



MANAGEMENT ANALYSIS & PLANNING, INC

WYOMING EDUCATION FINANCE

Implementation Issues

Submitted to

Wyoming State Legislature

By

James R. Smith
Gerald C. Hayward

July 2, 2001

TABLE OF CONTENTS

<i>TABLE OF CONTENTS</i>	<i>ii</i>
<i>Introduction</i>	<i>1</i>
<i>Alternative Schools</i>	<i>2</i>
<i>Audit Function</i>	<i>4</i>
<i>Budget and Application Cycle</i>	<i>6</i>
<i>Bus Purchases</i>	<i>8</i>
<i>Excess Cash Reserves</i>	<i>9</i>
<i>Charter Schools</i>	<i>11</i>
<i>Interest Income Not Included as Local Revenue</i>	<i>13</i>
<i>Local Tax Collection</i>	<i>15</i>
<i>Reading Assessment and Instruction</i>	<i>17</i>
<i>Small Schools Adjustment</i>	<i>19</i>
<i>Special Education</i>	<i>22</i>
<i>Teacher Seniority</i>	<i>24</i>
<i>Three Year Average ADM</i>	<i>27</i>
<i>Three Year Average Seniority</i>	<i>29</i>
<i>Transportation</i>	<i>30</i>
<i>Tuition</i>	<i>32</i>

Introduction

In this report several provisions of current law that have been identified as problematic are analyzed, and recommendations for possible changes are proposed. In most cases two or more alternative recommendations are offered. Alternatives are not presented in any priority order and are not necessarily mutually exclusive.

Candidates for issues to be addressed in this report were obtained from interviews with officials in the Wyoming Department of Education and the Legislative Service Office. In each case we asked the individual to name provisions of the current school finance laws that were not working as originally intended or that were otherwise problematic. Education Advisory Committee members were invited to raise any such issues as well, but they declined.

We analyzed each issue raised to determine if the perceived problem was significant, if the problem resulted from the nature of the law as written, or if it resulted from the manner in which the law was implemented. Some issues were eliminated from further consideration when it was determined that they were not currently or potentially significant or that they merely represented an inconvenience for those responsible for their implementation. The description of each issue deliberately has been kept brief to facilitate discussion by the Legislature.

Those remaining identified issues are the subject of this report. While each issue is presented as separate and discrete, in reality many are interrelated, where changing one will affect others. In some cases, changing one may imply changing another for the sake of consistency, e.g. rolling averages. Some can be changed easily by modifying current law. Others will require further analysis if it is the will of the Legislature that a particular approach be adopted. The reaction of the Legislature to these issues at this time will help shape our work as we proceed to re-cost the model and to craft alternatives for those elements of the model found unconstitutional by the Supreme Court.

Alternative Schools

1. What are the applicable code section(s)?

21-13-318

2. What is the problem?

Although it is not clear to what extent identified problems currently exist, their potential is such that Legislative attention is warranted. Several concerns emanate from the flexible nature of instruction in alternative schools. Students attend part time and receive instruction in various alternative modes. For example, some students may alternate school attendance and work in six week blocks, instruction may be predominately independent study. As a consequence the Department of Education is unsure of the appropriate procedures for counting attendance and more seriously, students may not enjoy access to the academic program specified by state law.

3. What is its effect?

Alternative schools have been controversial in other states largely because of the characteristics described above. There are two important potential effects that may require legislative or administrative attention. The first is that alternative school instruction and curriculum may lack rigor comparable to the regular school program. When this is the case, graduates of these programs will be less well prepared and may diminish the value of a high school diploma. The second concern is that without clear regulation of how alternative schools generate and spend revenue, they could become “cash cows” for local school districts, i.e. they will generate more revenue than they cost. The extent of either or both of these problems is not presently known.

4. Is the impact of the law as implemented different from what the legislature intended?

The Legislature authorized Alternative schools to meet the needs of students who are not succeeding in more traditional settings. To encourage the implementation of alternative schools, the Legislature provided that these programs be treated as separate schools, eligible for the small school adjustment. It is assumed that the Legislature intended alternative programs to provide another setting and other instructional modes for students to acquire the same skills and knowledge as their peers in the regular program. To the extent that the alternative programs are less rigorous or that the extra funding that they generate is spent on other students, Legislative intent is thwarted.

5. Is this a problem with the law, the regulations or with implementation?

The current law does not address either of these concerns.

6. What is a recommended solution?

The consequences in terms of impact on students of these concerns seems to warrant legislative action, even though that action may tend to attenuate local discretion.

We recommend the following provisions be implemented as conditions for alternative schools being eligible for the small school adjustment:

(1) The Legislature clarify its intent that “alternative” apply to location and mode of instruction, but that students attending alternative school be held to the same standards as students in the regular program; and

(2) The Legislature specify a maximum pupil teacher ratio for alternative schools at a level consistent with the small school adjustment, and calculate ADM only for those students in actual attendance under the direct supervision of a certified teacher.

