

# **Recommendations for a State School Capital Funding Program in Colorado**

**The Donnell-Kay Foundation  
August 2005**

## Executive Summary

Colorado's current system for funding school district capital needs is broken.

Colorado is one of only a few states that funds school district capital needs almost exclusively through local district property taxes. Unlike most states, Colorado does not invest a significant amount of state funds in district capital needs.

Relying on local district funding:

- Is inequitable (the wealthiest district has 20,000% more capital capacity than the poorest);
- Is inadequate (there are 70 school districts that don't have the total capital capacity to build one new school), and;
- Has produced an enormous backlog of serious school capital needs across the state, resulting in serious health and safety problems in school buildings across Colorado.

The Donnell-Kay Colorado K-12 Capital Needs Assessment project this spring estimated that backlog of school capital needs in the state at between \$5.7 billion and \$10 billion (with nearly \$400 million in health and safety needs alone).

Funding for school building construction and maintenance cannot be relegated exclusively to local districts any longer. The state must step up to meet its K-12 capital obligations. The Colorado Constitution requires the General Assembly to "provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state." Facilities are a part of Colorado's education system. Every child in Colorado deserves a safe and effective learning environment.

Following up on its school capital needs assessment the Donnell-Kay Foundation in this report has laid out a set of recommendations for a state school capital funding program in Colorado.

The recommendations are:

- *The state should contract with a professional facilities assessment company to undertake a statewide needs assessment to determine the condition of all the state's school buildings.*
- *Through a collaborative process, the state should develop minimum statewide standards for health and safety, as well as building condition, capacity, educational suitability and technological readiness of school facilities.*
- *Oversight and administration of the state's school capital construction program should be invested in a distinct board created for this purpose.*

- *This state school capital construction oversight board should have sufficient staff to oversee the many areas of the capital funding program. The staff should provide technical assistance to districts in a variety of areas including: evaluating district facility needs, developing district maintenance plans, interpreting statewide standards, accessing the capital construction grant program, and planning and managing a capital construction project.*
- *The state should provide school capital funding adequate to address the serious needs backlog as well as sustainable aid to districts going forward*
- *The program to address the backlog of school capital needs should distribute state capital revenue to projects identified in the statewide needs assessment in priority order.*
- *The state should provide funding to assist districts in meeting their capital needs in the future. This funding program should be based on district capital capacity and current tax effort.*
- *In order to address the very different types of school district capital needs going forward, the state should establish different programs for: repairs and renovations for existing schools, new school construction, technology and emergencies.*
- *Wherever possible, projects funded through the state school capital construction program should be financed by a combination of state and local revenue.*
- *The ratio of state and local funding for capital projects should be determined by a formula based on districts' relative wealth (as measured by district per pupil assessed value or district average personal income) relative to the statewide average and local district non-optional property tax effort. The total local district match should be capped at the total bonding capacity of the district.*
- *The state should allow districts to request that their local match requirement be waived based on factors not represented in the state and local funding mix formula including: local district bonding effort, the number of at-risk students served, the number of special education students served and total district capital needs.*

The report also analyzes four possible revenue options for funding a state school capital program in Colorado. These revenue sources were identified through research on what has worked in other states as well as certain peculiarities of Colorado's tax system including Colorado's current tax rate compared to other states.

Finally the report examines the statewide school capital construction programs in other states, especially Colorado's neighbors Arizona, New Mexico and Wyoming. These states have made substantial strides in recognizing and addressing their school capital needs. Arizona and Wyoming both lost lawsuits challenging their local property tax-based capital funding systems and were required to completely revamp the way they address school capital needs. Both states have since devoted substantial state resources (over \$2 billion in Arizona and \$1.4 billion in Wyoming) and have succeeded, in only a few years, in addressing all the identified deficiencies in their school buildings.

Colorado must begin to address the real problems in its school buildings. It must recognize its responsibility to the health and safety of Colorado's children and develop a state program to address the serious capital needs in schools across the state.

## Introduction:

Any discussion of developing a new system for funding school district capital needs in Colorado must begin with the fact that the current system is broken, not sustainable and is producing serious health and safety problems in school buildings across Colorado.<sup>1</sup>

Why is the system broken? Most Colorado school districts do not have the capacity to adequately fund their capital needs.

Unlike most states, school capital construction needs in Colorado are funded almost exclusively at the local district level. The primary resource for capital construction and renewal in Colorado's 178 school districts is local bonds, with a concurrent property tax increase to pay for the debt.<sup>2</sup>

Seventy districts in the state do not have the total bonding capacity to raise the capital to build one new school.<sup>3</sup> Furthermore, 21 districts educating nearly 200,000 Colorado students are at or near their bonding limit and so are not able to raise any additional capital revenue.<sup>4</sup> Finally, the current system is not needs-based. Districts ask their voters for bonding measures for school capital in the amount they and their consultants believe voters are likely to approve. As a result, capital needs totaling billions of dollars go unmet every year.<sup>5</sup>

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<sup>1</sup> In the applications submitted to the state's Public School Capital Construction Grant program this year, at least three districts filed applications for projects related to a school that has been closed or threatened with closing by a state or county authority. For a summary of the projects represented by this year's applications, see Appendix F. Some of these projects have since been awarded all or partial funding through the grant program. The Donnell-Kay Colorado K-12 Capital Needs Assessment Project [(April; 2005) <http://www.dkfoundation.org/documents/schoolhouse.html#>] estimated nearly \$400 million in health and safety school capital needs in Colorado.

<sup>2</sup> Since 1982 local district voters have passed bonding measures 246 times, they have rejected bonding measures 129 times for a 22 year passage rate of 66%. Over this 22 year period local district bonds have raised a total of \$6,955,481,128 for capital investment statewide. Districts are limited in the amount they can raise through local district bonds. Bonded debt is capped at 20% of the district's total assessed value (or 25% for "high growth" districts). Because the total amount of capital funds a district is able to raise is a function of the district's property wealth, the total amount of potential capital funds per pupil differs exponentially across districts with the wealthiest being able to ask for \$219,000 per pupil and the poorest only being allowed 1,100 per pupil—a difference of nearly 20,000%.

<sup>3</sup> Appendix A

<sup>4</sup> Appendix B

<sup>5</sup> According to a 2003 State Auditor's report, the backlog in school capital needs at that time was \$4.7 billion. This past spring Donnell-Kay undertook a needs assessment project that included a survey of all Colorado school districts and assessments by nationally renowned experts of schools in eight targeted school districts across the state. Those projects estimated the statewide backlog of school capital needs at \$5.7 billion to \$10 billion (Donnell-Kay Colorado K-12 Capital Needs Assessment Project [(April; 2005)). For a summary of those findings see Appendix E.

Recognizing that the current system that relies almost exclusively on local funding for capital revenue cannot be maintained, the state must fulfill its constitutional obligation to assume a portion of the financial responsibility for funding school building and repairs.

### **Principles for a Capital Funding System for Colorado**

We believe a new system for funding school capital needs must adhere to the following principles:

1. Priorities for state funding should be based on actual capital needs as determined by a statewide school building needs assessment.
2. The state must develop school building standards in order to identify current deficiencies and to set parameters for state funding. Building standards are relevant only as a determinant of state funding.
3. The board that oversees the distribution of state capital funds to local districts must have the capacity and authority to administer the program, including rule making powers and a staff.
4. The school facilities oversight board must provide technical assistance to districts in developing district facility plans and maintenance plans.
5. The authority of the state facilities oversight board with respect to local districts should be limited to ensuring compliance with agreements made by local districts through state funded grants.
6. State school capital funding for the current backlog of need should address projects on a project priority basis according to the severity of the deficiency.
7. State school capital funding for ongoing districts' needs should be distributed on the basis of districts' capital funding capacity.
8. State revenue should leverage local revenue in order to preserve and expand local district capital capacity.
9. The mix of state and local funding should be determined by a formula that recognizes the funding capacity of local districts.

### **Assessment and Standards recommendations:**

*Recommendation 1: The state should contract with a professional facilities assessment company to undertake a statewide needs assessment to determine the condition of all the state's school buildings.*

Colorado is one of a small handful of states that does not track school capital needs at the state level. Therefore the state does not know where all the problems are and so cannot accurately prioritize funding in order to spend limited school capital dollars efficiently. The current system relies on project specific applications from districts. As a result, the state has very limited knowledge about the capital needs in districts that don't apply and about all the capital needs of the districts that do apply.

One of the recommendations in the 2003 State Auditor's report on the Public School Capital Construction program was that the Department of Education should "develop a statewide needs assessment for public school construction, renovation, and maintenance" in order to "formulate a strategic plan for a cost effective use of the Public School Capital Construction Program grants." It was the only recommendation of the 11 in the report with which the Department of Education even partially disagreed. The Department wrote in its response, "Another issue of consideration is the General Assembly may come under pressure for more capital construction funding if the true cost of bringing school facilities up to an acceptable or standardized level were known. Districts that responded to the State Auditor's survey self-reported needs of \$4.7 billion. The costs could be considerably higher if a consistent minimum level were required."<sup>6</sup>

Assessments should be done by expert assessors. Many districts, especially small districts, do not have the expertise to accurately identify their facility needs. During the Donnell-Kay needs assessment work this past spring, we found in districts that had both filled out a self-reported survey on their capital needs, and had been assessed by consultants as a part of our targeted district assessment process, that in every case the self-reported survey results were substantially lower than the objective expert assessment results (many times by a factor of ten or more). Similarly, even districts that do have expert facility personnel do not always identify capital needs in the same way. Using an outside consultant ensures a level of uniformity and objectivity necessary to compare the needs of different districts.<sup>7</sup>

Virtually every other state that has a state funded school capital construction program has performed a statewide needs assessment as a first step. Looking at neighboring states, Arizona, New Mexico and Wyoming have used national facility assessment consulting firms as integral parts in their capital construction programs.

