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# **Joint Legislative Task Force on School Construction Funding**

**Final Report**

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# Task Force Members

Representative Bill Fromhold, Co-Chair

Senator Dale Brandland, Co-Chair

Representative Joyce McDonald

Representative Dan Roach

Representative Sharon Tomiko Santos

Senator Karen Fraser

Senator Eric Oemig

Mr. Fred Stephens, School District Representative, Seattle

Mr. Douglas Quinn, School District Representative, Vancouver

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# Introduction and Overview of the Joint Legislative Task Force on School Construction Funding

## **Proviso**

A proviso in the 2007-09 Capital Budget (Chapter 520, Laws of 2007, Section 6014) established the Joint Legislative Task Force on School Construction Funding (JTFSCF) to comprehensively review and evaluate school-construction funding issues, including looking at the state's eligibility requirements and current capital-funding formulas, determining the flexibility needed in the system to address diverse district and geographic needs, and developing alternative funding mechanisms and additional revenue sources to support the school-construction-assistance program in the future.

Originally, the capital budget directed the JTFSCF to report its findings and recommendations to the Legislature by December 1, 2007. Given the complexity of examining thoroughly the school-construction-assistance program and identifying additional revenue sources, the JTFSCF determined early on that the December 1, 2007 deadline was unrealistic and therefore divided its work into two phases to be completed over two legislative interims. The 2008 Supplemental Capital Budget (Chapter 328, Laws of 2008, Section 6016) amended the original proviso to allow for this expanded time for the task force to complete its work.

The proviso called for a task force made up of four members of each of the largest caucuses of the House of Representatives, four members of each of the largest caucuses of the Senate, and two school district representatives.

## **Work of the Committee**

The JTSCF held eleven meetings between August 2007 and December 2008. In those meetings, the JTSCF heard from a variety of people with knowledge about aspects of school construction spending and funding issues. These included: (1) various panels of school district representatives; (2) school construction contractors and other building professionals; (3) community organizations; and (4) state and local governmental officials.

## **Shared Visions**

The final recommendations of the JTFSCF reflect both comprehensive and incremental proposals designed to improve K-12 school construction funding in the state. This report includes recommendations that should be put into effect immediately, as well as suggestions for the Legislature to consider for the future. While there may not be complete agreement regarding every one of these recommendations their respective priorities, the members of the JTFSCF share the view that these recommendations collectively provide an excellent framework for moving toward comprehensive improvements in school construction funding over the next several years.

The members of the JTFSCF are united in their belief that these improvements will be realized only with sustained focus on both sides of the school construction funding "ledger." Specifically, this will require finding additional state resources that might come from new

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revenue, expanding funding capacity, prioritizing existing capital funding towards K-12 capital construction, or a combination of these steps. Improvements will require taking both immediate and long-term actions to improve the state's spending and funding practices for school construction. In other words, both additional resources and new and better methods of funding are necessary to accomplish this vision.

As previously stated, the members of the JTFSCF recognize the necessity of a phased-in approach to these changes over a period of years. Moreover, it is acknowledged that many details require additional work for the potential implementation of these changes. For these reasons, the JTFSCF is in agreement that continuation of the task force is the best method for ensuring that the momentum generated from this work continues. Ultimately, however, the JTFSCF recognizes that the responsibility for making decisions about the actual implementation lies with the Governor and Legislature.

### **Results of Phase I**

As described above, the JTFSCF divided their work into two phases: (1) Phase I, which was completed on December 1, 2007, made preliminary findings and recommendations to the Legislature; and (2) this final report, which constitutes completion of Phase II.

While all the phase I recommendations made in December 2007 are detailed in Appendix B, some of the more significant recommendations included:

- Requiring the Joint Legislative and Audit and Review Committee to conduct a feasibility study of a statewide school facility information system with a final report by January 1, 2010 (see Appendix C for their preliminary report).
- Providing funding to establish a more robust regional program to assist school districts in school construction management and other kinds of technical assistance (see appendix D for a final report detailing gap analysis and implementation plan).
- Directing the Office of Superintendent of Public Instruction (OSPI) to explore options for making the current State School Construction Assistance formula more transparent in its assumptions about what is actually funded, as well as information on state and local funding sources (see appendix E for a final report from Berk & Associates).
- Other items where action was taken were: (1) developing improvements to the method used in projecting student enrollment used in determining funding eligibility (see appendix F for a final report from Berk & Associates); (2) exploring ways to potentially change the timing of project funding approval to take better advantage of the seasonal nature of the construction bid environment (see Appendix G for the budget decision package submitted by OSPI); (3) conducting a feasibility analysis of using existing state lands or acquiring new land in high-growth areas of the state for schools (see Appendix H for final report of the workgroup looking at the issue).

