

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



THE FULL FUNDING OF EDUCATION

An Idea Whose Time Has Come

A Report Prepared for the 106th Maine Legislature

January 15, 1973

by the

MAINE EDUCATION COUNCIL

Printed under Appropriation 1680.1



STATE OF MAINE
 MAINE EDUCATION COUNCIL

February 1, 1973

Dr. Lincoln T. Fish, Chairman
 University of Maine at Portland-Gorham
 Gorham, Maine 04038

Hon. Kenneth M. Curtis
 Governor
 State House
 Augusta, Maine 04330

Hon. Bennett Katz
 Senate
 Westwood Road
 Augusta, Maine 04330

Hon. H. Sawin Millett, Jr.
 House of Representatives
 Box 27
 Dixmont, Maine 04932

Dr. Carroll R. McGary
 Commissioner of Education
 State Office Building
 Augusta, Maine 04330

Dr. Donald R. McNeil
 Chancellor
 University of Maine
 228 Deering Avenue
 Portland, Maine 04102

Father Charles Murphy
 Director of Education
 Diocese of Portland
 110 Ocean Avenue
 Portland, Maine 04100

Dr. Thomas Hedley Reynolds
 President, Bates College
 Lewiston, Maine 04240

Mrs. Marion M. Bagley
 Machias Memorial High School
 Machias, Maine 04854

Mr. Clyde Bartlett
 Assistant Superintendent
 Portland Public Schools
 189 Congress Street
 Portland, Maine 04111

Mr. Frederick Boyce
 12 Woodmere Road
 Portland, Maine 04100

Prof. Paul Hazelton
 Department of Education
 Bowdoin College
 Brunswick, Maine 04011

Mr. Dale Higgins
 Superintendent of Schools
 Maine School Union 92
 Ellsworth, Maine 04805

Mr. Kenneth Shade
 P.O. Box 1
 Bowhegan, Maine 04978

Honorable Members of the 106th Legislature:

The Maine Education Council is pleased to present this report on the full funding of elementary and secondary education as its response to H. P. 1275, AN ORDER of the 105th Legislature directing the Council to study L. D. 1131, "AN ACT to Fund the Costs of Public School Education from State Sources", introduced by Representative Douglas M. Smith.

The Council is indebted to Mr. Dale Higgins, Chairman of the ad-hoc committee that reviewed L. D. 1131 and the present state subsidy procedures and formulated the recommendations found in this report.

The Serrano decision in California and other state and Federal court decisions have brought the long conflict between special interests in the 50 states and education finance experts to a decision point. Arguments in the Rodriguez case have been heard by the Supreme Court and most observers believe that the Court will decide in favor of the plaintiff. Appendix IV contains a list of the directions the Supreme Court might take.

The Maine Education Council believes that the implementing legislation contained in Appendix II will meet the broad objectives of the original bill, L. D. 1131, and be in harmony with the expected Supreme Court decision.

For the Maine Education Council,

Lincoln T. Fish, Chairman



STATE OF MAINE
MAINE EDUCATION COUNCIL

Dr. Lincoln T. Fish, Chairman
University of Maine at Portland-Corham
Corham, Maine 04038

December 19, 1972

Members of the Maine Education Council:

Attached you will find our recommendations concerning a method by which the disparities in educational expenditures between units and the disparities in tax efforts between units can be reduced to a point that we believe would meet the test of constitutionality.

Some of the recommendations are general and others are more specific. The financing proposal (Appendix II) is specific and will work well for the great majority of the school administrative units of Maine.

"Equal burden and equal opportunity" is the basic philosophy of our report. We have found that developing a vehicle that will allow "equal burden and equal opportunity" is a difficult task.

Our proposal will have flaws that we can not imagine. Those flaws we could imagine have been dealt with.

The 106th Legislature may indeed do something momentous with public school finance. We hope this proposal is of value. Its recommendations can be lived with.