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<sup>6</sup>Public School Capital Construction Grant Program Colorado Department of Education Performance Audit, Report of the State Auditor (May, 2003)  
[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/94A886BA729C566D87256E2800641984/\\$FILE/1505%20Pub%20Sch%20Constr.Perf%20FY%2003.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/94A886BA729C566D87256E2800641984/$FILE/1505%20Pub%20Sch%20Constr.Perf%20FY%2003.pdf) .

<sup>7</sup> In addition to this initial needs assessment, the oversight board should also develop a procedure for continuously updating this needs assessment data.

*Recommendation 2: Through a collaborative process, the state should develop minimum statewide standards for health and safety, as well as building condition, capacity, educational suitability and technological readiness of school facilities.*

Health and safety standards must be the foundation of the state capital funding program. Furthermore these health and safety standards must have prescriptive force in order to allow the state to address all health and safety needs in a systematic and comprehensive way. The state has the responsibility to ensure that every Colorado child attends a school that is safe.

Standards relating to building condition (outside of health and safety concerns), capacity, educational suitability and technology readiness should be used to identify deficiencies and prioritize state spending and have no other force beyond those applications.

In order to uniformly measure the capital needs of each district it is necessary to have a standard against which to compare. It is not possible to identify facility deficiencies without identifying the level below which the facility is considered deficient.

Similarly, statewide standards are important in setting the parameters of state spending priorities. Unless the state sets standards for student capacity, it will not be able to evaluate and make funding decisions for applications for capacity increasing projects (e.g. building additions).

Districts will not be required to apply for or accept state grant money for school capital projects. Furthermore, the standards represent merely a threshold above which projects would not be eligible for state funding. However, local districts would be able to develop capital funds (through voter approved bonding measures, etc.) to exceed the state's standards.

School districts would be able to apply for a waiver of state building standards for any project for which they have applied for a state capital grant. The waiver will be reviewed by the program oversight board.

Again, all states that have substantial state funded school capital programs have undertaken major initiatives to develop and implement state minimum building standards. In Arizona the state has recently announced that, after a concerted 5 year effort and over \$2 billion dollars in state funds, all its school buildings meet state standards. The New Mexico Public School Capital Outlay Council was directed by the legislature two years ago to develop and put in place a robust system of state building standards. They have recently completed that project and as a result have a list of every facility problem in the state ranked in priority order according to standards. In Wyoming, the state completed in 2002 the development of statewide building adequacy standards.

#### **Oversight Board recommendations:**

*Recommendation 3: Oversight and administration of the state's school capital construction program should be invested in a distinct board created for this purpose.*

A robust system for addressing school capital construction needs at the state level would necessitate a work load, time commitment and technical expertise not possible to expect from the State Board of Education (currently vested with authority over the Public School Capital Construction program). The state board has developed an Advisory Committee that makes recommendations for the grant program. However, membership, terms of service, duties and responsibilities of this board are nowhere in statute or rules.

The first charge to the School Capital Construction Oversight Board should be to undertake (or contract for) the statewide needs assessment, develop statewide standards and promulgate rules for how the program will run.

There are many options for the make up of the oversight board—most examples from other states include some appointment(s) by the governor, some legislative member(s) or designees, some state board of education member(s) and some education organization members (e.g. from the teachers association, school board association, etc.).

In Arizona, the School Facilities Board oversees and administers the state facilities funding program in Arizona. The board includes nine representatives of the public and private sectors: a representative of a local taxpayer organization, a school board member, a school facilities director, an architect, an engineer, and several other categories of representation. The board also has an executive director, appointed by the governor and confirmed by the state senate who also serves in the governor's cabinet. The board has a 20 member staff.

In New Mexico, Public School Capital Outlay Council consists of 9 legislative, executive and public school representatives. The members of the council are: the secretary of finance and administration, state superintendent, the governor, president of the state's school board association, the director of the construction industries division of the regulation and licensing department, the president of the state board, the director of the legislative education study committee, the director of the legislative council service. Any of the named council members may appoint a designee in their place. Although the council is independent, the state's department of education keeps all financial records and makes annual reports to the legislature. The Public Schools Facilities Authority is the operational agency that, in effect, staffs the Council. They manage projects, help districts with master planning, etc. There are 43 staff members in the Public Schools Facilities Authority.<sup>8</sup>

In addition to responsibilities with respect to the statewide needs assessment

*Recommendation 4: The state's school capital construction oversight board should have sufficient staff sufficient to oversee the many areas of the capital funding program. The staff should provide technical assistance to districts in a variety of areas including: evaluating district facility needs, developing district maintenance plans, interpreting statewide standards, accessing the capital construction grant program and planning and managing a capital construction project.*

and the statewide standards, and promulgating rules for the protocols and procedures for the program, the oversight board and their staff must also assist local districts. Most oversight divisions in other states are charged with providing technical assistance to districts in addition to (or as an essential component of) evaluating fund distribution.

A technical assistance requirement was included in the bill that settled the Giardino lawsuit (CRS 22-54-117). However, the state board to date has not provided any substantial technical assistance to districts. Without this element, many districts are not able to access the program or make efficient use of program funds as they are unable accurately to identify or prioritize their capital needs.

In every state that has a state funded school capital program the oversight board has a substantial enough staff to provide both the statewide staffing responsibilities (e.g. statewide needs assessment, state standards, processing of applications, funding distribution, etc.) as well as assistance to districts (e.g. master planning assistance, maintenance planning assistance, need evaluation, project planning, district training, etc.).

Among our neighboring states, the Arizona School Facilities Board has 20 staff members; the New Mexico Public School Facilities Authority has a staff of 46; the Wyoming School Facilities Commission has a staff of 14.<sup>9</sup>

#### **Distribution of State Capital Funds recommendations:**

*Recommendation 5: The state should provide school capital funding adequate to address the serious needs backlog as well as sustainable aid to districts going forward.*

*Recommendation 6: The program to address the backlog of school capital needs should distribute state capital revenue to projects identified in the statewide needs assessment in priority order.*

Because the backlog of needs is so large and many of the conditions require immediate attention, the state should consider bonding in order to develop a large amount of revenue quickly to address the backlog.<sup>10</sup> These funds could be

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<sup>9</sup> New Mexico recently conducted a study of the ratio between oversight/administration costs and construction costs in state programs and found New Jersey spent 15% on administration and management, Arizona spent 8% and New Mexico spent 2.7%.

<sup>10</sup> Ideally the state would set the amount of bonding revenue necessary at the amount in high priority capital needs according to the needs assessment. However, considering the size of the backlog a meaningful attempt to address it might dedicate \$50 million annually to debt service on approximately \$750 million in school construction bonds. This state revenue would then be matched on a sliding scale with local district

distributed over a four year period to projects on the state's prioritized needs list (as determined by the statewide needs assessment in relation to statewide facility standards).

Because the state currently has a \$5.7 billion to \$10 billion dollar backlog in school capital needs<sup>11</sup>, state funding for school capital projects must flow to the most critical projects in this backlog first, before attempting to address prospective capital needs of all districts. The priority ranking of the projects should be identified in the needs assessment (using the statewide standards). Projects representing immediate health and safety needs of Colorado's school children must be the state's highest priority.<sup>12</sup>

New Mexico has developed a Building Condition Index that helps prioritize all capital projects throughout the state.<sup>13</sup> The state then addresses applications for projects in priority order. When Arizona first established their state capital funding program they began with a deficiency correction fund that addressed each of the identified deficiencies in priority order until all the state's schools were up to standards.<sup>14</sup> Similarly, the first goal undertaken by Wyoming's capital funding program was to fix or replace all school buildings receiving a rating of 50% or less on their statewide needs assessment.<sup>15</sup>

*Recommendation 7: The state should provide funding to assist districts in meeting their capital needs in the future. This funding program should be based on district capital capacity and current tax effort.*

In order to address the insufficiency of the current system for funding school capital going forward, the state should provide project-based grants to districts according to district capital capacity.

The district capital capacity should take into account:

- The relative wealth of the district as measured by per pupil assessed value and average personal income;

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revenue that might total as much as \$1.5 billion (see recommendations 9 and 10 for a discussion of the state and local match formula).

<sup>11</sup> The Donnell-Kay Colorado K-12 Capital Needs Assessment Project. See appendix E for a summary of the findings.

<sup>12</sup> The Donnell-Kay Colorado K-12 Capital Needs Assessment Project estimated nearly \$400 million in health and safety school capital needs in Colorado.

