Serrano v. Priest: school finance inequities and potential remedies.

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SERRANO V. PRIEST:
SCHOOL FINANCE INEQUITIES
AND POTENTIAL REMEDIES

A Dissertation Presented
By
LAIRD PRESTON WARNER

Submitted to the Graduate School of the
University of Massachusetts in
partial fulfillment of the requirements for the degree of

DOCTOR OF EDUCATION

February 1973

Major Subject: School Finance
SERRANO V. PRIEST:
SCHOOL FINANCE INEQUITIES
AND POTENTIAL REMEDIES

A Dissertation Presented

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August 1972
ACKNOWLEDGMENTS

I want to personally thank everyone who has helped make this dissertation a reality. The members of my doctoral committee, Dr. Rhody A. McCoy (Chairman), Dr. Ray Budde and Dr. Louis Fischer provided me with the guidance, constructive criticism and continued support that was necessary to complete this study. Paul Dimond, of Harvard's Center for Law and Education, was also helpful on the legal issues involved in the study. Richard Howland provided stimulating questions as the reader of my dissertation defense committee. Special thanks go to my wife Karen, without whose help this document would not have been completed.
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School finance experts have known for a long time that the large disparities in spending for education between school districts was primarily caused by the great variation in taxable wealth between the districts. Attempts to equalize spending differentials between school districts through the legislative process (state aid) have historically failed because of the local self-interest of politicians who are interested in protecting tax advantages for their wealthy districts. Those seeking changes in the present school finance system have been forced to use other avenues to fight the inequities in state school finance systems. The battle was moved to the courts.

In Serrano v. Priest, the Supreme Court of the State of California declared that California's school funding scheme was unconstitutional because it violated the equal protection clause of the Fourteenth Amendment. The court observed that the school funding system "invidiously discriminated against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors." Serrano has
served as a model for six other court decisions, and there are presently at least forty-five similar suits in varying stages of litigation.

Taking the school finance crisis as a given and the uncertainty of most state school financing systems, it is crucial to examine and evaluate the possible legislative remedies that flow from this "wealth neutrality principle."

The various school finance plans fall into four general categories: (1) Full State Funding Plans; (2) State and Local Support Plans; (3) Federal Support Plans; (4) Cross Alternative Plans. The various school financing plans that are scrutinized cover the range of real possible developments in school finance plans -- three flat grant models; a power-equalized plan; a federal foundation plan; a district consolidation plan and a voucher plan. The alternative plans are evaluated on the basis of four criteria: (1) legal criteria; (2) financial criteria; (3) political criteria; (4) educational criteria. After evaluating the various alternative plans, the author concluded that a full-state assumption of educational costs was the best solution to the present inequities in school finance. The author also concluded that before change will occur in present methods of state school finance, a court order will be needed.

What will happen if the U.S. Supreme Court
supplies the tool for future court orders by allowing the "wealth neutrality principle" to become a precedent?

One thing is clear. Most states will have to change their present method of financing schools. It is also clear that money will be redistributed to poor districts, whose spending will increase relative to the wealthy districts. It is unclear whether this will benefit poor and minority children.

Whether or not the Serrano principle is victorious in the Supreme Court, educators cannot assume that the courts or state legislatures are going to deal with the real issue -- equity in treatment of children. Equity in the distribution of school revenue is an essential first step toward the attainment of improved educational quality for poor and minority students, but it is only a beginning.
CHAPTER I

INTRODUCTION

The Nature and Background of the Problem

School finance experts have known for a long time that there were large intrastate disparities in local wealth, school tax rates, and in levels of spending.\(^1\) The wide variations in school district expenditure levels have been primarily attributable to the heavy reliance on the local property tax for the support of public education.

There have been a number of attempts to reduce the effects of the wealth differentials through the use of state aid plans. The foundation plan (used in over half of the states) and the percentage equalizing plan are the two most common approaches used to help equalize the wealth disparities. If these plans were applied in their theoretical forms, both would eliminate the effects of the local wealth differentials.

Unfortunately, the actual impact of the state aid plans has been far different than their intent.

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The ineffectiveness of state aid in substantially equalizing the impact of the local wealth differentials has been caused by a number of factors. The foundation and percentage equalizing plans have been modified from their preferred theoretical forms in a number of ways which nullify their intended effect. The intended equalization effect of a foundation plan can be impeded by setting the foundation level at a very low level. Foundation plans are often combined with other types of state aid that neutralize the equalizing impact. A flat grant, which is often tied to a foundation plan, has an anti-equalizing effect.\textsuperscript{2} Equalization of a percentage equalizing plan can be effectively nullified by:

(1) guaranteeing minimum state aid ratios for all districts no matter what the district's wealth, (2) placing a ceiling on state aid which prevents full equalization to take place, (3) placing a dollar maximum that the state will fund, (4) limiting the types of spending the state will support, (5) inadequate state funding, and (6) refusal to require negative payments from wealthy districts.\textsuperscript{3}


\textsuperscript{3}Weiss, \textit{Existing Disparities}, pp. 35-36.
State aid plans and distribution formulas appear to be more the result of political compromise than rational educational policy. Politicians who are compelled to be custodians of a particular constituency instead of being individuals who are concerned about inequities in school spending, have been unwilling to vote against their political interests. Truly equalizing state finance systems have not been legislated. Those seeking changes in the present school finance systems have been forced to look elsewhere for solutions to the inequities in school finance. The battle for school financing reform was then moved to the courts.

The legal underpinnings for a constitutional attack on the inequities in school district spending were laid by both educators and lawyers in the mid 1960's. Arthur Wise's thesis in educational administration at the University of Chicago, which was later developed into the book Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity, was the first to develop the initial argument for a legal attack on a state's school financing system. He argued that a state school financing system must satisfy the "educational needs" of the children or it was unconstitutional under the Fourteenth Amendment's equal protection clause.⁴

Using Wise's approach as a basis for complaints, suits were filed in a number of states, but two quick negative decisions in the federal district courts of Illinois and West Virginia\(^5\) suggested that the legal approach needed modification.

Lawyers Jack Coons, William Clune and Stephen Sugarman, in their book *Private Wealth and Public Education*, modified the argument so that it focussed on disparities in spending per student. Their theory provided the basis for the first successful constitutional challenge of a state's school financing system in California. The decision of the Californis State Supreme Court in *Serrano v. Priest* declared California's school funding scheme unconstitutional because it violated the equal protection clause of the Fourteenth Amendment of the United States Constitution. Since the *Serrano* decision was reached on August 31, 1971, there have been four decisions affirming the *Serrano* principle and one decision denying it.\(^6\)

\(^5\)McInnis v. Shapiro 293 F. Supp. 327 (1968)

\(^6\)The decisions similar to *Serrano* were:
Van Dusartz v. Hatfield (Minnesota) 40 U.S.L.W. 2228 (1971); Rodriguez v. San Antonio (Texas) 40 Law Week 2398 (1972); Robinson v. Cahill (New Jersey) Superior Court of New Jersey-Hudson County Docket No. L-18704-69 (1972); and Hollins v. Shofstall (Arizona) Superior Court of Arizona - Maricopa County No. C-253652 (1972). In a similar suit, the New York Supreme Court (a trial court) rejected the plaintiff's claims in *Spano v.*
The California Supreme Court observed that the school financing system in California "invidiously discriminated against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors." The Court stated that the wide disparities in spending among the school districts in Los Angeles County were inevitable because of the large differentials in taxable wealth. State aid has closed some of the spending differential, but it has been insufficient to bring about any significant equalization. In declaring the use of local property tax unconstitutional for the support of education, the Court stated that education was a "fundamental interest," and this fundamental right could not be conditioned on wealth. At least thirty suits challenging state school financing systems in various states have used the Serrano decision as a model for the complaint. States that have not had suits filed are vulnerable to such suits, with the exception of Hawaii. Hawaii has assumed full responsibility for funding its public schools.

Lakeland Central School District (New York) Supreme Court of Westchester County, Index No. 1056 (1972). The Van Dusartz and Rodriguez decisions came in federal district courts while all the other suits were decided in state courts.

The Serrano decision is not final, however. It has been remanded to the Los Angeles Superior Court for trial on the facts. The other decisions which were similar to the Serrano decision are not final, either. One of the cases, Rodriguez v. San Antonio, has been appealed to the United States Supreme Court by the Texas Education Agency. On June 7, 1972, the Supreme Court accepted the case, but a decision will not be reached for some time. The Rodriguez case will be placed on the October 1972 docket, and a decision will be reached later during the session. Only then will an accurate picture of the meaning of the Serrano decision emerge --win or lose in the Supreme Court.

Even with the tentativeness of the decisions, Serrano and its progeny are being compared with the Brown v. the Board of Education decision concerning their probable importance for education. The Serrano decision has been called "the most important event in school finance in this century." Serrano and its progeny are acting as catalysts which are causing widespread reexamination of present

8 Stephen Browning, memorandum from the Lawyers' Committee for Civil Rights Under Law, Feb. 15, 1972. (See Appendix C.)

educational finance methods. The legal focus on school finance is a timely one because schools are presently facing an ever-growing fiscal crisis.

Growth in expenditures, for example, has outrun the growth in the economy as a whole over the last decade. Education has averaged a 9.7 per cent growth in expenditures while the Gross National Product was averaging a 6.8 per cent annual increase. 10

Spending per pupil in public elementary and secondary schools has increased sevenfold from 1930 to 1968 ($130 per pupil to $750 per pupil). 11 Although school enrollments have started to level off, other factors, such as rising teacher salaries, the ever-rising cost of living, and demand for improved educational methods and materials, will tend to push school costs higher in the future.

To raise the money to cover the increasing expenditures caused by higher teacher salaries and increased capital costs, it has been necessary to continually increase taxes. Taxpayers no longer willingly approve increased tax levies and new bond


issues as they once did. In 1969-70, local taxpayers
dipped into their pockets for over twenty billion of the
thirty-nine billion dollars that was spent on
elementary and secondary education.\textsuperscript{12}

The local property tax is the one tax that the
voter (taxpayer) has a direct say in, and he is saying
"no" to over half of the new budgets being proposed.
In 1970-71, California voters rejected over sixty per
cent of the proposed tax increases and bond issues.
In Michigan, twenty of twenty-five requests for the
existing tax rate were defeated, while New York State
had 119 school budget increases defeated by voters.
New Jersey suffered the largest number of budget rejec-
tions in its history.\textsuperscript{13} As a result of the defeats
of tax rate increases, there have been numerous staff
reductions, which have caused higher pupil-teacher
ratios. Numerous experimental programs have been
dropped because of the lack of funds. Spending for
guidance, psychological, and library services has been
cut.

The revenue shortage is only one side of the
problem. The inequitable methods used to raise the

\textsuperscript{12}Digest of Educational Statistics, 1970, p. 51.

\textsuperscript{13}Berke, "Current Crisis," p. 3.
revenue (the local property tax) is the other side of the school finance crisis. The local property tax carries the major burden for supporting local governmental services, of which education is one. Revenue collected from local property levies accounts for ninety-eight per cent of the money raised by local school districts. The local districts provided over half of the money for public elementary and secondary education in 1970-71 (fifty-two per cent). The heavy reliance on property tax revenues has serious consequences for school district spending and tax rates. The uneven distribution of real property in districts causes wide variations in levels of expenditures per pupil. The real-estate poor districts have to tax themselves at much higher rates in their attempt to achieve spending parity with wealthier districts. Most are unsuccessful, as is noted in Serrano v. Priest. State aid does not


15Baldwin Park's assessed valuation per child is $3,706 per pupil, while Beverly Hills was $50,805 per pupil -- a ratio of 1 to 13. Baldwin Park residents paid a school tax rate of $5.48 per $100 of assessed valuation, while Beverly Hills' residents paid only $2.30 per $100 -- a ratio of more than 2 to 1. The higher tax rate in Baldwin Park with state aid provided $577.49 per pupil, while the lower tax rate and state aid in Beverly Hills provided $1231.72 per pupil in 1968-69. This data is taken from Serrano v. Priest, p. 608.
come close to equalizing the district spending differentials. In addition, the property tax is very regressive (it falls the hardest on the poor), because families in the lowest income bracket spend a higher portion of their income for housing than do higher income people.

Families in the lowest income bracket pay about thirty per cent more in property taxes in relation to their income than families in the highest brackets.¹⁶

The property tax has often been arbitrarily administered, which adds to the inequities. The regressiveness and the arbitrary administration of the property tax add another dimension to the school finance crisis.

Taking the financial crisis of schools as a given and the uncertainty of the constitutionality of most state school financing schemes which rely heavily on the local property tax, it is crucial at this time to try to examine the Serrano decision and its progeny for possible consequences in school finance. This will require clarification, as concretely as possible, as to what the courts meant in the school finance decisions. Then it will be necessary to try to answer some critical questions relating these decisions to school finance. What are the remedies called for in the decisions?

Where will the remedies be developed? What impact are these decisions likely to have on education?

The courts have provided an important stimulus and the impetus for the various state legislatures to reexamine the present methods of financing public schools. A number of alternative remedies are emerging as potential legislative options. Full-state assumption of the responsibilities for financing schools is attracting the most interest at the present time. Hawaii and the Province of New Brunswick in Canada are already using this method for financing their schools. Hawaii spends $984 per pupil in its one state-wide school district that has 185,000 secondary and elementary students. The Fleischman Commission, a school finance commission in New York, has recommended a modified full-state funding plan with a state-wide property tax.

President Nixon has suggested that the local property tax be eliminated and that money for local schools come from a national value-added tax (a form of a national sales tax). Estimates by H.E.W. project...


that the value-added tax, at 2½ per cent, could raise $16 billion, which would be about 40 per cent of the $39 billion spent on public elementary and secondary education in 1969-70. The federal government would redistribute the money to the states in the form of block grants or to the local school districts on a per pupil basis.

A third potential solution for remedying the inequalities in school spending would be to redraw district lines so as to equalize, as nearly as possible, the taxable wealth in each district. This could be accomplished by consolidating small high-cost districts, regionalizing other activities, and by metropolitanizing other districts.

A fourth alternative has been proposed by John Coons, William Clune and Stephen Sugarman in their book *Private Wealth and Public Education*. Their proposal, district power-equalizing, is based on the principle that all districts should have equal power to raise revenue at the same tax rate. For every tax rate, there would be a corresponding per pupil expenditure level that all districts would receive. Under the district power-equalizing plan, a district would choose the level

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19"Guess Who Finally Pays the Tax," *New York Times*, Feb. 6, 1972, p. 3E.
at which it wished to spend by selecting a given tax rate. If a district chose a specific tax rate and it did not raise the designated amount of money, then the state would have the responsibility of making up the difference. Conversely, if a district received more revenue than the designated amount at a specific tax rate, the district would have to surrender all the money collected over the designated amount for redistribution by the state.

Other potential remedies, such as the voucher system, the National Educational Trust (proposed by Governor Shapp of Pennsylvania) and the modification of present finance systems, will also be examined in the study.

The alternative school finance plans described in the study need to be evaluated before their potential importance for education can be predicted. The criteria which will be used to evaluate the alternative plans for school finance fall into four general categories: (1) the legal criteria; (2) financial criteria; (3) political criteria; (4) educational criteria. The criteria were designed to cover the critical issues that must be dealt with in the construction of a new school finance system. The legal and financial criteria were designed to reflect the inequities identified in the court decisions on school finance. The political criteria were
structured so that they would provide a framework to analyze the political acceptability of the alternative school finance plans. The educational criteria deal with the crucial question relating the quality of education to school finance.

The first criterion is that the different plans must satisfy the fiscal neutrality principle established in the Serrano decision and reaffirmed in decisions in Minnesota, Texas, New Jersey and Arizona. This means that variations in the ability of local school districts to support education must be eliminated altogether or must be greatly reduced by the states. The establishment of wealth neutrality as a principle for state school finance has not been settled finally as a legal issue, but it has generally been accepted as the minimum requirement of acceptability for any new state school system.

A second criterion that emerges with the first is that state school funding schemes should equalize the tax burden among the school districts and should equalize their revenue-raising capabilities for the same tax effort. Although the Serrano decision and its progeny did not speak directly to the question of equalization of the tax burden, it is considered a highly desirable objective by educators, economists and lawyers alike.
The third criterion to be used in the evaluation of the alternative models is the political acceptability of the different proposals. There are two significant aspects tied to this criterion. The first is the issue of local control of public schools. The local sur tax option will be a crucial aspect of this debate. The second aspect of the political acceptability criterion relates to the question over the cost of the finance plan. If any significant equalization of educational spending is to take place, it will come at the expense of the wealthy suburban districts who will have to pay the bill in increased taxes. The suburbs generally have the political clout to make or break any school finance model suggested in the legislature. It is very unlikely that any state will initiate a new school financing program that calls for a significant increase in the total cost of education for the states. The political acceptability of the models will be the crucial factor in the type of legislation that emerges to remedy the present inequities in the existing school financing systems.

The final criterion is that equal educational opportunity should be facilitated by the models. The term "equal educational opportunity," for the purposes of this study, means that the variations in educational
needs of the students should be met through the allocation of funds on the basis of student weighting. The funds should be distributed so as to provide low expenditure (low taxable wealth districts) with the means to improve the quality of their educational offering. This criterion is the hardest to satisfy, but it should be a central focus of any new school finance legislation.²⁰

Although the political acceptability of the different models will be the prime consideration in the selection of a new school financing scheme, the impact of the models on the public schools is very important because of the educational crises facing the country. The educational crises are more serious than the financial problems facing education. They have been well-documented by numerous scholars and writers, notably Charles Silberman, Kenneth Clark, Paul Goodman, Jonathan Kozol, John Holt, Ivan Illich, and the list could go on almost endlessly. Education damages many children by schooling them to think that teaching is learning, that grade advancement is education, and that a diploma

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represents competence.\textsuperscript{21} Many children are taught to be failures in school.\textsuperscript{22} Close to forty per cent of the students who enter high school drop out before they finish, and of the dropouts who return to school, seventy-five per cent leave again.\textsuperscript{23} Those students who remain in school instead of dropping out are provided drastically different facilities and learning experiences. This has been documented by the Coleman Report. Academic achievement varies widely within our society and minority groups "scored substantially below white students"\textsuperscript{24} on all the tests administered. In urban areas, the crisis is more acute. Urban schools are helping to cause academic retardation in all too many students. Test results in reading demonstrate this vividly in New York City.\textsuperscript{25} "One of the most striking phenomena

\begin{itemize}
  \item \textsuperscript{24}The Coleman Report -- Equal Educational Opportunity, 1966, p. 20. See Appendix A.
  \item \textsuperscript{25}"Scribner Asks for Improved Instruction in Reading," \textit{New York Times}, Feb. 20, 1972, p. 55. See Appendix B for data.
\end{itemize}
in the Public Evaluation Program score data is that over time, more and more children are falling below the minimum competence in both reading and mathematics."26 The urban schools are creating a pattern of rejection, despair, hopelessness, and generally a massive wastage of large numbers of human beings.27

The situation is not much more encouraging in other schools either. In a survey taken in New York in 1971, "more than 66 per cent of the students sampled indicated that they did not enjoy school," while many students indicated that their school experience was painful.28 Students are dropping out physically and mentally. Increasing numbers are turning to drugs as an escape from the boring routine of school while others are actively fighting schools' regimentation through demonstrations and protests. As one student quipped: "You have to have grown up in Scarsdale to know how bad things really are."29


The crisis in schools today is both financial and educational. Will the recent court decisions provide a vehicle for reforming school finance? If the reforms do, in fact, take place, what will be their effect on the low expenditure districts? Assuming that the poor districts get more money to spend, will this raise the educational quality in those schools? The importance of this last question cannot be overstated.