We further recommend that the Department of Education be directed to adopt rules and regulations that describe the conditions under which alternative modes of instruction, such as distance learning and independent study, would qualify to generate ADM.

Audit Function

1. What are the applicable code section(s)?

28-8-115

2. What is the problem?

The state has a constitutional responsibility to ensure that school districts receive the proper amount of the funding to which they are entitled and that funding is spent for the purposes intended. Thus it is necessary to monitor district procedures for determining ADM, teacher seniority, students eligible for special education, etc. to ensure that they are appropriate and accurately applied. Further, it is a matter of good government to ensure that school districts operate efficiently.

Under the existing Cost Based Block Grant school districts are accorded maximum latitude to allocate resources according to local priorities. Certain exceptions exist, however. Special education and transportation expenditures are fully reimbursed and for small schools utilities, student activities and food services costs are reimbursed. Therefore, it is essential that the state ensure the accuracy of the expenditures reported for these purposes.

The Legislative Service Office (LSO) is required to conduct audits of school districts compliance with provisions of the school finance laws. One staff person has been assigned to LSO for that function. She is responsible for contracting with Wyoming school districts, which in turn contract with CPAs conducting annual fiscal audits for the school district to perform agreed upon procedures to test compliance with specific provisions of the school finance laws. Under specified conditions Department of Education personnel follow up on findings reported by the CPAs.

3. What is its effect?

There appear to be at least three important problems with the present system. First is that insufficient qualified staff (i.e. trained auditors) are assigned to the task. Currently available resources are inadequate to comprehensively monitor the various aspects of implementation of the school finance laws. Second, the potential for conflicts of interest or perceptions of conflicts of interest exist under the current arrangements. Local CPAs must serve two masters and the Department of Education risks being compromised in its dual role of advocate for school districts and monitor. Third, locating the audit function in the LSO does not seem consistent with that office's legislative support staff function.

4. Is the impact of the law as implemented different from what the legislature intended?

It is likely that the implications of the current law were difficult to anticipate; but clearly the desire for accountability that provided the impetus for an audit function is not well served in the current context. Because it is a new concept, it is not surprising that fine tuning of the function would be required.

5. Is this a problem with the law, the regulations or with implementation?

While there is evidence of implementation concerns, the fundamental problems are those outlined above.

6. What is a recommended solution?

We recommend that the Legislature provide adequate resources to fully staff a group of auditors (probably 4-6) who would organizationally be located in the Department of Audit, but physically housed in the Department of Education. This arrangement would allow for the auditors to be fully independent from the educational establishment, but fully knowledgeable of ongoing issues and concerns associated with the education system. These auditors would conduct regular audits and management studies in school districts on a systematic basis and would continue to report to the Management Council of the Legislature. Local CPAs could continue to participate in the process, primarily in a more traditional role of fiscal audits, and perhaps in other ways to lever the impact of regular state audits. The Department of Education would continue to accredit school districts.

Budget and Application Cycle

1. What are the applicable code section(s)?

Among the provisions of Chapter 13 which sets out procedures for school finance calculations is one that requires school districts present tentative budgets to their local governing boards by May 15 of each year. In order to assist local districts, the Department of Education sends out by May 1 or thereabouts the WDE-100 as a worksheet that helps districts estimate the amount of money they will be eligible for under the Foundation Program. Districts must then hold public budget hearings by the third Wednesday in July in order to have an approved application sent to the Department of Education by mid-August.

2. What is the problem?

The Department reports having a difficult time meeting the May 1 date, because of the many calculations involved in a district's foundation amount. Additionally because legislative and other changes are often made shortly before the district expects to receive the worksheet from the state, the Department is rushed. Although the Department makes it clear that the results of the worksheet calculations are only "rough estimates" of a district's actual allocation, districts make serious decisions regarding program and personnel based on those estimates.

The problem is exacerbated because there are also problems with determining the local contribution and hence the state contribution. The Department also estimates local tax revenues – they must do so in order to estimate the state contribution. Local tax collections often deviate from earlier estimates. In sum, both the foundation program estimate and the local contribution estimate must be accurate in order for the district to have a true picture of funds available to it. Because of the complexity of the former and the variation of the latter, the Department has a difficult time giving the districts the kinds of tools they need to make critical budget decisions.

3. What is the effect?

The effect is that districts must keep large reserves or engage in borrowing to protect against errors in estimation. This is money that more appropriately could be used for operating expenditures.

4. Is the impact of the law as implemented different from what the legislature intended?

The enactment of a cost-based, data-reliant school finance mechanism created problems of implementation not foreseen by the state, however, this particular problem is one of long standing. An advantage of the cost based block grant is to allow school districts to

reliably predict revenues, but due to the uncertainty of local tax collections, this advantage is not realized.

5. Is the problem with the law, the regulations or with implementation?

The problem is partly implementation but mostly statutory.

