

**Testimony of  
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On  
Modern Public School Facilities: Investing in the Future  
  
Before the Committee on Education and Labor  
U.S. House of Representatives  
  
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Chairman Miller, Ranking Member McKeon, and Members of the Committee:

Thank you for the opportunity to provide testimony today on investing in school facilities. My name is Neal McCluskey, and I am the Associate Director of the Cato Institute's Center for Educational Freedom. Cato is a non-profit public policy research institute that seeks to broaden the parameters of public policy debate to allow consideration of the traditional American principles of limited government, individual liberty, free markets and peace. Along those lines, today I would like to discuss the best role that the federal government can play in school facility maintenance and construction: That is, no role. I would also like to explain why widespread school choice is the key to efficiently building and maintaining high-quality school facilities.

I must begin by stating Constitutional principles: the Constitution gives the federal government no authority to make policy in education outside of prohibiting de jure discrimination by states and local districts. Nowhere in the enumerated powers listed in the Constitution will you find the terms "school" or "education," and of course the Tenth Amendment makes clear that "the powers not delegated to the United States by the

Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” In addition, contrary to the perception of some jurists and legislators, the “general welfare” clause does not change this. It confers no authority on its own, but simply introduces the specific, enumerated powers that follow it. As James Madison wrote in *Federalist* no. 41, “For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars.”

Of course, constitutional problems notwithstanding, the federal government has been heavily involved in education since passage of the Elementary and Secondary Education Act in 1965. Thankfully, though, while it has had some involvement in school construction and maintenance—especially through Impact Aid programs for districts affected by federal installations, which will not be the focus of my remarks—it has never had a major role in funding school facilities not eligible for Impact Aid. It would not be advisable for Congress to expand its current, limited role. Indeed, for compelling reasons of both fairness and, more importantly, effectiveness, it should have no role at all.

What are the fairness issues?

The first is the unfairness of redistributing funds from taxpayers in districts that have dutifully maintained their schools to districts where maintenance needs have been

allowed to slide until small problems have become big ones. As the U.S. Department of Education report *Condition of America's School Facilities: 1999* noted:

[D]istrict officials attributed declining conditions primarily to insufficient funds, resulting from decisions to defer maintenance and repair expenditures from year to year. However, maintenance can only be deferred for a short period of time before school facilities begin to deteriorate in noticeable ways. Without regular maintenance, equipment begins to break down, indoor air problems multiply, and buildings fall into greater disrepair....The lack of regular maintenance can also result in a host of health and safety problems, including exposure to carbon monoxide and risk of physical injuries. Additionally, deferred maintenance increases the cost of maintaining school facilities; it speeds up the deterioration of buildings and the need to replace equipment.....

It is important to note that such a redistribution is likely to occur whether the federal government expands Qualified Zone Academy Bonds (QZABs)—in which federal taxpayers cover the interest on school construction bonds—or direct federal construction assistance.

Most likely, whatever increase in federal aid might be proposed will be targeted, at least at the outset, at districts with high concentrations of poverty, and justified on the grounds that those districts are underfunded and hence most in need of aid. This, at least rhetorically, drives most federal education policy, but is inaccurate, and any initiative that

takes money from presumably better-off taxpayers and gives it to high-poverty districts on the grounds that it will equalize education spending rests on a crumbled foundation.

Using data from the 2005 and 2007 editions of the Department of Education's annual *Condition of Education* report, we see that, as expected, per-pupil expenditures are highest in the districts in the lowest quintile of poverty—meaning, the districts with the wealthiest population. In the 2003-04 school year (the most recent with available data), those districts spent on average \$10,857 per-student, a figure which includes capital costs. The surprising statistic is that the *second highest spending* is in the quintile with the *highest* poverty level, where \$10,377 was spent per-pupil. Meanwhile, the three middle quintiles are well below the districts with the highest poverty, and this has been the case since at least the 1989-90 school year, the earliest for which the *Condition of Education* has data. As a result of this distribution, it is highly likely that much of the federal tax money that would support construction and maintenance in high-poverty districts would come from taxpayers whose own districts get well outspent by those very districts they are being forced to subsidize.

How about efficiency?

First of all, the major reason that buildings are poorly maintained, especially in large, urban districts, is not a lack of funds. In addition to the telling statistics about which districts actually spend the most money, we know that overall, American education is not underfunded. According to the Organization for Economic Cooperation and

Development's *Education at a Glance: OECD Indicators 2006*, we spend more per-pupil in elementary and secondary education than any member country save Luxembourg, Norway and Switzerland. Overall, according to U.S. Department of Education Statistics, real K-12 public school per-pupil funding nationwide increased from \$4,077 in 1965 to \$11,016 in 2003, a 170 percent increase.

And the increases are not just in the aggregate. Using data from the 2007 Education Department report *An Historical Overview of Revenues and Expenditures for Public Elementary and Secondary Education, by State: Fiscal Years 1990-2002*, we see that real facilities acquisition and construction expenditures per pupil rose from \$481 in 1990 to \$903 in 2002, an 88 percent increase. From 2000 to 2006 districts completed construction projects totaling more than \$145 billion according to School Planning and Management's *2007 Construction Report*, an amount exceeding both a 1996 GAO estimate that \$112 billion would be needed to bring all school facilities to "good overall condition," and a 1999 National Center for Education Statistics estimate of \$127 billion. Even accounting for inflation from the 1999 estimate, \$145 billion should have ended the facilities problem with a billion-or-so left over. Yet, apparently, it didn't.