The Purposes of the Study

The purposes of the study are: (1) to ascertain the meaning of the recent court decisions concerning inequalities in school district wealth, tax rates and levels of spending; (2) to explore the potential significance of these decisions for school finance; (3) to identify alternative models that can be used as remedies for the inequalities in state school financing systems; (4) to evaluate the alternative models for school finance.

Definition of Terms

**Foundation Plan.** -- This plan is a guarantee of some minimum level of state support for all school districts, with the intention of compensating for disparities in local ability to support schools.

**Percentage Equalizing Grants.** -- This approach involves the
use of formula, such as:

\[
\text{State Aid Ratio} = (\%S_1 = (1- \text{wealth ratio for district } i) \\
= [1-(\text{Capacity, district } i \text{ Capacity, key district})] \tag{30}
\]

which determines the amount of school revenue that will be allocated to the local districts by the states. The state aid ratio varies inversely with the relative local wealth.

**Equalized Valuation Per Pupil.** -- This is used as the measure of local ability to pay for schools. It is calculated by dividing the number of pupils into the total assessed valuation. This number reflects the ability of local districts to pay for schools.

**Equalized Valuation.** -- This is the value of the real property expressed on an "equalized" basis (some fixed ratio of full market value).

**Full-State Funding.** -- This is the state assumption of the responsibility for financing local schools.

**District Power-Equalizing.** -- All districts choosing the same tax rate would spend at the same level. A minimum and maximum spending level would be established by the state. If a district did not raise enough money locally at the stipulated tax rate, then the state

\[30\text{Weiss, Existing Disparities, p. 34.}\]
would make up the difference. If a district raised more than the designated level of spending at the specified tax rate, it would have to surrender the amount of money to the state that was raised over the designated amount. The state would use these funds for redistributing money to poor districts.

Sur Tax Add On. -- This is a local property tax that the state would allow each district to levy to raise revenue above the amount the state supplied.

Equal Protection Clause. -- This is the clause in the Fourteenth Amendment of the U.S. Constitution which states that equal protection and security shall be given to all under like circumstances in his life, his liberty, his property and in the pursuit of happiness and in the exemption from any greater burdens and charges than are equally imposed upon all in like circumstances.31

Fourteenth Amendment. -- The Fourteenth Amendment protects citizens in that "... no state shall make or enforce any law ... which shall abridge privileges or immunities of the United States; nor shall any state deprive any person of life, liberty or property without due

process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Limitations of the Study

The ambiguity and tentativeness of the recent court decisions is a limiting factor in the study. The United States Supreme Court is now faced with the responsibility of making the final decision on the constitutionality of the local property tax as a support for public schools. Even with the ambiguity of the Serrano decision and its progeny, their influence is already being felt in many legislatures throughout the country. The concept of fiscal neutrality is becoming widely accepted as a standard for school financing systems as many legislatures begin to reexamine their school funding systems.

The great diversity in school finance systems in the various states poses another limitation, but all states except Hawaii rely heavily on the local property tax to support schools. Most of the states use either a foundation plan or a percentage equalizing plan for distributing state aid. Each state will be affected differently by the alternative models because of variations in population, regional differences, and economic variations.

[32U.S., Constitution, Amendment XIV.]
The focus of this study will be on intrastate spending disparities that have been the focus of the recent school finance decisions starting with Serrano v. Priest. Interstate and intradistrict spending disparities are not examined specifically in the study, and this is a limitation of the study.

The lack of an acceptable definition of equality of educational opportunity is another limiting factor. Educators have been unable to agree on an operational definition of equal educational opportunity. Two views are widely held. The traditional view of equal educational opportunity is essentially related to equal access to schooling. The minimum requirement for this to exist is that approximately equal facilities, curricula, staff and expenditures must be present. Given equal access to schools and equal inputs in those schools, it becomes the individual's responsibility to determine the quantity and quality of educational benefits he or she will derive from that system.

A more contemporary view relates equal opportunity more closely with equality of achievement. According to this view, resources are to be used as tools for reaching specific goals that relate to the educational needs of each child. Each child or group of children in society should benefit approximately
equally from the educational system and if an individual or group does not, then changes in resource distribution should be made to bring those groups in line with the achievement pattern of others. Should schools push for equality of achievement or for the excellence of all students? There is no simple answer to the equalitarian-libertarian dilemma.

The ambiguous relationship between levels of spending per pupil and academic achievement of students poses another limitation to the study. The Coleman Report and numerous studies have concluded that increases in spending do not improve achievement, while still other studies have found a positive relationship between resource inputs (all of which are affected by the level of spending) and academic achievement.33

For studies that relate resource inputs positively with achievement, see James W. Guthrie, et. al., Schools and Inequality, National Urban Coalition, 1969.
The Significance of the Study

There are a number of people who are concerned about and are studying the problems of school finance. Several books and many articles have been written exploring the legal and financial issues involved in the question of inequalities caused by state school financing systems. Yet none of these works has tied together all the aspects of the problem so that a comprehensive picture of the problem and alternative solutions emerge. The urgency of such a study is dramatized when the different crises facing education are identified (the fiscal, legal and educational). The various state legislatures face the task of restructuring their school financing schemes because of the legal attacks on the inequalities in school spending. The study should provide an important information base for educators and legislators. The meaning of the recent court decisions on school finance need to be clarified. It is crucial that the alternative models for school finance be defined and evaluated in the context of these decisions.

This study is an outgrowth of the author's experiences with the Massachusetts Task Force for Equity in Education which was established by the University of Massachusetts in September, 1971.
CHAPTER II

REVIEW OF THE LITERATURE

Chapter II is organized into two sections. The first section will review the literature which described the per pupil spending inequities between school districts and the legislative attempts to equalize spending through various state aid plans. The second section will focus on the literature which explored the constitutional questions that relate to the per pupil spending disparities between school districts. This section will concentrate primarily on Arthur Wise's book, Rich Schools, Poor Schools and John Coons', William Clune's and Stephen Sugarman's book, Private Wealth and Public Education. Wise and Coons collectively developed the concept of a constitutional challenge to the spending disparities in 1962,\(^1\) but have pursued different approaches to the same problem since then. Both books provide an analysis of the legal and economic issues involved in the question of inequities in school finance. The differences

In legal approaches which evolved between Wise and Coons, et al., led to opposite verdicts in suits involving per pupil spending inequities between school districts. In addition, supporting literature which dealt with equal protection constitutional analysis and spending disparities will be examined.

**Per Pupil Spending Disparities and State Aid**

It has been apparent for over seventy years that there have been wide disparities in spending between school districts, but little equalization has been achieved in that time. In 1905, E.P. Cubberley observed that poor districts were forced to tax at many times the rate of rich districts to support local schools. He was primarily concerned with the school districts' ability to support education, rather than in equalizing spending disparities between districts. Cubberley proposed that a flat grant be provided to all school districts by the state to facilitate the maintenance of local schools, but with a maximum of local financial support and a minimum of state support. State aid was to be distributed to school districts on the basis of the number of teachers.

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3Ibid., p. 219.
employed by the districts rather than on the basis of the number of students attending the schools. Poor school districts were still forced to tax at higher rates and spend at lower levels than wealthy districts. The flat grant has historically been funded at inadequate levels, and all districts, irrespective of wealth, receive flat grants. The local property tax remained the principal source of educational revenue for local schools.\(^4\) The flat grant, as conceived by Cubberley, did little to remove local wealth as the determining factor in school spending.

During the 1920's, the foundation plan emerged in various states as a method for distributing state aid to local school districts. George Strayer and R.H. Haig developed the concept of the foundation plan from their work with the Educational Finance Inquiry Commission (1921-1924) and expanded it in their book, *Financing of Education in the State of New York* in 1923. The foundation plan established a dollar minimum level of spending per pupil at which the state would support public education. To qualify for the foundation program, a local school district had to tax at a stipulated rate which was generally set at a low level. If the amount of money raised by the local school district, at the

\(^4\)Ibid., p. 219.
stipulated state tax rate, was not as much as the foundation level, then the state provided enough money to bring the district up to the foundation level. Districts were allowed to tax at higher rates than the one established by the state, and they were allowed to keep all the additional revenue raised.

Paul Mort, in *State Support for Public Schools* (published in 1926), modified the basic foundation plan by adding student weighting and focusing on the issue of the district's ability to pay for schools. Unfortunately, the foundation plan had many weaknesses and has had very little equalizing effect on local school district spending. The most obvious weakness of the foundation plan is its political sensitivity.

The state legislatures have generally compromised the equalizing aspect of the foundation plan for the political interest of their constituency. The result of the political vulnerability of the foundation plan has resulted in low levels of guaranteed support to local school districts and low levels of taxation. Required foundation plans are often coupled with flat grants which have an anti-equalizing effect, and this adds to the spending disparities between school districts rather than alleviating them. The foundation plan has been the primary method of state support for public
education and over two-thirds of the states use some form of the foundation plan.

Harlan Updegraff developed a new concept in state school support in 1922. After he had identified the spending disparities between school districts, Updegraff proposed a variable level foundation. His plan was designed to reward school districts that taxed at higher efforts and also to equalize disparate levels of spending between school districts. Updegraff's proposals were not accepted during his lifetime. His theories on state school support later became known as the percentage equalizing plan which Eric Lindman reintroduced in the 1930's. Again the percentage equalizing plan failed to attract the attention of school financiers.

Charles Benson, a nationally known educational finance expert, popularized the percentage equalizing plan in his book, The Cheerful Prospect. Benson thoroughly documented the spending disparities between local school districts and argued convincingly for a


6Ibid., p. 117.


percentage equalizing plan. Yet, as of 1969, only five states (Iowa, Massachusetts, New York, Pennsylvania, Rhode Island and Vermont) had adopted percentage equalizing plans.\footnote{Johns, et. al., Alternative Programs for Financing Education, National Educational Finance Project, 1971, p. 235.}

Numerous writers have identified the great differences in educational spending between districts. In 1930, Henry Morrison, writing in School Review, noted that there were great inequities of wealth among school districts and argued that these caused great inequalities in educational opportunity.\footnote{Henry C. Morrison, School Review, (Chicago: University of Chicago Press, 1930).} He proposed that all local school districts be abolished and that a state support and administration plan be constructed. Morrison's suggestions never were well received, but the defects in school finance that he described in 1930 persist today.

In 1961, James Conant identified the problem in Slums and Suburbs. He stated that the contrast in money available to the schools in a wealthy suburb and the schools of a large city "jolts one's notion of the meaning of equality of educational opportunity."\footnote{James Conant, Slums and Suburbs, (New York: McGraw-Hill, 1961), pp.2-3.} In 1961, Myron Lieberman described the fiscal inequities
between school districts in an article in *Language and Concepts in Education*.\(^\text{12}\) Steven Weiss, in *Public School Finance and Reform* (1970), examined the financial status of New England's schools and found large intrastate disparities that exist in local wealth, school tax rates and levels of spending between districts. *The Quality of Inequality: Suburban and Urban Public Schools* (1968), a book edited by C.V. Daly, described the spending differences between urban and suburban schools. In 1969, the Advisory Commission on Intergovernment Affairs, in its report "State Aid to Local Governments," focussed a major portion of the study on the inequities in school finance and made recommendations that included a full-state assumption of school costs. A study completed in 1969 by Guthrie, Levin, Kleindorfer and Stout for the National Urban Coalition, *Schools and Inequality*, concluded that the wide differences in spending between districts had an impact on pupil achievement. Students in poor school districts performed at lower levels than pupils in high-expenditure districts. This conclusion was contrary to the Coleman Report's conclusions.\(^\text{13}\) The Coleman Report indicated that there were wide disparities in spending


\(^{13}\) Guthrie, et. al., *Schools and Inequality*, (National Urban Coalition, 1969), p. 44.
between schools and school districts, but that the students' home life accounted for the differences that resulted in achievement which occurred rather than the spending differences.14

The National Educational Finance Project, directed by R.L. Johns and financed primarily by title V money, has published five volumes over the past four years on educational finance. The N.E.F.P.'s studies, the most complete and current collection of information on school finance thus far compiled, were an excellent source of information. Volumes IV and V provided information on school spending disparities (interstate, interdistrict and intradistrict), the impact of state and federal aid on schools, school district organization and criteria for evaluating state financing plans.

The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education Report was a valuable document in the preparation of this study. This study, known as the Fleischman Commission Report, provided information on the inequalities in spending between and within school districts in New York State and recommended that the state assume the full costs of supporting education. The recommendations in the Fleischman Commission Report are the most complete to

date and should serve as one model for a full-state support plan for financing schools.

It has been obvious that disparities in levels of spending between school districts have been around for a long time, and it is just as obvious that the attempts to equalize the disparities have not been successful through the legislative process. The next section focusses on the legal analysis of the spending disparities, and how the attack on them began in the courts.

Constitutional Analysis of Per Pupil Spending Disparities

This portion of the review of the literature will examine the development of the constitutional analysis under which an equal protection challenge to the inter-district spending inequalities was mounted. This section will focus on the two principle works in the field: Arthur Wise's Rich Schools, Poor Schools and Coons, Clune and Sugarman's Private Wealth and Public Education.

Both books have been instrumental in the process which led to a successful constitutional challenge of inter-district spending disparities.

In 1968, Arthur Wise's Rich Schools, Poor Schools was published as an outgrowth of his doctoral dissertation at the University of Chicago. Wise was the first person to do a thorough analysis of the possible arguments
that could be used in a constitutional challenge of the spending disparities between school districts. He leads the reader through a step-by-step historical analysis of Supreme Court decisions on which a possible constitutional challenge could be mounted. Wise traces the developments in Supreme Court decisions in the areas of civil rights, the rights of indigent criminals and voter equality, including the one-man-one-vote issue and the poll tax issue. Using the recent Supreme Court decisions, he constructed three alternative arguments which could be chosen by the Supreme Court if it were to question the constitutionality of school district spending inequalities on the basis of local wealth.

The three tentative arguments were:

1. "Discrimination in education on account of race is unconstitutional. Discrimination in criminal proceedings on account of poverty is unconstitutional. Therefore, discrimination in education on account of poverty is unconstitutional.

2. "Discrimination in education on account of race is unconstitutional. Discrimination in legislative apportionment on account of geography is unconstitutional. Therefore, discrimination in education on account of geography is unconstitutional.

15See Chapter III, p. 57 for an explanation of these cases.
3. "Discrimination in education on account of race is unconstitutional. Discrimination in voting on account of poverty is unconstitutional. Therefore, discrimination in education on account of poverty is unconstitutional."

Based on his legal analysis of the recent court decisions, Wise felt that a suit challenging the disparities in educational spending might receive a favorable decision in the Supreme Court.

Wise proceeded to examine various definitions of equal educational opportunity. His first example was a negative definition which stated that equal educational opportunity can not depend on the economic circumstances of the child's geographic location. Wise felt that of all the definitions of equal educational opportunity he examined, the negative one had the best chance of being accepted by the Supreme Court since it did not specify what the conditions of equality were.

The judicial arguments established by Wise in *Rich Schools, Poor Schools* became the legal framework for a series of court cases which challenged state school funding schemes in a number of states on the grounds that the state school finance laws allegedly denied equal

protection of the laws to the students.\textsuperscript{17} The plaintiffs in \textit{McInnis v. Shapiro},\textsuperscript{18} the most prominent case that grew out of Wise's analysis, argued that a financing system would only satisfy the Fourteenth Amendment if it distributed money on the basis of the "educational needs" of the pupils. They asserted that the spending disparities between school districts caused by differentials in wealth were unconstitutional. The legal arguments which Wise established for attacking the inequities in school spending were sidetracked on the issue of the "educational needs" of the students in \textit{McInnis v. Shapiro} and in \textit{Buruss v. Wilkerson}.\textsuperscript{19} The suits were dismissed in both instances by federal courts because they were considered to be "nonjusticiable." This meant that the courts had no "manageable standard" by which to determine when the Constitution was satisfied or not.\textsuperscript{20} Wise's neatly


\textsuperscript{18}\textit{McInnis v. Shapiro} 293 F. Supp 327 (N.D. Ill. 1968).

\textsuperscript{19}\textit{Buruss v. Wilkerson} 397 US 74 (1970).

\textsuperscript{20}Subsequent decisions in New York and Maryland have used the \textit{McInnis} decision for their precedents. See Chapter III, pp. 46-53 for a more complete analysis of \textit{McInnis} and its progeny.
rationalized constitutional arguments which led to the suits filed in McInnis and Buruss were dismissed because the courts had been asked to make a decision they were not capable of making or enforcing.

A different approach to the spending inequities question was developed by John Coons, William Clune and Stephen Sugarman in Private Wealth and Public Education. They argued that a constitutional challenge to spending inequities between school districts could still be made even after the early setback in McInnis. Their book traces the development of educational finance and shows how the state finance systems formulated in the 1920's (the foundation plan) have helped to perpetuate the unequal intrastate distribution of resources through today. After thoroughly documenting the wealth disparities in various states and destroying the myths about the actual equalization achieved by the present state aid plans, the authors moved on to describe the district power equalized system of school finance which they developed.21

The district power equalizing scheme closely resembles the ideal percentage equalizing system. Under this plan, a district's level of spending is solely a function of its tax effort. Every district that makes 'X' effort receives 'Y' dollars, no matter how much they raise. If that effort produces less than 'Y' dollars,

21See Chapter IV, pp. 109-13 for a more detailed discussion of district power equalizing.
then the state makes up the difference. If that effort produces more than 'Y' dollars, then that money is turned over to the state which redistributes it to the poor districts.