6. What is the recommended solution?

The first task is to clarify and simplify the foundation program model—that project is underway and it should remove some ambiguity and simplify the operation of the model. Estimates should be more accurate and more timely. The legislature is unlikely to stop making changes to the statute, but giving the Department and districts more lead time will help. Estimating local revenue will still be a problem—the solution to which may ultimately lie in determining that all revenues, including those now classified as local are as the court has suggested state revenues. (See recommendation regarding Local Tax Collection).

Bus Purchases

1. What are the applicable code section(s)?

21-13-320

2. What is the problem?

The state reimburses local districts for 100 percent of the costs of purchasing or leasing new vehicles. When districts purchase a new vehicle the districts are reimbursed over five years, whereas the state reimburses lease payments annually. As a consequence there exists an incentive for districts to lease vehicles.

3. What is its effect?

Lease payments include interest, thereby increasing the costs borne by the state above those of a purchase. WDE personnel report that under the current procedures, because they are able to pass all costs on to the state, school districts are provided little incentive to seek the most favorable lease terms, and as a consequence the state may be required to incur higher interest costs than necessary.

4. Is the impact of the law as implemented different from what the legislature intended?

Clearly the Legislature did not intend to pay more than the market cost for transportation. To the extent that school districts are paying more than market rate interest, this is an example of expenditures exceeding cost.

5. Is this a problem with the law, the regulations or with implementation?

The law does not specifically require school districts seek the most favorable lease terms.

6. What is a recommended solution?

We recommend:

Alternative 1. Specifically allow school districts to enter into leases only when they are able to demonstrate that there is no more cost-effective method of acquiring vehicles. Further, require school districts to enter into only those leases that yield the lowest net cost to the state over the period of the lease.

Alternative 2. Centralize the leasing and purchasing function at the Department of Education. School districts would furnish the Department with specifications for each vehicle needed. The Department, upon determination of local need, etc., would be responsible for procuring the vehicle under the most favorable terms.

Excess Cash Reserves

1. What are the applicable code section(s)?

Code Section 21-13-313 (e) effectively places a limit of the amount of cash reserves a district may have at the close of each fiscal year. Any funds in excess of 15% of a district's total foundation program amount shall be considered state funds and in effect be used by the state to offset its contribution to the foundation amount. The state's purpose is to allow districts a prudent reserve but place a limit on it.

2. What is the problem?

The immediate problem is with a district whose cash reserves ballooned as a result of a large cash payment from a court case which caused its cash reserves to balloon up. It is not certain that they will end the year over the limit because they have been spending down the reserves as rapidly as they can. A more general problem is that districts maintain large reserves which ultimately drain resources from the system that should be employed in ongoing operations.

3. What is the effect?

If the district in question is unable to spend to within 15% of their foundation guarantee, they may lose some of the revenue they gained from the successful law suit and the state would save some money they otherwise would have spent on the district's foundation program amount. State-wide resources that could be applied to on going programs are locked in reserve amounts.

4. Is the impact of the law as implemented different from what the legislature intended?

MAP doubts the legislature contemplated that a district might not be able to benefit from the successful conclusion of a court case, or that approximately 15% of school district budgets be locked in reserves.

5. Is the problem with the law, the regulations or with implementation?

The problem, to the extent one exists, is with the law.

6. What is the recommended solution?

No action is recommended at the present time unless recommended changes to the way local revenues are collected are adopted. The current policy seems reasonable under current circumstances. The single district problem is unique and it is usually good policy not to enact statutory changes solely on the basis of unusual precedence. In addition, if

the legislature adopts MAP recommendations regarding local tax collection, the need for districts to maintain high reserves will be further mitigated. At that time the Legislature could adopt requirements that would limit reserves to a more modest amount consistent with any uncertainties inherent in the new system.

Charter Schools

1. What are the applicable code section(s)?

21-3-301 through 21-3-314

2. What is the problem?

Because there have been no charter schools approved, all problems are potential rather than immediate. Charter schools ADM initially is to be counted double. Under the current law charter schools are forward funded. Thus the students attending charter schools in the previous year would have been counted in the regular program for reimbursement and again in the coming year in the charter school. As a consequence the students attending charter schools could generate triple, rather than double ADM.

Charter schools may also qualify for the small school adjustment. Conceivably a charter school established on the campus of a larger school would create a “school” that would now qualify for a small school adjustment, fully reimbursed student activities and utilities, plus triple funding.

It is not clear from the law if the Legislature intended that all revenue generated by charter school ADM be made available for the exclusive use of the charter school or if school districts were free to reallocate those resources elsewhere in the district. The provisions of the law seems to favor school districts in any negotiations of how the resources generated by the charter school would be allocated.

Finally, another potential problem is the possible added cost of transporting students. If the charter school draws students from all over the district, it is possible that the district would be required to add vehicle capacity and expand bus routes.

3. What is its effect?

The potential effect is to significantly increase costs of education of those students attending charter schools. Also, it is possible that resources generated by charter schools will be diverted to other purposes at district discretion.