<sup>13</sup> Deficiencies identified through the state's needs assessment process are weighted according to importance with "life, health, safety" receiving the highest weight followed by other categories including: potential mission impact; mitigate additional damage; beyond expected life, adequate space, etc. (*Public School Capital Outlay Council Annual Report* (December, 2004) <http://www.nmschoolbuildings.org/05-06docs/04-PSCOC-PSFA-Annual-Report.pdf>).

<sup>14</sup> The deficiencies correction process took 5 years during which the state completed over 6000 projects and is now complete.

<sup>15</sup> That process was complete in 2004.

- The district’s bonding capacity—whether it is insufficient to the district’s capital needs either because it is too low in general, or because the district has already bonded to its capacity.
- The district’s current local tax effort as measured by the local school district’s required mill levy (i.e. mill levy applied to total program).

After the backlog has been addressed, the factors that are responsible for creating it will continue to exist. Therefore the state must provide funding for districts whose capital capacity is simply unable to meet their needs.

*Recommendation 8: In order to address the very different types of school districts’ capital needs going forward, the state should establish different programs for: repairs and renovations for existing schools, new*

The state should establish a funding system for new schools. Some Colorado districts will continue to need state aid to address their new school needs. This program will help Colorado districts to replace existing schools as it becomes necessary or build new ones to accommodate growth.

High growth districts are often at their bonded debt limit but continue to receive hundreds of new students each year. In addition, some districts do not have the total bonding capacity to build a single

new school but will certainly need to replace their facilities at some point.<sup>16</sup> The state must develop a way for districts in both these situations to be able to build new schools.

The state should also maintain a funding program for district capital renewal needs. Major building systems, roofs, HVAC, electric, plumbing, etc. have a limited useful life. Many of those systems will require major or minor repairs over the course of their use and all of them will need to be replaced at some point. The state must develop a program to assist districts that do not have the capacity to address those needs.<sup>17</sup>

After Arizona addressed their statewide capital needs backlog and had brought all the state’s schools up to statewide standards, they continue to maintain a program to address districts’ needs for new schools and capital renewal. Similarly, in Wyoming, the state provides building renewal funds to all districts through their major maintenance program and new schools through their major capital program.

The state should establish a funding program for technology. In order to ready our students to compete in today’s economy our schools must be equipped with the technology required for today’s education. The average school building in

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<sup>16</sup> See appendices A and B for a list of districts with insufficient total bonding capacity and districts that are at or near their bonding limit.

<sup>17</sup> Districts submitted applications for 32 roof repair/replacement projects this year alone.

Colorado is nearly 40 years old with 13% built before 1940.<sup>18</sup> These schools, built long before the computer age, have significant technology infrastructure needs.<sup>19</sup>

In addition, Colorado has emerged as a national leader in online education. Investment in such technology-forward learning must be supported by a state commitment to technology in K-12 schools.

Arizona, New Mexico and Wyoming all assess school technology needs as part of their statewide assessment process and provide state aid for technology. New Mexico and Arizona provide for funding through programs separate from other district capital needs.

The state should establish a funding program for emergency capital needs. Facility crises do not necessarily happen according to a grant schedule. Buildings suffer unforeseen dire emergencies that must be addressed immediately. The state must assist districts that do not have sufficient capital capacity to remedy these situations.<sup>20</sup>

*Recommendation 9: Wherever possible, projects funded through the state school capital construction program should be financed by a combination of state and local revenue.*

The state should leverage local district matching amounts, on a sliding scale, for grant projects in order to maximize funding potential, secure local district support, and recognize Colorado's unique commitment to local control.

Although some states provide funding for identified capital needs exclusively at the state level<sup>21</sup>, most state capital funding programs utilize a mix of state and local funds.<sup>22</sup>

*Recommendation 10: The ratio of state and local funding for capital projects should be determined by a formula based on districts' relative wealth (as measured by district per pupil assessed value or district average*

The limited funding currently available through the Colorado Public School Capital Construction Grant program requires a local district contribution. The

Capital Needs Assessment Project (April; 2005).  
ported that an estimated 1/3 of all Colorado's schools are  
nnell-Kay Colorado K-12 Capital Needs Assessment Project (April;  
Colorado's Woodlin School District received significant hail damage.  
h the hail storm exposed systemic asbestos contamination. That school  
roof is replaced and the asbestos is removed. These needs could not be  
addressed by the state's current grant program as the hail storm did not happen until after the grant  
application deadline.

<sup>21</sup> Arizona, Wyoming and Ohio among others (recognizing that each state provides for the ability of districts to raise local revenue to go beyond state identified needs).

<sup>22</sup> See state profiles on New Mexico and North Carolina for descriptions of other state/local contribution formulas.

mix of state and local funds is determined by a formula primarily driven by the per pupil assessed value (PPAV) of a district relative to the statewide average. This formula attempts to measure local district relative wealth.

However, in that the formula wealth measurement is based only on property wealth—both commercial and residential—it is not an accurate measure of overall wealth. Furthermore, district PPAV fails to account adequately for rural, low enrollment districts and certain unique aspects of Colorado's property tax structure.

Rural districts with fewer than 300 students<sup>23</sup> can have a PPAV higher than the statewide average but still have an insufficient total bonding capacity.<sup>24</sup> In order to account for this, the measurement of relative wealth, the principle factor in the formula, should be PPAV or average personal income whichever is lower (in both cases measured as a percent of the statewide average).

Many state school capital programs are going to formulas based on personal income rather than property value as a more accurate measure of district wealth.

Furthermore, Colorado's school district mill levies are so varied—due to peculiarities of the interaction between the state's TABOR and Gallagher amendments—that the tax effort (i.e. the mill levy or property tax rate as a percent of annual income) of many of the poorest districts is substantially higher than that in the wealthiest districts.<sup>25</sup>

As a result, the presumption that districts should be expected to levy a certain number of additional bonded debt mills for capital is inequitable. A district that is already paying 30% or 40% higher property tax rates in non-optional school district taxes (i.e. mills devoted to district total program funding) should not be expected to levy additional capital mills as a first resort.

Therefore, the initial determination of relative wealth (as a percentage of statewide average PPAV or personal income, whichever is lower) should be adjusted by the number of non-optional (total program) mills in the district relative to the statewide average.

Finally, in order to account for districts with low bonding capacity (and therefore low matching capacity) either because their total bonding capacity is low or because they have used most of their capacity, the total amount required from

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<sup>23</sup> In the 2003-2004 there were 52 districts with fewer than 300 students in their funded student count.

<sup>24</sup> Under the current formula, six of the nine districts not eligible for state aid have fewer than 300 students (Kit Carson, Plainview, Primero, Silverton, Arickaree, and Idalia) and five of them have total bonding capacity under \$7 million (all of the above districts except for Primero). However, the wealthiest districts are all still eligible for some statewide funding—including Aspen, which is the wealthiest district and is more than 1000% of the statewide average PPAV.

<sup>25</sup> See appendix D for the variation of non-optional mill levies (i.e. mill levy applied to district total program funding over which districts have no control) across the state.

these districts should be capped at 90% of their current available bonding capacity.<sup>26</sup>

*Recommendation 11:  
The state should allow districts to request that their local match requirement be waived based on factors not represented in the state and local funding mix formula including: local district bonding effort.*

The state's current Public School Capital Construction Grant program does provide for such a waiver procedure.<sup>27</sup> However, the criteria according to which waivers are granted are not spelled out in statute or rules.<sup>28</sup> As a result, districts do not have a realistic expectation of their eligibility for local match waivers; and considerations for waivers can vary dramatically from year to year according to the make-up of the advisory board and the amount of funding available.

Virtually all state funded school capital programs that require some portion of local district funding allow for a waiver procedure. However, in other states this procedure is spelled out in some detail. New Mexico has a fairly detailed process through which districts can apply for a waiver of their matching requirement. The waiver criteria take in the following factors: local district tax effort (how many mills of property tax the residents of the district are already paying); number of students<sup>29</sup>; and number of at risk students served<sup>30</sup>. In addition, if a district does not have any financial resources (i.e. they are at their bonding limit<sup>31</sup>) the Authority may opt to fund up to the entire cost of the project.

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<sup>26</sup> See appendices A and B for a list of districts with insufficient total bonding capacity and districts that are at or near their bonding limit.

<sup>27</sup> This has been true in the last two fiscal years because of the two funds administered by the program, the state has funded only one—the School Construction Expenditures Reserve—which does not statutorily require a local match. The other fund, which has not received appropriations in the last two funding cycles—the School Construction Renovation Fund—has a statutory matching requirement and so would not be able to issue waivers.

<sup>28</sup> Items required to be listed by districts in waiver requests have been included in State Board of Education related rules. However, no specified procedure according to which waiver decisions would be made is specified. ([http://www.cde.state.co.us/cdeboard/download/bdregs\\_301-64.pdf](http://www.cde.state.co.us/cdeboard/download/bdregs_301-64.pdf))

<sup>29</sup> This factor is included to adjust for large districts with few students, which appear to have a relatively high PPAV but do not have the total assessed value to raise a meaningful amount of revenue through bonding. In addition, small districts have much higher per pupil capital needs in that economies of scale are not available to them—every high school needs a gym, a library, a science lab, etc. whether it has 100 students or 1000.