The central thrust of the last section of the book was to establish "Proposition I: "The quality of public education may not be a function of wealth other than the total wealth of the state." 22 The authors asserted that the spending inequalities were created by the state governments through school finance legislation. They examine the racial discrimination cases, the voter rights cases and the indigent criminal cases and conclude that wealth was a suspect classification when it affected a "fundamental interest." 23 They went on to argue that education was a "fundamental interest" similar to those in the desegregation, voter rights and indigent criminal cases. The authors asserted that education plays a vital role in democracy, that it is so important states have made it compulsory, that it benefits everyone, and that education has a crucial impact on a man's future both socially and economically. For these reasons, the


23 See Chapter III, pp.556 for a more complete legal analysis of "fundamental interest."
authors argued that education was a fundamental interest.\textsuperscript{24} Coons, Clune and Sugarman avoided the problem of having to define "equality of educational opportunity" by stating that quality is determined by the level of per pupil spending, and they thus avoided the legal problems of trying to define equality of educational opportunity and "educational needs" which was the judicial downfall of the suits based on Wise's constitutional analysis. The constitutional arguments so artfully constructed by the authors of \textit{Private Wealth and Public Education} became the central focus and legal basis for the \textit{Serrano v. Priest} decision. The California Supreme Court ruled that California's school financing scheme was unconstitutional. It argued, as Coons did, that the differences in levels of spending between school districts were a function of wealth rather than choice. The opinion in \textit{Serrano v. Priest} follows consistently the arguments developed in \textit{Private Wealth and Public Education}.

Other writers were also interested in the legal issues involved in the spending disparities question. Phillip Kurland, a noted constitutional authority, in an article entitled "Equal Educational Opportunity: The Limits of Constitutional Jurisprudence Undefined,"

\textsuperscript{24}This line of reasoning was followed by the Supreme Court of the State of California in the \textit{Serrano v. Priest} opinion.
expressed reservations about using the equal protection clause as a vehicle for attempting to achieve equalization of educational expenditures.\textsuperscript{25} He felt that the state legislature was the proper authority for such change since the problems involved were very complex.\textsuperscript{26} Kurland argued that courts should deal with simple and enforceable issues and the McInnis suit provided neither a simple nor enforceable standard. His constitutional analysis had an important impact on the decision reached by the federal district court in McInnis v. Shapiro.

The large majority of articles which appeared in the literature supported the concept of a judicial assault on the inequities in spending for education between districts. Harold Horowitz and Diana Neitring observed that where state and federal courts upheld legislation which provided a local option, few of the decisions involved suits that touched upon fundamental interests.\textsuperscript{27} They observed that when fundamental interest was involved, as in \textit{Brown v. Board of Education}\textsuperscript{28}


\textsuperscript{26}\textquote{Ibid., p. 595.}

\textsuperscript{27}\textquote{Harold Horowitz and Diana Neitring, "Equal Protection Aspects of Inequalities in Public Education and Public Assistance Programs from Place to Place Within a State," UCLA Law Review, 1968, Vol. XV, pp. 787-9.}

\textsuperscript{28}\textquote{Brown v. Board of Education 274 NS 483 (1954).}
that the local option fell along with the state's power to impose the discriminatory legislation upon all of its territory. Horowitz' and Neitring's study provided an important support for Coons', Clune's and Sugarman's thesis.

David Kirp, in "The Poor, The Schools and Equal Protection," argued that the poor should seek equalization of school spending through judicial involvement. He asserted that education was a fundamental right in the same way that a right to a trial and the right to vote are, and that these rights can not be denied on the basis of a person's poverty. Kirp advocated challenging school district boundaries following the lead of the voter rights cases or challenging the state aid formulas as suggested by Arthur Wise.

John Silard and Diane White, in an article in the Wisconsin Law Review entitled "Inequalities in Public Education," discussed the legal framework for the constitutional challenge of interdistrict spending inequalities. Silard and White argued that the criteria that the federal

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district court used to decide the McInnis case was non-justiciable were debatable. They did not offer an alternative way to attack the problem constitutionally.

Ferdinand Schoettle, in a very thorough article in the Columbia Law Review, examined the nature of the spending inequities, reviewed and summarized the equal protection analysis that led to the Serrano decision.31 He assessed the role of the court in protecting the poor against inequities in public education and concluded that Serrano and its progeny were on shaky constitutional ground since recent court decisions involving fundamental interests and poverty (Dandridge v. Williams32 and James v. Valtierra33) cast serious doubt on whether the status of poverty merits strict scrutiny under the equal protection clause. He felt that the conservative makeup of the present Supreme Court was another reason why Serrano was on thin judicial ice. He suggested that the taxpayers were disadvantaged and that spending inequities could be attacked in a roundabout method by attacking the unequal tax levies of different school districts.

Two men starting with the same idea ended up with different approaches to the problem of disparities in spending between school districts. The legal results of the different approaches will be examined in the next chapter which focuses on the litigation of McInnis v. Shapiro (Wise's judicial approach) and Serrano v. Priest (Coons, Clune and Sugarman's approach).
CHAPTER III

REVIEW OF THE LITIGATION: McINNIS V. SHAPIRO AND SERRANO V. PRIEST

The first attempt to achieve a constitutional invalidation of a state's school financing system was initiated in Detroit, Michigan, in February of 1968. Although the suit was quickly bogged down in the Michigan court system, it served as a model complaint for other states. In mid-April, a similar complaint was filed in Illinois before a three-judge federal district court. Before the year was over, the three-judge district court had dismissed the suit for lack of merit. McInnis v. Shapiro\(^1\) was appealed directly to the U.S. Supreme Court,\(^2\) and by March of 1969, the Supreme Court had summarily affirmed the district court's decision without oral argument or opinion.\(^3\) Thus, the first attempt to have

\(^{1}\)McInnis v. Shapiro 293 F. Supp. 327 (N.D. Ill. 1968).

\(^{2}\)A decision in a federal district court can be appealed directly to the U.S. Supreme Court.

\(^{3}\)The U.S. Supreme Court decides most of its cases by denying certiorari or denying to hear the cases, and thus allowing the lower court decision to stand.

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a state's school financing system declared unconstitu-
tional failed for reasons which are here examined.

McInnis v. Shapiro was the first constitutional
challenge to a state's school financing scheme to proceed
through the courts. The suit was brought by lawyers
associated with the Office of Economic Opportunity Legal
Services Program on behalf of parents of seven Chicago
school children who resided in four Cook County school
districts. It challenged the legality of the Illinois
school financing system which relies primarily on local
property tax revenues for money in each school district.

The plaintiffs claim that these statutes violate
their fourteenth amendment rights to equal pro-
tection and due process because they permit wide
variations in the expenditures per student from
district to district, thereby providing some
students with a good education and depriving
others, who have equal or greater educational
need. 4

The three-judge federal district court stated:

The underlying rationale of the complaint is that
only a financing system which apportions public
funds according to educational needs of the
students satisfies the Fourteenth Amendment. 5

The Illinois school funding scheme was scrutinized closely
by the district court. It was noted in the decision
that in 1966-67, the 1,300 school districts spent on the

4McInnis v. Shapiro, p. 329.
5Ibid., p. 331.
average $840 per pupil, of which 75 per cent came from local sources. Twenty per cent was derived from state sources, and five per cent came from federal aid. The court noted that the wealth of individual districts varied widely, and per pupil expenditure varied between $480 and $1,000 per pupil.

Illinois has a foundation program which guarantees $400 per pupil. A flat grant of $97 per elementary pupil and $54 per high-school pupil is provided to each district on a per pupil basis. The flat grant accounts for one-third of the state aid. Equalizing grants are awarded to districts which levied a minimum rate and did not derive $400 per pupil. The equalizing aid made up the difference between the $400 foundation level and the actual amount of revenue raised. The court concluded:

Thus, the equalization grant tends to compensate for variations in property value per pupil from one district to another.\(^6\)

The court said that inequalities of the existing system were apparent, but that they were not unconstitutional. The court observed that the legislature had provided for decentralization of taxation and decision making so local communities could choose which services they valued most highly. Some may choose police protection, fire protection or improved roads over education.

\(^6\)Ibid., p. 330.
This decentralization of control to allow for local choice and experimentation was rational according to the court because the state had guaranteed all school districts $400 per pupil.

The legal bases of the plaintiff's suit were on the recent U.S. Supreme Court decisions in school desegregation, voting rights and criminal justice. The McInnis court was not convinced and cited the fact that Brown v. Board of Education and Hobson v. Hansen did not undermine the validity of Illinois' public financing system because in those cases, the classifying factor was race, not wealth.

Actually, there is little direct precedent because the contentions now presented are novel. But, the few relevant cases indicate that plaintiffs must resort to the legislature rather than the courts.

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7 Some of the cases that were important in laying the ground work for the school finance cases were: (1) desegregation cases -- Brown v. Board of Education 347 U.S. 483 (1954); Hall v. St. Helena Parish School Board 368 U.S. 515 (1962); and Griffin v. County School Board 322 F. 2d. 322 (1963); and (2) indigent criminal cases -- Griffin v. Illinois 351 U.S. 12 (1956); and Gideon v. Wainwright 372 U.S. 335 (1963).


10 According to the federal district court, the students were not deprived of their civil rights because guarantees on per pupil spending do not exist. See LaBeauf v. State Board of Education 224 F. Supp. 256 (E.D. La., 1965) and Hess v. Muldaney 213 F. 2d. 15 Alaska, 40 (9th Circuit 1954).
The court said:

Even if the Fourteenth Amendment required that expenditures be made only on the basis of pupils' educational needs, this controversy would be nonjusticiable.\(^{11}\)

The court felt it could not determine when the Constitution would be satisfied or when it was being violated, because there was no "discoverable and manageable standard."\(^{12}\) The court went on to describe the problems of using "educational needs" as a yardstick to measure equality of educational opportunity. It stated that disadvantaged children should receive more rather than equal expenditures, and that a rule forcing equal expenditures would really be unequal. Thus, the complaint demonstrated no cause of action because "the Fourteenth Amendment does not require public school expenditures be made only on the basis of pupils' educational needs,"\(^{13}\) and because of the lack of a judicially manageable standard. In addition, the court rejected the applicability of the strict scrutiny equal protection standard, because "the legislature designed the school financing

\(^{11}\)By stating that McInnis was "nonjusticiable," the court meant it could find no "discoverable and manageable standard" by which the Constitution would be satisfied or when it would be violated. Thus, the court had no way of making a ruling in favor of the defendants, even if it had found a constitutional violation in the Illinois school financing system. See McInnis v. Shapiro, p. 335.

\(^{12}\)Ibid.

\(^{13}\)Ibid.
system to allow individual localities to determine their own tax burden.\textsuperscript{14}

\textit{Buruss v. Wilkerson}\textsuperscript{15}, a case similar to \textit{McInnis}, was dismissed in Virginia, and the court relied on the \textit{McInnis} decision for its precedent. The \textit{McInnis} and \textit{Buruss} decisions were both appealed to the U. S. Supreme Court and both were affirmed summarily without opinions or oral arguments (\textit{McInnis v. Ogilvie}\textsuperscript{16} and \textit{Buruss v. Wilkerson}\textsuperscript{17}). The first judicial attack on the inequitable methods in which schools are financed was a failure primarily because it was tied to the concept of "educational needs."

The court observed that the plaintiffs did not offer a definition for "educational needs" and stated that it understood "educational needs" to be:

\textit{... the interaction of several factors such as the quality of teachers, the student's potential, prior education, environmental and parental upbringing, and the school's physical plant. Evaluation of these variables necessarily requires detailed research and study, with concomitant decentralization so each school and pupil may be individually evaluated.}\textsuperscript{18}

\textsuperscript{14}\textit{Ibid.}, p. 336.


\textsuperscript{17}\textit{Buruss v. Wilkerson} 397 U.S. 74 (1970).

\textsuperscript{18}\textit{McInnis v. Shapiro}, p. 329.
The court's understanding of "this nebulous concept" is as accurate as any educator's, and that is the problem. If educators don't agree on a definition for "educational needs," how could the federal district court be expected to develop a judicial standard to determine when a student's educational needs were or were not being met through the distribution of school revenue?

A second reason that McInnis was dismissed by the court was that two alternative methods for improving school finance in Illinois were suggested by the plaintiffs. The first suggestion was that all students receive the same dollar expenditures. The second alternative would be for the state to "syphon off all money in excess of $400 per pupil which was produced by a given tax rate, in effect eliminating variations in local property values while leaving districts free to establish their own tax rate"¹⁹ (a district power equalization plan). The court stated that changes in "the allocation of public revenues is a basic policy decision more appropriately handled by a legislature than a court."²⁰ Thus, the court avoided making a policy decision that it

¹⁹Ibid., p. 329.
²⁰Ibid., p. 335.
was in no position to carry out and also avoided a certain political conflict with the legislature. Coons, Clune and Sugarman accurately observed that the decision in McInnis:

... was the predictable consequence of an effort to force the court to a precipitous and decisive action upon a novel and complex issue for which neither it nor the parties were ready.21

However, the movement for equity in school finance in the courts was not dead. A suit which had originally been patterned after McInnis, but later modified, was filed in Los Angeles, California in 1968. On August 31, 1971, the Supreme Court of the State of California decided the case of Serrano v. Priest.22 The six-to-one ruling declared that California's school financing scheme denied equal protection and that it:

... invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a "fundamental interest" which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing. We have concluded, therefore, that such a system cannot withstand constitutional challenge and must fall before the equal protection clause.23

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22Serrano v. Priest 5 Cal. 3d. 584 (1971).

Concisely stated, that is the essence of the Serrano decision, but it is necessary to examine the case more closely to distinguish it from McInnis and to try to determine what the court meant.

The court first examined California's school financing system. Wide variances in spending per pupil were evident when the school districts in Los Angeles County were examined. These disparities in spending occurred because of the large differences in local wealth as measured by assessed valuation per child. Statewide, the principle source of school money (55.7 per cent in 1968-69) was the local property tax in each school district. State aid provided for 35.5 per cent of the money for local schools, while federal aid made up about 9.8 per cent of the funds. California had a "foundations program" which guaranteed a minimum support of $355 per elementary and $488 per secondary student. The aid was supplied in two basic forms: (1) basic aid ($125 per pupil regardless of district wealth), and (2) equalization aid (which was distributed inversely to the wealth of the district). If local taxes and basic state aid failed to bring a school district's spending to the foundations' minimum, then equalizing aid made up the difference. The equalizing aid helped close some of the gaps, but wide differentials still existed. In 1968-69,
Baldwin Park spent $577 per child, Pasadena spent $840 per child, and Beverly Hills spent $1,231 per child. Baldwin Park residents could not, however, be said to care less for education than Beverly Hills residents, because they were taxing themselves at twice the rate (5.48 per $100 of assessed valuation v. 2.39 per $100).

The court stated:

The source of disparities is unmistakable; in Baldwin Park, the assessed valuation per child totalled only $3,706; in Pasadena, assessed valuation was $13,706; while in Beverly Hills, the corresponding figure was $50,885— a ratio of 1 to 4 to 13.24

The court further stated:

Furthermore, basic aid, which constitutes about half of the state funds, actually widens the gap between rich and poor districts.25

Thus, Beverly Hills receives the $125 flat grant while not qualifying for equalizing aid. The flat grant enlarges the economic chasm between Beverly Hills and Baldwin Park.26

After the factual analysis of California's school financing system, the court began its three-step constitutional analysis by examining the question of which equal protection test to use: the rational basis test or strict scrutiny. In general, the U. S. Supreme Court

24 Ibid., p. 604.
25 Ibid., p. 608.
26 See Table 1 on page 88 in Chapter IV for a further explanation of how a flat grant has an anti-equalizing impact.
has shown restraint in reviewing the constitutionality of state economic laws.\textsuperscript{27} It has merely required that the laws bear a "rational relationship to a conceivable legitimate state purpose."\textsuperscript{28} Conversely, it has held that in cases involving "suspect classifications" or touching upon "fundamental interests" that strict scrutiny must be applied.\textsuperscript{29} Under strict scrutiny, the state law must demonstrate that the distinctions drawn are "necessary to further a compelling state purpose."\textsuperscript{30} The court said that wealth was a suspect classification and education was a "fundamental interest."

\textsuperscript{27} Serrano, p. 608.

\textsuperscript{28} Ibid., p. 609.

\textsuperscript{29} Strict scrutiny equal protection standard is a constitutional test applied to cases that are held to involve "suspect classifications" or touching upon "fundamental interests." When the U.S. Supreme Court reviews the constitutionality of state economic laws, it generally uses the "rational basis test." To meet this test, the law must merely demonstrate that it bears a rational relationship to a conceivable legitimate state purpose. Conversely, under the tougher "strict scrutiny test," the state must prove that legislation is "necessary to further a compelling state interest." A "suspect classification" is "suspect" when a court will invalidate the classification unless it can be shown to be "necessary" in the service of some "compelling state interest." Compellingness means that the "challenged" classification must be strictly relevant to whatever purpose is claimed by the state and in the fairest and least restrictive way. For additional information, see: Frank Michelman, "The Supreme Court, 1968 Term Forward: On Protecting the Poor Through the Fourteenth Amendment," Harvard Law Review, Vol. 83, 1969, pp. 28-30.

\textsuperscript{30} Serrano v. Priest, p. 609.
The plaintiffs had contended that the school funding scheme classified on the basis of wealth. The court, relying on its initial factual analysis, stated: "We find this proposition irrefutable." The defendant's arguments that the system did not discriminate on the basis of wealth were dismissed as "groundless" according to the court.

The second step in the court's analysis was to determine if education was a fundamental interest. The court related that until recently, wealth classifications have been declared unconstitutional only in conjunction with two fundamental interests -- voting rights (i.e. Harper v. Virginia) and right of defendants in criminal cases (i.e. Griffin v. Illinois). The plaintiffs contended that education was a "fundamental interest" and, therefore, could not be conditioned on wealth. The court agreed, even while noting that there was no direct legal precedent. It examined the "indispensable role" education plays as a key determining factor in an individual's chances for economic and social success in American society. The fundamental importance

31 Ibid., p. 610.
32 Ibid., p. 610.
of education was demonstrated in Brown v. Board of Education 347 U.S. 183, (1954). The court cited education "as a determining influence in the development of citizens." It noted that an unequal education led to unequal job opportunities and lower income. The court drew analogies between education and indigent criminal rights and voting rights. It stated that a man's wealth should not determine his chances for a fair trial, nor should a man's address determine the weight of his vote. Furthermore, wealth or a parent's address should not determine the quality of a child's education. The court concluded that education was a fundamental interest for the following reasons:
a) education was essential for the maintenance of individual opportunities, and the preservation of "free enterprise democracy;"
b) education is universally relevant;
c) public education continues over a lengthy period of time;
d) education is unmatched in the extent to which it molds the personality of the youth of society; and finally, e) education is so important that the state has made it compulsory.

The court thus needed to determine whether the California school financing scheme was necessary to achieve a compelling state purpose. This aspect of the suit touched upon the crucial question of autonomy.