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# Principles

As they began phase II of their work, the JTFSCF agreed that its blueprint for making and implementing recommendations coming out of phase II of its effort should include the following three components:

1. *K-12 policy and the K-12 operating & capital budgets must be connected.*  
The connections between K-12 operating and capital needs to be recognized in all future recommendations of this task force, which is dealing with K-12 capital needs, and the Joint Basic Education Task Force, which is dealing with K-12 operating needs. The decision making that leads to the recommendations and ultimately their implementation needs to reflect this connection.
2. *The funding formula must be transparent and honest.*  
Building on OSPI's work from phase I, the current formula must be made more transparent in terms of the underlying assumptions and conveyed in more understandable terms. The recommendations and changes in the school construction funding formula must be reflective of what the state intends to fund.
3. *Recommendations must be phased in.*  
Both the practical reality of implementing the kinds of changes being discussed and the resource constraints will necessitate that the recommendations be phased in over several biennia.

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# Final Recommendations

## Resources:

### *For immediate action*

1. Recognize K-12 as the first priority for state capital construction funding. Recommend that during capital budget development, first consideration is given to K-12 capital needs within available resources.
2. Expand the list of activities such as painting, major equipment repair or other major preventative maintenance purposes, that may be funded with local six-year school district capital levy revenues.

### *For future consideration*

3. Consider sending a statewide-bond issue for K-12 school construction to the people for voter approval.
4. Consider short- or long-term expansion of the state debt limit by including near-general fund and other revenue sources.

## Expenditures:

### *For immediate action*

1. Provide technical assistance and finance support for school districts' land acquisitions.
2. Extend the statutory limit for the expenditure of impact-fee revenues from six years to 10 years.
3. Develop options for allowing state funding assistance for school districts' use of leasing and lease/purchase arrangements. State assistance will enable schools to use their current leasing authority to achieve greater flexibility and to more effectively meet short-term space needs.
4. Direct the Office of the Superintendent of Public Instruction (OSPI) to supply project-specific information for each School Construction Assistance Program project release. The report format will follow the template developed by Berk and Associates in the 2008 interim. Information will include – but not be limited to – total project cost, state and local shares of project costs, total project square footage, state-eligible square footage, and match ratio. The final report will also include post-project completion costs.
5. Accommodate specialized program space or unique building circumstances by either increasing factors in the funding formula or developing a separate grant program. This includes specialized capital needs generated by K-12 policy decisions made by the Legislature. Examples include – but are not limited to – all-day kindergarten, science laboratories, and early-learning facilities.
6. Remove future funding penalties for school districts that accommodate cooperative partnerships and/or joint uses of public-school facilities. The intent of this

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recommendation is to eliminate penalties schools currently incur during subsequent calculations of usable space; the intent is not to provide state K-12 capital funding assistance for space constructed for general community purposes. Examples of partners include – but are not limited to – skills centers, youth activity organizations, non-profit organizations, health clinics, social service providers, and early-learning providers.

7. Direct OSPI to continue to draft and implement policies for effective facility maintenance. The policies will ensure performance accountability; promote student health and safety; create an encouraging learning environment; and extend building life, thus minimizing future capital needs.
8. Evaluate funding to implement the Board of Health’s proposed rule revisions for school health and safety.
9. Re-authorize the School Construction Finance Task Force for one year to continue the study of potential future recommendations, to track and adjust alignment of recommendations to implementation plan, and to finalize any required changes to the school construction funding formula.
10. Adopt Berk & Associates’ recommendation to more accurately name formula components. Please see Appendix E.
11. Adopt Berk & Associates’ recommendations to commission two studies: one to determine the appropriate level of the area-cost allowance (ACA) and establish a methodology to adjust the ACA over time; and a second to determine the average square-foot space needs, by grade span, to define the student-square-foot-space allowance. Please see Appendix E.