<sup>30</sup> This factor is measured by the number of students eligible for free or reduced lunch (districts are eligible for a waiver if, in addition to other criteria, the population of these students is greater than 70% district wide).

<sup>31</sup> In New Mexico the limit for school district bonding indebtedness is 6% of the district's total assessed value.

## Revenue Options:

There are many models from other states for generating state revenue to fund school capital construction—state general obligation bonds, local option sales taxes, and gaming proceeds to name only a few. After considering these and other options, we have identified four viable funding sources that may be used either separately or in conjunction to provide revenue to fund a new statewide school capital program.

### Statewide sales tax:

What: Increase the statewide sales tax 0.1% (a 3% increase) from 2.9% to 3.0%. This increase would yield approximately \$63 million dollars of additional revenue in FY 2006, \$66 million in FY 2007, \$69 million in FY 2008, \$72 million in FY 2009 and \$75 million in FY 2010.<sup>32</sup> This amount would be sufficient to provide a revenue source adequate for ongoing school capital needs. Alternately, the state could bond against all or a portion of this revenue and create a sizable amount for addressing the backlog. After the debt for the bonds is retired, the revenue used for debt service could be diverted to ongoing school capital needs.

### Other states:

- Arizona: In 1998 the state lost a lawsuit charging that the funding for the state's schools was unconstitutionally inadequate and unequal, as witnessed by the condition of the state's schools. In response Arizona implemented the Students FIRST program which has since distributed over \$2 billion in state revenue and has succeeded in bringing all the state's public schools up to state standards. This program was funded by a 0.6 cent raise in the statewide sales tax. Against these sales tax revenues, the state issued \$500 million in bonds in 2001 and another \$300 million in 2002.
- Massachusetts: In 2004 the state passed a law to dedicate 1 cent of its existing sales tax to the state's School Building Assistance program. The law required the diversion of this revenue to be phased in over 7 years. That same law authorized the sale of \$1 billion of bonds for the program.
- Washington: Initiative 884 on the Nov. 2004 ballot in Washington would have increased the state's sales tax 1 cent to produce over \$1 billion of additional revenue a year for education spending. That initiative failed by a large margin (60% no). It would have made Washington's sales tax the highest in the country, which, when local taxes were added in, would have amounted to more than 10 cents on the dollar in many areas of Washington.
- Texas: Governor Perry has recently (June 2005) proposed a sales tax increase of 0.7 cents to fund the state's obligation stemming from a loss in an adequacy lawsuit. In addition to the statewide increase, the governor

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<sup>32</sup> Figures represent 3% of forecast figures from Colorado Legislative Council Staff.  
[http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/lcs/focus/2005/05Forecast0621.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/lcs/focus/2005/05Forecast0621.pdf)

is also proposing a local option sales tax of 2 additional cents, which would make Texas' sales tax rate, at 8.95%, one of the highest in the nation.

Colorado: Colorado's current state sales tax is 2.9%. Except for states that do not have a sales tax,<sup>33</sup> Colorado has the lowest state imposed sales tax in the country. When local sales taxes are added in, measured as a percent of \$1000 of personal income, Colorado ranked 19<sup>th</sup> in FY 2004.<sup>34</sup>

The state sales tax rate in Colorado was reduced by the legislature in 2000, effective January 2001 at the apex of Colorado revenue collections, from 3% to 2.9%.<sup>35</sup>

To put this proposed increase in context, voters in Colorado's most populous counties approved a sales tax increase in 2004 for FasTracks, bringing the sales tax represented by that program alone to 1.2%. In 1998 voters in seven metro area counties approved a 0.1 cent sales tax increase to build a new football stadium (actually an extension of a 1990 tax for the Rockies stadium that was due to expire). That tax is projected to expire in 2012 when the stadium is paid off.<sup>36</sup> Similarly, voters in the same seven county area in Nov. 2004 approved an extension of a 0.1% sales tax to support the Scientific and Cultural Facilities District. That tax is now set to expire in 2018.

In FY 2004, 89% of statewide sales tax revenue came from 16 counties with 70% coming from 7 counties alone<sup>37</sup>.

#### **Severance tax:**

What: Increase the severance tax 2 percentage points to yield \$120 million additional revenue in 2006 with annual increases thereafter difficult to predict.

#### Other states:

- New Mexico: The dedicated revenue source for the state's school capital construction program comes from regular bonding off revenue generated from the state severance tax.
- Nebraska: a portion of revenue collected from Nebraska's oil and gas severance tax is credited to the state's permanent school fund.<sup>38</sup>

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<sup>33</sup> Oregon, Montana, Delaware, New Hampshire and Alaska.

<sup>34</sup> *How Colorado Compares in State and Local Taxes*; Colorado Legislative Council Staff (January, 2005) [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2005/research/05-01IssueBrief\\_StateLocalTaxes.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/research/05-01IssueBrief_StateLocalTaxes.pdf). Colorado's local tax burden is relatively high compared to other states (12<sup>th</sup> in the nation). Although Colorado has the lowest sales tax of any states that impose a state sales tax, it has the 2<sup>nd</sup> highest local sales tax burden. State and local sales taxes combined rank Colorado's overall sales tax burden 19<sup>th</sup>.

<sup>35</sup> The recession in Colorado began in the second quarter of 2001.

<sup>36</sup> That tax produced \$36 million in tax revenue last year from the seven county area. (The Annual Report of the Colorado Department of Revenue 2004 [http://www.revenue.state.co.us/Stats\\_Dir/AR2004.pdf](http://www.revenue.state.co.us/Stats_Dir/AR2004.pdf))

<sup>37</sup> The Annual Report of the Colorado Department of Revenue (above)

Colorado: Colorado's severance tax varies from 2%-5% depending on the gross income from production. However, due to the fact that Colorado allows companies to deduct 87.5% of their property taxes from their severance tax liability, the effective severance tax rate (i.e. the ratio between the severance taxes collected to the total statewide value of production) was 1.75% in 2004.

Severance tax revenue in FY 2004 was \$115.9 million, up 250% from \$32.4 million the previous year.<sup>39</sup> According to the U.S. Geological Survey, Colorado was 5<sup>th</sup> in the country in gas production and 11<sup>th</sup> in oil production.<sup>40</sup>

Severance tax revenue in Colorado has been extremely volatile showing net decreases from year to year in 4 of the past 10 years. Placing this revenue, temporarily or permanently, in a reserve fund would be a stabilizing buffer on the inherent volatility.

**Divert federal mineral lease royalties from the school finance formula:**

What: Cap the current amount of federal mineral lease revenue going into the school finance act, adjusted annually for inflation, and divert additional revenue over that amount to school capital funding. Although a fairly volatile revenue source, this revenue stream is projected to grow \$16.3 million in 2006<sup>41</sup> and might produce an additional \$27 million in 2007 and \$38 million in 2008<sup>42</sup>.

Other states:

- Wyoming: The \$1.4 billion Wyoming has dedicated to school capital construction funding over the past four years has come primarily (93% in the last fiscal year) from payments for federal mineral leases, specifically from coal leases, referred to as "the coal bonus tax".

Colorado: In 2004 the state distributed \$44 million in federal mineral lease revenue through the School Finance Act. The amount represents a 25% growth over last year and a 50% growth over 2002. The projected revenue increase from this source for the School Finance Act in FY 2006 is \$16.3 million.<sup>43</sup> This revenue is not currently used as additional revenue to the SFA, but rather as replacement revenue (i.e. federal mineral lease revenue that is used to meet the SFA target offsets general fund revenue; the more FML revenue, the less

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<sup>38</sup> 2003 Nebraska Department of Revenue Annual Report

[http://www.revenue.state.ne.us/ann\\_rept/03an\\_rep/misc9-10.pdf](http://www.revenue.state.ne.us/ann_rept/03an_rep/misc9-10.pdf)

<sup>39</sup> The Annual Report of the Colorado Department of Revenue

[http://www.revenue.state.co.us/Stats\\_Dir/AR2004.pdf](http://www.revenue.state.co.us/Stats_Dir/AR2004.pdf). According to Legislative Council Staff, the amount in 2004 was \$125.1 million, up 283%.

<sup>40</sup> Colorado mineral and fuel activity, Cappa, Young, Keller et al., Colorado Geological Survey (2004)

<http://geosurvey.state.co.us/portals/0/MMF%202004%20Intro.pdf>

<sup>41</sup> As reported in Legislative Council Staff's annual State Education Fund report

[http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2005/FinalReports/05SEFFinalReport.PDF](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/FinalReports/05SEFFinalReport.PDF)

<sup>42</sup> Based on the 2005-2006 growth rate of 25%.

<sup>43</sup> As reported in Legislative Council Staff's annual State Education Fund report (supra).

general fund revenue but the same SFA total). This revenue is projected to grow significantly over the next decade especially with gas expansion into federal lands in Garfield County.

Of the \$44 million produced statewide, \$42 million (96%) came from 8 counties; \$29 million (66%) came from 3 counties alone.<sup>44</sup>

### **Real estate transfer tax:**

What: Institute a statewide real estate transfer tax of 0.4% (the nationwide average). This would yield approximately \$70 to \$100 million annually.<sup>45</sup> This amount would be sufficient to provide a revenue source adequate for ongoing school capital needs. Alternately, the state could bond against all or a portion of this revenue and create a sizable amount for addressing the backlog. After the debt for the bonds is retired, the revenue used for debt service could be diverted to ongoing school capital needs.

