

What about the Schools? Factors Contributing to Expanded State Investment in School Facilities – Case Study State #2: Wyoming

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Overview of State School Facilities Investment Over Time

The State of Wyoming has invested equitably in educational facilities for its students. According to the State of Our Schools analysis of NCES statistics, Wyoming spent \$3.8 billion in capital outlay from FY 1994-2013, or about \$28,323 per student. The state's share of total capital outlay was 63 percent. Wyoming's student population decreased by 10 percent from the 1993-94 school year to the 2012-12 school year.

State level facility administration and oversight

Wyoming is clear that the responsibility for educational facilities has shifted from local school districts to the state. "The State is responsible for all planning, design and construction or renovation of schools and district-owned facilities, including major maintenance and minor capital construction or component level projects (e.g., roof replacements or boiler replacements)" (WLSO, November 13, 2015, p. 9).

The School Facilities Commission, created in 2002 to ensure equitable school facilities, reviews budget recommendations, develops policies based on statewide adequacy standards, develops cost guidelines, oversees contracts, and oversees the relationship between the state and individual school districts (WSFD, 2016a). For example, SFC policy 2013-16 states that "department personnel shall be involved in projects to the extent that they can ensure compliance with requirements, statutes, and policies of the Commission, Legislature and State of Wyoming. A team approach is encouraged to establish a common understanding of which entity bears responsibility over which tasks on any given project" (SFC website, 2016). This policy is an example of how the state works to ensure that school districts receive the appropriate level of support.

School district facilities projects are also guided by the Facilities Design Guidelines, a 134-page document including both standards that all school districts must follow as well as suggested guidelines. To continually assess the quality of educational facilities, the state hires an outside consultant to conduct evaluations of all state school facilities, resulting in a Facility Condition Index (FCI) that allows the state to prioritize its spending. The state's building inventory data is updated every four years, and is publicly available (Wyoming survey results, 2016). As of January 2016, the School Facilities Department is now a Division under the Wyoming State Construction Department, with other state-related construction entities, similar to Ohio's structure.

Relevant litigation and legislative history

Wyoming's successful litigation history is a direct result of its state constitutional language, which requires that the state provide a "complete and uniform" public education for all students. Before lawsuits challenged the facilities funding

system as inequitable, some school districts were prosperous from coal mining wealth, whereas other small rural school districts that were primarily agricultural found it close to impossible to pass a bond issue (State staffer, interview, August 18, 2016).

In 1995, in the *State v. Campbell County School District* litigation, the state's school funding system was found unconstitutional. The court held that school facilities were part of the total educational process. In *Campbell II*, in 2001, the court mandated that all facilities "be made safe and efficient," and that the state address buildings based on building condition, giving priority to those most dilapidated (Fothergill & Verdery, 2003, p. 11).

As a result of this litigation history, Wyoming's School Facilities Division currently defines adequate school facilities as "buildings and grounds that: (1) Need only routine maintenance to be in good condition; (2) Have enough school building capacity to serve their enrollment; and (3) Are suitable for meeting the Wyoming Department of Education content and performance standards" (WSFD, 2016b, p. 2).

Factors Contributing to Expanded State Investment in Equitable Public School Facilities

Taxation mechanisms (sources of funding)

Wyoming is unique from other states with regard to sources of tax revenue. While the states on average draw 41 percent of their revenue from income taxes, Wyoming has no state income tax. Instead, it collects approximately the same share of revenue (39 percent) from "other taxes," including severance taxes from natural resource wealth (U.S. Census of Governments, 2014). The natural abundance of minerals in the state has influenced the funding of educational facilities. After *Campbell I*, the state redesigned public school finance, and in 1998, the Legislature directed "a portion of the Coal Lease Bonus revenues to pay for major capital projects and major maintenance of school facilities for K-12 public school districts" (WSFD, 2016b, p. 5). Since that time, the primary source of funding for school capital construction had come from coal lease bonus revenues, which has allowed the state to operate under a pay-as-you-go model for school facilities.

When asked on the survey if Wyoming borrows to raise capital funds, the response indicated no, that "all money comes from coal lease bonuses and mineral taxes to fund all school construction and the department's overhead" (Wyoming survey results, 2016). However, the state does have other revenue raising capabilities, such as using bonds to raise funds for school construction (Fothergill & Verdery, 2003). A Wyoming Legislative Service Office memorandum confirmed that "the Wyoming Supreme Court states that the Legislature wields an 'apparent unlimited power' under the state Constitution in making such further provision by taxation or otherwise to fund schools" and "the Legislature

may take other approaches, or combination of approaches, in exercising its constitutional authority to adequately fund schools” (WLSO, November 19, 2015, p. 1-2).