For the Ad Hoc Committee,

Dale D. Higgins

Dale Higgins, Chairman

Ad Hoc Committee on Full Funding

Clyde Bartlett
Robert Dyer
Mrs. John Foster
Asa Gordon
Rudolph Greep
H. Sawin Millett, Jr.
John Seekins, Jr.
Dale Higgins

Hon. Kenneth M. Curtis
Governor
State House
Augusta, Maine 04330

Hon. Bennett Katz
Senate
Westwood Road
Augusta, Maine 04330

Hon. H. Sawin Millett, Jr.
House of Representatives
Box 27
Dixmont, Maine 04932

Dr. Carroll R. McGary
Commissioner of Education
State Office Building
Augusta, Maine 04330

Dr. Donald R. McNeil
Chancellor
University of Maine
28 Deering Avenue
Portland, Maine 04102

Father Charles Murphy
Director of Education
Diocese of Portland
10 Ocean Avenue
Portland, Maine 04100

Dr. Thomas Hedley Reynolds
President, Bates College
Lewiston, Maine 04240

Mrs. Marion M. Bagley
Achias Memorial High School
Achias, Maine 04854

Mr. Clyde Bartlett
Assistant Superintendent
Portland Public Schools
189 Congress Street
Portland, Maine 04111

Mr. Frederick Boyce
12 Woodmere Road
Portland, Maine 04100

Prof. Paul Hazelton
Department of Education
Bowdoin College
Brunswick, Maine 04011

Mr. Dale Higgins
Superintendent of Schools
Maine School Union 92
Ellsworth, Maine 04805

Mr. Kenneth Shade
RFD 1
Skowhegan, Maine 04876

TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL TO THE 106th LEGISLATURE	1
LETTER OF TRANSMITTAL TO THE MAINE EDUCATION COUNCIL	2
TABLE OF CONTENTS	3
DEFINITION	4
BACKGROUND	4
RECOMMENDATION 1	6
ARGUMENT FOR RECOMMENDATION 1	7
RECOMMENDATION 2	15
ARGUMENT FOR RECOMMENDATION 2	15
APPENDIX I	18
APPENDIX II	19
APPENDIX III	28
APPENDIX IV	29

Definition

"Full Funding of Education" is defined for the purposes of this report as a "Revenue system in which the State of Maine collects and distributes all non-federal revenues, with the exception of a limited local leeway, used to support local public education."

Background

The concept of full funding of local education was first given national exposure in July, 1968 by Dr. James Bryant Conant in a speech at the annual meeting of the Education Commission of the States. In December of that year the idea was publicized in Maine through a Maine Education Council report to the 104th Legislature suggesting that a uniform school fund mechanism be instituted for financing local public education.

Further recognition was gained by the full funding plan when Governor Milliken in 1970 proposed that the State of Michigan assume full responsibility for the support of the local public schools.

In the winter of 1971 a Maine Legislator, Representative Douglas M. Smith of Dover-Foxcroft, submitted a bill that embodied the concept of full funding. When the bill received an unfavorable vote in Committee, Representative Smith introduced H. P. 1275, an Order of the 105th Legislature directing the Maine Education Council to study Representative Smith's bill and report back to the 106th Legislature.

An ad-hoc study committee was organized and held its initial meeting in August 1971. On August 30 of that year an opinion on school finance was handed down by the California Supreme Court in the case of Serrano vs. Priest. The opinion held that: "the level of spending for a child's publicly financed elementary or secondary education should not depend upon the wealth of the child's school district or family. The court found that as a direct result of the policy related to school district property tax systems the residents of a "poor" district often pay taxes at a higher tax rate than more "wealthy" districts to obtain the same or less education for their children. Such tax inequities were deemed in violation of the "equal protection" clause of the 14th Amendment of the Constitution of the United States." ¹

On October 12, 1971 the U. S. District Court in Minnesota decided that the findings of the Serrano Case were applicable to Minnesota's system of school finance and on December 23rd of that year the Western United States District Court Texas declared that the Texas Minimum Foundation Program for financing public education was in violation of both the U. S. and Texas Constitutions. This latter decision has been appealed to the Supreme Court of the United States and action by the Court is expected in the Spring of 1973.

¹ Understanding Education's Financial Dilemma, p. 9,
The Education Commission of the States, April 1972.

The ad-hoc committee decided that it would develop a school finance plan for Maine that would meet the objectives detailed in the recent court decisions. In January of 1972 the committee presented to the Council an "Interim Report on Full Financing of Public Education in Maine."