35Serrano, p. 615.
of the local school districts. It separated the issue of local control into two components: (1) local decision-making in administration and (2) promotion of local fiscal control over expenditures for education. The court said that no matter how large a portion was financed by the state, the decision-making power could be left in the hands of the local school districts. It concluded, therefore, that local school finance systems were not necessary to the administration of local schools. As for the question of local control over the level of spending, the court said: "Under the present financing system, such fiscal freewill is a cruel illusion for poor districts."36 If assessed valuation is the main determinant of how much a district spends for schools, then only a district with a large tax base can fully choose how much it really cares about education. The court concluded that the present funding scheme actually deprives the poor districts of the option to choose how much it cares about education, and even if local funding presented a compelling state interest, there were less onerous alternatives which would permit all local school districts equal choice in how much it cares about education.

The court next dealt with the question of territorial uniformity. The defendants contended that territorial uniformity was not required in school finance. The court

36 Ibid., p. 620.
did not agree and cited the voter apportionment cases as a reference, "If a voter's address may not determine the weight to which his ballot is entitled, surely it should not determine the quality of his child's education." 37 There has been disagreement over what the court meant in its analysis of the territorial uniformity question. Jack Coons, lawyer and co-author of Private Wealth and Public Education, interpreted the court as referring to the issue of equality of tax effort over a geographic region. Arthur Wise, author of Rich Schools, Poor Schools, interpreted the court as having said that there must be equality of expenditure throughout the region. Coons' analysis seems the most consistent with the rest of the opinion. The court concluded that the present fiscal arrangements for school in California were not necessary to promote a compelling state interest and, therefore, did not withstand the "strict scrutiny" test.

It next dealt with the question of the applicability of the McInnis precedent, which the defendants strenuously used to argue that the question had already been decided. The opinion stated that even though the U.S. Supreme Court had affirmed McInnis and Buruss, it did not close the question. The court said that the issues were substantially different from those in McInnis. In McInnis, 37

the plaintiffs emphasized the concept of "educational needs" as the proper standard for measuring school financing against the equal protection clause.\(^{38}\)

The California Supreme Court felt that it was not faced with the same question, and so it dispensed with the McInnis challenge.

*Serrano* was decided on a motion to dismiss and hence was argued on the assumption that the plaintiffs' facts were true. The court was satisfied that the plaintiffs had alleged facts showing that discrimination did exist. The earlier judgement of the Los Angeles Superior Court was reversed, and the case was remanded to the trial court for a hearing on the truth of the alleged facts.

The *Serrano* decision may prove to be the most important court decision for education since *Brown v. Board of Education* in 1954. But the decision is tentative, which the California Supreme Court went out of its way to emphasize in an October 21, 1971 clarification. It pointed out that it had not yet actually struck down the California school funding scheme, but had merely ordered the trial court to examine the facts. If the trial court then determines that the alleged facts are true, however, it must find the system unconstitutional.

\(^{38}\)Ibid., p. 23.
The Serrano decision has served as a catalyst in school finance decisions. Since late August, 1971, there have been four similar decisions that have used Serrano as a judicial precedent. The cases were Van Dusartz v. Hatfield (Minnesota), Rodriguez v. San Antonio (Texas), Robinson v. Cahill (New Jersey), Hollins v. Shofstall (Arizona), and Sweetwater County v. Hinkle (Wyoming). The Van Dusartz and Rodriguez decisions were adjudicated in federal district courts, while the Robinson and Hollins decisions were adjudicated in state trial courts. Each of the opinions relied heavily on the judicial rationale established in the Serrano opinion.

The Van Dusartz v. Hatfield decision struck down the Minnesota school financing scheme, and it was the second court decision to do so. The Van Dusartz holding modified the Serrano decision in an important way by stating that the "quality of a child's education"

may not be a function of wealth, other than that of the state's (as Serrano did). Van Dusartz stated that: "the level of spending for a child's education may not be a function of wealth other than that of the state as a whole." This modification of the wealth of neutrality principle, as it was established by Coons, Clune and Sugarman, and accepted as the standard by the California Supreme Court, is an important change. It takes away the vulnerability of the plaintiff's having to define "quality education," as measured in dollars, and instead, moves the issue to a level of spending per child, which is a much more manageable standard. The court did not prescribe a remedy, but merely declared the present method unconstitutional.

The federal district court in Minnesota retained jurisdiction over the case, but deferred further action until after the 1971-1972 Minnesota legislative session.

The Rodriguez v. San Antonio decision is similar in nature to the Serrano and Van Dusartz decisions. Texas' state school financing scheme was declared unconstitutional under the Fourteenth Amendment's equal protection clause. The Rodriguez decision was decided by a three-judge federal district court, which means

44Serrano, p. 604.

that a direct appeal can be made to the United States Supreme Court by the defendants. On April 17, 1972, the State of Texas filed its jurisdictional statement with the Supreme Court for its appeal of the Rodriguez decision. The plaintiffs (Rodriguez) responded to the Texas Educational Agency's appeal within the thirty days they were allowed, and on June 7, 1972, the Supreme Court decided to hear the Rodriguez case. It will be placed on the docket for the October 1972 session of the Supreme Court, and a decision will be reached on it during the session.

Two suits similar in nature to Serrano and its progeny, have been dismissed by the courts in New York and Maryland. In Spano v. Board of Education of Lakeland Central School District, decided by the Supreme Court of the State of New York, County of Westchester (a trial court), the existing system of school finance was upheld. The trial court dismissed the suit on the grounds that "the applicable law is contained in McInnis and Buruss." Judge Joseph Hawkins felt that the changes


in the school finance system "should be fashioned by more supreme authority." He was referring to the Legislature of New York and the United States Supreme Court. The Spano decision, however, has not been a real setback for the school reform movement. First, it was adjudicated in a trial court, and secondly, it is the reaffirmation of the McInnis decision that does not seem relevant because of the change in focus from "educational needs" to the issue of level of spending.

In a federal district court in Maryland, another suit similar to Serrano was dismissed. In Parker v. Mandel, Judge Harvey specifically rejected the argument that education is a "fundamental interest" and consequently the application of the strict scrutiny test. Instead, the "rational basis" equal protection standard was applied and the suit was dismissed. The Spano and Parker decisions seem to be two compelling reasons for the U.S. Supreme Court to settle the apparent legal contradictions, as it now has the opportunity to do because it chose to hear the Rodriguez case.

The prospects of the Supreme Court upholding a Serrano-type decision are not that optimistic, according to many observers of the Court. Ferdinand Schoettle, a Professor of Law at the University of Minnesota, thinks

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49 Ibid, p. 10.

50 Parker v. Mandel, Civil Action No. 71-1089-8, Maryland.
that the Serrano decision is on tenuous judicial ground. He cited two recent United States Supreme Court rulings in cases dealing with poverty and the application of the strict scrutiny standard to support his claim. In Dandridge v. Williams, the Supreme Court stated that though it recognized that a ceiling placed on welfare payments per household challenged one of the "most basic economic needs of impoverished human beings," it could find "no basis for applying a different constitutional standard." The Court thus upheld the welfare ceiling placed on the households in Maryland, concluding that the legislation dealt with "state regulations in the social and economic field, not affecting freedoms guaranteed by the Bill of Rights."

In James v. Valtierra, the U.S. Supreme Court sustained the validity of a requirement of the California Constitution that no low-rent housing projects could be undertaken by the state without approval of the affected community in a referendum. A three-judge federal district court

53Ibid., p. 1367.
court held that this provision was a violation of the equal protection clause on the grounds that it placed burdens on the poor and minority groups not placed on middle and upper class groups. The Supreme Court reversed the federal district court's ruling stating that referenda were a traditional feature of California and America's democratic system of government.

John Coons argued, on the other hand, that the Valtierra decision:

... actually supports the "fundamentality" of the interest in education. The Court there emphasized the special importance of the democratic process exemplified in local plebiscites. That perspective here assists pupil plaintiffs who ask no more than equal capacity for voters to raise money in tax referenda, thus making the democratic process all the more effective.55

This line of reasoning was used by the judge who wrote the opinion in the Van Dusartz v. Hatfield decision in Minnesota.

Paul Dimond, a lawyer at Harvard's Center for Law and Education described the Valtierra decision from a different point of view. He supports Schoettle's argument that the Valtierra decision actually damages the potential of a Serrano-type decision's chances for a Supreme Court victory. He observed that the

55 See Footnote 9 in Van Dusartz v. Hatfield.
local millage election was in fact, very similar to the local referendum regarding housing. Dimond stated that the court must be convinced:

... that education is somehow fundamentally different from "housing"; despite all the persuasive arguments and skills Coons and company can muster on behalf of Proposition I (the wealth neutrality principle), their constitutional argument may well be less than convincing when it finally encounters the Supreme Court.  

It is possible that the Serrano principle may face a harder constitutional fight because of decisions in other areas than school finance. One such case is Johnson v. New York State Education Department 40 U.S. L.W. 2127 (1971). In Johnson, the U.S. Court of Appeals for the Second Circuit, in a two-to-one ruling, held that fees for textbooks were not an invidious discrimination on the basis of wealth and that education was not a "fundamental interest" as the plaintiffs had argued.  

If the U.S. Supreme Court upholds the Johnson decision, then Rodriguez will face an even harder time than is now projected in the Supreme Court. If Johnson should win in the high court, then it would improve Rodriguez's

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CHAPTER IV

SCHOOL FINANCE INEQUITIES
AND
SOME POTENTIAL REMEDIES

The school financing crisis has been characterized by the inequitable distribution of revenue among public school districts and the inequitable method in which school revenue has been raised. It is the purpose of this chapter to help define the nature of the school finance crisis, to briefly examine the significance of the Serrano decision and its progeny for school finance, and to identify some alternative remedies for the school finance crisis which flow from the Serrano decision.

Nature of the School Finance Crisis

It has been apparent for some time that a crisis in public school finance was inevitable. The signs have been unmistakable. The squeeze between rising costs and lagging revenues has finally caught up with education.

Growth in expenditures, for example, has outrun the growth in the economy as a whole over the last decade. Education has averaged a 9.7 per cent annual growth in expenditures while the Gross National Product was averaging a 6.8 per cent annual increase.¹

School spending has increased as a per cent of the Gross National Product from 3.1 per cent in 1929 to 7.5 per cent in 1969.\textsuperscript{2} The annual expenditure per pupil in public elementary and secondary schools has increased over eight-fold from $108 in 1930 to $926 in 1970.\textsuperscript{3}

Although school enrollments have started to level off, rising prices and the pressure of higher teacher salaries will tend to push public school spending higher. In addition to the obvious increased costs of education, there are a number of indirect costs which are not included, but add another dimension to the crisis. Ten per cent of the students in America attend private schools, which, though indirect to the cost of public education, add significantly to the total cost of education. The cost of on-the-job training programs offered by industry and the government are not included in the cost of public education. The largest single indirect cost of education is the earnings which students do not receive because they attend school.

Foregone earnings of students, aged 16-and-above, were estimated at between $20 and $30 billion in 1967, assuming approximately 75 per cent of them could have found employment if they so desired.\textsuperscript{4}

\textsuperscript{2}Digest of Educational Statistics 1970, p. 21.
\textsuperscript{3}Ibid., p. 58.
Raising money to cover the ever-increasing costs of education has required higher tax effort on the part of taxpayers. The trend of increasing costs continues with a major portion of the increase going to higher teacher salaries. Taxpayers are no longer automatically approving increased school taxes and bond issues. There has been a taxpayer's revolt which has been putting a financial squeeze on public schools. Of the $39 billion spent on public education in 1969-70, $20.1 billion (52.7 per cent) of that amount was raised at the local level where the taxpayer has a direct say in school spending via the vote.\(^5\) In 1960, only 11 per cent of the bond issues put to voters were rejected. By 1965, the rate of rejection had increased to 33 per cent, and by 1970, the rejection rate had climbed to 52 per cent.\(^6\) A recent Gallup Poll on education demonstrated that the majority of voters sampled in the nation were against increased taxes for schools: 40 per cent were for tax increases, 52 per cent were against tax increases and 8 per cent had no opinion.\(^7\) In California this past year, over 60 per cent of the proposed tax increases and bond issues

\(^6\)Berke, "Current Crisis," p. 3.
\(^7\)Gallup Poll on Education 1971, Phi Delta Kappan, September 1971, p. 38.
were rejected by the local voters. In Michigan, twenty of twenty-five requests for the present tax rates were rejected. New Jersey had more budgets rejected than at any other time in its history. The budget and school bond issue defeats have had a serious impact on the school programs in communities that defeated the requests for present levels or additional levels of tax revenue.

Staff reductions have been one response to the lack of money in school districts with a resulting increase in the pupil-teacher ratio. Over 9,000 teachers were not rehired in California this past year, while the school enrollment jumped by 100,000. In Michigan, 248 administrators and 4,480 teachers were released in September, 1971. The personnel area has not been the only aspect of the school program to suffer. The Dayton schools closed completely for a time because of the lack of money, as have other school districts throughout the country. In California in 1970-71, there were thirty school districts that ran out of money before the school year ended. Numerous experimental programs have ended because of lack of revenue. Cuts in spending have occurred in other areas that are critical to the schools' program. Spending for guidance and psychological services have been cut. Library services are another area where the budget cuts

8 Berke, Current Crisis, p. 3.
have been felt the hardest. Certain non-academic courses such as art and music have been dropped from some school programs to keep down costs.

The fiscal problems in urban schools are even more serious than fiscal problems in schools elsewhere. The Riles Report (President Nixon's Task Force on Urban Education) documented the problems thoroughly. The Report cites six key factors for the recent financial crisis of urban areas:

1. The population migration of the middle class from central cities has meant that urban areas have suffered a decrease in tax base. Further, they have been forced to provide transportation facilities, fire protection and police protection to the commuters while being drained of their tax base.

2. Urban education costs more than suburban education because of higher salary needs for teachers, the large portions of money needed in educating the "disadvantaged," the high cost of building sites and construction, and the high maintenance costs.

3. State aid formulas have been inadequate and in many states add to the already large disparities in spending per pupil.

4. The dwindling public support for education for urban areas has put a tighter squeeze on already tight budgets.
5. The financial difficulties of non-public schools has caused a large increase in central city schools putting a further drain on the school budgets.

6. The final reason for the financial crisis in urban schools has been the minimal impact of federal aid. In 1969, federal funds accounted for only 7.3 per cent of school budgets throughout the country.\(^9\)

The financial problems of urban schools are further aggravated by legal, traditional and socioeconomic constraints. State constitutions, legislative mandates and municipal policing powers all take precedence over the school board's authority, thus restricting a school board's budgetary autonomy. The tendency of urban school systems to be locked into civil service and inflexible personnel systems acts as a serious constraint on urban schools. Finally, two-thirds of the variation in per pupil expenditures among the nation's largest 107 districts was accounted for by the wealth of the district and the socioeconomic background of its population.\(^10\)

The role of the local property taxes in school finance adds another dimension to the fiscal crisis. The property tax continues to carry the major burden for local

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governments' portion for support for education. The local property taxes account for 98 per cent of the revenue raised locally by school districts, and the local school districts provide 52 per cent of all monies for public schools. The heavy reliance on property tax revenue has serious implications for taxpayers and educational finance.

The major criticism of the property tax is that it is a regressive tax that takes proportionally more from minority and poor groups than it does from wealthier groups in our society. The property tax is paid directly out of income whether an individual owns property or rents. According to Alex Wynnyczuk, Professor of Economics at Rensselaer Polytechnic Institute, rents paid by tenants are 15 to 20 per cent higher because of the use of the property tax. Dick Netzer, a nationally known property tax expert, illustrated the regressiveness of the property tax by stating:

Individuals who earn less than $2,000 per year lose more than seven per cent of their income to property taxes while persons making over $15,000 per year pay about three per cent of their income to property taxes . . .

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Besides the regressiveness of the property tax, there are a number of other negative features.

A serious problem of the property tax becomes apparent when assessment practices are examined. They are often administered in ways that are arbitrary and discriminatory. In practice, assessors generally are very good at assessing the value of low and moderately priced housing because that's where most of their experience takes place. This means more than likely that the owner of such housing will not get a break in the assessment of his property. On the other hand, high-priced homes and valuable industrial property are not within the common experience of most assessors. It is the industrial, business and high-value residential property where more of the arbitrariness in assessment occurs. Valuable properties are much more likely to be undervalued than low and moderately-priced housing, and this adds to the regressiveness of the property tax.\(^{14}\)

As would be expected, the property tax has important implications for businesses. If property taxes are low in an area, then it will tend to encourage new businesses to enter the area. If taxes are high, it will tend to discourage new businesses from entering. High

\(^{14}\)For more information on unequal patterns of assessment, see: Arron and Oldman, "Assessment-Sale Ratios Under the Boston Property Tax," National Tax Journal, March 1965, Vol. 18, No. 1; and also, Netzer's Economics of the Property Tax.
taxes have, in fact, been encouraging businesses already located in the area to leave. The property tax favors businesses with a low ratio of property to sale.

There are still other weaknesses of the property tax. Revenues from the property tax have tended to lag behind the National Income.\textsuperscript{15} The property tax is so heavily used that it often cannot yield the increased revenues needed by school districts when they are desired.

The public school financing systems used in American schools are characterized by inequities in both the revenue raising and revenue distribution systems that are used. Under the present systems used to raise revenue for school, it has been demonstrated that the poorest communities very often receive lower quality educational services as measured by the level of per pupil expenditures. Communities that have lower needs for services or where the assessed valuation per pupil is much higher enjoy higher spending levels for education and lower tax rates for schools. The present disparities in local tax burdens and spending levels for public schools stem from the heavy reliance on the local districts for the support of schools. In 1969-70, local districts provided over half of the revenue spent on public education while almost all of the money raised locally came from the local property tax.

\textsuperscript{15}"Future Dimensions in Educational Finance," p. 9.
The question of equalization of tax burden needs to be explored. The progressivity or regressivity of the taxes used to support schools is the critical factor in determining the equality of the revenue raising side of the fiscal crisis.

