SENATE COMMITTEES
ON EDUCATION & FINANCE

Joint Report to the 81st Legislature
December 2008
December 2008

The Honorable David Dewhurst
Lieutenant Governor of the State of Texas
Members of the Texas Senate
P.O. Box 12068
Austin, Texas 78711

Dear Governor Dewhurst and Members of the Texas Senate:

The Senate Committees on Education and Finance are pleased to submit their final interim report with recommendations for consideration by the 81st Legislature in preparation for the regular session.

Respectfully submitted,

[Signatures]

Senator Florence Shapiro, Chair
Senator Kip Averitt
Senator Bob Deuell
Senator Kevin Eltife
Senator Chris Harris
Senator Eddie Lucio, Jr.
Senator Dan Patrick
Senator Royce West

[Signatures]

Senator Steve Ogden, Chair
Senator Judith Zaffirini, Vice-Chair
Senator Robert Duncan
Senator Troy Fraser
Senator Juan "Chuy" Hinojosa
Senator Jane Nelson
Senator Leticia Van De Putte
Senator John Whitmire

Senator Tommy Williams

SENATE COMMITTEES
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Joint Charge to the Senate Committees on Education and Finance:

1. Review and make recommendations that address the state's facility infrastructure needs for public schools, ensuring that funding remains stable, reliable and equitable. Examine the need for funding adjustments for factors that affect the need for facilities, such as fast growth, age and condition of facilities, adequacy of space, construction and land costs, and concentration of students requiring smaller class sizes. Assess the impact on property taxpayers of "rolling forward" the Existing Debt Allotment (EDA) each session and the change in biennial appropriations for the Instructional Facilities Allotment (IFA).
EXECUTIVE SUMMARY

Joint Charge - Facilities

1) Make efforts to expedite the IRS approval of the multiplier increase. If this increase proves unlikely in the near future, Texas should explore alternate means of guaranteeing district bond issuances.
2) Combine the existing facilities funding programs, IFA and EDA, into a single tier of equalized facilities funding.
3) Continue to ensure delivery of start-up facilities funding to the state's lowest property wealth districts.
4) Provide predictable state support in facilities assistance for school districts.
5) Provide funding support for the unique facility needs of fast growth districts.
6) Limit what qualifies for state facilities assistance.
7) Provide incentives for cost-effective construction and efficient facility planning and maintenance.
8) Grandfather current lease-purchase agreements, but prohibit future lease purchases.
FACILITIES

Joint Charge to Senate Committees on Education and Finance: Review and make recommendations that address the state's facility infrastructure needs for public schools, ensuring that funding remains stable, reliable and equitable. Examine the need for funding adjustments for factors that affect the need for facilities, such as fast growth, age and condition of facilities, adequacy of space, construction and land costs, and concentration of students requiring smaller class sizes. Assess the impact on property taxpayers of "rolling forward" the Existing Debt Allotment (EDA) each session and the change in biennial appropriations for the Instructional Facilities Allotment (IFA).

The Senate Education Committee and the Senate Finance Subcommittee on General Government Issues held a joint hearing on August 27, 2008 and received both invited and public testimony on the joint interim charge on facilities. Recordings of the hearing are available via the Education Committee's website and may be found at http://www.senate.state.tx.us/75r/senate/commit/c530/c530.htm or the Senate Finance Committee's website at http://www.senate.state.tx.us/75r/senate/commit/c540/c540.htm.

Facilities Programs

Recommendations

1) Make efforts to expedite the IRS approval of the multiplier increase. If this increase proves unlikely in the near future, Texas should explore alternate means of guaranteeing district bond issuances.
2) Combine the existing facilities funding programs, IFA and EDA, into a single tier of equalized facilities funding.
3) Ensure delivery of start-up facilities funding to the state's lowest property wealth districts.
4) Provide predictability in facilities assistance for school districts.
5) Provide funding support for the unique facility needs of fast growth districts.
6) Limit what qualifies for state facilities assistance.
7) Provide incentives for cost-effective construction and efficient facility planning and maintenance.
8) Grandfather current lease-purchase agreements, but prohibit future lease purchases.

Committee Comments

The state operates several facility assistance programs. Under the Texas Constitution, the state guarantees district bonds allowing districts to enjoy the highest bond rating and avoid private bond insurance costs.\(^1\) The guarantee program backs bonds in an amount determined by a multiple of its corpus.

To deal with declining capacity, the 80th Legislature increased the multiplier from 2.5 to up to 5.\(^2\) The IRS must approve the use of a greater multiplier. This review has yet to occur.

At the August 27th hearing, the bond guarantee program could support $57.3 billion in guarantees with $52.2 billion outstanding.\(^3\) This leaves $2 billion in capacity since $3 billion is kept in reserve for emergencies.\(^4\) Along with billions of dollars in district bond authority outstanding and market fluctuations, the program will likely exhaust its capacity.