4. Is the impact of the law as implemented different from what the legislature intended?

It is not clear if the Legislature was aware of the potential concerns described above.

5. Is this a problem with the law, the regulations or with implementation?

To the extent that these problems were unanticipated at the time the law was written, they are problems of legislation.

6. What is a recommended solution?

We recommend that the Legislature clarify its intent with regard to the level of funding intended for charter schools, any restrictions on the use of charter school generated funding, and the extent that school districts should incur added transportation costs as the result of creating a charter school.

Interest Income Not Included as Local Revenue

1. What are the applicable code section(s)?

Code section 21-13-310 contains the annual computation of district revenues. It states in part that “the revenue under this subsection shall be deemed state revenues and shall be considered in determining the amount to be distributed to each district under 21-13-311 (the state revenue required to bring the district up to the foundation program amount). Subsection xi of section 21-13-310 was repealed in 1999. That section had required that interest income be included as the local contribution to the states guaranteed foundation program amount.

2. What is the problem?

The exclusion of interest income results in two adverse impacts on the overall school finance provisions. Allowing interest income to float on top of the foundation program is disequalizing. It gives an unfair advantage to one district with interest income over another without interest income even though their respective needs may be equal. Additionally and equally importantly from the state’s perspective, excluding interest income either increases state costs or reduces the dollar amounts available for other districts. This may be exacerbated to the extent that school districts maximize cash reserves in order to maximize interest income.

3. What is the effect?

Districts with large investment incomes have additional funds to spend beyond the foundation amount provided by the state. In 1998-99, the state reported districts generated \$6.5 million in interest income on investments and another \$900,000 in other interest income. In the next year, 1999-2000, the Department of Education reports total interest income of \$8.8 million, a 34% increase.

In 98-99, districts received highly variable amounts of interest income with the high being \$595 per ADM and the low being only \$24 per ADM. The income generated is not cost-based as required by the court.

The model adequately funds operations costs of the districts and the major maintenance and capital outlay costs are covered by state funds. By not counting interest income, the state is in effect increasing its costs by the amount of the income.

4. Is the impact of the law as implemented different from what the legislature intended?

The legislative intent was to reward districts who were frugal and made wise investment choices. However, this revenue is really state revenue as both the court and section 21-13-310 opined, and as such should be counted as the local portion of the state's guaranteed foundation amount.

5. Is the problem with the law, the regulations or with implementation?

The problem is with the law.

6. What is the recommended solution?

Re-include interest income in section 13-21-210.

Local Tax Collection

1. What are the applicable code section(s)?

Code section 21-13-310 contains provisions relating to the definitions and collection of local revenues. An important phrase in this section is: “the revenues specified under this subsection shall be deemed state revenues and shall be considered in determining the amount to be distributed to each district under W.S. 21-13-311 (computation of the foundation amount).

2. What is the problem?

In order to make estimates of a district’s budget, school districts must rely on obtaining accurate information about the total revenue amount they are eligible for under the law, then get accurate estimates of local revenue in order that the state can accurately determine the accurate state’s contribution to their foundation amount.

A district’s ability to make accurate budget projections is severely constrained by the difficulty in projecting local revenues. If these projections are in error, the total revenue for the district will be affected as well because the state’s contribution is predicated on making up the difference between the foundation amount and the local revenue.

Actual tax collections often deviate from earlier estimates and districts are frequently caught short when expected local revenue does not materialize. In the case where there is an underestimate of local revenue, the state is required to pay out more initially and then “reclaim” the overage later. Under existing procedures if the state allocates more than the district is entitled to, the district must repay the excess amount to the state by a reduction in future year state revenues.

As an example: In fiscal year 1999 Platte County School District #1 had estimated local taxes of \$3,481,478. That year they actually received only \$2,760,637 in local tax revenue from the county. They were short of their “guarantee” by \$720,841. That shortfall was made up in the following fiscal year but in the short term the district faced a significant discrepancy in revenue and either had to have substantial reserves on hand or borrow money to meet the shortage.

Conversely, the very next year—fiscal year 2000, projected taxes were \$2,993,155 but the Platte County School District #1 actually received \$3,393,461. In this year the district actually received \$400,306 more than they were entitled. Of course, the next year the overage was “made right” and their revenue was reduced by an equivalent amount. The MAP Model Guarantee is virtually never achieved in practice in the same year in which budgets are made and expenses incurred

3. What is the effect?

Districts are placed in the untenable position of making firm budgetary decisions and making commitments on personnel and programs on estimates which if they fall short, may place them in jeopardy during the fiscal year. Therefore they are required either to make dramatic budget revisions, borrow or to maintain substantial reserves to meet contingencies.

4. Is the impact of the law as implemented different from what the legislature intended?

The Wyoming school finance system has become, because of decisions by the court and statutes passed by the legislature, more centralized, more like a state system. Those “local” taxes which are now included in the calculation of the foundation amount have become *de facto* state taxes.