*For future consideration*

12. Evaluate for possible adoption the remainder of Berk & Associates’ recommendations. Please see Appendix E.
13. Review and consider relevant recommendations from other concurrent task forces, work groups, and sub-committees including – but not limited to – the Joint Basic Education Finance Task Force and the Interim Legislative Task Force on Comprehensive School Health Reform.
14. Explore a method to account for regional cost differences in the funding formula.
15. Explore raising the current state-matching ratio used in the funding formula.



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# Appendix A

## Proviso from the Capital Budget (2008 Session), ESHB 2765, Section 6014

**Sec. 6014** 2007 c 520 s 6016 (uncodified) is amended to read as follows:

(1) A joint legislative task force on school construction funding is established to review the following:

- (a) The statutory provisions regarding the funding of school construction projects;
- (b) Eligibility requirements and distribution formulas for the state's school construction assistance grant program;
- (c) Flexibility needed in the system to address diverse district and geographic needs including, but not limited to, the construction needs unique to high growth areas, as well as the needs of school districts that have experienced consecutive school levy failures; and
- (d) Potential revenue sources and alternative funding mechanisms for school construction including, but not limited to, funding mechanisms that may: (i) Phase out and replace revenue collected under RCW 82.02.050 through 82.02.100 for school facilities; and (ii) encourage cooperative partnerships with early learning providers, skill centers, community and technical colleges, or public baccalaureate institutions through the use of a supermatch concept.

(2) The office of the superintendent of public instruction shall provide progress updates to the task force on the development of the pilot inventory of school district facility information and the design of a process for developing a ten-year projection of the facility needs of school districts as provided for in section 5014 of this act for review and comment by the task force.

(3)(a) The joint legislative task force on school construction funding shall consist of eight members, two members each, one from each major caucus, from the house of representatives committees on capital budget and education, appointed by the speaker of the house of representatives, and two members each, one from each major caucus, from the senate committees on ways and means and early learning and K-12 education, appointed by the president of the senate.

(b) The president of the senate and the speaker of the house of representatives jointly shall appoint two members representing school districts.

(c) The office of the superintendent of public instruction and the office of financial management shall cooperate with the task force and maintain liaison representatives.

(d) The task force shall coordinate with the appropriate standing committees of the legislature and may consult with other interested parties, as may be appropriate, for technical advice and assistance.

(e) The task force shall select a chair from among its legislative membership.

(4) Staff support for the task force must be provided by the house of representatives office of program research and the senate committee services.

(5) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The task force must report ~~((its))~~ preliminary findings and recommendations to the appropriate committees of the legislature by December 1, 2007, and a final report by January 1, 2009.

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# Appendix B

## Joint Legislative Task Force on School Construction Funding Phase 1 Final Recommendations, January 7, 2007

### Administrative or Specific Issue Recommendations

1. The work of the Joint Task Force on School Construction should be divided into two phases. In the first phase, the task force will complete a review of spending issues by January 2008. In the second phase, the task force will complete a final report with recommendations on funding issues by December 2008.

**Next Action Steps:** *Budget proviso changes*

**Fiscal Impact:** *None*

2. The current State School Construction Assistance formula should be made more transparent in terms of the assumptions about what is actually funded, as well as information on state and local funding sources.

**Next Action Steps:** *Budget proviso establishing a workgroup to explore the implications and report options through budget*

**Fiscal Impact:** *Less than \$200K*

3. As part of their feasibility study of establishing a statewide school facility information system, the Office of Superintendent of Public Instruction should ensure that the necessary data elements are included. This should include a focus on comparable information across school districts and needed information regarding the impact of educational reform and other programmatic changes (e.g. all day kindergarten, class size reduction, etc). Consideration should be given to jointly working with planned energy audits conducted by the Construction Services Group and information from the school mapping project.

**Next Action Steps:** *Convene a joint legislative capital worksession early in the 2008 session to more thoroughly review OSPI's current plan to see if it meets legislative expectations.*

**Fiscal Impact:** *None*

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4. A more robust program to provide regional assistance in school construction management and other kinds of technical assistance should be established. Possible entities to be included: Educational Service Districts; Department of General Administration; architectural services partners with the state's community and technical college system for project management; and the Construction Services Group. As part of this effort, the feasibility of model contracts for school construction projects should be evaluated.

**Next Action Steps:** *Possible budget proviso directing OSPI to establish a phase-in of this program.*

**Fiscal Impact:** *To Be Determined*

5. The Office of Superintendent of Public Instruction should prepare an implementation plan for changing from a July annual release cycle to one that allows school districts to take better advantage of the seasonal nature of the construction bid environment.