The tax could be made more progressive by excluding the first \$100,000 of the real estate value.<sup>46</sup> Accordingly, the tax could then graduate as the price of the real estate increases:

- 0-\$100,000 value is exempt (not taxed)
- \$100,001-\$300,000 taxed at a rate of 0.4%
- Over \$300,000 taxed at 1%

The scheme above would have produced approximately \$47 million in revenue in 2004 on single family home sales alone. Assuming that single family residential homes produce five times more total sales than commercial properties<sup>47</sup>, adding in commercial sales value would yield an additional \$9 million in annual RETT revenue. Finally, these projections do not take into account sales of multi-dwelling buildings or single family homes sold by owners.

### Other States:

- Washington: Washington uses 90% of the revenue collected through its 1.28% real estate transfer tax (called a real estate excise tax there) to support K-12 education.<sup>48</sup>
- Michigan: Revenue collected through its 0.75% real estate transfer tax is deposited into the state's School Aid Fund to fund the state's public K-12 schools.<sup>49</sup>

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<sup>44</sup> According to information from the Department of Local Affairs

<http://www.dola.state.co.us/LGS/FA/EMIA/miner/FMLChartandMemo.pdf>

<sup>45</sup> According to statistics compiled by the Colorado Association of Realtors, single family home sales alone in 2004 represented around 17 billion dollars (<http://www.colorealtor.org/index.cfm?page=stats&nav=pub>). These sales alone would have produced 70 million at 0.4%. Additional revenue would be added by multi-family units, commercial units and for sale by owner units.

<sup>46</sup> This would lessen the amount of tax revenue yielded from single family homes sales alone (referenced above) by \$32 million

<sup>47</sup> This was the ratio in the Denver Metro area in 2004 when sales of single family residential homes were approximately \$10.1 billion and commercial sales were \$2.1 billion.

<sup>48</sup> In 2004 Washington's RETT brought in over \$600 million in revenue (4.7% of all state tax revenue).

Colorado: Colorado is one of 15 states that do not have a statewide real estate transfer tax. Article X, Section 20 of the Colorado Constitution (TABOR) explicitly prohibits the enactment of a real estate transfer tax.<sup>50</sup> However, some municipalities had instituted real estate transfer taxes before the passage of TABOR in 1992. Those municipalities are able to maintain their RETTs. Twelve Colorado municipalities have real estate transfer taxes:

**Municipalities and Real Estate Transfer Taxes**

<b>Municipality</b>	<b>Rate</b>	<b>Municipality</b>	<b>Rate</b>
Aspen	1.5%	Minturn	1.0%
Avon	2.0%	Ophir	4.0%
Breckenridge	1.0%	Snowmass Village	1.0%
Crested Butte	3.0%	Telluride	3.0%
Frisco	1.0%	Vail	1.0%
Gypsum	1.0%	Winter Park	1.0%

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<sup>49</sup> Michigan collected \$257 million through this tax in FY 2003 (*Annual report of the Michigan State Treasurer Fiscal Year 2003* [http://www.michigan.gov/documents/tar02\\_123865\\_7.pdf](http://www.michigan.gov/documents/tar02_123865_7.pdf)). The state adopted this tax in 1994.

<sup>50</sup> Article X, sec. 20(8)(a), “New or increased transfer tax rates on real property are prohibited.”

<sup>51</sup> *Tax handbook: state and local taxes in Colorado*; Colorado Legislative Council Staff (December; 1998) [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/research/TaxHdBk.htm](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/research/TaxHdBk.htm)

## State Profiles

### **Case Study: Arizona** (1,053,506 students; 1210 schools)

After Arizona lost a lawsuit challenging their capital funding system, they established the Students FIRST facilities funding system. Arizona distributes all state funds through a series of discrete grant programs that award grants for specified projects for which local districts apply.

Administration: The Arizona School Facilities Board oversees and administers the state facilities funding program in Arizona (Students FIRST). The board includes nine representatives of the public and private sectors: a representative of a local taxpayer organization, a school board member, a school facilities director, an architect, an engineer, and several other categories of representation. The board also has an executive director, appointed by the governor and confirmed by the state senate who also serves in the governor's cabinet. The board has a 20 member staff.

Assessment: Arizona began its Students FIRST program in 1998. Over 16 months, state investigators visited each of the state's 1210 public school buildings to assess district facilities needs.

Standards: The School Facilities Board has developed minimum building adequacy standards. Districts are free to raise additional local revenue to go beyond the state's standards. Districts can apply for a waiver to allow them not to make state funded upgrades. Those waivers are evaluated by the School Facilities Board.

Funding Source: The board has distributed over \$2 billion since 1999. Arizona has four programs administered by the School Facilities Board: Deficiencies Correction; Emergency Deficiencies Correction; New School Facilities; and Building Renewal. The state funded the Deficiencies Correction program (which has been completed—see below) and currently funds the New School Facilities Program by a 0.6 cent increase in the state sales tax. Against these sales tax revenues, the state issued \$500 million in bonds in 2001 and another \$300 million in 2002. As part of this new revenue, the state phased out local property taxes used for school capital. In addition, the state legislature makes an annual General Fund appropriation to fund the Building Renewal program (\$70 million for fiscal year 2006).

### Distribution of State Funds:

- **Deficiencies Correction:** After the state conducted their statewide facilities assessment, and developed their statewide standards, they systematically remedied all the identified deficiencies (i.e. places where facilities did not meet the state's standards). Therefore, this program essentially addressed the backlog of capital needs. The deficiencies correction process took 5

years during which the state completed over 6000 projects and is now complete.

- Emergency Deficiencies Correction: This program is essentially limited to problems caused by unforeseen events (hail, fire, etc.) as the facilities backlog has been addressed and schools receive additional revenue for ongoing building renewal. These requests are handled on an ad hoc basis.
- New School Facilities: The School Facilities Board distributes new school facilities revenue to school districts based on the following formula: (number of students) x (square feet per pupil as per state standards) x (cost per square foot) = allocation. Districts determine which type of school they want (e.g. middle school, K-12, etc.) and cost per square are designed for each school type.
  - K-6: \$103.56/sq. ft.
  - K-8: \$104.92/sq. ft.
  - 6-8: \$107.40/sq. ft.
  - 7-8: \$109.32/sq. ft.
  - 9-12: \$126.58/sq. ft.

Districts receive 5% more per square foot for Rural Schools (Rural Schools are defined as those located 35 or more miles from any town with a population of 50,000.) If the project comes in under budget, districts may use the excess funds to go above or outside the adequacy standards. Land costs are funded in addition to formula funding for new construction. Districts choose sites for new schools.

- Building Renewal: The Building Renewal program was developed to maintain the adequacy of the state's schools by continually updating and replacing major building systems (roofs, HVAC, etc.). The State Legislature makes an annual appropriation to this fund (\$70 million in FY2006) and that revenue is distributed to districts using a formula based on the age and condition of each building in the district.

Other: In Arizona, charter schools were specifically omitted from the state's capital program in the act that created charters.

**Case Study: New Mexico** (326,083 students, 800 schools)

New Mexico began state contributions to local district capital expenditures in 1975. Following a court ruling in 1999, the state expanded its support of local district capital needs. The state currently operates a project-based grant program and a mill levy equalization program.

Oversight Board: New Mexico's Public School Capital Outlay Council oversees and administers the state's capital construction program that was created in 2000 in response to a court ruling that found the state's system of capital funding unconstitutional. The council consists of nine legislative, executive and public school representatives. The members of the council are: the secretary of finance and administration, state superintendent, the governor, president of the state's school board association, the director of the construction industry's

division of the regulation and licensing department, the president of the state board, the director of the legislative education study committee, the director of the legislative council service. Any of the named council members may appoint a designee in their place. Although the council is independent, the state's department of education keeps all financial records and makes annual reports to the legislature.

- Staff: The Public Schools Facilities Authority is the operational agency that, in effect, staffs the Council. The Public School Facilities Authority's staff provides technical assistance to districts with respect to: state building adequacy standards, master planning, the development and implementation of maintenance plans, space utilization, cost benefit analyses and training of district facility staff. There are 46 staff members in the Public Schools Facilities Authority in two central offices (Santa Fe and Albuquerque) and as field personnel in districts throughout the state.

Assessment: In 2003 the state contracted with 3D/International, a national consulting firm, to conduct a statewide needs assessment. In addition, districts must submit a five year facilities master plan to the Public School Facilities Authority, technical assistance for which is provided by the PSFA staff.

Standards: The Public Schools Facility Authority, with help from their staff, the Public School Capital Outlay Council, has developed, as charged by statute, statewide adequacy standards for facilities. The process to institute a standards based procedure for capital outlay involved all 89 school districts and was only just instituted last year. The new program is based on a condition index for every separate school building in the state. The index is based on the condition of 65,000 separate systems in the state's schools, weighted by category. Categories of higher importance, such as life, safety or health, get higher relative weights, pushing those projects higher on the priority list. The condition index of each system in each school is stored in a database and the state essentially works from the top of the prioritized list until the year's funds are exhausted.