5. Is the problem with the law, the regulations or with implementation?

The problem is with the law.

6. What is the recommended solution?

We recommend that taxes now collected by local entities and counted as local revenues be collected directly by the state. Districts would get the exact Guarantee every year. There would be no mid-year short falls, no cash flow problems, and no excess requiring reclaiming of the overage by the state.

Reading Assessment and Instruction

1. What are the applicable code section(s)?

21-3-301

2. What is the problem?

For school year 2001-2002 school districts are required to assess reading competence of all students in grades 1 and 2 and to develop an individual reading plan for each student not reading consistent with state standards. Districts are required to annually report progress toward reaching a goal of 85 percent of identified students being reading proficient. State funding of \$167 per kindergarten through grade 2 ADM is provided for the purposes of this program.

In its current form the program is categorical and not part of the Cost Based Block Grant and it is funded for one year only. This creates two potential problems. First, the track record of national and state categorical programs over the past 35 years has been mixed at best. See Guthrie and Smith (1998) for a discussion of categorical funding¹. In effective school districts early assessment and treatment would be part of the basic program—the way such a district would normally do business. Making this program categorical provides no incentive for this effort to become an integral part of a comprehensive program strategy for all students. Second, limiting funding to one year provides little incentive for school districts to invest the staff time to develop procedures and otherwise take steps to make the process an integral part of its program strategy.

3. What is its effect?

The programmatic effect has yet to be determined, but this program is similar to what effective school districts typically implement.

4. Is the impact of the law as implemented different from what the legislature intended?

The program has not yet been implemented.

5. Is this a problem with the law, the regulations or with implementation?

¹ Guthrie, James W. and James R. Smith, Wyoming Education Finance Report, Programs for Students with Special Needs, May 18, 1998

6. What is a recommended solution?

We recommend:

Alternative 1: The funding for this effort be folded into the Cost Based Block Grant and that the requirements for assessment, intervention and reporting remain.

Alternative 2: The funding be folded into the Cost Based Block Grant and hold districts accountable for results without specifying how they achieve them.

Small Schools Adjustment

1. What are the applicable code section(s)?

21-13-318

2. What is the problem?

MAP recommended that the Cost Based Block Grant be adjusted to reflect the diseconomies of scale experienced by small schools. In order to ensure that the schools identified as small actually were small and actually experienced diseconomies, MAP recommended that a school be encompassed in a 1/4 radius and contain at least three consecutive grades.

Both of the above described provisions have subsequently been removed and as a consequence school districts are able to designate certain schools as small and become eligible for the small school adjustment even though they do not experience diseconomies.

3. What is its effect?

In many cases these “co-located” schools were created by designating certain grades in a larger school as a separate school. For the most part this practice grew out of a Wyoming tradition of designating elementary grades as an elementary school, middle grades as a middle school and secondary grades as a high school even though all grades were located on a single campus, even in some cases under a single roof, and under the aegis of a single administration. Such a practice had little practical impact until the Legislature attempted to compensate small schools for legitimate costs caused by small enrollment.

The Department of Education has identified 31 “schools” (actually grades in a larger school) that will become eligible for the small school adjustment by removing 1/4 mile rule and another 5 that will become eligible by removing the three grade requirement. The annual cost of removing these requirements exceeds \$4 million.

Under current law, schools may not change grade configuration in order to receive the small school adjustment without prior approval of the state superintendent, thereby limiting the total exposure of the state to those schools so configured in July 1, 1998. As a consequence there will exist a “privileged class” of schools. Two schools with identical enrollment will be funded differently—the “grand fathered” schools will generate the small school adjustment even if they do not experience the diseconomies of a small school, other schools will not. Similarly situated students are not treated equitably.

Yet another problem has recently surfaced. Visits to some small schools revealed that the resources made available to these schools were significantly less than the small school adjustment, and possibly other adjustments, would have generated. While school districts

enjoy great latitude to allocate resources according to local priorities, it is troubling that some students are disadvantaged by local decision making. The level and extent of this practice is unknown at the present time. Moreover, it is unknown if this practice results from over-funding small schools or from some other cause.

4. Is the impact of the law as implemented different from what the legislature intended?

Assuming that it was and remains the intent of the Legislature to fairly compensate for diseconomies experienced by small schools, but not to unfairly compensate some school districts because of a technicality, the net result is different from Legislative intent. The problem arises from both legislation and actions of the courts. The fundamental problem is created by the courts' consistent unwillingness to allow the Legislature to define "school" by any geographic measure. It is exacerbated by elimination of the contiguous grades rule.

While the Legislature intended for local districts to enjoy maximum flexibility to allocate resources consistent with local priorities, it is unlikely that it intended that students at some schools would subsidize similarly situated students at other schools.

5. Is this a problem with the law, the regulations or with implementation?

This is primarily a problem with existing law and within the purview of the Legislature to remedy.

