

4-1-2005

## Mandated School Facilities Improvement: What Have Other States Done?

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### Citation

McKenzie, S. C., & Ritter, G. W. (2005). Mandated School Facilities Improvement: What Have Other States Done?. *Policy Briefs*. Retrieved from <https://scholarworks.uark.edu/oepbrief/114>

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## THE ISSUE OF SCHOOL FACILITIES IMPROVEMENT

In most school districts, funding for the construction and improvement of school facilities comes from local property taxes, sometimes solely, and sometimes with additional state support. In nearly all states, older school buildings, especially those in low-income districts are in need of renovation or repair. When school buildings are in poor repair or otherwise inadequate with respect to the educational environment which they provide, the quality of education available to students attending those schools can be adversely affected. As a result of lawsuits addressing this concern, a number of states have faced judicial mandates stemming from constitutional challenges requiring school districts to assure that school facilities throughout the state consistently meet minimal standards of adequacy, equity, and/or efficiency.

The Arkansas Supreme Court mandate, in *Lake View v. Huckabee* (2002), that the state provide a “general, suitable and efficient system of free public schools equally available to all” (Arkansas Constitution, Article 14, § 1) prompted the current debate concerning equity and adequacy of school facilities in the Arkansas General Assembly. In light of the Arkansas 85th General Assembly’s effort to address the recommendations of the *Arkansas Statewide Education Facilities Assessment*, this brief offers an overview of how this issue was addressed in other states in which ultimate responsibility for remediation of school facilities was judged to rest with the state.

## JUDICIAL MANDATES CONCERNING SCHOOL FACILITIES

Among the 16 states that have faced judicial mandates concerning school facilities, the Supreme Courts in seven of these have ruled that states bear primary responsibility for school facilities. These include Kansas, Alaska, New Jersey, New York, Maryland, Montana, and Vermont.

Among these, four states, Kansas, Maryland, Montana, and New York utilize an **equalized funding formula** to finance capital expenditures. The three remaining states, Alaska, New Jersey, and Vermont offer **need-based grants** to districts for facility construction and

renovation. Nationally, these are the two most prevalent models of financing school facilities.

## A VARIETY OF FUNDING PATTERNS FOR CAPITAL EXPENDITURES

With respect to financing capital expenditures for school facilities, whether by judicial mandate or otherwise, the Education Committee of the States has identified six general patterns: equalized funding, grants based on need, flat grants, basic support, full state funding, and no state funding. Some states utilize some combination of these.

**Equalized funding** describes progressive capital outlays by the state to districts based on the relative wealth or poverty of each district; 26 states employ this method. Similarly, 13 states offer districts **need-based grants**, while nine others offer **flat grants** distributed on a cost-per-pupil basis or using other criteria. Two states utilize a **basic support model**, meaning that they distribute facility funds on a per pupil basis without regard to each district’s facility needs. In two states, Arizona and Hawaii, the **state pays 100%** of capital costs while in eight states, **no funding** for capital expenditures is available to districts from the state.<sup>1</sup> We will discuss implementation of the two most prevalent among these models, equalized funding and need-based grants, in the following section of this brief.

## EQUALIZED FUNDING

While 26 states utilize an equalized funding model for financing district capital expenditures, the specific funding formulas vary widely. In some cases, equalized funding is available only for new construction, and in other cases, for service of prior debts as well. In Massachusetts, for example, districts may receive from 50% to 90% reimbursement for approved projects, and the formula for calculating the available percentage is based on a formula that includes property value, average income, district poverty level, and current and past construction and maintenance history. In Kentucky, equalized funding is based on percentage of a district’s unmet facility needs compared with the state’s unmet needs. States that finance new facility construction

<sup>1</sup> For more information on this report see the ECS website: <http://ecs.org/html/IssueSection.asp?issueid=48&subissueid=42&s=What+States+Are+Doing>

and/or service of existing debts base their funding formula on some combination of district mill value and district enrollment and district need compared with state mill value and overall enrollment and overall need.

### NEED-BASED GRANTS

Similarly, need-based flat or categorical grants are available to districts in 21 states. Many states combine one of these types of grants with an equalized funding formula or basic support to fund new construction and debt service. In Virginia, for example, districts with approved construction requests receive flat grants of \$200,000 per district, and the remainder of construction costs are prorated based on each district's enrollment and ability to pay. In Indiana, a flat per pupil grant, based on average daily attendance, is provided to districts for debt service. Among the 13 states that provide categorical grants, the amount of funding for which a district is eligible is based on need, and again, a variety of formulas are used to determine the percentage of the district's need.