States use a wide variety of methods to raise money for schools -- the income taxes (personal and corporate), the sales tax, the property tax, the excise tax, etc. The progressivity and regressivity of a state's school financial structure depends on the state's choice of taxes. The factors that determine the equity of the tax system are the portion of revenue provided by the federal, state and local governments, and the relative progressivity of the taxes used.\textsuperscript{16} The National Educational Finance Project concluded after studying school tax structures in various states that:

(1) The higher the percentage of state revenue derived from relatively progressive sources, the higher the progressivity of the tax structure;

(2) The higher the percentage of the state's contribution as compared to local tax revenue, the higher the progressivity of the tax structure;

(3) The higher the percentage of school revenue provided by federal funds, the higher the progressivity of a state's school taxation system.\textsuperscript{17}


\textsuperscript{17}Ibid.
Equalized valuation per pupil has been the measure used to assess a school district's wealth. It is calculated by dividing the local property tax base by the number of children attending school in the district. A district's ability to raise revenue for education is clearly related to the wealth of the community. The second determinant in the level of local support of public education is the school property tax rate. A brief illustration will demonstrate the importance of local wealth and the school tax rate on expenditures for education. If town A and town B were of equal size and had an equal number of children attending school, but town A had twice the assessed valuation per pupil that town B had, then town B would have to double its school tax rate to raise the same amount of revenue for education as town A. Put another way, if A and B had equal tax rates, then A would raise twice as much money as B would for schools on a per pupil basis.

It would seem logical for a legislature to design a state school financing system so that it rewarded tax effort. This would mean that higher tax rates would produce higher levels of spending. The wealth differentials that exist between school districts nullify this prospect. The actual effect of most state school financing

schemes is the opposite. In fact, a consistent pattern of increasing spending at decreasing tax rates appears as one moves from the districts with the lowest per pupil assessed valuation to the districts with the highest per pupil assessed valuation.\textsuperscript{19} Widespread disparities in the level of spending per pupil result from the wide variations in the district's wealth.\textsuperscript{20}

Attempts have been made by states to equalize the level of spending between districts through the use of state aid plans.\textsuperscript{21} Though state aid programs vary widely in design and effect, there are two commonly-used methods to distribute state aid: the foundation plan and the percentage equalizing plan. The foundation plan, or the Strayer-Haig formula which is used in over half of the states, sets a target level at which per pupil expenditures will be supported by the state. Generally, a minimum tax rate is required in order to receive the foundation aid. Unfortunately, foundation plans are generally set at very low levels. No real equalization

\textsuperscript{19}\textit{Ibid.}, p. 20.


\textsuperscript{21}For a brief historical analysis of school finance systems and their equalizing tendencies, see: Coons, et. al., \textit{Private Wealth and Public Education}. 
takes place because the spending is financed from the local districts where great disparities in wealth exist. Foundation plans are often combined with other types of state aid that neutralize the equalizing impact a foundation plan could have. In most cases, a flat grant is tied to the foundation plan which actually has an anti-equalizing effect. See Table 1.

The percentage equalizing plan is used in about one-third of the states. It is designed to equalize spending at all levels rather than at just one arbitrary level. A formula is used to determine the level of aid to be provided to each district. For example:

i.e., State Aid Ratio = (1 - wealth ratio of district "n")

\[
= (1 - \frac{\text{assessed valuation per pupil of district } \text{"n"}}{\text{assessed valuation of key district}})
\]

If the wealth ratio is established using the richest district, then the plan eliminates the wealth factor completely and the same local tax effort will provide the same level of expenditures regardless of wealth. The theoretical form is, unfortunately, not used in any state. Modifications of the plan occur in the political process which effectively block the operation of the percentage equalizing plan. There are a number of ways that this may happen. Most states using the percentage

\[22\text{Ibid.}, \ pp. \ 106-108.\]
equalizing plan guarantee a minimum level of state aid for all districts, regardless of wealth, which has an anti-equalizing effect. A second way to limit the equalization of the percentage grant is to place a ceiling above which the state will not provide aid. A third way that a percentage equalizing formula can be subverted from its intended effect is to refuse to require negative payments for districts that are wealthier than the key district used to compute the state aid ratio.\textsuperscript{23}

In California, for instance, the flat grant (called Basic Aid) of $125 per pupil actually widens the gap between the rich and poor districts. The table on the next page will help to illustrate this point.

The net impact of the state aid plan, used with the intention of eliminating the wealth disparities between school districts, has been significant. "Actually, states have succeeded in equalizing neither tax burdens nor education services. . ."\textsuperscript{24} Inequities in state school financing systems exist because of the affects of political self-interest and political compromise on the part of state legislators. The legislative route for changing the present state school financing

\textsuperscript{23} Weis, \textit{Public School}, pp. 35-36.

TABLE 1
REVENUE DISPARITIES IN CALIFORNIA
AND IMPACT OF STATE AID

<table>
<thead>
<tr>
<th>Revenue Per Pupil</th>
<th>BP with Basic Aid</th>
<th>BP without Basic Aid</th>
<th>BH with Basic Aid</th>
<th>BH without Basic Aid</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1200</td>
<td>$160</td>
<td>$203</td>
<td>$1162</td>
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<td>$1100</td>
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<td>$100</td>
<td>$50</td>
<td>$203</td>
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</tr>
</tbody>
</table>

Conclusions:
(1) Baldwin Park residents taxed themselves at twice the rate but they were able to raise only 1/5 the revenue that Beverly Hills was able to raise ($203 vs. $1037 per pupil).

(2) The basic aid grants ($125 per pupil) actually widens the gap between the rich and poor districts. The basic aid grant is meaningless to Baldwin Park because the equalization aid would bring Baldwin Park up to the foundation's minimum, while the basic aid grant provides extra revenue for Bevely Hills.

(3) The flat grant is "invisible money" to the poor school districts and might as well be earmarked for the rich ones.

The table is based on 1968-69 Tax and State Aid figures.

Baldwin Park: Tax Rate-$5.48 per $100 Assessed Valuation.
Tax Base-$3,706 Assessed Valuation per pupil.

Beverly Hills: Tax Rate-$2.38 per $100 Assessed Valuation.
Tax Base-$50,885 Assessed Valuation per pupil.
system has been very ineffective for those reasons. The court system has historically been an avenue for change sought out by those who were ineffective in achieving such changes in the political system. Thus, the lack of progress in achieving reform of state school financing systems in the legislature has moved the struggle to the courts.

The Serrano Decision and Its Progeny

The inequities in school financing systems described above have already been challenged in the courts with McInnis v. Shapiro\(^{25}\) and Buruss v. Wilkerson,\(^{26}\) but not successfully until August 31, 1971, when the Supreme Court of the State of California reached its decision in Serrano v. Priest.\(^{27}\) The Court declared California's school financing system unconstitutional on the grounds that it violated the equal protection clause of the Fourteenth Amendment to the United States Constitution. Since the six-to-one ruling occurred in California, there have been four decisions affirming the Serrano principle and one ruling in which a similar suit lost.\(^{28}\)


\(^{27}\)Serrano v. Priest 5 Cal. 3d 584 (1971).

\(^{28}\)The decisions that are similar to the one reached in Serrano are: Van Dusartz v. Hatfield (Minnesota),
The California Supreme Court observed that California's state school funding scheme "invidiously discriminated against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors." The Court stated that the wide disparities in spending between the school districts in Los Angeles were inevitable because of the large differentials in the taxable wealth of the districts. It also observed that the state aid that California provided had been insufficient in bringing about any real equalization of expenditure levels. The principle that emerged from the Serrano decision was that California's school financing system must be fiscally neutral. This means that the level of spending per pupil must be untied from the wealth of the school district. At least forty-five suits that are similar in nature to Serrano have been filed in twenty-seven different states, and states that have not had suits filed are vulnerable to such suits because of their reliance on property tax revenues for schools. The lone exception is Hawaii, which has only one school district for the whole state.

Rodriguez v. San Antonio (Texas), Robinson v. Cahill (New Jersey) and Hollins v. Shofstall (Arizona). In a suit bringing similar charges, the New York Supreme Court of Westchester (a trial court) rejected the plaintiff's claims in Spano v. Lakeland School District.

29Serrano v. Priest.
The Serrano decision is not final, however. It has been remanded to the trial court for further adjudication. The other decisions that were generated by the Serrano decision are not final, either. The United States Supreme Court will make the final decision on the questions raised in the Serrano decision and the other school finance decisions. On April 17, 1972, the Texas Education Agency appealed the Rodriguez v. San Antonio decision directly to the Supreme Court. On June 6, 1972, the Supreme Court decided to hear the Rodriguez case. No decision will be reached until after the October, 1972 session of the Supreme Court begins. No one can predict the outcome of the decision. If the Rodriguez decision is affirmed, then the "wealth neutrality principles" established in Serrano will be a requirement of all the state school financing systems. Many observers of the Supreme Court feel that the chances of the Rodriguez decision winning are not good because of the conservative nature of the Court as now constituted. A negative decision in the Supreme Court would set the struggle for equality in educational finance for years to come, but

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the Serrano decision and its progeny have already induced many of the states to re-examine their present methods of financing schools due to the confusion over its meaning and potential impact on the various states.

Even with the tentativeness of the decision, Serrano is being compared with the Brown v. Board of Education decision, concerning its possible importance for school and education finance. Taking the financial crisis of schools as a given and the uncertainty of the constitutionality of the local property tax that is the mainstay of most of the states' school financing schemes, it seems crucial to explore some alternative plans for state school finance. The alternative school financing plans to be examined have been constructed so that they meet the one requirement established in the Serrano decision: that "the quality of public education may not be a function of wealth other than the wealth of the state as a whole."31

Alternative School Financing Plans

There have been a number of alternative plans proposed as possible legislative remedies to the wealth discrimination struck down in Serrano. The alternatives to be explored fall into four categories:

31Coons, Clune and Sugarman, Private Wealth, p. x.
I. Full State Support Plans;
II. Mixed State and Local Support Plans;
III. Federal Support plans;
IV. Cross Plan Alternatives. 32

Before the alternative plans are explored in more detail, the criteria which will be used to evaluate the different plans will be described.

Criteria for Evaluation

The criteria which will be used to evaluate the alternative school finance plans fall into four general categories: (1) legal criteria; (2) financial criteria; (3) political criteria; (4) educational criteria. The criteria were designed by the author to cover the important issues that must be dealt with in constructing a new school finance system in a state. The four criteria will be applied to the alternative school finance plans described in this chapter, and the evaluations will be the basis of a recommendation as to the best method for constructing a state school finance system. The legal and economic criteria were developed to satisfy the wealth neutrality principle established in the Serrano decision. The political criteria were structured so that they would reflect the political questions that must be considered before a new school finance system can be constructed.

The educational criteria were designed to deal with the crucial questions relating the quality of educational opportunity to school finance.\textsuperscript{33}

The first criterion is that a state’s school finance plan must satisfy the fiscal neutrality principle established in the \textit{Serrano} decision and reaffirmed in decisions in Minnesota, Texas, New Jersey and Arizona. This means that variations in the ability of local school districts to support education must be greatly reduced or eliminated altogether by the states. The establishment of wealth neutrality as a principle for state school finance has not been settled finally in the courts, but it has generally been accepted as the minimum requirement for any new state school financing system.

A second criterion that is complimentary with the first is that a state school financing scheme should equalize the tax burden and as it equalizes the district’s revenue-raising capabilities. Although the \textit{Serrano} decision and its progeny did not speak directly to the question of equalization of the tax burden, it is a highly desirable objective. The first two criteria are more objective while the last two (the political and educational criteria) tend to be more subjective in nature.

\textsuperscript{33}For further information on criteria for evaluating state school financing plans, see \textit{National Educational Finance Project}, Vol. V, pp. 231-263 and John Silard, "Legislative Options for Achieving Educational Equalization," unpublished paper prepared for the Lawyers' Committee for Civil Rights Under Law.
The third criterion to be used in the evaluation of the alternative school financing plans is the political acceptability of the different proposals. There are two significant aspects of this criterion. The first is the issue of local control of public schools. The local surtax option will be at the heart of this debate over local control. The issue of local control will also be used as a red shirt by those who wish to protect the economic advantage of taxpayers and students in wealthier districts. The second aspect of the political acceptability criterion relates to the question of the cost of the finance plan. If any significant equalization of educational spending is to take place, it will come at the expense of the high-wealth suburban districts which will have increased their present rates of taxation and receive less or no state support. The suburbs generally have the political clout in the legislature to make or break any of the school finance plans. It is very unlikely that any state will initiate a new school financing program that calls for a significant increase in the total cost of education for the state. Politics of implementation is not as simple as rich districts vs. poor districts. Large numbers of wealthy people live in poor districts, and conversely, large numbers of poor people live in rich districts. Political representation is often cross district, and
legislators represent more than one district. It is hard to believe that upper and middle class people living in low-wealth and middle-wealth districts will desert public schools that they have historically supported. The rich and near rich who live in high-wealth districts already oppose equalization. If these families desert public education, as many have already, then not much will be lost.

Sources of support will come from self-interested school districts below or near the median wealth of the state. These districts can expect to benefit by successful reform of state school financing systems. Another important source of political support may come from owners of industrial and commercial property in school districts with low wealth. It is questionable whether an alliance can be formed between residents and businessmen of poor districts. The political acceptability of the models will be the crucial factor in determining the type of legislation that emerges to remedy the present inequities in the states' school financing systems.

The final criterion is that equal educational opportunity should be facilitated by the models. The term "equal educational opportunity," for the purpose of this study, means that the variations in educational needs of the students must be met through the allocations
of funds. The funds should be distributed so as to provide low-expenditure districts (low taxable wealth districts) with the means to improve the quality of their educational offering. This criterion is the hardest to satisfy, but it should, in the opinion of the author, be the central focus of any new school finance legislation that is drafted.

I. Full State Support Plans

Plan IA - Flat Grant Model

Each school district would receive the same amount of money ('x' amount) per pupil to be determined by the legislature. The flat grant would be set at the eightieth percentile of per pupil expenditure for the state. The decision as to how the money would be spent remains with the local district. The revenue would be raised by a uniform statewide property tax.

Evaluation of Plan IA

The state will provide an equal flat grant per pupil to all school districts. The cost of education would be untied from local wealth by providing all school districts the same amount of revenue per child. The uniform statewide property tax would be an improvement over the present method of raising school revenue. It would also equalize the tax burden by setting a standard rate that all people would pay, but the state property tax, unfortunately, retains the same regressive features of any property tax.
A flat grant financing plan for schools would not be politically acceptable. No sur tax option exists to allow the local school districts to augment the spending level provided by the flat grant. If the flat grant were set at the eightieth percentile of per pupil expenditure for the state, it would mean that the top twenty per cent in per pupil expenditures would be leveled off to the eightieth percentile. To raise all school districts that are below the eightieth percentile up to that level would require an increase of $3.7 billion in state spending for education with a resulting increase in taxes. The high-expenditure school districts generally have lower property tax rates than do the low-expenditure districts which generally have to tax at higher tax rates to try to achieve anything near spending parity with the high wealth districts. The very school districts which would be expected to pay higher taxes would have just suffered a cut in their level of spending per pupil. The wealthy school districts would certainly not support such a system for financing schools.

The political stance of the urban school districts on such a plan is hard to predict. Many urban

\[34\text{See Appendix C for the estimated cost of equalizing school expenditures at the eightieth percentile per pupil and at various other levels by state.}\]

\[35\text{Weiss, Public Schools, p. 20.}\]
school districts spend as much or more than many suburban school districts. A number of urban school districts could be affected adversely by such a plan in terms of their expenditure levels per pupil. On the tax side, the affect is just as questionable. In three quarters of the large urban centers, a full state assumption of school costs would mean increased taxes. Major urban cities in 1967 had higher market value of property per pupil than any other type of school district, including the sururbs. It is conceivable that a number of urban centers would have increased taxes, but they would be receiving less money per pupil to spend. There might be a decrease in the school tax rates for some of the urban school districts, but most others would be increased.

The political possibility of passing a flat grant system of financing schools is practically nil. The wealthy suburban school districts' opposition to such a plan is insured by the very real possibility of their having their taxes increased and their expenditure levels decreased. The support of urban school districts for full state assumption is questionable at best. The

36Nearly twice as many central cities would receive lower expenditures from the state under a state-wide distribution of funds than they presently receive. See Berke and Kelley, Financial Aspects, p. 66.

37Johns, et. al., Alternatives, p. 91.
districts that stand to benefit from such a plan through increased spending and lower tax rates do not have the political power to pass such a plan in the legislature.

If a flat grant was instituted by a state at the eightieth percentile for per pupil expenditures, it would provide increased revenue for many districts. This would allow these districts the option of increasing teacher salaries, reducing class size, hiring new personnel, instituting new programs, improving the school facilities, etc. Unfortunately, increased expenditures have not effectively demonstrated that increased expenditures per pupil can improve the quality of the educational performance of the students. The flat grant model does not take into account different types of students and their different types of educational needs. Even with the questionableness of the impact of extra dollars on improving the quality of education, the poor school districts should have the right to make mistakes with the money.

John Coons, senior author of *Private Wealth and Public Education* stated:

> If money is inadequate to improve educations, the residents of poor districts should at least have an equal opportunity to be disappointed by its failure.
Plan IB - Flat Grant plus Cost Differentials

The state would provide each school district with equal flat grants per pupil set at the eightieth percentile with the addition of categorical aid for cost differentials. The cost differentials might include transportation costs, cost of living differences, and a municipal overburden factor. The school districts would retain the right to decide how the money would be allocated. The tax revenue would be raised by a uniform statewide property tax.  

Evaluation of Plan IB

The state will provide an equal flat grant per pupil to all school districts with the addition of categorical aid for transportation costs, cost of living differentials, and for municipal overburden. The cost of education would be untied from local wealth by providing all school districts with the same amount of revenue per child. The uniform statewide property tax would be an improvement over the present method of raising school revenue. It would also equalize the tax burden by setting a standard rate that all people would pay, but the statewide property tax retains the same regressive features of any property tax.

A flat grant with the addition of categorical aid would not be politically acceptable. No sur tax option exists to allow the local school districts to augment their spending level provided by the flat grant and categorical aid. If the flat grant level were set at the eightieth percentile of per pupil expenditure for the state, it would mean that the top twenty per cent in per pupil expenditures would be leveled off to the eightieth percentile. To raise all the districts below the eightieth percentile up to that level would require a significant increase in state spending for education with a resulting increase in taxes. The big expenditure districts generally have lower property tax rates than do the low expenditure districts which generally have to tax at higher tax rates to try to achieve anything near spending parity with the high wealth school districts. The very districts which would be expected to pay higher taxes would have just suffered a cut in their level of spending per pupil. The wealthy districts would certainly not support such a system of financing schools.

The political stance of the urban school districts on such a plan is hard to project. Many urban school districts spend as much or more than many suburban

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40See Footnote 34.

41See Footnote 35.
school districts. So a number of urban school districts could be affected adversely by such a plan in terms of their expenditure levels per pupil. On the tax side, the affect is just as questionable. Major urban core cities in 1967 had higher market value of property per pupil than any other type of school district, including the suburbs. There might be a decrease in the school tax rates for some of the urban school districts while others may be increased. A municipal overburden factor would make the plan more attractive to urban centers, but just how much would be determined by the size of the factor.