6. What is a recommended solution?

Alternative 1. We recommend the Legislature make two changes to the law. First we recommend that the requirement that a school must contain at least three consecutive grades to be designated a school be reinstated. Secondly, we recommend the "grandfather" provision be repealed and that no school generate the small school adjustment with out prior approval of the state superintendent who shall base such approval on the following criteria:

No school will generate the small school adjustment where it appears there exists a more cost effective way to provide comparable education services to students, unless there exist extraordinary circumstances related to the safe and efficient delivery of educational services to students. If the state superintendent finds there exists a more cost effective way to provide adequate education services to those students and that no such extraordinary circumstances exist, the school shall be disqualified to be designated a necessary small school. Schools that can shares facilities, administration and other services without undue hardship would not qualify as a necessary small school.

Alternative 2. We recommend that the Legislature define a school as one or more buildings that contain one or more grades and at least three of the following facilities that

are not shared with another school: (1) library, (2) cafeteria, (3) administrative office, (4) heating and ventilation system. School districts may not reduce the size or scope of any of these facilities for the purpose of qualifying for a small school adjustment.

We also recommend that the Legislature direct the state auditing agency to select a sample of small schools and conduct audits to determine the extent that fewer resources are spent at the small school than made available under the current funding formula, and further, where such practice exists, to determine if the practice results from the small school adjustment over-funding small schools or from some other cause.

MAP will be addressing the small schools adjustment in greater detail beginning in August, however the issues described above can be addressed prior to beginning that work.

Special Education

1. What are the applicable code section(s)?

21-13-321

2. What is the problem?

School districts are reimbursed 100 percent of the prior year's expenditures for special education except when those expenditures do not exceed 100 percent of the ratio of special education expenditures to total general fund expenditures in the prior year. Expenditures that exceed 100 percent of the ratio but are less than 110 percent are reimbursed only with permission of Department of Education. Expenditures over 110 percent are fully reimbursed. School districts reducing expenditures can retain half the difference between current year and prior year expenditures.

Wyoming is the only state in the nation to fully reimburse special education expenditures.

In some cases during recent school visits by MAP researchers it became apparent that personnel funded by special education were working with non-special education students. How widespread this problem may be is unknown, but to the extent it exists, special education expenditures are over stated, i.e. expenditures exceed cost.

3. What is its effect?

For each year since 1997 special education expenditures have risen 2.53%, 1.16%, 6.53% and 7.92%, or approximately 16%. By way of comparison during the same period general operating expenses grew 13 % and overall enrollment declined 4.4%. Although this increase is not as dramatic as many observers would have predicted given the current funding procedures, it is clear that special education expenditures are a growing significantly and at an accelerating rate. Without little or no incentive to operate cost-effective programs, districts are likely to continue to increase special education expenditures faster than general expenditures.

4. Is the impact of the law as implemented different from what the legislature intended?

Reimbursing 100 percent of expenditures is rarely a good idea. Under such conditions the prevailing incentive is to identify more students as special education and to provide more services than may be necessary. Inevitably special education populations will grow and the cost of special education services will increase. Ironically, practices proven to improve student achievement, such as early intervention and coordinated services are discouraged under any system that requires students to be labeled before receiving services.

The effect of withholding reimbursement for expenditures that are greater than 100% but less than 110% of the prior year's ratio does not seem to provide adequate incentive to control costs. Moreover, it may cause a genuine hardship for those school districts that do face legitimate cost increases beyond their control.

5. Is this a problem with the law, the regulations or with implementation?

To the extent that there is a problem, it seems to result from the way current law is written.

6. What is a recommended solution?

There are a number of procedures for funding special education that are probably superior to current law, although none are without impediments. For a discussion of the range of options and criteria for judging options see Smith and Guthrie (2000)². The federal government, Montana, Vermont, California and other states have adopted versions of the modified census based funding formula originally proposed to the Legislature by MAP in 1997 and subsequently discussed in more detail in Guthrie and Smith (1998)³.

Special education funding is complex and should not be addressed without extensive study and consultation with affected constituencies. We therefore recommend that the Legislature commission a study of special education programs and costs, which would serve as the basis for legislation that would more effectively offer incentives to school districts to provide cost effective programs for handicapped students.

While the current reimbursement system is in effect, we recommend that "caps" imposed between 100% and 110% be eliminated, and that the Department regularly and closely monitor local special education programs to ensure that the districts are operating in an efficient and cost-effective manner.

² Smith, James R. and James W. Guthrie, An Exploration of Educational and Demographic Conditions Affecting New Hampshire's Adequacy Aid, October 5, 2000, pp. 60-64.
http://www.edconsultants.com/Reports/NH_Final_Report

³ Guthrie, James W. and James R. Smith, Wyoming Education Finance Issues Report, An Analysis of The Modified Census Based Special Education Program, May 20, 1998
<http://www.edconsultants.com/Reports/WYSpEd>

Teacher Seniority

1. What are the applicable code section(s)?

21-13-323

2. What is the problem?

School districts report the experience level of each teacher employed in the district. For each district the total years of seniority of all the teachers employed in the district are summed⁴. The state then pays to the district \$673.09 for every year of seniority (up to a maximum of 20 years) of the district's teachers, i.e. the sum of the years of seniority is multiplied by \$673.09 to calculate a district's seniority adjustment.