A number of states provide both equalized and categorical grants based on the financial and programmatic needs of each district. For example, districts in Connecticut may receive 20% to 80% funding based on an equalization formula for eligible costs, but magnet schools may receive 100% funding. Also, districts may apply for additional funding to develop infrastructure for specialized programs such as early childhood education.

### WHAT ARE NEIGHBORING STATES DOING?

School districts in Missouri, Oklahoma, and Louisiana provide no state funding for facility construction. In Mississippi and Kentucky, districts may apply for state grants for such projects based on district needs. The state of Texas utilizes an equalized funding formula based on the size of the district, average daily attendance, property values, and level of annual debt service. A discussion of specific state-by-state formulas is available in a resource published by the U.S. Department of Education as follows: Sielke, C.C., Dayton, J., Holmes, C.T., and Jefferson, A. *Public School Finance Programs of the United States and Canada, 1998-1999* (Washington, D.C.: U.S. Department of Education, National Center for Education Statistics, 2001).

The plans currently under consideration by the Arkansas General Assembly are designed utilizing an equalization model. Arkansas lawmakers may benefit from enacting some combination of an equalization formula with need based grants to bring existing facilities up to standards.

*Additional policy briefs and other education policy information may be found on the website of Office for Education Policy at the University of Arkansas at <http://www.uark.edu/ua/oep> or may be ordered by contacting the Office at (479) 575-3773.*

## COURTS DIFFER REGARDING STATE VS. LOCAL RESPONSIBILITY FOR FUNDING EQUITABLE SCHOOL FACILITIES

### Decisions for Local Control

Among the states that have faced judicial mandates concerning school facilities, some state courts have ruled in favor of local control in such matters, while others have required states to shoulder ultimate responsibility. The state Supreme courts of **Idaho**, **Colorado**, and **Oregon** have required local districts to take primary responsibility for the condition of school facilities. Earlier local control decisions were overturned by more recent mandates requiring states to take ultimate responsibility in **Arizona**, **Ohio**, and **South Carolina**.

### Decisions for State Control

Courts ruled that states bear primary responsibility for school facilities in **Alaska**, **New Jersey**, **New York**, and **Maryland**, though decisions varied significantly with respect to judicial interpretations of the level of state responsibility for remedying disparities in school finance decisions through taxation and distribution of funds.

The **Montana** Supreme Court was an early proponent of a mandated state plan to recapture and redistribute funds from wealthier districts to poorer ones. Also, the **Kansas** State Supreme Court upheld a requirement for a statewide property tax which included a measure to recapture and redistribution of funds from wealthier districts to poorer ones, and **Vermont**<sup>1</sup> has adopted a recapture provision as well. In contrast, the **Wisconsin** Supreme Court ruled that the recapture and redistribution of property taxes to equalize local revenue was unconstitutional.

(Note: The decisions that correspond to the states listed above are as follows: Idaho - *Thompson v. Engleking*, 1975; *Idaho Schools v. Evans*, 1993; *Idaho School for Equal Opportunity v. State*, 1998; Colorado - *Lujan v. Colorado State Board of Education*, 1982; Oregon - *Olsen v. State*, 1976; *Coalition for Equitable School Funding v. State*, 1991; Arizona - *Roosevelt v. Bishop*, 1994; Ohio - *DeRolph v. State*, 1997; and South Carolina - *Abbeville County School District v. State*, 1999; Alaska - *Matanuska-Susitna Borough School District v. State*, 1997; New Jersey - *Abbot v. Burke*, 1984, 1994, 1998; New York - *Levittown v. Nyquist*, 1978, 1982; *Reform Educational Financing Inequalities Today v. Cuomo*, 1995; *Campaign for Fiscal Equity v. New York*, 2001; Maryland - *Hornbeck v. Somerset*, 1983; *Bradford v. Board of Education*, 1996; Montana - *Woodahl v. Straub*, 1974; Kansas - *Unified School District v. Kansas*, 1994; Vermont - *Anderson v. State*, 1998; and Wisconsin - *Buse v. Smith*, 1976.)