**Next Action Steps:** *Budget proviso directing OSPI to establish the plan.*

**Fiscal Impact:** *Should be revenue neutral at full implementation, but initially could cost more.*

6. An independent analysis of the current method of projecting enrollment used for determining eligibility should be conducted.

**Next Action Steps:** *Budget proviso directing one of the state's public research institutions to conduct the analysis.*

**Fiscal Impact:** *\$200K*

7. Methods for encouraging/incentivizing cooperative partnerships/joint use of facilities with early learning providers, social service providers, skills centers, community and technical colleges, and public baccalaureate institutions should be implemented. These steps must be taken with appropriate safeguards to ensure that the policy is implemented as intended and it is truly a partnership.

**Next Action Steps:** *Legislative staff, with the assistance of OSPI and other entities, develop options for implementing. Possible budget proviso.*

**Fiscal Impact:** *To Be Determined*

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8. The Legislature should look at revising the method of determining “instructional space” as it relates to community facilities partnerships and should also review barriers, such as liability and maintenance considerations, in schools being used for this purpose.

**Next Action Steps:** *OSPI, with the assistance of legislative staff and other entities will develop options and criteria for implementing. Possible budget proviso.*

**Fiscal Impact:** *To Be Determined*

9. The current statutory six year limit for the expenditure of impact fee revenues should be extended to ten years to allow for land acquisition and other possible longer term school construction related needs. Criteria will be developed for extension and this will require an evaluation for each respective school board of the appropriateness of this extension.

**Next Action Steps:** *Bill allowing this extension with OSPI convening a workgroup to determine appropriate criteria (e.g. school board action, resolution specifying how they will use the resources).*

**Fiscal Impact:** *No Direct Fiscal Impact*

10. More information needs to be gathered regarding the current subcontractor performance bond thresholds and the impact that this has on school construction costs.

**Next Action Steps:** *The task force will have a presentation by appropriate entities at their first meeting in phase II of their work.*

**Fiscal Impact:** *None*

11. Methods for promoting and coordinating funding for the improvements of safe walking conditions and sidewalks should be explored.

**Next Action Steps:** *The task force will have a presentation by appropriate entities at their first meeting in phase II of their work.*

**Fiscal Impact:** *None*

12. The Office of Superintendent of Public Instruction and the Department of Natural Resources should conduct a feasibility analysis and develop options for using existing state lands or acquire new lands in high growth areas of the state for schools (aka land banking).

**Next Action Steps:** *Budget proviso directing the establishment of workgroup to conduct the analysis.*

**Fiscal Impact:** *No Direct Fiscal Impact*

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## **Global Recommendations To Be Reviewed in Phase II of the Task Force**

1. The Office of Superintendent of Public Instruction and Institute for Public Policy should provide the Legislature with research information about the connection between school facility condition and student performance.
2. The School Construction Assistance Program funding formula should be analyzed and possibly revised to better address the following:
  - School districts that are unable to access state assistance due to multiple bond levy failures, lack of property tax base, low property tax valuation and/or small district size.
  - Regional cost differences for school construction, including construction inflation implications.
  - More timely distribution of funds to fast growing school districts.
  - Whether the 20% floor used in the state matching ratio should be maintained, increased, or decreased.
  - The need for specialized program spaces or unique building circumstances. Examples include science labs, special education spaces, historic school facilities, etc.
  - Increased need for transparency in the funding formula.
3. The appropriate use of portable classrooms to meet the shortfall in permanent school facilities should be reviewed.
4. As part of phase two, the Joint Task Force on School Construction should review the feasibility and desirability of more significant overhaul of the state's method of funding school construction.
  - Does the current system produce the needed type of school facilities? Is this true statewide and for all districts?
  - Are modifications needed to the current funding system based on programmatic changes (eg. education reform, class size reduction, technology, etc)?
  - What is the appropriate role for local control?

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# Appendix C

## Minority Report

**Rep. Joyce McDonald**

**Rep. Dan Roach**

We greatly appreciate the work that has been done by the task force over the last two years to examine the state's program of assistance to school districts in the construction and modernization of school facilities. The information provided by staff, consultants, school personnel and construction experts will be invaluable to the Legislature and the executive branch as we move forward in a difficult fiscal environment for the state. The discussions we have had in task force meetings have been of the highest quality. We agree that the final report constitutes a good framework for pursuing future improvements in the school construction assistance program.

