional and legal obligations. The positive impacts school facilities has on students and communities should be sufficient to at least investigate. Because there is

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

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

such a strong case for Nevada to become involved in school construction, perhaps the best question to ask is why isn't the State of Nevada involved?

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 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 risk and have an academic disadvantage.

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 education, 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
- ✓ 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, in Nevada facilities 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.

✓ 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 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, socioeconomics, 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 vary 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, Delaware had determined the range of costs for school facilities should be 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, 12 counties have combined tax rates that meet, or are within pennies, of the maximum \$3.64 tax cap. Only one county has a combined tax rate less than \$3.00.

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 provides a funding source for school districts that do not have the ability to adequately fund school improvements or construction.

✓ **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. 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.

✓ **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:

- a) declining assessed value and diminishing resources to finance capital improvements,
- b) the combined ad valorem tax rate of the county is at the limit imposed by [NRS 361.453](#); and
- (c) 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 thus far. The fund is essentially become defunct. 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 these “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

1. Eliminate or extend the combined rate 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 Bond Issue: 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

This same concept could be applied to school construction in Nevada.

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, Nevadan 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 Nevadan'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. DSA 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 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

Additions to, or portions of, any of these existing taxes could be siphoned to assist with school construction. Minor adjustments to individual taxes may not be significant but minor adjustments to several taxes over time could provide significant revenue.

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. 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, violate 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. In order to fulfill this obligation, the State must be involved in school construction.

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