In *Campbell II*, it was clarified that the state’s constitution “does not prohibit the state from imposing a statewide mill levy taxation level for capital construction, nor does it limit the number of mills that can be levied for such a fund” (WLSO, November 19, 2015, p. 2). In addition, the SFC may issue up to \$100 million in revenue bonds for school construction, which are then funded by state mineral royalties and any investment income from the Common School Account (WLSO, November 19, 2015, p. 3). However, in the last two years, the coal industry has essentially shut down due to federal mandates. The legislature will have to decide how to replace the coal lease bonus revenue in the near future.

Distribution of state facility funding

Legislative appropriations for facilities construction and maintenance come from the School Capital Construction Account (SCCA), which also supports the SFD’s budget (WLSO, November 13, 2015, p. 9). The State of Wyoming has not only made a considerable investment in educational facilities, but also put a great deal of effort into supporting its investment with equitable policies to support implementation at the local level. Primary programs include facilities assessment, planning, major maintenance funding, minor capital (component) funding, and major capital funding (SFD, 2016). Over time the state has worked to bring all facilities up to the adequacy standards the state has set.

To determine prioritization for funding, the state bases it on need, which is determined by two factors: (1) capacity and (2) condition. While the state provides school districts with the funding they need to provide for the “educational delivery basket of goods,” or a basic educational structure, the state will not fund beyond a certain base. For example, the state will provide for a gym, but not for a pool. If a local school district is not satisfied with the basic facilities, “individual school districts may levy optional mills to fund local enhancements” (WLSO, November 13, 2015, p. 9). The Wyoming Department of Education also provides adequate funding for “facilities operation and maintenance as part of the overall education block grant to school districts” (WSFD, 2016b, p. 6).

Public debt policies

Because Wyoming is primarily a pay-as-you-go state, it does not have many policies around debt. As a result, Wyoming is among the states with the lowest amount of local district debt per student: Wyoming (\$674), West Virginia (\$1,497), and Oklahoma (\$2,402) (Filardo, 2016, p. 19). The state did have a mill levy supplement program, through which “the Legislature appropriated \$44.9 million to fund this program throughout its inception. The Legislature repealed this statute because there were no longer any districts eligible for the mill levy supplement” (WLSO, November 13, 2015, p. 10).

Another program, the Excess Mill Levy Rebate, provided

\$2.7 million to school districts that levied more than the statewide average to assist them with debt repayment. There are no state loan programs, and the state allows local school districts to use the state’s credit rating for borrowing (Wyoming survey results, 2016). Statewide bonds are allowed and are limited to 1 percent of all statewide assessed property value, which could be relevant if the state decides to turn to statewide bonds to replace the revenue lost from the coal lease bonuses.

Discussion of Equity of State Facilities Programs

Wyoming’s facilities policies are in many ways a model for other states. *Campbell II* reaffirmed that financing school facilities through local bonding indebtedness “created wealth-based disparities because school districts did not uniformly impose such levies, while the districts that did impose them generated disparate amounts of revenue to fund school capital construction projects” (WLSO, November 19, 2015, p. 6).

For school districts in other states, taking on public debt is a burden that is particularly onerous on districts with low credit ratings, high levels of existing debt, or conservative or otherwise tax-averse communities. As Wyoming is a politically conservative and tax wary state, like Texas in many ways, the ability for school districts to avoid carrying debt at all and still meet their facilities needs is a major benefit. The state policies that helped lower wealth and overburdened districts relieve their debt while the new program was implemented also enhanced equity.

Because Wyoming’s educational facilities policies were written to address equity concerns as a direct result of litigation, the state facilities program infrastructure is equity-minded throughout. As a result, the state has made an unprecedented investment in educational facilities. While there are still unaddressed school needs, indicating that the funding is not fully adequate, it is arguably more adequate than many other states.

With regard to quality, the regional project managers work to make sure policies are understood and implemented at the local level and that all school projects, whether they be construction, modernization, or major maintenance, have the technical support they need to be completed. The key concern with the Wyoming facilities program moving forward is how the state will address the end of the coal lease bonus revenue. Changes in the coal lease bonus program underscore the recommendation that school finance experts have long made: education finance needs to depend on diverse sources of revenue (Brimley, Verstegen, & Garfield, 2012).

See the full report and other state highlights at <http://budurl.com/IDRASymposium>.

The IDRA José A. Cárdenas School Finance Fellows Program honors the memory of IDRA founder, Dr. José Angel Cárdenas. The goal of the program is to engage the nation’s most promising researchers in investigating school finance solutions that secure equity and excellence for all public school students. An assistant professor of education and community leadership at the Texas State University College of Education, Dr. Marialena Rivera was named the 2016 José A. Cárdenas School Finance Fellow.