The political possibility of passing a flat grant system of financing schools (even with the addition of categorical aid) is not good. The wealthy suburban school districts' opposition to such a plan is insured by the very real possibility of having taxes increased and expenditure levels decreased. The support of urban school districts is questionable at best, but the municipal overburden would make the distribution side of the plan more attractive. The districts that stand to benefit from such a plan through increased spending and lower tax rates do not have the political power to pass such a plan in the legislature.

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42 See Footnote 36.
43 See Footnote 37.
If a flat grant was instituted by a state at the eightieth percentile for per pupil expenditures in the state, it would provide increased revenue for many districts. This would allow these districts the option of increasing teacher salaries, reducing class size, hiring new personnel, instituting new programs, improving the school facilities, etc. Increased expenditures have yet to demonstrate that the extra money can improve the quality of the educational performance of the students. The flat grant model does not take into account different types of students and their different types of educational needs. Even with the questionableness of the impact of extra spending on improving the quality of education, poor school districts should have the right to be disappointed by the failure of increased spending to improve the educational quality.

Plan IC - Flat Grant with Cost Differentials plus Dollar Preferences for Educating Different Types of Students

Each school district would receive a flat grant per pupil plus categorical aid as in Model IB. Weighting as to cost differentials of educating different types of students would be taken into account in this model. See Table 2. Each school district would retain local control over curriculum and personnel decisions. The state would raise the revenue by the use of a uniform statewide property tax. The local districts would not
be allowed to supplement per pupil expenditure levels supplied by the state.

TABLE 2

STUDENT WEIGHTING INDEX

<table>
<thead>
<tr>
<th>Educational Program</th>
<th>Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Basic elementary grades 1-6</td>
<td>1.00</td>
</tr>
<tr>
<td>2. Grades 7-9</td>
<td>1.20</td>
</tr>
<tr>
<td>3. Grades 10-12</td>
<td>1.40</td>
</tr>
<tr>
<td>4. Physically handicapped</td>
<td>3.25</td>
</tr>
<tr>
<td>5. Compensatory education</td>
<td>2.00</td>
</tr>
<tr>
<td>6. Vocational education</td>
<td>1.80</td>
</tr>
</tbody>
</table>


Evaluation of Plan IC

The state will provide an equal flat grant per pupil with cost differentials to all school districts with the addition of dollar preferences for educating students with different educational needs. The cost of education would be untied from local wealth by providing all school districts the same amount of revenue per child. The uniform statewide property tax would be an improvement over the present method of raising school revenue. It would also equalize the tax burden by setting a standard rate that all people would pay, but the statewide property tax retains the same regressive features of any property tax.

A flat grant with the categorical aid and student preference weighting would not likely be politically
acceptable. No sur tax option exists to allow the local school districts to augment their spending level provided by the flat grant or the additional and provided by the state. If the flat grant level were set at the eightieth percentile of per pupil expenditure for the state, it would mean that the top twenty per cent in per pupil expenditures would be leveled off to the eightieth percentile. To raise all the districts below the eightieth percentile to that level would require a significant increase in state spending for education with a resulting increase in taxes. The high-expenditure districts generally have lower property tax rates than do the low-expenditure districts that generally have to tax at higher tax rates to try to achieve anything near spending parity with the high wealth school districts. The very districts that would have had their taxes increased would have just suffered a cut in the level of spending per pupil in their district. The wealthy districts would certainly not support such a system of financing schools.

The political stance of the urban school districts on such a plan is hard to project. Many urban school districts spend as much or more than many suburban school districts. So a number of urban school districts

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44 See Footnote 34.
45 See Footnote 35.
could be affected adversely by such a plan in terms of their expenditure levels per pupil. On the tax side, the affect is just as questionable. A large number of the largest school districts in urban areas would be forced to raise taxes if this plan were instituted. Major urban core cities in 1967 had higher market value of property per pupil than any other type of school district, including the suburbs. There might be a decrease in the school tax rates for some of the urban school districts while others may be increased, and the affect on per pupil expenditures is just as questionable.

The political possibility of passing a flat grant system of financing would be improved by the addition of the spending according to weighted students. The wealthy suburban school districts' opposition to such a plan is insured by the very real possibility of having taxes increase and expenditure levels decrease. Though the urban districts stand to gain more than the suburban districts because of the student weighting, their political support would be tentative based on the level of student weighting. If the municipal overburden factor was adequate in the categorical aid, this would be another political plus as far as urban districts are

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46 See Footnote 36.

47 See Footnote 37.
concerned. The districts that stand to benefit from such a plan through increased spending and lower tax rates do not have the political power to pass such a plan in the legislature, but the flat grant with the addition of student dollar preferences would stand a better chance than the other flat grant plans.

If a flat grant was instituted by a state at the eightieth percentile for per pupil expenditures in the state, it would provide increased revenue for many districts. This would allow these districts the option of increasing teacher salaries, reducing class size, hiring new personnel, instituting new programs, improving the school facilities, etc. Unfortunately, increased expenditures have yet to demonstrate that the extra money can improve the quality of educational performance of the students. The flat grant model with the addition of student weighting does take into account the (educational needs) different types of students. Even with the questionableness of the impact of extra dollars on improving the quality of education, the poor school districts should have the right to be disappointed by its failure to increase the quality of education for its students.

The allocation of school revenue on the basis of weighted students would be a significant educational improvement over the straight flat grant plan or the flat grant plan with categorical aid. It would not likely
increase the political attractiveness of the flat grant plan enough to make it a real political possibility. The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education has recommended a similar plan with some modifications.\(^{48}\) The reaction to the Commission's plan has been cool in the legislature, and chances for passage in its recommended form seem very small.

II. Mixed State and Local Support Plans

**Plan IIA - District Power Equalized Plan**

The tax ability of each district within the state would be equalized at any given tax rate option. The districts could then choose at what tax rate they wanted to place themselves and thus decide the amount of money spent on each pupil. If a district did not raise the designated amount of money at the given rate, the state would provide the extra money to raise it to the stipulated level. If a school district raised more money than the stipulated amount, then the extra money would be given to the state to redistribute to communities with lower tax bases. See Table 3. The local school districts would keep the right to decide its tax rate.

and expenditure per pupil on the basis of the chart in Table 3. The ability to raise money has to be equalized by the state. All other school districts' functions would remain the same.

**TABLE 3**

**DISTRICT POWER-EQUALIZING**

<table>
<thead>
<tr>
<th>Tax Rate</th>
<th>Expenditure Per Pupil</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 mills per $100 assessed valuation</td>
<td>$600</td>
</tr>
<tr>
<td>2.5 &quot;</td>
<td>$700</td>
</tr>
<tr>
<td>3.0 &quot;</td>
<td>$800</td>
</tr>
<tr>
<td>3.5 &quot;</td>
<td>$900</td>
</tr>
<tr>
<td>4.0 &quot;</td>
<td>$1,000</td>
</tr>
<tr>
<td>4.5 &quot;</td>
<td>$1,100</td>
</tr>
<tr>
<td>5.0 &quot;</td>
<td>$1,200</td>
</tr>
<tr>
<td>5.5 &quot;</td>
<td>$1,300</td>
</tr>
</tbody>
</table>

Note: This chart was designed by the author for illustrative purposes only. It was not intended for actual implementation.

**Evaluation of Plan IIA**

A district power equalized model would meet the wealth neutrality test by equalizing the ability of each school district within a state to raise tax revenue. The tax rate for any chosen level of spending would be equalized. If District A chose to spend at $900 per pupil, it would tax at the 3.5 mills per $100. The same would hold true for any other district choosing the $900 per pupil expenditure level. The local district would be allowed to choose its level of spending per pupil. It would be at or above a state set minimum and at or below...
a state set maximum. By choosing the expenditure level, the school district determines its school tax rate. This aspect of the district power equalizing plan serves the same function as the local sur tax option, but the plan has a strong political weakness.

This weakness results from the revenue recapture feature which affects the wealthy districts. Assume that District A chooses to spend $1,300 per pupil at a tax rate of 5.5 mills per $100 assessed valuation. If the district actually raised $2,000 at that tax rate, it would be obliged to surrender the $700 per pupil that it collected over the $1,300 figure to the state for redistribution to districts that do not raise enough revenue at their chosen tax rate. 49

The reason for the minimum expenditure level is to protect against districts that will not choose to spend an adequate amount of money on education. The maximum rate is necessary to protect the state's budget.50 If no limit were set, the poor districts might choose high levels of spending and taxation while they would not

49A possible implication may be that district power-equalizing for school finance might enable some rich "unburdened" districts to join the others in not being able to tax for schools in accord with their "real" preferences and would free some poor districts to express a preference in the rate of their school tax.

50New York Commission, p. 2.45.
raise the needed money which the state would be required to supply. Therefore, the state would have to make up the difference and run the risk of a huge deficit if a maximum expenditure level were not set. In all likelihood, there would be a significant increase in state expenditures because the maximum would have to be set at a level near the top percentile of expenditures for the state. This would allow property-poor school districts to increase their expenditures while keeping their tax rates the same or by decreasing them. The possibility of a district power equalized system of school financing passing in a state legislature is small. The revenue recapture feature would make the plan politically unaccepta-
table to wealthy districts. The real possibility of significant increases in state education expenditures is another political liability. The district power equaliza-
tion plan has the refinements of categorical aid and student weighting. These features would improve the plan, but it is not enough to make it politically accep-
table.51

Educationally, a district power equalizing plan would provide poor school districts the chance to spend additional money on education, assuming that they could

51See Coons, Clune and Sugarman, Private Wealth, pp. 273-283, for an analysis of the politics of a power equalized system.
maintain their present high tax rates. This would give them a chance to raise teachers' salaries, cut class size, hire new personnel, etc., but this plan, in reality, only equalizes dollars rather than improve education or learning. Poor districts should have as much to spend on education as wealthy districts, but the quality of a child's education should no more be the function of his neighbor's value of education than of his wealth.

Plan IIB - Flat Grant Plus a Limited Local Sur Tax Option

The state would provide a flat grant per pupil, and it would also allow each district to raise an additional amount of money from local tax revenue. The addition would have to be power equalized for this model to be constitutional under the Serrano decision, but a significant narrowing of the spending differential might be acceptable to the court. State revenue would be raised by a uniform statewide property tax.

Evaluation of Plan IIB

A flat grant with a power equalized local sur tax option allowed at the local level would untie the cost of education from local wealth. The tax burden would be equalized because the tax rate would be uniform for all, but the statewide property tax retains the regressive feature of any property tax.

The plan's political acceptability is enhanced greatly by the addition of the local sur tax option.
The sur tax option, even when power equalized, provides wealthier communities a better opportunity to supplement school spending because of the favored economic position. Even facing the possibility of a higher property tax rate, the wealthier community will be more likely to use the sur tax option. Cities faced with a heavy municipal overburden factor will have a much harder time raising extra tax revenue through a sur tax option because of their already strained tax rates. This same phenomena can be expected to hold true for poor school districts, too.

If this plan were instituted and funded at the eightieth percentile, it would take a significant increase in state spending and, thus, state taxes to provide the additional $3.7 billion necessary to bring all those school districts below the eightieth percentile mark up

52"Michelson and Grubb have begun to undertake this task by examining the interrelationship among many variables including school tax rates, non-education tax rates, local school revenue per pupil, local revenue for non-education purposes, property valuation, state school aid, federal school aid, mean faculty income, average daily attendance, children from low income families and population. Their work suggests many interesting interrelationships, causes and effects. One of their most interesting conclusions is that 'non-educational spending is, by and large, determined by factors beyond the control of communities, and tends not to be subject to discretion.' Educational spending, on the other hand, is more constrained by the availability of fiscal resources. The school tax rate will be lowered if non-educational requirements are high in burdened communities, while the non-education rate is not similarly affected by a high school tax rate." Excerpt from Paul Dimond, "Serrano: A Victory of Sorts for Ethics, Not Necessarily for Education," Yale Review of Law and Social Action, Vol. II, No. 2, Winter 1971, p. 140.
to it across the nation. This would detract from its political acceptability, but in general, this plan, with any of the modifications from Plan I (Categorical Aid and Student Weighting) is the best political possibility. This is so because it is the plan that resembles the present way most states are financing schools. It offers the wealthy districts the opportunity to supplement the flat grants through a local sur tax add on.

The quality of the educational offering could possibly be raised because of the increased revenue most districts would be receiving. Districts that were receiving extra dollars could increase teacher salaries, cut class size, hire new personnel, institute new programs, etc. The plan could be designed to include categorical aid and student weighting which would increase its attractiveness both politically and educationally. Given the questionableness of the impact of extra dollars on the quality of education, the poor districts should be granted the right to spend equal amounts of money per pupil as the wealthy districts do, no matter what the affect of the additional spending.

III. Federal Support Models

Plan IIIA - Federal Revenue Sharing\textsuperscript{53}

\textsuperscript{53}This plan was taken from the National Educational Finance Project, Vol. V, p. 209.
on the basis of population with the requirement that
a fixed percentage (40 per cent) of those funds be allo-
cated to public education. If the federal revenue to be
shared were set at $18 billion with a minimum of 40 per
cent being allocated for education, then $7.2 billion, or
approximately 20 per cent of the present level of state
and local expenditures, would be allocated by the states
for education.

Evaluation of Plan IIIA

A federal revenue sharing plan by itself would
not satisfy the wealth neutrality principle established
in the Serrano decision unless it was designed to replace
the local share of public school support. For a federal
revenue sharing plan to do this, it would take over $18
billion or 100 per cent of the stipulated federal revenue
to be shared.\footnote{54 For a revenue sharing plan to be effective,
it should supply between 22 to 30 per cent of the revenue
for public schools. Johns, et. al., Alternatives, Vol. V,
pp. 208-209.}

If the revenue provided by the federal
government did replace the revenue supplied by the local
property tax, it would significantly equalize the tax
burden on the local taxpayer. The federal tax structure
is more progressive than either the state or local tax
structures which tend to be more regressive.\footnote{55 Ibid., pp. 193-229.}

A federal revenue sharing plan could have no
impact on the sur tax option which is a state responsibility. A revenue sharing plan similar to this one seems to have a chance of passing Congress this year. The states are likely to welcome whatever tax relief this would bring since local expenses have increased twelvefold from $11 billion to over $132 billion in the past twenty-five years, while federal expenses have climbed at less than one-third of that rate.\(^56\)

Federal revenue sharing, if it simply turned $7.2 billion or $18 billion over to the states for distribution with no requirement for changes in the present method states finance schools and distribute revenue to schools, would bring about little equalization. The design of the revenue sharing plan and the requirements for change of the present systems of financing schools will determine the equalization of expenditures. Another way for the federal government to improve the fiscal position of the states for supporting public schools would be to remove welfare costs from the state. According to the Fleischman Commission Report, Bill HR1, which is pending in Congress, would pay for about one-thirtieth of New York's welfare cost.\(^57\) This would be a supplemental move, but in itself is not enough to ease the educational burden of the states. A complete takeover of welfare

\(^{56}\)Report of the New York State Commission, pp. 3.09-3.10.

\(^{57}\)Ibid., p. 3.12.
by the federal government would be a significant step in the right direction for federal aid. The consequences for the quality of education are hard to predict given the numerous ways of designing the federal revenue sharing plan.58

**Plan IIIB - National Foundation Plan**

A national foundation level would be established which the state and federal governments would guarantee to every school district on a per pupil basis. The federal government would provide $12 billion of the support and the state governments would provide the rest of the money to support public education.59 The federal revenue would be raised by a value-added tax. The plan would be designed to encourage states to adopt some form of a full state funding plan to finance schools.

**Evaluation of Plan IIIB**

A national foundation program supported by the federal and state governments would satisfy the wealth neutrality test by removing the local districts' wealth as a factor in the support of public education. Relief from the local property tax would help equalize the tax burden, but if the federal support came from a value-added tax (a form of a national sales tax), it would


59 See Footnote 46.
merely mean a switch from one regressive tax to another.\textsuperscript{60} If federal funds were provided out of income tax revenues, a significant equalization of tax burden would take place. Spending would be equalized for all districts within each state.

The question of local control of schools would be at the heart of the political debate on this plan. The increased federal support and loss of local support of schools would indicate a sharp decline in local control. There would be no sur tax option under this plan, but one could be added without much difficulty as long as it were power equalized. The states would have to have the opportunity to increase their share of support for education relative to the federal support to satisfy the high expenditure states. Assuming that this condition is met, the states would have to set their level of support at a high enough level to satisfy the wealthy districts within the states. This could mean a significant increase in state aid with a resultant increase in state taxes which would be politically unacceptable. If, in fact, the state did accept this plan and set a high level of per pupil support, the low wealth districts would have an

increase in revenue to support their schools. This would allow a number of districts below the established foundation level the option of spending increased revenue on increased teacher salaries, cutting the class size, hiring new personnel, instituting new programs, etc. The national foundation plan was not designed to allocate revenue on the basis of student weighting, but this adaptation could be included at the state level.

Plan IIIC - The National Education Trust

A National Education Trust would be created to finance portions of education at all levels - pre-school, elementary and secondary education, college, adult education, and manpower retraining. The fund would pay for the direct cost of schooling (tuition, books, etc.), but not school construction. The people who received the benefit of support for their education from the National Education Trust would have to replenish the fund through an income tax surcharge. The surcharge would vary in its rate, depending on the income on a progressive scale. The costs of schooling would be repaid over a person's working years. The National Education Trust would provide ninety per cent of the support of pre-school education,

51This plan was designed by Governor Milton Shapp and his staff in Pennsylvania, and it was presented at the N.E.S.D.E.C. Conference on School Finance at Harvard University on January 8, 1972.
fifty per cent of the support for elementary and secondary education (the rest coming from the state), and ninety per cent of the college costs. It would also provide more for adult education and manpower retraining. It is assumed that state support of education will continue at the present level with federal revenues replacing those previously provided locally.

**Evaluation of Plan IIIC**

A National Education Trust would meet the wealth neutrality principle established in the Serrano decision. By providing federal revenue instead of local revenue for the support of the public education, the cost of education would be effectively removed from the local level. The Trust would supply fifty per cent of the cost of elementary and secondary education by absorbing the local district's financial responsibilities and the state would provide the other half of the revenue for public schools at the elementary and secondary level. The tax burden would be equalized significantly since the federal funds would come from a progressive income tax surcharge, and the state tax source would be more equitable than the present local property tax system. The state's share of expenses would rise slightly, from 41 per cent to 50 per cent on the average, but probably

not enough to make the plan politically unacceptable because of increased expenses. The Congressional politics involved in the passage of the National Education Trust are very hard to predict because of the newness of the proposal.