The adjustment is based on total teachers employed in a district regardless of the number of teachers allocated by the cost based block grant model, including those hired with federal class size reduction funding. This practice does increase significantly the total cost of education in Wyoming. It is assumed that this reflects the intent of the Legislature.

Some district administrators claim that they "lose" funding under the current seniority adjustment. This can not be the case. Every district receives \$673.09 for every year of seniority of teachers in its employ. Districts whose teachers are more experienced will receive a greater adjustment than districts whose teachers are less experienced. This perception likely results from the way adjustments are made from the prototype. Currently districts with fewer total years of seniority than the prototype receive less than the prototype amount, which in the calculation is expressed as a deduction from the prototype amount. (Just as districts with transportation costs or special education costs lower than the prototype will receive less than the prototype amount.)

Also, claims have been made that the seniority adjustment is a zero sum game, and that some districts must lose for others to gain. This is not the case. It is the case that a school district which replaces senior teachers with beginning teachers will receive a reduced seniority adjustment, reflecting the actual reduction in cost to the district. (But also making it puzzling why school districts offer early retirement incentives to experienced teachers.)

Some district administrators harbor the misperception that the seniority adjustment is based on an annually calculated statewide average level of seniority. This is not the case. Each school district's seniority adjustment is calculated as described above.

⁴ The actual calculation is based on a three year rolling average. This issue is discussed elsewhere in this report.

The \$673.09 per year adjustment has changed only once since the current formula was adopted. Initially the value of a year of seniority was computed based on seniority achieved only in Wyoming school districts. The value was recalculated when the Legislature subsequently changed the law to allow districts to pay for seniority gained out of state. In the future the value of a year of seniority should be adjusted in the formula only when the entire model is re-costed. Districts are, of course free to pay more or less than the model provides, and as long as the overall funding is periodically adjusted to compensate for inflation the amount districts actually pay should reflect their actual costs.

Based on then current practice, and research that finds little relationship between teacher experience beyond seven years and student achievement, MAP recommends that the seniority adjustment be capped at 20 years. Some district administrators express concern that the funding formula is based on a maximum of 20 years. They complain that the salary schedule in their district compensate for more than 20 years. In fact, no teacher will generate seniority adjustment beyond 20 years, but the district is not constrained from paying for more years. There is much variability in the maximum years of seniority compensation among the salary schedules of Wyoming school districts. Some districts give larger raises per year for each of fewer years, and others offer smaller raises per year for more years. This is appropriate and consistent with local control. There would be no cost based justification to provide an open ended seniority adjustment that would allow all districts to pay larger raises and for more years.

3. What is its effect?

The primary negative effect of the current adjustment is that certain myths have grown up around its application. However, because the current adjustment is based on all teachers employed in a school district, disincentives associated with over-staffing tend to be attenuated. Thus school districts tend to face less fiscal incentive to reduce staff when enrollment declines.

4. Is the impact of the law as implemented different from what the legislature intended?

The formula seems to be working as intended, assuming that it was the intent of the Legislature to base the seniority adjustment on all teachers rather than the number specified in the model.

5. Is this a problem with the law, the regulations or with implementation?

The problem seems to be with how the actual calculations that are made yield the total adjustment for each district.

6. What is a recommended solution?

We recommend that rather than calculate the seniority adjustment as a plus or minus from the prototypical amount, every district's adjustment be positive. This is a technical

procedure that can be accomplished rather easily. Prior to computing district allocations the seniority adjustment would be removed from the model. Each district's adjustment would then be displayed as the product of the number of years of seniority of its teachers and the value of one year of seniority up to a maximum of 20 years.

Three Year Average ADM

1. What are the applicable code section(s)?

21-13-309

2. What is the problem?

The student count upon which each school district's state funding is based on the average of the past three years Average Daily Membership (ADM).

3. What is its effect?

Average daily membership is declining in most districts. As a consequence those school districts receive more funding than is indicated by their actual cost. The opposite would be true if a district's ADM were increasing. There is some speculation that enrollments may increase in some districts affected by employment in energy related industries. In that case their state reimbursement would be less than their cost in any given year. When some districts are declining and some growing, similarly situated students are treated unequally.

4. Is the impact of the law as implemented different from what the legislature intended?

This provision of the law was apparently written to mitigate the effects of declining student enrollment. As such it likely is working as intended in those cases where enrollment continues to decline.

5. Is this a problem with the law, the regulations or with implementation?

It appears as if the law is being implemented as written.

6. What is a recommended solution?

Alternative 1. We recommend that school districts' revenues be based on actual ADM of the prior year. This would make the funding system more cost-based than the current practice and would ensure consistent treatment of all districts regardless of whether enrollment was growing or declining.