Funding Source: Since 2001, the state has distributed over \$450 million to districts for capital projects, including over \$230 million in 2004 alone. Although New Mexico had once dedicated 60% of lottery revenue to school capital projects<sup>52</sup>, today the recurring revenue source for the program comes from regular bonding off revenue generated from the state severance tax.

Distribution of State Funds: The state operates a grant program. The General Assembly determines how much revenue is available for the program each year. Then the Public School Facilities Authority reviews the applications, hears public testimony, and determines which projects to fund. The prioritization is determined by the statewide building adequacy standards in relationship to the condition of the building (building condition index—see above). Districts must make applications for projects (i.e. even if a project appears high on the state's

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<sup>52</sup> This revenue source generated an average of \$13 million annually.

prioritized list, if the district does not request assistance, the project is not funded). The revenue available for the program in any given fiscal year is awarded to projects in order of their appearance on the prioritized list until the revenue is exhausted. The state's goal is to fund at least the top 100 prioritized projects each year.

The total cost of approved projects is divided between state and local funds. The calculation of this mix is set out in statute and is driven primarily by district per pupil assessed value and district bonded indebtedness.<sup>53</sup> However, the state also has a fairly detailed process through which districts can apply for a waiver of their matching requirement. The waiver criteria take in the following factors: local district tax effort (how many mills of property tax the residents of the district are already paying); number of students<sup>54</sup>; and number of at risk students served<sup>55</sup>. In addition, if a district does not have any financial resources (i.e. they are at their bonding limit<sup>56</sup>) the Authority may opt to fund up to the entire cost of the project.

In addition to the prioritized condition index process above, the state also has the following programs:

- Deficiencies Correction program: In 2001 the state undertook a project to identify and correct all then existing health and safety defects by 2005. The last awards from the \$250 million dedicated to this program have been made and districts have until June 2007 to use those funds.
- Roof repair and replacement program: The state has a two year roof repair and replacement program through which it will distribute \$30 million a year in fiscal years 2006 and 2007 for roof projects identified through the state's assessment process. Local district matches for these grants are calculated by the same formula set out above with the exception that roof problems that have been identified as threatening the health or safety of students will be automatically corrected.
- Portable classrooms: The Public School Facility Authority is authorized to purchase portable classrooms and loan them to districts as needed.
- Lease payments: the state authorized \$4 million annually to be given to districts (or charter schools) in the form of grants for lease payments.
- Mill levy equalization program: New Mexico also has a program, administered by the state department of education (and so outside of the

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<sup>53</sup> A copy of the statute is available at <http://www.nmschoolbuildings.org/pdf/Bills/SB0455.pdf>.

<sup>54</sup> This factor is included to adjust for large districts with few students, which appear to have a relatively high PPAV but do not have the total assessed value to raise a meaningful amount of revenue through bonding. In addition, small districts have much higher per pupil capital needs in that economies of scale are not available to them—every high school needs a gym, a library, a science lab, etc. whether it has 100 students or 1000.

<sup>55</sup> This factor is measured by the number of students eligible for free or reduced lunch (districts are eligible for a waiver if, in addition to other criteria, the population of these students is greater than 70% district wide).

<sup>56</sup> In New Mexico the limit for school district bonding indebtedness is 6% of the district's total assessed value.

Public School Facilities Authority), to equalize revenue produced from a local district mill levy increase. According to the program, districts can, with voter approval, levy up to two mills for a maximum of six years for capital improvements. The state, using state revenue backfill, guarantees a minimum level of revenue from these levies. This year the state distributed over \$20 million through this program.

Other:

- **Maintenance:** In order to receive state funds, districts must have a preventative maintenance plan. Technical assistance for the development of this plan is provided by the PFSA.
- **Charter Schools:** Recently passed state statute requires the application from a school district to include the capital needs of charter schools within the district. However, according to a law passed by the legislature in 2005, charter schools approved after July 1, 2005 and before July 1, 2010 shall occupy space that meet educational occupancy standards, and subsequent to July 1, 2010, no charter school application will be approved or renewed unless a charter school occupies space in a public building or, if no public building is available, a space owned by a non-profit entity and meet statewide adequacy standards;

**Case Study: Wyoming** (83,772 students; 500 schools)

In 2001, the Wyoming Supreme Court ruled that the state's system of funding school capital construction was unconstitutional and required the state to develop a method for addressing district capital needs that is need-based and is not based on the property wealth of the district.

Administration: Following the 2001 state Supreme Court ruling Wyoming established the School Facilities Commission which was charged with overseeing all aspects of the state's school capital construction program. The commission has seven members: the state superintendent of public instruction; one member of the state board of education; three experts in: building and facility engineering, construction and operations; building design and specification; estimating, bidding and building construction (each appointed by the Governor); two experts in school facilities planning and management and the state educational program for public schools (each appointed by the state superintendent of public instruction). The commission works in concert with the state department of education but is independent of it, answering directly to the Governor. Annual progress reports are also made to the legislature providing the status of statewide adequacy and the level at which statewide needs are achieved.

- The commission has 14 staff personnel that provide technical assistance in planning and assessment to districts as well as analysis for the commission.

Assessment: In 1997 Wyoming completed a statewide needs assessment conducted by MGT of America, a national consulting firm. This assessment examined building conditions, educational suitability, technology readiness, and need for additional space. The needs assessment was redone in 2002 following another court decision. Since then, the state requires the assessment of half of its schools each year—so that no single school’s assessment is more than two years old. The state performs these annual assessments using a combination of district reporting and MGT consulting. In addition, all districts are required to prepare and submit a five year facilities master plan to the School Facilities Commission each year.

Standards: One of the earliest and primary responsibilities the School Facilities Commission was charged with by the legislature was the development of statewide facility adequacy standards. The Commission undertook and completed the development of these standards in 2002, which standards are updated by the commission on a continuing basis.

Funding Source: Wyoming has dedicated \$1.4 billion to state capital construction funding over the past four years. Revenue is provided by annual appropriations from the legislature. However, the legislative appropriation is largely (93%) dependent on revenue from federal mineral lease royalties, primarily from coal and referred to as “the coal bonus tax”.

Distribution of State Funds: Wyoming currently maintains three programs through which state revenue for capital construction is distributed to local districts. Through the Commission and its staff, district master plans are reviewed, approved and then funded entirely (i.e. for the whole district, regardless of the number of discrete projects listed). The state funds the cost entirely and does not require a local match.

- Minor capital: This program funds projects in approved district master plans that require the addition of new equipment or material to facilities the cost of which is less than \$200,000.<sup>57</sup>
- Major capital: This program is used to fund new schools, additions, major renovations, and other district capital needs, identified in approved district master plans, requiring more than \$200,000.
- Major maintenance: The state of Wyoming has assumed responsibility for funding of maintenance and building renewal (i.e. the repair or replacement of building systems, e.g. roofs, HVAC, electric, etc.) through this program. This funding is distributed to all districts annually on a formula basis. The main factors in the formula are gross square feet of district facilities and the number of students. This program distributes \$33-35 million annually.

Former programs:

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<sup>57</sup> As opposed to repair or replacement of existing components, which is covered by the major maintenance program above

- Mill levy equalization for district outstanding bond payments: During the transition to the state's assumption of all capital funding costs, the state provided funds for debt service on then existing bonding debt. The state equalized to 150% of the statewide average (on a per pupil basis) the revenue generated from each mill, above two mills, of mill levy increases passed before 2001 for the sale of bonds for capital construction.
- Deficiency correction: Following the state's 2002 statewide assessment, schools scoring below 50% were prioritized for immediate repair/replacement through a project-based grant program. Remediating those schools was completed in 2004.

Other:

- Enhancements: Districts are free to go above and beyond the state adequacy standards that are state funded. These "enhancements" are paid for by the local districts. Since the institution of the Commission in 2001 only two school districts have asked their voters for bonds—and both in very modest amounts.
- Charter schools: charter school capital needs are reported in district master plans and funded when the district's master plan is approved by the Commission.<sup>58</sup>

**Case Study: North Carolina** (1,347,247 students; 2300 schools)

The North Carolina legislature passed the School Facility Finance Act in 1987 which established two state funded programs for funding school capital projects. Of the two programs, one awarded grants for the backlog of critical needs until the last identified projects were completed. The other is distributed on a per pupil basis to facilitate districts' ongoing capital needs.

Administration: Both funds established by the School Facility Finance Act are under the auspices of North Carolina's state education authority (the Department of Public Instruction). The School Planning division of the Department of Public Instruction provides staff for the administration of the funds.

- Staff: School Planning provides technical assistance to districts in evaluating facility needs and providing analysis of specific building or site problems, with priority placed on small and low-wealth school systems. Instruction and guidance are available to assist all units with facility planning and self-evaluation.

Assessment: State law requires a comprehensive facility needs survey to be done every five years since 1988. Initially the School Planning division of the state education authority sent staff members into the districts to oversee the survey completion. Since then the School Planning division has developed a detailed e-mail based survey that is completed by districts based on narrowly defined guidelines. State guidelines provide common construction cost figures

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<sup>58</sup> There are only four districts in Wyoming with charter schools.

and guidelines for student capacity calculations, etc. The survey must be formally approved by both the local school district and the county commissioners in which the district is located before it is submitted to the state.