We especially want to express our appreciation to the co-chairs, Rep. Fromhold and Sen. Brandland, for the open, consultative way in which they have led the task force, and for their efforts to reach consensus among the members on the steps to take from here.

For all best efforts, consensus is not easily reached on a topic as complex on this, particularly in light of the resource constraints on the state at this time. We dissent from the following findings and recommendations:

1. Principles (p. 6)

The sentence "The funding formula must be transparent and honest" is unfortunate. It sends a wrong message in implying, if inadvertently, that the current funding formula is *dishonest*. The funding formula was developed in a thoughtful and deliberative way over a number of years, with the intent of providing assistance to districts for matchable costs. It may be complicated, by its nature. It may not provide the level of assistance many believe it should. It is not dishonest. We strongly recommend that the phrase "and honest" be struck or replaced with "and understandable."

2. *Extend the statutory limit for the expenditure of impact fee revenues from six years to ten years.* (p. 7)

We oppose this recommendation. The purpose of school impact fees is to help offset the immediate and necessary costs for school facilities created by new residential development. Extending the length of time during which impact fee revenue may be expended after collection weakens the link between new development and facility demands, making the calculation of the fees less precise, less transparent, and less accountable. The policy tends toward the result of increasing reliance on impact fees in place of broad-based tax sources for the construction and modernization of school facilities. We do not think this a sound policy direction for the state. The benefits of public education accrue to all citizens, not simply the homebuyers on which impact fees ultimately fall in the form of higher housing prices, and we should not be increasing the burden on them through the recommendations of this task force. Extending the time for

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expenditure of impact fees to 10 years also works against improved planning and coordination for growth between country governments, the state and school districts.

3. *Remove future funding penalties for school districts that accommodate cooperative partnerships and/or joint uses of public school facilities. The intent of this recommendation is to eliminate penalties schools currently incur during subsequent calculations of useable space. The intent is not to provide K-12 capital funding assistance for space constructed for general community purposes. Examples of partners include, but are not limited to, skills centers, youth activity organizations, non-profit organizations, health clinics, social service providers, and early-learning providers. (p. 7)*

We oppose linking the “community schools” concept with the school construction assistance program in the capital budget. Discussions relating to cooperative partnerships or joint uses of public school facilities should be considered in relation to the operating budget or to existing capital grant programs for social service activities. School districts already have ample incentives, both financial and otherwise, to make joint uses of facilities, and many are doing so. Modifying the funding formula, as originally proposed, to provide increased state assistance for projects that contemplate shared uses of buildings necessarily shifts limited resources, at a time of rapidly growing demand, from other uses for K-12 construction. In its final form the report proposes to remove penalties districts that provide for joint uses of facilities incur during subsequent calculations of useable space, rather than make an enhanced allocation for projects accommodating such uses. It is not clear what this recommendation means or how it would be implemented. It would appear to make districts “partnering” for joint use of facilities eligible for more matching assistance from the state than would otherwise be the case, therefore tending to the same result.

We strongly support state assistance for skills centers, but believe they are properly provided for as the instructional activities they are, rather than in conjunction with this recommendation.

4. *Re-authorize the School Construction Task Force for one year to continue the study of potential future recommendations, track and adjust alignment of recommendations to implementation plan, and finalize any required changes to the school construction funding formula. (p. 8)*

We oppose continuation of this task force. The present study is the latest and most extensive of several studies of similar scope that the Legislature has conducted since the mid-1990s. Copious information has been presented to the task force, long discussions have been held, and areas of inquiry have ranged widely. We think it unlikely that the follow-up work that must and will be done requires a third year of deliberation by the task force. After two years of study, it is time to focus on addressing the issues related to the recommendations in this report. We believe that House Capital Budget and Senate Ways and Means members and staff, working with OFM, OSPI and district personnel, are entirely capable of tracking progress on implementation of the recommendations and providing options to us for further refinements to the school construction funding formula. There will be no shortage of “institutional memory” to utilize in following up on this report. At a time when the Legislature is likely to be making deep reductions in programs and services, it also seems to us that we should be very discriminating in spending taxpayer money on studies.

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We thank you again for your dedicated efforts to improve school construction funding, and for the collegial way in which the task force has done its work.

Joyce McDonald  
State Representative, 25<sup>th</sup> District

Dan Roach  
State Representative, 31<sup>st</sup> District