

The Denver Post

School repairs languish

By Allison Sherry, Denver Post Staff Writer

August 1, 2004

In rural Colorado, thousands of students in run-down school buildings attempt to learn despite exposure to conditions that are unsafe and unsanitary. Four years ago, after a lawsuit by parents, the legislature pledged \$190 million by 2012 to improve schools. But only \$51 million of that has been allocated. Critics say Colorado has reneged on the bargain, but lawmakers reply that the state is broke.

Dilapidated schools in Colorado's poorest communities are still falling apart - and in some cases making students sick - four years after the state legislature pledged \$190 million to improve them.

Elected officials have allocated only \$51 million of that brick-and-mortar funding, allowing only about 20 major projects in poor districts to be finished. Critics say the state's budget crisis has made it easy for lawmakers to renege on promises to help mostly rural school systems repair or replace crumbling buildings. Others say the money simply isn't there - and because the state is so broke, the funds can't come from the legislature.

Meanwhile, thousands of Colorado pupils continue to endure inadequate school buildings, sometimes in unsanitary and unsafe classrooms.

In San Luis, for example, sewage backs up and spills into the hallway. There are no smoke detectors in schools in Kim. In Aguilar, there was so much bat feces in the old school's belfry that several sixth-graders fell ill.

"These are schools no one in the metro area would go to," said Vody Herrmann, who works at the Colorado Department of Education's Capital Construction Grant Program. In 1998, parent John Giardino led a list of plaintiffs who sued the State Board of Education because of inadequate funding for school construction. The Leadville school his son attended was literally falling to the ground. Three days before school started, the roof in the kindergarten classroom collapsed.

The parents claimed that the way Colorado financed school construction "denies some school districts the funds necessary to provide adequate facilities," according to the original complaint.

Per-student funding in the state varies wildly depending on assessed property value. For example, if Aspen residents want to raise property taxes to build a new school, there's potential to garner \$1.1 million per student. When people in Conejos County go to voters, money-raising potential is only \$11,000 per student.

The parents in the Giardino lawsuit represented six of Colorado's poorest districts, areas where more than half the students qualify for free or reduced-price lunches in towns scattered across the San Luis and Arkansas valleys and the Western Slope.

Two years after the filing, a judge approved a \$190 million settlement to repair and maintain public schools. And lawmakers set out a sensible and, by some accounts, easy plan to follow, agreeing to pay out the \$190 million in incremental chunks through 2012. But a caveat in that law says lawmakers have to pay only when there is an \$80 million state surplus. Though there has been! Sufficient money twice since the settlement, lawmakers have underfunded the program at least twice in the past two years.

Last year, the state Department of Education received \$10 million for capital school construction. This year, education officials received \$5 million.

Also, some rural superintendents and legislators argue, lawmakers often have used the wrong money to fund the program, loaning money from education-funding Amendment 23 dollars and lottery proceeds rather than using general-fund money, as the law requires. Rep. Nancy Spence, R-Centennial, among other lawmakers, says the state is broke. But advocates and rural superintendents say the state has chosen to fund other projects over new schools for kids.

"The fact is, the state doesn't have any money," said Spence, chair of the House Education Committee.

Rep. Jack Pommer, D-Boulder, agrees to a point. But he said his colleagues in the legislature have chosen to fund other projects, such as capital construction for charter schools, rather than schools in the Giardino case.

"We've turned it into a liability in this state," Pommer said. "We entered into an agreement where we could have fixed this very real problem for \$20 million a year. But by not upholding that part of the bargain, we're in danger of being sued again for \$4 billion."

Even with extra Powerball money, the legislature has not met what Senate Bill 181 asks: \$20 million each year for school construction.

"I still consider us down \$20 (million), \$30 million," said Ted Hughes, who drives around the state to analyze rural needs for the state Department of Education. "We don't get enough money; we can only partially fund projects most of the time."

Despite efforts by Vody Herrmann and others at the Department of Education, there aren't enough resources or people to keep track of the needs and projects all over the state.

There is only one man in charge of analyzing needs and educating rural superintendents about the program. He spends some of his time on the road, canvassing rural areas and taking pictures, but there are still places he hasn't been. In some areas, projects have been funded in the planning stages, but not for construction.