Standards: The state has very detailed standards, called guidelines, governing how assessments are done (e.g. how the capacity of a school is calculated) as well as how state funds can be spent. State planning conducts a review of all applications keeping in mind the state's guidelines while maintaining flexibility with respect to local programs.

Funding Source: In 1996 the voters of North Carolina passed a 1.8 billion dollar bonding measure (which funds had expired in 2004). This revenue was used to address the state's backlog of critical need (the Critical School Facility Needs Fund). The other fund administered by the state, the Public school Capital Building Fund (see below) receives 7.25% of the state's corporate income tax revenue.

Distribution of State Funds: Two funds were established by the state legislature in the School Facilities Finance Act of 1987: the Critical School Facility Needs Fund and the Public School Capital Building Fund

- The Critical School Facility Needs Fund addressed all facility deficiencies as identified by the state needs assessment and was designed to sunset when the last identified projects were completed (which happened in 2004). The revenue for this account came from the state's sale of \$1.8 billion in bonds in 1997 (the bonding measure was approved by the state's voters in 1996).
- The Public School Capital Building Fund is designed to provide a stable source of capital funding for districts going forward (i.e. after identified deficiencies had been corrected). It is distributed to districts on a per pupil basis and is deposited into a dedicated capital account. The state education authority has control of the account and transfers the amount approved for approved capital projects from the account to the school's general fund. The district is required to provide a matching portion in the amount of one district dollar for every three dollars of state money. The source of the revenue for this fund is a portion (7.25%) of the state's corporate income tax revenue. The fund has allotted from \$8 to \$103 million annually since 1987.

Appendix A: School districts with insufficient bonding capacity to build one school

**Districts with Total Bonding Capacity under \$6 Million 2003-2004**

*According to an estimate, by architects specializing in public school design and district facilities managers it would cost at least \$6 million for a "basic" K-8 school, a high school would be significantly more.*

County	District
1. Arapahoe	Byers
2. Arapahoe	Deer Trail
3. Baca	Campo
4. Baca	Pritchett
5. Baca	Springfield
6. Baca	Vilas
7. Baca	Walsh
8. Bent	Mc Clave
9. Conejos	North Conejos
10. Conejos	Sanford
11. Conejos	South Conejos
12. Costilla	Centennial
13. Crowley	Crowley County
14. El Paso	Calhan
15. El Paso	Edison
16. El Paso	Ellicott
17. El Paso	Miami/Yoder
18. El Paso	Peyton
19. Elbert	Agate
20. Elbert	Big Sandy
21. Elbert	Elbert
22. Elbert	Kiowa
23. Huerfano	La Veta
24. Jackson	North Park
25. Kiowa	Eads
26. Kiowa	Plainview
27. Kit Carson	Arriba-Flagler
28. Kit Carson	Bethune
29. Kit Carson	Hi-Plains
30. Kit Carson	Stratton
31. Las Animas	Aguilar Reorganized
32. Las Animas	Branson Reorganized
33. Las Animas	Hoehne Reorganized
34. Las Animas	Kim Reorganized
35. Lincoln	Genoa-Hugo
36. Lincoln	Karval
37. Logan	Buffalo

38. Logan	Frenchman
39. Logan	Plateau
40. Mesa	Debeque
41. Mineral	Creede Consolidated
42. Montezuma	Mancos
43. Montrose	West End
44. Morgan	Weldon
45. Otero	Cheraw
46. Otero	Fowler
47. Otero	Manzanola
48. Otero	Rocky Ford
49. Otero	Swink
50. Phillips	Haxtun
51. Prowers	Granada
52. Prowers	Holly
53. Prowers	Wiley
54. Rio Blanco	Sargent
55. Saguache	Center
56. Saguache	Moffat
57. Saguache	Mountain Valley
58. San Juan	Silverton
59. Sedgwick	Julesburg
60. Sedgwick	Platte Valley
61. Washington	Akron
62. Washington	Arickaree
63. Washington	Lone Star
64. Washington	Otis
65. Washington	Woodlin
66. Weld	Briggsdale
67. Weld	Pawnee
68. Weld	Prairie
69. Yuma	Idalia
70. Yuma	Liberty

Total number of districts affected: 70 (40% of all districts in the state)

Total enrollment in these districts: 21,316

Appendix B: School districts at or near their bonding limit

**Districts That Have Used Most of Their Bonding Capacity**

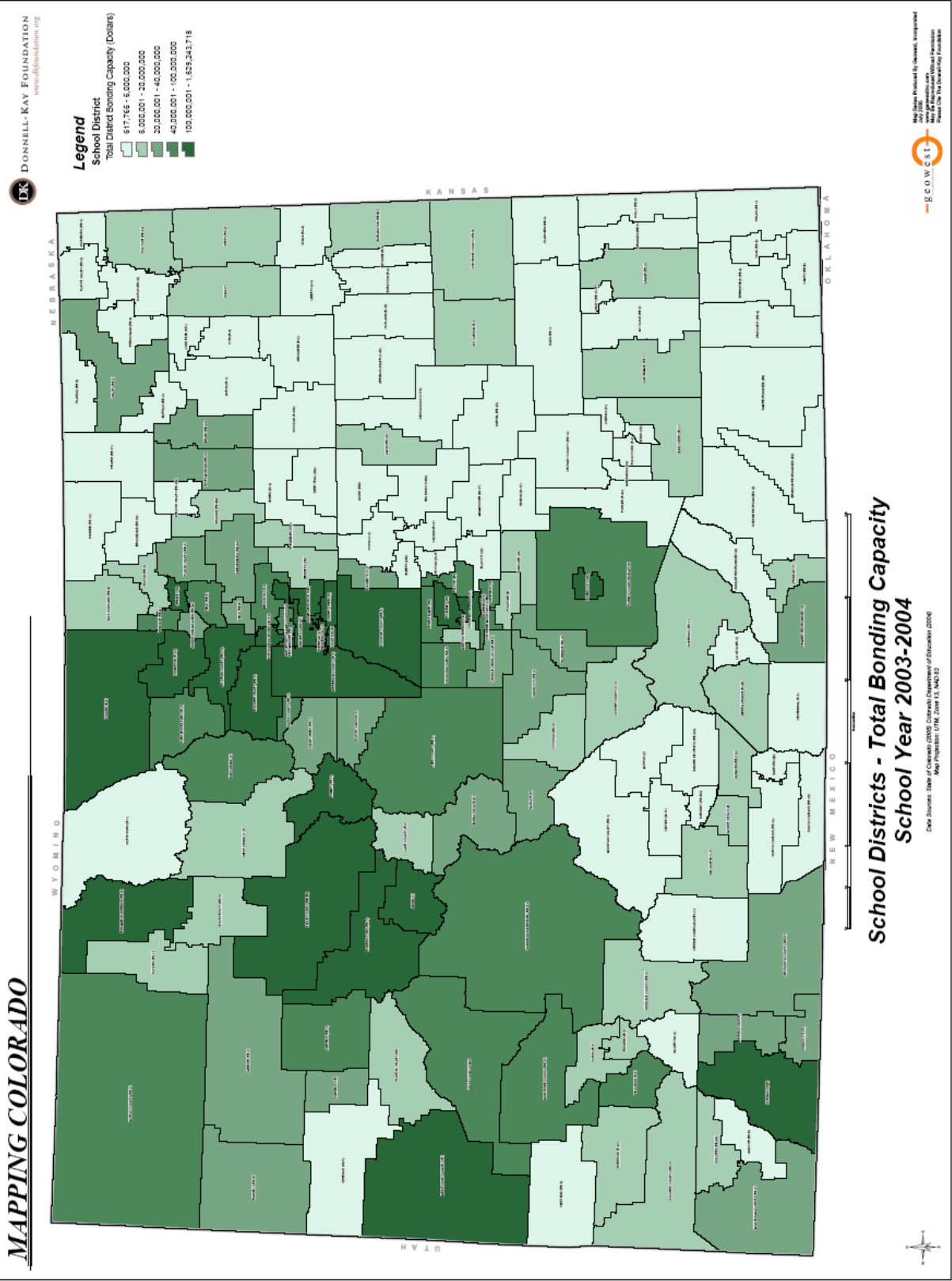
*Districts That Have Used More than 70% of Their Total Bonding Capacity  
(School Year 2003-2004)*

<b>County</b>	<b>District</b>
1. Adams	Adams 12 Northglenn-Thornton
2. Adams	Strasburg
3. Boulder	St. Vrain Valley
4. Douglas	Douglas
5. El Paso	Academy
6. El Paso	Cheyenne Mountain
7. El Paso	Ellicott
8. El Paso	Falcon
9. El Paso	Hanover
10. El Paso	Harrison
11. El Paso	Lewis-Palmer
12. El Paso	Peyton
13. Elbert	Elizabeth
14. Fremont	Florence
15. Morgan	Wiggins
16. Pueblo	Pueblo City
17. Pueblo	Pueblo County Rural
18. Weld	Greeley
19. Weld	Johnstown-Milliken
20. Weld	Windsor
21. Yuma	Yuma

Total enrollment in these districts: 196,466 (or 28% of all students in the state)