Alternative 2. We recommend that school districts' revenues be based on actual ADM of the prior year, but that school districts be "held harmless" from a decrease in total revenues in excess of 5 percent (or some other amount adopted by the Legislature), i.e. that the maximum amount that a district's revenues could decline in any one year would be 5 percent.

Three Year Average Seniority

1. What are the applicable code section(s)?

21-13-323

2. What is the problem?

The actual calculation of teacher seniority for a school district is based on a rolling average of seniority of the past three years.

3. What is its effect?

The total teacher seniority of school districts is increasing. The effect is for the seniority adjustment to lag actual costs.

4. Is the impact of the law as implemented different from what the legislature intended?

It is not clear what was the intent of this requirement. The effect is that school districts with increasing seniority receive less revenue than their actual costs.

5. Is this a problem with the law, the regulations or with implementation?

This does seem to be a problem of current law.

6. What is a recommended solution?

We recommend that the three year rolling average provision be eliminated and that the seniority adjustment be based on an annual calculation of actual seniority for teachers employed by the district.

Transportation

1. What are the applicable code section(s)?

21-13-320

2. What is the problem?

School districts are reimbursed 100 percent of prior year's expenditures for transportation except when those expenditures do not exceed 100 percent of the ratio of transportation expenditures to total general fund expenditures in the prior year. Expenditures that exceed 100 percent of the ratio but are less than 110 percent are reimbursed only with permission of Department of Education. Expenditures over 110 percent are fully reimbursed. School districts reducing expenditures can retain half the difference between current year and prior year expenditures.

3. What is its effect?

The number of students transported has decreased while the cost of transportation has increased.

According to the Department of Education, "[t]ransportation expenditures rose 12.92%, \$3.8 million, between FY97 and FY00. The major portion of this increase was in capital outlay (\$2.5 million), with an additional \$1.3 million in operations and maintenance. In FY00, districts spent an average of \$837/student transported, using only operations and maintenance expenditures, or \$1009/student transported, including capital.

During this same four-year period, the number of students transported decreased by 8.48%, or 3,063. Route miles (to/from home/school) decreased by 0.34%, while field trip and activity miles went up 18.66% and 10.41% respectively.⁵ These increases preceded recent rises in gasoline prices. Thus it is likely that the state faces even more dramatic increases in funding demands for this function.

4. Is the impact of the law as implemented different from what the legislature intended?

Reimbursing 100 percent of expenditures almost inevitably increases expenditures beyond the actual cost of providing services. There exist little incentive for school districts to operate in a cost effective manner. For example, there are no negative financial consequences for districts that operate unnecessary routes, incur excessive maintenance costs or pay higher than market salaries for drivers and other personnel.

⁵ Catchpole, Judy, Wyoming Department of Education, Analysis of Education Finance Reform, School Years 1996-97 through 1999-00, FY97 through FY00, January 30, 2001

As in the case of special education, the effect of withholding reimbursement for expenditures that are greater than 100% but less than 110% of the prior year's ratio does not seem to provide adequate incentive to control costs. Moreover, it may cause a genuine hardship for those school districts that do face legitimate cost increases beyond their control.

5. Is this a problem with the law, the regulations or with implementation?

It appears as if the law is being implemented as written.

6. What is a recommended solution?

See the discussion on bus purchases elsewhere in this report for recommendations to control capital expenditures.

Alternative 1. We recommend that the current reimbursement system be replaced by providing each district with a block grant for transportation. The amount each district would receive would be based on historical costs. It could be adjusted annually for changes in fuel costs.

Alternative 2. We recommend that state contract with private firms to provide student transportation for school districts.

If the current reimbursement system is retained, we recommend that "caps" imposed between 100% and 110% be eliminated, and that the Department regularly monitor local transportation programs to ensure that the districts are operating in an efficient and cost-effective manner.

Tuition

1. What are the applicable code section(s)?

21-4-501

2. What is the problem?

Current law provides that any school district that does not maintain a high school (there are now two) must pay tuition, and transportation to any public high school in or out of state which the local school board may designate as in the best interests, welfare and convenience of the child.

3. What is its effect?

To date no state official was aware of any abuse of this provision, but the potential for abuse seems real. The broad nature of this provision would seem to permit a school board to send students to schools anywhere in the world, pay tuition, travel and maintenance if indicated.

4. Is the impact of the law as implemented different from what the legislature intended?

It is likely that under certain circumstances the potential impact would be controversial.

5. Is this a problem with the law, the regulations or with implementation?

The problem is related to the broad nature of the law as written.

6. What is a recommended solution?

Alternative 1. We recommend that the law be revised to restrict the provisions of tuition to Wyoming school districts or out of state school districts that are within some reasonable distance (e.g. 50 miles) from the home district.

Alternative 2. We recommend that all out of state placements be contingent upon approval by the State Board of Education.

Alternative 3. We recommend that school districts not operating high schools be consolidated into a district that does operate one or more high schools.