This frustrates Kathy Gebhardt, the lawyer representing the parents in the case. "It was always my hope that the state would step up to the plate and fulfill its obligation," she said. "Good times and bad."

Even during economic hardships and severe budget cuts, other states have received much more money from their legislatures for similar projects.

In Arizona, for example, the state has spent close to \$3 billion during the past decade to bring schools in rural areas and wealthy city neighborhoods up to code.

In Wyoming, lawmakers have spent \$700 million since 1998 to help local districts with school construction after districts sued in 1995.

On Thursday, the Massachusetts governor granted \$1 billion to fix its schools. Across the country, 45 states were sued by parents or advocates because of poor capital construction. Of those, 24 lawsuits are still pending, according to the Campaign for Fiscal Equity, a New York-based advocacy group.

Colorado's budget forecasts don't call for any general-fund money to be given to the state's capital construction grant program for rural schools in coming years, according to the Legislative Council's fund overview.

Until more money comes though, a dismal waiting list of projects fills an inch-thick blue book sitting at the Department of Education.

This year, the committee that decides which needs deserve priority had such a paltry amount of money to work with - it had \$5 million, and a new school can run about \$11 million - that it sent letters to districts, beseeching them to hold back on requests.

Still, 71 school districts asked for money. The state has money for about 18.

John Giardino, now a lobbyist for Colorado Mountain College, acknowledged that even at the time, no one thought \$190 million would be enough. A state audit last year estimated the state's school construction needs at \$4.7 billion.

The Centennial R-1 School District in Costilla County in southern Colorado asked for \$11.5 million this year for a new school. On top of the sewage that spills into the

hallways, some of the classrooms have no ventilation, and temperatures can run 80 to 90 degrees in the winter, said Superintendent Emily Romero.

The district, where more than 70 percent of students qualify for free or reduced-price lunches, didn't get a dollar from the state this funding cycle.

"I'm disappointed that they're willing to put us on the back burner," Romero said. "Kids in affluent communities wouldn't ever go to school here. No parent would allow their kids to attend school with sewage in the hallway."

Lawmakers, even those who know the needs intimately, say there is a delicate balance between local and state control within these districts. There is a strong belief among many at the legislature that individual communities raise their own money for new schools, Spence said.

"I personally believe that the local communities should be responsible for building and maintaining their own, but I do know in some of the rural districts the income is very low ... and it's virtually impossible," Spence said.

Impossible, both financially and ideologically, for places such as Aguilar. Teachers Mary Nicol and Shelly Wagner went door to door in Aguilar, in western Las Animas County, shopping for votes to increase taxes to build a new elementary school. Twice voters turned it down.

"This town is full of retired people," said Nicol, a fourth-grade teacher who graduated from Aguilar High School in 1966. "And they say, 'If this school was good enough for me, then it's good enough for my granddaughter.'"

In 2001, by about 50 votes, residents did finally approve a tax increase to replace the school with the bat-feces problem. But property values in Aguilar are so low that the vote raised only \$900,000.

"I cried when I went to Aguilar," said lawyer Gebhardt. "I went out to my car and cried. There was no learning going on there."

The state gave Aguilar \$1.4 million to build a new school. That was out of \$15 million it had to spend that year.

The students still use English textbooks from the 1980s, and teachers haven't had a raise in two years. But kids now are basking in an air-conditioned space with working plumbing, ventilation and a computer lab.

Education officials decided last month to give Aguilar a new junior-senior high school as well. Construction will start this fall.

Wagner said she knows Aguilar is one of the lucky ones. "I feel sorry for the other guys, but I'm real happy for us," said Wagner, who teaches music and physical education. "I know what the kids have gone through because we've been going through this, too - the bad steps, the smelly bathrooms, the leaky everything. I've been here for 24 years."

Short of a law change, the only answer to the state still underfunding schools may be another lawsuit, Gebhardt said. She may file another one this year.

"They have not fulfilled a constitutional obligation to every child in this state that they go to school in an adequate facility," she said.

William Moloney, the state's commissioner of education, said suing a second time is "a leverage point" for advocates.

"But you have to measure it against reality. They're underfunded compared to what? You've got to prioritize money. Maybe they give money to capital construction, but then you take it away from special needs or other causes," he said. "It's got to come from somewhere."

asherry@denverpost.com

Copyright 2004, Denver Post. All rights Reserved.