The issue of local control of education would be at the heart of the debate over the National Education Trust. A system would have to be designed that allowed policy decision-making for the school districts to continue at the local level while the financing of the schools was handled at the state and national levels. There is no sur tax option available for local school districts to supplement school expenditures. The relationship between the state's and the federal government's role in education would certainly be a key issue as far as the states are concerned. The Trust would have to be designed to allow local decision making to continue and to allow the state's role in education to be solidified before it would be politically acceptable at these levels.

Per pupil expenditures would be equalized with poor districts receiving additional revenue to spend. Poor districts could use the additional revenue they received to increase teacher salaries, cut class size, hire new personnel, add new programs, etc. Whether
or not the additional per pupil expenditures will improve the quality of education for students in poor districts is certainly debatable, but poor districts should have the same right to experience the potential disappointment of increased expenditures as the wealthy districts do.

IV. Cross Model Alternatives

Plan IVA - Educational Vouchers

The family would receive an educational voucher for the full cost of each child's education. Schools could neither charge extra tuition nor receive private grants or gifts. Underachievers would be given additional money for their education. Admission to schools would be handled by random selection of all the applicants so that schools could not selectively exclude or include certain groups of students. A voucher plan could be financed by any of the plans described in Plans I-III.

Evaluation of Plan IVA

An educational voucher system could be financed by any of the methods described in the proceeding plans (I-III). A voucher system would provide each student with an equal grant (or it could be constructed on a weighted student basis) which would satisfy the Serrano

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wealth neutrality principle by utilizing the cost of education from local wealth. The extent of tax burden equalization would depend on the tax plan that was adopted to supply revenue for the voucher system.

An educational voucher plan is not likely to be politically acceptable for a number of reasons. No surtax add on would be allowed (in this case, no family supplementation would be allowed). If families were allowed to add on extra dollars to the voucher grant, then the cost of education would be truly related to wealth.

Vouchers could only be used in public schools and private schools that agreed to accept the voucher as tuition while making no other charges for the cost of a child's education. Religious schools pose a tough question. If they agreed to accept any student that applied and did not charge extra tuition, would they be allowed to participate? Only the courts can answer that question at this time. As for private schools that charged in excess of the voucher, they would exist as private schools do today with no state support.

A number of interest groups would oppose the implementation of an educational voucher system on a large scale. Teachers' unions and administrators' organizations would certainly resist any plan that allowed the creation of large numbers of alternative schools. Any
real threat to the jobs of these groups would surely result in their attempt to block such a plan.

A voucher plan that provided for open enrollment and random selection of students in urban and suburban areas would pose a possible threat to the patterns of segregation in the North. Thus, a voucher plan can be expected to draw strong opposition from the white majority if the segregated school patterns are really threatened. If a voucher plan were implemented, it might cause an exodus of white students to private schools, if real integration seemed possible. Thus, there are a number of strong political reasons why an educational voucher system is very unlikely to be politically acceptable on a large scale. Three school districts have completed feasibility studies on the possibility of implementing an educational voucher system (Seattle, Alum Rock, California and San Francisco), but none of the school districts have actually initiated a voucher plan, and none of them are considering the use of vouchers on a large scale.64

A voucher system could be designed to provide money according to student needs (on a weighted student basis). If extra money was provided to underachievers, 

it might encourage schools to compete for underachievers because of the extra money incentive, and hopefully, use the extra money to try to improve the program. A voucher plan would encourage the development of a number of alternative schools which might improve the quality of education for poor districts. If student selection was done on a random basis, it would provide the opportunity for the mixing of social classes and the races in schools which could improve educational opportunities for the poor and minority students.

**Plan IVB - School District Reorganization**

A school district reorganization plan might call for the following: (1) consolidation of small, high cost districts; (2) regionalization of high cost educational services (i.e., vocational education, transportation, data processing and other special services); (3) metropolitanizing school districts to equalize the tax bases of the districts. A school district reorganization plan could be financed by any of the methods described in Plans I-III.

**Evaluation of Plan IVB**

A school district reorganization plan that created school districts with approximately equal assessed valuations per pupil would probably satisfy the wealth neutrality principle established in the *Serrano* decision. This affect could be accomplished by consolidation of
small districts, regionalization of other districts, or metropolitanization of urban school districts depending on the geography, population and wealth of the different areas. Different types of school organization could also be funded by any of the methods described in Plans I-III. The amount of tax burden equalization would depend on the method of taxation that was used.

The political acceptability of any of the school district reorganization plans will be a hard problem. Consolidating small high cost school districts runs head on into the issue of local control. Many inefficient high cost school districts would rather retain their local control over education than garner the economic and educational benefits of consolidation. The two most obvious benefits are the lower cost of the school program and the ability of a larger school district to offer a wider variety of education programs for the children.

As a historical trend, school district consolidation has been occurring rapidly without much encouragement from the states. In 1948, there were 95,000 school districts, and by 1970, there were only 18,000 in the United States, but there are still far too many high cost districts that need consolidating.65

65 Little is known about the relationship of state aid distribution and district organization, and few states are doing anything to encourage districts to reorganize. See Johns, et. al., Alternatives, pp. 103-131.
A metropolitan school district that was designed to erase the suburban tax privileges and equalize the tax base will run into opposition for two key reasons. The first is financial. The suburbs are not likely to give up the very tax and educational privileges they have had for so long without a hard political struggle. The second reason is that a metropolitan school district would create the strong possibility of school integration after the many gerrymandered school district lines were redrawn. It has been effectively demonstrated in Detroit, Michigan and Richmond, Virginia, that any district reorganization to achieve integration must include the suburbs.

The bussing issue has gone a long way in creating more division in this country, and any metropolitan plan will certainly involve the bussing issue. The likelihood of any metropolitan school district emerging in the United States is very unlikely without a court order, and the possibility of a federal district court order to consolidate schools for integration is not likely to be upheld in the Supreme Court.

66 See Bradley v. Milliken, F. Supp. October 4, 1971 and Bradley v. City School Board of Richmond, F. Supp., January 10, 1972, for information on court-ordered integration involving the surrounding suburban school districts. On June 7, 1972, the U.S. Court of Appeals overturned the federal district court order for the formation of one large school district in Richmond involving the suburban districts.
An effective school district reorganization plan has the potential to cut expenses for high cost districts by consolidating costs for transportation, vocational education and other specialized services. School district consolidation of small, inefficient districts would allow for the expansion of the variety of school programs that a larger school district can provide for its students. A district reorganization plan that was designed to encourage social and racial integration would be an important step in the right direction for improving education, if not qualitatively, at least humanely. A district reorganization plan that was financed by any of the methods in Plans I-III would have the additional benefits and problems that accrue from the type of plan used to finance the schools.

Summary

The list of alternative plans for financing schools that were described and evaluated are by no means exhaustive. Many variations of the plans which were described exist and are available to be added to any state's school financing system. The Serrano decision and its progeny have served as catalysts, and many state legislatures have started to reevaluate their present methods of financing schools because of the decisions. The principal reaction to the Serrano
decision so far has been for the states to create commissions to reexamine present methods used in financing education. The exact meaning of the Serrano decision is not known, but it is clear that the cost of education must be untied from wealth of the individual or the local district. The Supreme Court will decide the ultimate fate of the wealth neutrality principle when it hears the Rodriguez case during its next session in October, 1972. If the recent school finance decisions are upheld in the Supreme Court, then an important step will have been taken in the solution to the school finance crisis.

Joel Berke, a noted school finance expert, observed that the public education fiscal crisis was characterized by:

... a failure to raise adequate revenues through equitable means, and second, an inability to allocate revenues in an efficient and equitable manner. 67

Before the fiscal crisis facing education will be remedied, both sides of the crisis will have to be eliminated. The school finance crisis is not likely to be rectified quickly, but the recent school finance court decisions have provided the stimulus necessary to potentially speed progress in the solution of the school finance crisis.

CHAPTER V

RECOMMENDATIONS AND CONCLUSIONS

After evaluating the various alternative school financing plans, the author has concluded that a full-state funding plan is the best solution to the present inequities that exist in school finance. A full-state assumption of public school costs would remove school district wealth as the determining factor in school spending and would allow the state to determine how funds were distributed to the districts. A full-state funding plan would equalize the tax burden. A progressive income tax would be the most equitable way to raise money for schools, but the states are not likely to forego the productive property tax as a source of revenue for schools. A uniform statewide property tax is the form of taxation which will emerge in most states that do restructure their school financing systems.¹

For changes to occur in most state educational financing systems, a court order will be needed. State

¹The Fleischman Commission in New York State, Arthur Wise in Maryland, Governor Milliken in Michigan and California Assembly Bill No. 1406 (April 6, 1971) all have recommended uniform statewide property taxes to finance education in those states. Hawaii, which has a full-state funding plan, has a statewide property tax.
legislatures have historically demonstrated an unwilling-ness to create school finance systems that distribute state aid in a way which equalizes spending disparities between school districts. Opposition for any system that equalizes educational spending can be expected from high-expenditure districts and most urban districts. Both types of districts stand to have their expenditure levels frozen or cut, and both stand to have their school tax rates increased. For this reason, the author feels that only a victory in the U.S. Supreme Court for Rodriguez v. San Antonio,\(^2\) or state constitutional victories similar to the one in New Jersey, will lead to the reform of state school financing schemes.

A full-state funding plan would provide low-expenditure districts with increased revenue to spend on education. The questionable impact of increased spending on educational achievement, demonstrated in the Coleman Report and other studies, is no excuse not to provide the increased revenue to poor districts.\(^3\) As John Coons argued, the poor districts have the same right to be disappointed by the failure of increased spending on schools to increase educational achievement as the wealthy districts are. To the author, it is as much a matter of


\(^3\)See Footnote 33 in Chapter I, p. 24.
political and social equity as it is of educational equity. If a society selectively spends less on poor and minority students' education than on wealthy students, it clearly indicates that the society is not committed to making the schools an avenue for social and economic advancement.

A full-state funding plan would help remedy the inequities in spending between districts, and hopefully within districts.

Poor districts could choose a variety of ways to spend their new funds, such as: to increase teacher salaries, to reduce the pupil-teacher ratio, to buy new instructional materials, or to improve facilities. Whether increased spending will improve the educational achievement is questionable, but as a question of political and social equality, equalizing spending per pupil between districts is an important step. A full-state funding plan would be able to remedy the inequalities in spending between districts.

To remedy per pupil spending disparities between states will take a significant increase in federal aid. A full-state funding plan coupled with a federal revenue sharing plan or federal assumption of welfare costs would help to equalize spending disparities between states.

**Full-State Funding Reexamined**

The concept of full-state funding of educational costs has become common vocabulary since the advent of
the constitutional attacks on state school financing plans. James Conant is credited with becoming the first educator in recent times to advocate full-state assumption of educational costs. In 1968, he advocated full-state funding with the stipulation that the local school districts retain their policy-making and personnel functions. Conant recommended that the local property tax be completely eliminated as a financial support for education and in its place would be substituted a statewide property tax.

Since Conant made his proposal in 1968, it has gained support in a number of quarters. In 1969, the Advisory Commission on Intergovernmental Relations, a bi-partisan intergovernmental agency representing federal, state and local branches of government, recommended full-state assumption of "substantially all funding for public elementary and secondary schools." On the basis of a statewide task force report on school finance in 1969, Governor William Milliken of Michigan recommended a constitutional amendment virtually eliminating the use of local property tax in financing schools and full-state assumption


of the costs of education. Legislation was proposed in California, before the Serrano decision had been reached, which advocated state assumption of most of the school costs financed by a uniform statewide property tax with a limited local sur tax option. In late 1971, the Fleischman Commission in New York State recommended full-state assumption of schools and the imposition of a uniform statewide property tax after an extensive study. In March of 1972, the President's Task Force on School Finance called for state governments to assume the current costs of local support for education over a five-year period.

There appears to be widely-based support for full-state assumption of public educational costs. With the added inducement of a possible constitutional mandate for school financing reform, why are the states not adopting such plans? There are a number of objections to full-state assumption of public school costs.

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The primary argument against full-state funding is the belief that the local school districts will lose control of the educational process by giving up control of the purse strings.\textsuperscript{10} Actually, there is little evidence to support this argument. The experience of states (or Provinces) that have fully assumed the costs of education or nearly all the costs of education have indicated that local control has not been hindered by the loss of local control over the purse strings. In Hawaii, which has a centralized decision-making process, a uniform salary schedule for teachers in the state and an equal per pupil spending level, it has been found that the system "easily includes local administrative decision making."\textsuperscript{11} In Delaware and North Carolina, each allows strong, local administrative control in conjunction with a highly-centralized state financing system which provides over eighty per cent of the costs of education in each state. In the Canadian Province of New Brunswick, local control has increased since the Province assumed the financial responsibilities from the local districts. The districts now have control over curriculum matters which had been


a prior function of the Province. In Great Britain, the Ministry of Education is a conduit for the money, but the schools are fiercely independent.

Breaking the tie between local financing and local control can be accomplished without doing harm to the exercise of true local control, and it may strengthen it. Governor William Milliken of Michigan, in response to a question about the possibility of loss of local control stated:

The answer is that school boards will continue to do the same things they do now with one exception -- they won't have to fight millage battles for school district survival.

If a full-state funding plan were instituted, the state would have to engage in collective bargaining with teachers instead of the local districts. A uniform salary schedule for the state would be one consequence of full-state assumption.

No one really knows whether any significant erosion of local control would take place if full-state funding were a prior function of the Province. In Great Britain, the Ministry of Education is a conduit for the money, but the schools are fiercely independent.

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No one really knows whether any significant erosion of local control would take place if full-state funding were
funding were adopted in a large number of the states. It is clear that the "loss of local control" argument is being used strongly by wealthy school districts. They can be expected to lose a certain amount of fiscal control, and more importantly, their economic advantage over poorer districts. A statewide property tax, which is the most likely replacement for the local property tax, will fall more heavily on wealthy districts. Rich districts now have high-expenditure levels and low tax rates. With a full-state funding plan, school taxes would rise in wealthy districts, and the level of spending would be frozen at its present level.\textsuperscript{17} The local control issue appears to be as much a political smokescreen for rich districts as a substantive issue.

It is very hard to talk about local control of schools in isolation from state and federal governmental actions. The local school district is not an autonomous body, but rather is part of an interdependent group of governmental agencies.\textsuperscript{18} Local control at the city level is often not meaningful in relation to the educational requirements of the students. In urban areas, non-educational costs are greater for other municipal services. This is

\textsuperscript{17}\textit{Report of the New York State Commission}, p. 2.16.

known as municipal overburden, which is a result of a high population concentration that requires more and costlier services and a high percentage of low-income residents which requires additional costly human services.\(^{19}\)

Often, state aid for schools serves as a replacement fund for local taxes, and this acts to transfer educational funds to other areas in the budget.\(^ {20}\) For many school districts, real local control or choice in the level of spending for schools "is a cruel illusion under the existing methods of school finance."\(^ {21}\)

The second objection to full-state assumption of educational costs is that it will eliminate the development

\(^{19}\)"Michelson and Grubb have begun to undertake this task by examining the interrelationship among many variables including school tax rates, non-education tax rates, local school revenue per pupil, local revenue for non-education purposes, property valuation, state school aid, federal school aid, mean family income, average daily attendance, children from low-income families and population. Their work suggests many interesting inter-relationships, causes and effects. One of their most interesting conclusions is that 'non-educational spending is, by and large, determined by factors beyond the control of communities, and tends not to be subject to discretion.' Educational spending, on the other hand, is more constrained by the availability of fiscal resources. The school tax rate will be lowered if non-educational requirements are high in burdened communities, while the non-education rate is not similarly affected by a high school tax rate." Excerpt from Paul Dimond, "Serrano: A Victory of Sorts for Ethics, Not Necessarily for Education," Yale Review of Law and Social Action, Vol. II, No. 2, Winter 1971, p. 140.

\(^{20}\)Report of the New York State Commission, p. 2.43.

\(^{21}\)Serrano v. Priest, p. 620.
of innovative programs in the high-expenditure "lighthouse districts." It is assumed that the high-expenditure districts create educational innovations and that these innovations spread to the other districts. Yet, there is no reason why innovation should be accidental or based on the wealth of the districts. The states could encourage innovation by providing grants to districts in the areas where educational problems are the worst. This would create new "lighthouse districts" by design, rather than allowing innovations to occur by chance or to be based on the wealth of the district. One such planned innovation was proposed by the Fleischman Commission in New York State. The "lighthouse schools" would serve as the primary training institutions for all beginning teachers in the state.22

Another argument used against full-state funding of education is that the state's costs would be increased greatly if per pupil spending were leveled up to the highest spending district. This, in fact, has been the experience in New Brunswick, but the system could be designed to spread the increased costs over a number of years instead of raising all districts to the top during the first year.23 The Fleischman Commission recommended that


the present level of spending in high-expenditure districts be frozen until all the other districts were leveled up to the highest level. During the first year, all districts below the sixty-fifth percentile of the state's highest per pupil expenditure level would be raised to the sixty-fifth percentile. After the first year, school districts would receive increments of fifteen per cent per year until full equalization had taken place. In this manner, the high costs of leveling the poor districts up to the top expenditure could be spread over a number of years, and thus, keep the initial increase in state expenditures for schools to a manageable level. Arthur Wise, working with a school finance commission in Maryland, recommended a similar solution to the problem of increased state costs as the one recommended by the Fleischman Commission.

The controversial issues that surround full-state assumption are more political than substantive. The threat to the tax-sheltered, high-expenditure districts of the suburbs lies at the heart of the local control issue. It is also unclear whether a full-state assumption plan would be supported by large cities. Joel Burke's data

24 Report of the New York State Commission, p. 2.44.

suggests that it is unlikely unless a "municipal overburden factor" is included.\textsuperscript{26} The politics of implementation is very tough, and this has been demonstrated by the lack of legislative remedies for school financing inequities in the past. Only a court decision is likely to induce the needed reforms in school finance in most states. The states will probably take a "wait and see" attitude until the U.S. Supreme Court settles the constitutional question surrounding the local property tax when it hears \textit{Rodriguez v. San Antonio} sometime during the Winter 1972-73 session. A negative decision would mean the end to a federal constitutional attack on school finance inequities. It would force the movement for equity in school finance back to the state courts, using the \textit{Robinson v. Cahill}\textsuperscript{27} decision as a precedent.

A victory for \textit{Rodriguez} in the Supreme Court would speed the reformulation of new school finance laws in most states. It is very likely that, given a victory for \textit{Rodriguez}, most states would prefer to write new school finance legislation without pressure of a court order. Most have already set up school finance commissions and are studying the issues in anticipation of \textit{Serrano}-type litigation.

\textsuperscript{26}See Footnote 11.

\textsuperscript{27}\textit{Robinson v. Cahill} Superior Court of New Jersey-Hudson County Docket No. L-18704-69 (1972).
Recommended School Finance Plan

The plan outlined below has been constructed to equalize educational spending within states and within school districts. Tax burden equalization is also an objective of the recommended plan. Only action on the part of the federal government could bring about equalization of spending inequalities between states.