Alternatives to the bond guarantee program include credit enhancement programs or state-intercept programs. However, these programs will not likely afford the same level of bond guarantee.\(^5\)

Established in 1997, the instructional facilities allotment (IFA) provides state aid for debt service for new instructional facilities, additions or renovations.\(^6\) Eligibility for this allotment is generally based on wealth with other mitigating factors.\(^7\)

The existing debt allotment (EDA) provides state aid for debt service not covered by IFA.\(^8\) It covers debt issued prior to a date established by the legislature. For budget certainty the coverage date includes debt issued prior to the fiscal biennium covered by the appropriations bill. Each session since its inception, the legislature "rolls forward" the coverage date to cover the two years that elapsed since the previous coverage date.
IFA and EDA create inefficiency and uncertainty in district facility planning. IFA and EDA provide assistance for different types of facilities. Rather than efficiently planning facility needs, the uncertainty in coverage by IFA and EDA causes districts to plan around program eligibility windows. By combining IFA and EDA and ensuring start-up assistance for low wealth districts, the state could create a more predictable and efficient facility assistance program.

Since EDA and IFA decrease the taxes needed by local districts, these programs provide local tax relief. This state assistance resulted in tax reduction of 12 cents in FY 2008 and averaged 12-14 pennies over the last four biennia. The guaranteed yield amounts for EDA and IFA were set at $35/ADA in 2000. The number of pennies guaranteed under EDA increased from 12 to 29 cents in 2001.

The state has no formal definition of a fast growth district. There are 112 districts with 1.9 million children that identify themselves as fast growth districts. In 2007-2008, the average interest and sinking (I&S) rate of these districts was 29 cents, about 10 cents higher than the remaining districts. Currently, only 68.4 percent of students attend fast growth districts that are eligible for state assistance, and this percentage declines each year. This reality compounds the pressure faced by fast growth districts to ensure facilities for the influx of students, a need that often exists prior to the increase in tax base to support the construction. This conundrum can also inhibit districts’ efforts to meet state tax issuance limitations on bond issuances, which causes these districts to elongate the life of the bonds costing local taxpayers interest.

Ultimately, school districts propose bond packages and local voters approve or reject them. Some interested parties have concerns regarding district practice in designing, promoting, and using facilities. The state's school performance review identified some recurring problems:
- Lack of formal, comprehensive, board approved facilities master plans that include future maintenance and building needs.
- Failure to analyze the use of current facilities including the use of enrollment projections for that analysis.
- Lack of policies for the use and monitoring of portable classrooms.
- Failure to use building prototype designs to control costs.
- No staff member assigned to oversee facilities planning and construction.¹⁷

The new instructional facilities allotment (NIFA) provides funds to help offset the start-up costs of new campuses for the first two years.¹⁸ To deal with proration issues, the 80th Legislature provided additional funding.

**Charter Schools**

*Committee Comments*

In 1995, Senate Bill 1 allowed the operation of charter schools in Texas.¹⁹ Free from the normal restrictions placed on traditional public schools, charter schools exhibit great variances in their missions, operations, and performance. Some characterize charter schools as the research and development sector of public schools. Some charter schools, such as North Hills Preparatory, consistently rank among the top high schools in the nation according to *Newsweek*.²⁰ Charters achieve this success with student populations that range from relatively homogenous to traditionally considered "hard to serve."

Charters receive no state funding for facilities and must either dedicate state revenue, which is needed for operations, or raise the money privately.²¹ The lack of funds necessary to build adequate instructional facilities inhibits charters' ability to replicate and provide quality options.²² The lack of equitable funding forces charters to look toward elementary and middle schools rather than urban high schools.²³
January 9, 2009

The Honorable Florence Shapiro  
The Honorable Kip Averitt  
State Senator  
Capitol Building  
Austin, Texas 78701

Dear Chairwoman Shapiro and Chairman Averitt:

Thank you for your leadership as Chairs of the Senate Education Committee and the Senate Finance Subcommittee on General Government Issues. I am honored to serve with you in providing recommendations regarding school facilities funding issues to the 81st Legislature.

Because these recommendations provide positive suggestions towards addressing school facilities issues facing this state, I will gladly sign. However, I would like to share a few of my concerns for the upcoming legislatures consideration.

The report makes the recommendation that we limit what qualifies for state facilities funding. While I know we share the belief that quality instruction is the top goal for public schools, I respectfully request that we do not limit the many types of support service facilities, like a transportation or school bus depot, that are essential to the delivery of instruction.

Although I agree with the report recommendation that we provide incentives for cost-effective construction and efficient facility planning and maintenance, I would not agree with adopting the finding of the state's school performance review included in the committee comments. To mandate prototype designs would be to ignore the geographic obstacles that school districts all around this state must overcome by design in order to build our schools.

Having the privilege to represent a few of our fastest growing school districts, I appreciate the reports recommendations that we provide funding support for the unique facility needs of fast growth school districts. In doing so, I would hope that we would consider increasing the New Instructional Facilities Allotment from $250 per ADA to $500 per ADA.
Although the report does not make a specific recommendation regarding facilities funding for charter schools, the issue is included in the committee comments. While I appreciate the fine work of many of our charter schools, the report also reminds us that the facilities program will likely exhaust its capacity. As long as there is a capacity issue and a current need, I do not believe it to be prudent of this legislature to fund facilities for charter schools before we provide adequate facilities funding for the schools to whom we have already committed.