Appendix C: School district total bonding capacity

**MAPPING COLORADO**



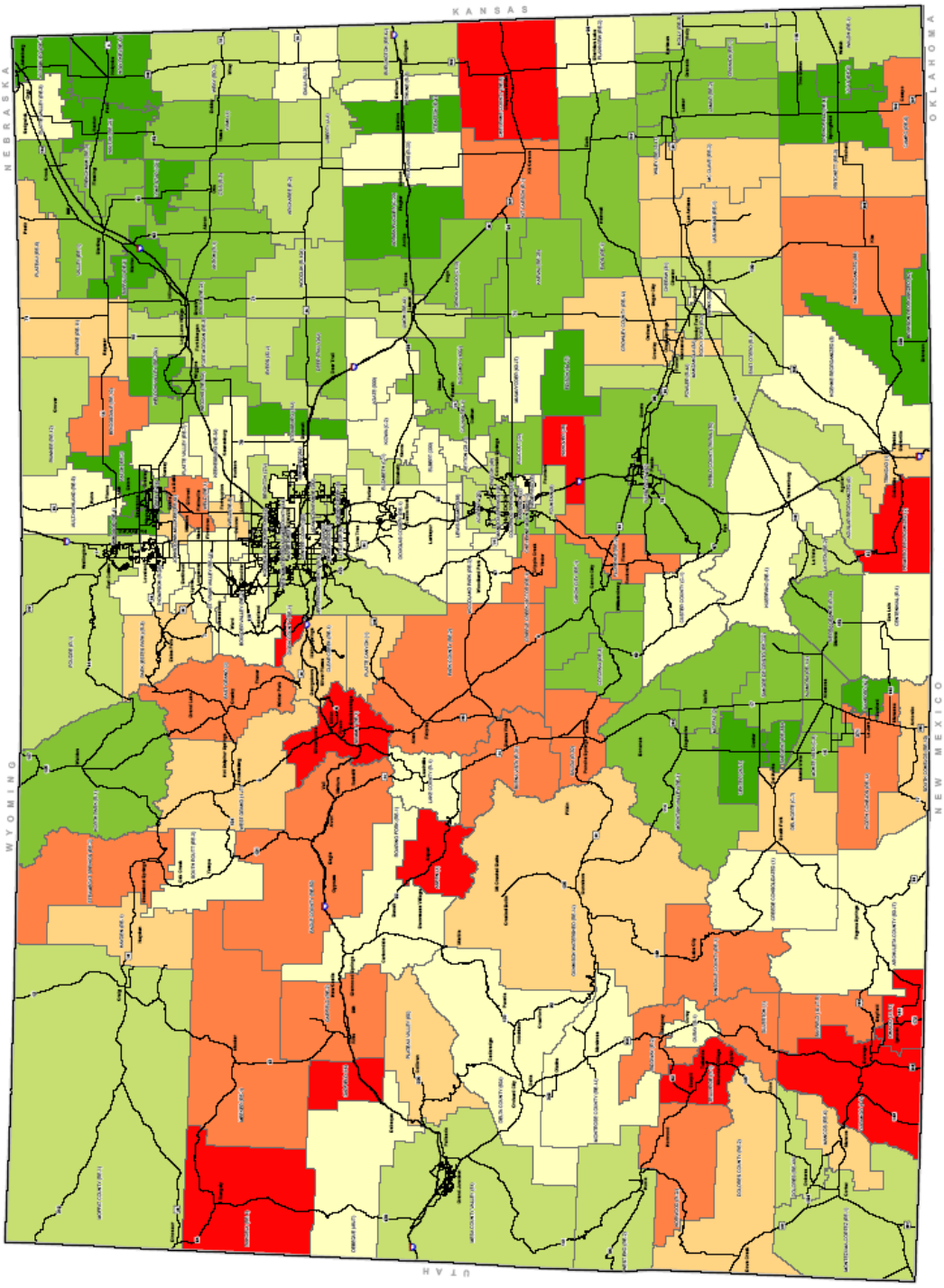
Appendix D: School district mill levies applied to total program:

**MAPPING COLORADO**

**DK** DONNELL-KAY FOUNDATION  
www.donnellkay.org

**Legend**  
School Districts  
Mill Levy Applied To Total Program

34.074 - 40.080	30.369 - 34.073
26.909 - 30.368	23.435 - 26.906
18.465 - 23.434	11.315 - 18.464
4.536 - 11.314	



**Colorado Mill Levies - Mill Levy Applied To Total Program  
School Year 2003-2004**

Data Sources: Colorado Department of Education (CDE), Colorado Department of Transportation (CDOT)  
Map Projection: UTM, Zone 13, NAD 83



Map Data Provided By: Donnell, Incorporated  
Map Generation Software: ArcGIS  
Printed On: The Donnell-Kay Foundation

## Appendix E: Results from Donnell-Kay school capital needs assessment project

### **The Donnell-Kay Colorado K-12 Capital Needs Assessment Project**

Colorado is one of a very small number of states that does not gather information about K-12 facilities at the state level. Accordingly, the state does not know exactly how many buildings there are, much less what condition they are in. We believe that any thoughtful approach to dealing with Colorado's crumbling schools must begin with a clear idea of what sort of problem we are facing. In 2004 the Donnell-Kay Foundation undertook a multi-pronged needs analysis project in an attempt to gather data from all of Colorado's 178 school districts. That project involved two components. In consultation with a group of facility experts, CASE and National Research Center Inc. we sent an e-mail based survey to all districts. The survey had two portions—one to be filled out by the district superintendent and one to be filled out by the district facility manager. We also did site assessments of schools in 8 school districts throughout the state. The site assessments were done by Colorado CEFPI volunteers trained by MGT of America and using the BASYS program developed and licensed by MGT. Following are some of the results:

- The site assessments found a total of **\$121,877,401 of capital needs in the 16 school sites** assessed.
- When compared to the student enrollment in each of those schools, that comes to **\$13,790 per student**. That per pupil amount, if applied to the entire state enrollment, would mean over \$10 billion of need statewide.
- Of the 16 individual schools assessed, each had needs over \$3 million—with one needing more than \$25 million.
- We received survey results from 72 districts representing 956 school facilities (60% of all school sites) and 424,978 students (59% of Colorado's students).
- Using amounts reported by the facilities managers, an estimate of the total need for the entire state was calculated based on each region's student enrollment. **For the entire state, the overall cost of capital needs was estimated to be about \$5.7 billion.**
- Over half of Colorado schools were built before 1969.
- Superintendents rated 19% of elementary school buildings, 23% of middle school buildings and 21% of high school buildings inadequate for educational suitability.
- According to superintendents, 30% of elementary schools, 20% of middle schools and 23% of high schools have inadequate space.
- One-third of Colorado high schools have inadequate science facilities.
- Well over 1/3 of Colorado school districts do not have a long range facility plan.
- **92% of superintendents think school facilities are "essential" or "very important" to the academic and social success of students.**
- 69% of superintendents think school funding is the most pressing issue facing their school district.

Information compiled by the Donnell-Kay Foundation April 2005

Appendix F: Partial summary of applications to the Colorado Public School Capital Construction Grant Program FY 2006.

**Partial summary of Public School Capital Construction Grant applications FY 2006**

- The General Assembly appropriated \$5 million for all grants in FY 2006.
- Districts submitted applications for 131 projects and requested a total of \$40.5 million.
- Twenty-eight projects have been awarded at least partial funding (additional funding will be awarded from powerball spillover funds recently secured by the program).
- The school building in the Woodlin school district (Washington County) has been closed by the state health department because of asbestos contamination. The school was recently severely damaged in a hail storm, in the aftermath the demolition of water-soaked carpet and fallen ceiling tiles exposed systemic toxic asbestos contamination. The roof is unsound and will not withstand the weight of workers. In addition, there are currently open high voltage electric lines and transformers adjacent to the elementary school playground.
- The school in the Agate school district (Elbert County) has been cited by the health department for having an inadequate septic system and has been given 2 years to bring it into code compliance. In particular, the septic tank has no filtering system and the health department is concerned about contamination of nearby wells.
- The school in Eaton school district (Weld County) is structurally unsound and cannot be reopened until it is substantially repaired. The building is in danger of collapsing and as a result of three engineering studies the school was promptly closed, the last week of class was cancelled and graduation was relocated.
- The walls in the school in the Holly school district (Prowers County) are separating and they have applied for a grant to have giant cables try to tie the building back together.
- The middle school/ high school in the Platte Canyon school district (Park County) has been closed by the county health department and cannot reopen until the septic system is repaired.
- The elementary school in the Briggsdale school district desperately needs to be completely replaced. Several classrooms have a constant and overpowering sewage odor (defective septic system); the building is unsound and, according to one consultant, should be condemned; the electric is in need of repair and currently poses a health and safety risk, etc.
- In Gunnison High School one of the two original 1965 boilers is cracked and leaks carbon monoxide. It is red-tagged and cannot be used unless school is unoccupied. Gunnison is one of the coldest places in Colorado with temperatures falling below -30 F during winter months.
- In the Ellicott school district (El Paso County) the band room is in the transportation building and the kids are inundated with diesel fumes as there is no ventilation system.
- There were 32 applications for roof work alone including one with over 40 leaks.