1. The state should assume the responsibility for financing all public elementary and secondary school costs (excluding federal aid). The state revenue would be raised through the use of a progressive income tax on personal income. This would equalize the tax burden by shifting it to the individual's ability to pay and would remove the regressive features of the property tax. 28

2. The state will distribute the money to the school districts on the basis of school registration. The allocation will be on the basis of estimated costs for different types of education of students or on a "weighted student" basis. The weightings would

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28 The author prefers the progressive income tax as a source of revenue for education rather than a statewide property tax, but it is very unlikely that the property tax will be given up as a source of revenue for an income tax. The Fleischman Commission has recommended a state property tax as did Arthur Wise's study group in Maryland.
have to be calculated according to each state's needs, but the National Educational Finance Project's figures serve as an example:

TABLE 1

STUDENT WEIGHTING INDEX

<table>
<thead>
<tr>
<th>Educational Program</th>
<th>Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Basic elementary grades 1-6</td>
<td>1.00</td>
</tr>
<tr>
<td>2. Grades 7-9</td>
<td>1.20</td>
</tr>
<tr>
<td>3. Grades 10-12</td>
<td>1.40</td>
</tr>
<tr>
<td>4. Physically handicapped</td>
<td>3.25</td>
</tr>
<tr>
<td>5. Compensatory education</td>
<td>2.00</td>
</tr>
<tr>
<td>6. Vocational education</td>
<td>1.80</td>
</tr>
</tbody>
</table>

In addition, weightings for retardation, disadvantaged students and a municipal overburden factor would be calculated and added to the per pupil expenditure level received by the districts. The revenue allocated to the districts would be distributed with the stipulation that each school receive revenue according to its weighted pupil makeup. This would allow for differences in spending between schools, but rather on the basis of how much it costs to educate the pupils inside. The irrational intradistrict spending patterns identified by Patricia Sexton in Detroit, Michigan, and in the *Hobson v. Hansen* decision in Washington, D.C., would no longer be allowed to exist.

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3. Regional education centers would be created by the state to help relieve the expenses of high-cost educational services. Vocational education, transportation, psychological and other special services could be provided by regional educational centers.

4. Per-pupil expenditures would be leveled up to the highest spending district in the state at the time the plan was enacted. The leveling-up process would be carried out over a number of years to help spread the increased spending of the state over a number of years. High-expenditure districts would be frozen at their present levels until the rest of the districts in the state were raised to their expenditure level. The Fleischman Commission in New York recommended that all districts below the sixty-fifth percentile be brought up to that level the first year and raised at a rate of fifteen per cent a year until the leveling-up process reaches the top.\(^3\) The spacing out of the leveling-up process allows for a smooth transition from the old finance system and allows the increased expenses accrued by the state to be spread over a period of years.

5. Local school districts and school boards will retain their present control over educational policies of

\(^3\)Report of the New York State Commission, p. 214.
the school district. Matters such as curriculum decisions and personnel decisions will remain always with the local district. Collective bargaining will become a statewide function rather than a local one, and a state salary schedule for teachers will be established.

6. The author hopes that the federal government would move to erase the interstate disparities in school spending through a revenue-sharing program or assumption of welfare costs.

If these proposals were adopted, an equitable method for distributing school revenue and an equitable method of financing schools would have been achieved.

CONCLUSIONS

Implications for Education

What will be the impact on education if the wealth neutrality principle is upheld in Rodriguez v. San Antonio in the U.S. Supreme Court? One thing is clear. Most states will have to change their present methods of financing schools. The states, if placed under a Serrano mandate, would have a variety of alternative school financing plans to choose from as described in Chapter IV. The courts have purposely avoided prescribing remedies for school finance inequities which are more
appropriately the business of state legislatures. Which plan the states select is pure conjecture at this point in time, but the author has indicated his support for a full-state funding plan.

It is also clear that by adopting a wealth neutrality school financing system that money will be redistributed. Poor districts are likely to get increased revenues for education relative to the wealthy districts. Whether the money will be spent on the education of poor children is unclear. Intradistrict disparities could continue to exist unless the states moved to eliminate the intradistrict disparities through the legislation of the new school finance system.

It is not at all clear what kinds of educational benefits will accrue to children in poor districts, if any, because of the increased spending. More highly-paid teachers, new buildings, smaller classes and new curriculum are unlikely to affect cognitive learning independent of family background. In all likelihood, the extra dollars in poor districts will go to increased teacher salaries. Daniel Moynihan observed:

The only certain result that will come from this is that a particular cadre of middle-class persons in the possession of certain licenses -- that is to say, teachers -- will receive more public money than they do now.32

The likely result will be that no changes in present educational practices coming out of a favorable decision in *Rodriguez* in the Supreme Court.

A victory for *Rodriguez* could have a long-range impact on school finance and national finance that no one has predicted. The national tax structure could change drastically if the Nixon Administration pushed seriously for the adoption of a value-added tax to raise revenue for education and other expenditures. In January, 1972, President Nixon recommended that a value-added tax, a form of a national sales tax, be used to relieve the pressure of the local property tax in financing education.33 A value-added tax would increase the regressivity of the national tax system rather than decrease it.34 Nixon has since backed away from his position on the value-added tax, but the ultimate impact of the wealth neutrality principle may not be the one that was anticipated by those who developed it.

Another long-range implication of a victory for *Rodriguez* in the Supreme Court may be in the area of low-cost housing. It is possible, if the Serrano principle were adopted, that it would stop suburban communities


from using the argument that the school districts could not afford to educate the children who live in low-cost housing. To argue that the cost of education for children from low-cost housing developments would no longer be a legitimate or "respectable" argument. The racial and social objection of the suburbs to low-cost housing would certainly persist, but it might make it more difficult to fight low-income housing on purely economic grounds.

Another potential long-range implication of the Serrano principle is in the area of other municipal services. The California Supreme Court argued that the wealth neutrality principle was not applicable to fire protection, police protection and other municipal services. The issue of the applicability of wealth neutrality to other governmental services will be tested in the courts. In June, 1972, two suits were filed contending that the Serrano principle could be applied to police and fire protection in Marin County and in Los Angeles County. The courts will have to decide if the wealth neutrality principle is applicable to other municipal services.


36Serrano v. Priest, pp. 622-23.

Possible changes in the national tax structure may result from the acceptance of the wealth neutrality principle. The wealth neutrality principle negates economic arguments against low-income housing, which is synonomous with integration in urban areas. The acceptance of the Serrano principle is not likely to speed racial integration, but it will demonstrate more conclusively that it is racism, not increased school costs, which makes suburban communities fight low-income housing.

If the Supreme Court overturns the wealth neutrality principle, then the battle to gain equity in school finance will be moved to the state constitutional level as in the Robinson v. Cahill decision. In either event, education is not likely to change much concerning its impact on children, whether the Serrano principle wins or loses in the courts.

A comment that Francis Keppel, a former U.S. Commissioner of Education, made at a recent school finance conference at Harvard University sums up this author's feelings about the potential impact of the Serrano for education -- victorious or not in the Supreme Court.

It looks to me as if educators had better not assume that actions of legislatures or courts are going to deal with the fundamental issue, which is the question of equity in the handling of children.\textsuperscript{38}

Equity in the distribution of school revenue is an essential first step toward the attainment of improved educational quality for poor and minority students, but it is only a beginning.
APPENDIX
# APPENDIX 'A'

NATIONWIDE MEDIAN TEST SCORES FOR 1ST AND 12TH-GRADE PUPILS, FALL 1965

<table>
<thead>
<tr>
<th>Racial or Ethic Group</th>
<th>Puerto Ricans</th>
<th>Indian Americans</th>
<th>Mexican Americans</th>
<th>Orient- al Americans</th>
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Source: Coleman Report, Equal Educational Opportunity, 1966, p. 20
APPENDIX 'B'

"Scribner Asks for Improved Instruction in Reading," New York Times, Feb. 20, 1972, p. 55. The data was released by Chancellor Scribner on Feb. 19, 1972, and the report compared this city's reading averages against the national average. The chart shows, by grade, how far the city's pupils were behind the national average.

- Grade 2 - 2 months
- Grade 3 - 6 months
- Grade 4 - 9 months
- Grade 5 - 9 months
- Grade 6 - 9 months
- Grade 7 - 1 year, 8 months
- Grade 8 - 1 year, 6 months
- Grade 9 - 1 year, 4 months
April 14, 1972

To: The Friends of the School Finance Reform Movement

From: R. Stephen Browning

Subject: Status Report on School Finance Reform

RODRIGUEZ V. SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

On Monday, April 17, the State of Texas will file its jurisdictional statement in the Supreme Court for its appeal of the Rodriguez decision. The plaintiffs will have thirty days to respond to the state's pleading, and then the court will decide whether it shall hear the case or dispose of it summarily. If it decides to hear the case, it will not do so until sometime after the beginning of the October 1972 term.

Some of you may be considering participating as amicus curiae in the Rodriguez appeal. If that is the case, I would very much appreciate it if you would respond to me on the following three questions:

a) Do you plan on preparing and filing an amicus curiae brief?

b) Would you be interested in signing an amicus curiae brief prepared by Lawyers' Committee volunteers?

c) Would you be willing to help us defray part of the printing costs for one or more amicus curiae briefs?
DIRECTORY OF ORGANIZATIONS

One month ago the Lawyers' Committee, in conjunction with two other organizations, compiled 500 copies of a 50 page directory of organizations interested in school finance reform. The directory, which we planned to send to everyone on our school finance mailing list, gave a thumbnail sketch on the various organizations, with a description of their school finance programs, a listing of their resources, and the names, addresses, and phone numbers of their contact people. Unfortunately, we grossly underestimated the demand for the directory. So, if you do not receive a copy with this letter, please let me know whether you would like one, and if we prepare another edition, I will send you a copy.

NEW PUBLICATIONS ON SCHOOL FINANCE

The past few months has seen the publication of several significant documents pertaining to school finance reform. The first was the long awaited publication of the findings and recommendations of the President's Commission on School Finance. Responsibility for the dissemination of the final report of the President's Commission (147 pages long) and the 20 or so back up appendices has been given to the U. S. Office of Education. For information on the availability of these reports, I suggest that you contact Mr. Charles B. Saunders, Jr., Deputy Commissioner for External Relations, U. S. Office of Education, Room 4143, FOB 6, Washington, D. C. 20202.

For those of you who are interested in the education of Mexican American children in the southwest, I commend to you a four volume study recently published by the U. S. Commission on Civil Rights. The fourth volume of the study, which deals primarily with school finance problems in the Southwest, will be released sometime early this summer. Copies of these reports can be obtained by writing the U. S. Commission on Civil Rights, Washington, D. C. 20425.

THE STATUS OF LITIGATION

Since our January newsletter was published, the list of school finance cases has nearly doubled. There are now at least 45 suits pending in at least 27 states. Although the appeal of the Rodriguez case to the Supreme Court may have slackened the pace of prosecution of some of these suits, many of them are advancing rapidly. To help improve the quality of the prosecution of these suits we are currently planning a second school finance litigation conference to be held in mid-summer somewhere in the mid-west. In a month or so I will be back in touch with more details
for those of you who are actively involved in litigation.

**LEGISLATION**

A number of states have already began to respond to the Serrano line of cases. The most common response has been to appoint school finance commissions. However, in some legislatures bills have already been introduced which comport with the "fiscal neutrality" principle. To get a better idea of what is going on nationally in the various state legislatures on the school finance question, I suggest that you contact Dr. Russell B. Vlaanderen at the Education Commission of the States and ask to be put on ECS's mailing list for its weekly publication, "Legislative Review" (300 Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203).

One of the more promising legislative activities on the school finance scene was the establishment of "The Special Committee on School Finance" recently announced by the National Legislative Conference. This Committee is preparing a set of recommendations which will be presented to the full National Legislative Conference at its annual meeting in early August of this year. Hopefully, out of this will result a practical set of materials explaining the constitutional alternatives available for financing public schools. I will be back in touch with you as soon as we learn more about the development and availability of these legislative materials.

**STATISTICAL INFORMATION**

I have enclosed with this letter two statistical tables which I trust you will find most informative. The first is a comprehensive, yet concise, compilation of school finance data prepared by ECS. The second item, prepared by the staff of the President's Commission on School Finance, lists the additional dollar amounts it would cost in each state to level up to the 50th, 60th, 70th, 80th, 90th, and 95th percentiles of current per-pupil expenditures.

: jc

Enclosures:
COST OF EQUALIZING EXPENDITURES TO VARIOUS PUPIL PERCENTILE LEVELS, BY STATE

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March 6, 1972

R. Stephen Browning, Esq.
Staff Attorney
Lawyers' Committee for Civil Rights under Law
Suite 520
733 Fifteenth Street, N. W.
Washington, D. C. 20005

Re: Joseph F. Timilty, et al
vs. Francis W. Sargent, Governor of the Commonwealth of Massachusetts, et al
United States District Court

Dear Mr. Browning:

Please excuse this less than prompt response to your letter of February 8, 1972. I thank you for forwarding to me the Lawyers' Committee school finance litigation packet, which has proved to be most helpful to me in my preparation of a memorandum in support of a motion for summary judgment. I have enclosed herewith for your information a copy of the Defendants' Answer in the above-captioned action.

With respect to the critical issue you raised in your letter respecting the questionable benefit to the City of Boston resulting from the filing and prosecution of the suit, I can only respond by stating that I am very much aware of possible adverse effects that could be visited upon the City of Boston if our challenge of the present scheme for funding public education is successful. As you will note from the declaration in this action, we are not
R. Stephen Browning, Esq.
Staff Attorney
Lawyers' Committee for Civil Rights under Law
Page 2
March 6, 1972

seeking injunctive relief but merely hope to precipitate a legislative response guided by the standard of "fiscal neutrality" so aptly set forth in the Serrano decision and its prodigy.

I hope that the filing of a motion for summary judgment will stimulate the Massachusetts Legislature which to this date has done little or nothing substantive by way of investigation of alternative methods for funding public education. There had been filed with the Legislature last year a report of a special commission respecting taxation in the Commonwealth. The implementation of the recommendations contained in that report, and the possible alternatives for funding public education, should fit together very well.

In sum, I thank you for your offer to assist us in a clearing house capacity and would very much appreciate any and all information you could forward to us. In fact, we may seek your more active assistance in that myself and Mr. Paul W. Goodrich are proceeding pro bono and at the largess of our respective firms, the net effect of which is to force us to do a considerable amount of the necessary work at odd hours.

Very truly yours,

James C. Marcellino

JMJ:ss

Enclosure
### Intrastate Disparities in Per Pupil Expenditures 1969-70

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<td>633</td>
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<td>-</td>
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<td>593</td>
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<td>365</td>
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<td>447</td>
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<td>1,485</td>
<td>400</td>
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<td>1,183</td>
<td>477</td>
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<tr>
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<td>733</td>
<td>467</td>
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</tr>
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<td>686</td>
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<td>1,432</td>
<td>399</td>
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<tr>
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<td>1,401</td>
<td>484</td>
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<td>531</td>
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<td>397</td>
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<td>South Dakota</td>
<td>1,741</td>
<td>350</td>
<td>5.0</td>
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<td>Tennessee</td>
<td>700</td>
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<td>5,334</td>
<td>264</td>
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<td>1,515</td>
<td>533</td>
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<tr>
<td>Vermont</td>
<td>1,517</td>
<td>357</td>
<td>4.2</td>
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(continued)
### APPENDIX 'E'
(continued)

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<th>Low</th>
<th>High/low index</th>
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<td>Wyoming</td>
<td>14,554</td>
<td>618</td>
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### NOTES

For New Jersey data are for fiscal year 1969 since fiscal year 1970 data were not yet available.

For Alaska data represent revenue per pupil.

For Montana and Nebraska data are high and low of average for districts grouped by size.

For North Dakota data are averages of expenditures of all districts within a county.

Data are not fully comparable between States since they are based entirely on what data the individual State included in their expenditures-per-pupil analysis.

Source: State Reports and Verbal contacts with State Officials.
APPENDIX 'F'

COMPUTATION OF PROGRESSIVITY VALUES (T VALUES)
OF ALL TAXES--FEDERAL, STATE AND LOCAL, 1968
(EXCLUDING SOCIAL SECURITY AND UNEMPLOYMENT TAXES)

<table>
<thead>
<tr>
<th>TAX</th>
<th>AMOUNT (in millions)</th>
<th>PROGRESSIVITY VALUE (T Value)</th>
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</thead>
<tbody>
<tr>
<td>TOTAL FEDERAL TAXES:*</td>
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<td></td>
</tr>
<tr>
<td>1. Individual income</td>
<td>78,155</td>
<td>50</td>
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<tr>
<td>2. Corporate income</td>
<td>29,897</td>
<td>24</td>
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<tr>
<td>3. Estate and gift</td>
<td>3,015</td>
<td>50</td>
</tr>
<tr>
<td>4. Sales, excises &amp; other</td>
<td>14,387</td>
<td>16</td>
</tr>
<tr>
<td>TOTAL</td>
<td>125,454</td>
<td>39.90+</td>
</tr>
</tbody>
</table>

| TOTAL STATE TAXES:*                     |                       |                               |
| 1. Individual and corporate income      | 8,749                 | 35                            |
| 2. Sales, gross receipts               | 20,979                | 15                            |
| 3. Property                            | 912                   | 14                            |
| 4. Estate and gift                     | 872                   | 50                            |
| 5. All other                           | 4,888                 | 14                            |
| TOTAL                                    | 36,400                | 20.49+                        |

| LOCAL SCHOOL TAXES:**                   |                       |                               |
| 1. Property                             | 14,157                | 14                            |
| 2. All other                            | 289                   | 14                            |
| TOTAL                                    | 14,446                | 14.00+                        |


++Weighted average.
CLASSIFICATION OF THE STATES INTO TYPES
SCHOOL SUPPORT PLANS USED FOR THE SCHOOL YEAR, 1968-69*

<table>
<thead>
<tr>
<th>Equalization Programs</th>
<th>Percentage Equalizing</th>
<th>Guaranteed Valuation or Tax Yield Plan</th>
<th>Complete State and Federal Support</th>
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<td>Massachusetts</td>
<td>Wisconsin</td>
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</tr>
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<td>Pennsylvania</td>
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</tr>
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<td>New Mexico</td>
<td>Rhode Island</td>
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</tr>
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<td>North Carolina</td>
<td>North Carolina</td>
<td>Vermont</td>
<td></td>
</tr>
<tr>
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<td>South Carolina</td>
<td></td>
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</tr>
</tbody>
</table>

*These classifications deal only with the principal state appropriation for the public schools in each state.
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