Ultimately, the facilities maintenance and construction problem is largely one of inefficiency, waste, and mismanagement. As researchers like John Chubb, Terry Moe, and William Ouchi have well established, many districts—especially large, urban districts—are hopelessly hidebound by bureaucracy, slow to move and incredibly inefficient when they do. The negative results have been seen most concretely in stagnant

academic achievement despite massive infusions of money, and while aggregate, systemic data about construction and maintenance success is not available, it stands to reason that district dysfunction affects maintenance and construction much like it affects academics. The anecdotal evidence abounds in cities all over the country, but consider just two examples. The Washington, DC, public schools have rampant maintenance failures and a lengthy job backlog despite per-pupil expenditures well in excess of \$14,000, a problem Chancellor Rhee has attributed largely to central office bureaucracy. Or witness the Belmont Learning Complex project in Los Angeles, which from the start was plagued by community conflicts over its use and design, but really fell apart after half the school was built and it was discovered to be on an environmentally unacceptable old oil field. The school was eventually completed, but not without gigantic cost overruns.

In far too many cases, the money that should be reaching engineers, electricians and plumbers—just like the money that should be reaching students—simply doesn't get there.

In addition to the very real problem of necessary maintenance and construction not getting done, there is a good chance that at least some of the deficiencies we see reported are overstated, and some of the construction and spending that is done is unnecessary.

Concerning the former, it is important to note that much of our basis for assessing national school facility need comes from principal and district *self-reporting*. Both *Condition of America's Public School Facilities: 1999* and *Public School Principals*

*Report on Their School Facilities: Fall 2005* use self-reported data on school conditions, and it is at least possible that some people who run schools and work in them will overestimate problems. At the very least, the assessments are subjective and almost certainly inconsistent from one school to another. There is also considerable anecdotal evidence that when new schools are built, they aren't necessarily done with cost-control or core academic needs in mind. Consider the new T.C. Williams High School in Alexandria, Virginia, of *Remember the Titans* fame. Opened this year \$25 million over budget, the new T.C. Williams boasts television studios, a black-box theater, and a planetarium—hardly basic needs.

It is important to note that states are not necessarily good stewards of construction funds any more than districts are. New Jersey recently had a major scandal concerning its School Construction Corporation, which was established to build schools in low-income, so-called *Abbott* districts. This entity made such moves as paying local governments more than \$67 million to buy land already owned by the public; selecting sites on which to build schools containing heavy environmental contamination; and paying private contractors more than \$217 million above originally contracted amounts.

There is very good reason to be highly skeptical that any funding mechanism in our current education system will result in efficient and effective school construction and maintenance. But as much as it may seem like it, I am not here to simply tell you what's wrong in school construction and maintenance, exhort you to do nothing about it, and then go on my merry way. I have a solution. Congress must cease federal intervention in

school construction, refrain from getting more deeply involved, and individual Members of Congress should exhort their states and local districts—*which have proper authority over education*—to let all parents control education funding for their children by taking it to any school they wish, public or private. School choice—letting markets work—is the key to getting good, safe school buildings, just as it is the key to academic success.

First, consider basic, human motives. When a school gets funding—and its employees get paid—regardless of whether or not the school building is in good condition, the incentives to vigilantly conduct painstaking maintenance are small. Sure, the building might not be a great place to work, but a paycheck is coming regardless, and getting tough problems fixed and regular preventative maintenance done can often be very hard. When schools don't have to compete they don't have to care nearly as much about their buildings as schools that have to earn customers, and have to look, sound, and smell as conducive to effective learning as possible. A visit to Eastern Europe offers plentiful examples of how poorly construction and maintenance worked under non-competitive incentive structures.

As touched on earlier, the other problem with top-down control is that large organizations invariably have big bureaucracies, and big bureaucracies invariably make action inefficient and slow. In a system of choice with autonomous schools, in contrast, schools can respond very quickly to their needs, not having to perpetually fill out extensive paperwork to get work approvals, supplies, and maintenance personnel from huge, distant home offices.



The superiority of private provision of education when it comes to facilities is not just theoretical—it has been established both in the United States and abroad. Here are just three examples:

- In Arizona, the director of Cato’s Center for Educational Freedom, Andrew Coulson, found that when asked the same core questions as were asked of public school officials in *Condition of America’s Public School Facilities: 1999*, private school operators reported that their schools were in much better condition than public schools nationwide (Arizona public school data was not available). And this was not a result of having “better” students—Arizona’s private schools reported better conditions of such things as foundations, ventilation, and electrical power which could not be easily affected by such student behaviors as vandalism. Perhaps most impressively, the private schools were able to do this despite spending much less per pupil than their public counterparts (taking into account all sources of revenue, not simply tuition).
- In New Orleans, by early November after Hurricane Katrina three private schools were back up and running in the city’s especially hard-hit East Bank, and eight of the city’s Roman Catholic schools were operating. None of the city’s traditional public or charter schools, in contrast, had yet reopened. By the Spring of 2006 nearly 20,000 students were enrolled in private schools, well above the number in public schools.

- Extensive research by British professor James Tooley has documented that private schools found throughout some of the most impoverished slums in the world provide superior conditions compared to government-run schools. Tooley has found that private schools in places like Hyderabad, India, Ga, Ghana, and Lagos, Nigeria, are more likely to provide such things as drinking water, fans, electricity, toilets, and libraries than government schools. Similar findings have been reported for these and other countries by other researchers. Why? The private schools have to compete for students.

So what should Congress do to ensure that the nation has the best possible school facilities? Essentially, nothing. The best things that Congress as a whole can do is leave school facility funding and policy making to states and local districts, and the best thing that individual members of Congress can do is take up the bully pulpit and exhort your states and districts to enact widespread school choice. Then, all school managers will have the incentives to keep up with necessary maintenance, and when new buildings truly are needed, they will be built with maximum efficiency and effectiveness.

Thank you again for the opportunity to provide testimony, and I look forward to your questions.