Again, I thank you and your committees for your hard work and look forward to working together in the 81st legislative session. I am confident that under your leadership we will ensure that every student in Texas receives a high quality education.

Sincerely,

Leticia Van de Putte, R.Ph.
November 24, 2008

The Honorable Florence Shapiro  
Chairman - Senate Education Committee  
Capitol Building, Room 1E.3  
Austin, Texas 78701

Dear Chairman Shapiro:

It has indeed been a pleasure to serve with you on the Senate Education Committee. Your leadership, as chairman, has afforded me the opportunity to share my perspective on the myriad of issues that we were charged with addressing, and for that I thank you.

The report provides many positive recommendations that will improve public education in Texas and therefore, I’m happy to sign it. However, I do find it necessary to submit a letter outlining my concerns with certain portions of the report.

First, and most importantly, my most serious criticism of the report is its lack of a true discussion of dropouts. With dropout numbers and percentages reaching epidemic proportions, I’m distressed by the absence of comments and recommendations concerning the monitoring of dropout initiatives found in HB 2237. I have been and continue to be a visible and very vocal advocate for preventing the loss of our most precious resources, our students. The initiatives set forth by HB 2237 were some of our best attempts at stemming the tide of students dropping out of our schools. Unfortunately, the seriousness of the problem did not manifest itself in the report. I question our commitment to providing a public education that successfully moves our students from pre-kindergarten to 16, when we cannot identify and replicate programs and policies that are preventive, proactive and productive.

In addition, I have surmised after reading the interim report that it doesn’t address nor mention voucher programs. To my dismay, many of the “dropout recovery programs” implemented to address the dropout epidemic have been made vehicles for vouchers. Let me state emphatically that it was never the intent of the dropout language in HB 2237 being used as a vehicle for vouchers.
It is most important that we channel public dollars to public institutions, like our public schools. Secondly, during the interim, we heard testimony about the need for more facilities funding for our traditional schools. We were also made aware of the consequences of “fast growth” and “property poor” districts not being able to meet their facilities’ needs through a depleted Instructional Facilities Allotment and Existing Debt Allotment. Therefore, I remain committed to finding a permanent funding source so we can fulfill our obligation to honor the Instructional Facilities Allotment and Existing Debt Allotment.

Thirdly, I can’t help but notice that there really is no recommendation for controlling the costs of textbooks in K-12.

Lastly, with a state whose population is demographically changing, I would ask that the “toolbox” proposed for best practices for English Language Learners (ELL) be used to effectively and efficiently identify and replicate programs that educate our students.

As always, I appreciate your leadership of the Senate Education Committee and your dedication to the children of Texas. I stand poised and position to continue to work with you to make Texas a better place to live and learn.

Sincerely,

Royce West
State Senator
District 23
Senator Florence Shapiro, Chair
Senate Education Committee
Texas Legislature
Austin, Texas 78711

Dear Chair Shapiro:

Thank you for your leadership as Chair of the Senate Education Committee. It is my privilege to serve with you, and I appreciate the opportunity to share my perspective regarding the Interim Committee report. Because the report includes many fine recommendations that could improve the quality of education for Texas students, I am delighted to sign it; however, I submit this letter as a record of my concerns:

First, the proposed toolbox of best practices for English Language Learners (ELL) does not address adequately the crucial shortcomings ELL students experience in our public school programs, especially at the secondary level. We must do more to ensure that ELL students are not only properly identified, instructed, and assessed, but also that campuses, districts, and the state are held accountable for meeting their educational needs.

Second, I believe the state should honor its current obligation and provide a permanent revenue source to fund the Instructional Facilities Allotment and the Existing Debt Allotment to meet the needs of property-poor and fast-growth school districts before supporting facilities funding for charter schools.

Finally, while the report does not address voucher programs specifically, I am troubled that programs previously identified as "dropout recovery programs" have become vehicles for vouchers. The majority of the legislature sent a clear message during the 80th Legislative Session that vouchers were not the answer to improve public schools. We must not abrogate our obligation, as public servants, to invest in public education and address the needs of all students.

Thank you for your dedication to these important issues. Count on my continued leadership to ensure that every Texan has access to a quality education. I look forward to our continued productive relationship during the forthcoming legislative session. May God bless you.

Very truly yours,

Judith Zaffirini, PhD
ENDNOTES

1 Texas Constitution, art. VII, sec. 5(d).
2 Senate Bill 389, 80th Leg., R.S.
4 Ibid.
5 Ibid.
7 Ibid.
8 Ibid.
10 McGeady.
11 Ibid.
12 Ibid.
13 Rue, 1.
14 Ibid., 2.
15 Ibid.
18 McGeady.
19 Chapter 260, Acts of the 74th Leg., R.S.
21 Ibid.
22 Ibid., 3.
23 Ibid.