The Maine Education Council modified the report slightly and informed the Special Session of the 105th Legislature that a proposal for funding public education in Maine would be prepared for the 106th Legislature that would incorporate the principle of full funding and be tailored to fit Maine localities.

Recommendation 1

The 106th Legislature should consider the immediate adoption of a system of educational finance that incorporates these features:

- a) Full state funding of local education.
- b) Collection of a statewide property tax.
- c) Educational cost differentials.
- d) Improved ways of dealing with transportation, capital outlay and debt service.
- e) Special treatment of isolated areas.
- f) Fair treatment of units with high or low expenditures.
- g) Leeway at the local level.
- h) Rewards for efficient use of funds.

Argument for Recommendation 1.

To insure equal opportunity for Maine youth and to further insure that Maine citizens will bear the burden of education equally, changes must be made in the present pattern of collecting and distributing the moneys used to finance public education.

Currently, to raise \$400 per pupil, a unit such as Baileyville must tax itself at the rate of 10 mills while a unit such as Sherman must tax itself 100 mills. Even with Maine's "equalization" formula for handling school subsidies, large disparities continue to exist in capacity to support programs and in per pupil expenditures. Units in Maine can now expend twice as much money per child as a neighboring unit while making one-fourth the tax effort.

The 106th Legislature, when making decisions concerning the financing of public education, should give consideration to the following points.

a) Full State Funding of Education

Three considerations have prompted the Maine Education Council to recommend that the Legislature adopt this feature. First, by equalizing local property tax support of education while maintaining equality of educational opportunity, the challenge of the Serrano case is met. Second, state assumption of the responsibility for school financing places political accountability for educational finance with the governor and legislature -- where the Constitution of the State of Maine states such accountability belongs.

Third, state responsibility for the revenues to be used for public education will facilitate the attainment of a balanced tax structure -- a lifting of some of the burden now placed on the local property tax.

b) A Uniform Statewide Property Tax Should Be Instituted

Since the Serrano decision was handed down by the California Supreme Court, states have been working on, and in some cases adopting, methods of equalizing the burden on the local property tax for the financing of public education. There have been some misconceptions concerning the Serrano decision. Some believe that the property tax to support education is unconstitutional. This is simply not the case. The courts are telling us we can no longer operate a system that requires some local units to tax their property at higher rates than other units. What we must do is equalize the burden on property taxpayers, statewide. Although the property tax has disadvantages - it becomes largely a tax on housing. - It tends to discourage rehabilitation of deteriorating property. - Different assessment practices tend to make it unequal for taxpayers; the tax is fairly stable and not easy to escape.

The case for a single statewide property tax for the support of education rather than 496 local property taxes is persuasive.

Currently, one mill of taxation in one Maine unit will provide \$3.70 toward educating a child. One mill in another town will provide \$128.65. Maintaining property taxes within the confines of town boundaries results in huge inequities.

From a practical point of view, re-instituting the state-wide property tax would reduce the local property tax in the great majority of Maine towns.

It is fair to say that other systems of equalizing the property tax are possible but would require highly complex mathematical equations understood by few.

Re-establishing a statewide property tax for the support of education would focus attention on one of the real problems of property taxation ... assessing practices.

The Legislature should consider a statewide property tax, the revenue from which when combined with revenues from federal revenue sharing, state sales tax, state income tax, and other taxes, provide a source of funds sufficient to provide equal educational opportunities for all Maine youth.

The statewide property tax should be re-established at a rate of $12\frac{1}{2}$ mills for units currently raising in excess of $12\frac{1}{2}$ mills for the support of their schools. Those units raising less than $12\frac{1}{2}$ mills should be phased to the $12\frac{1}{2}$ mill level over three years. Each unit would transmit 25% of its assessment to the State Treasurer each quarter. The state would continue its practice of making monthly payments to units.

c) Educational cost differentials - Because of more sophisticated programs in science, library, vocationally related areas, and other offerings, high schools cost more to operate than elementary schools.

Because of smaller classes, the per pupil cost of special education programs is considerably higher than in regular classrooms.

To deal with these cost differences in a distribution formula, the Legislature should establish each biennium three separate per pupil operating cost figures for elementary, secondary, and special education pupils.

d) Transportation, debt service, and capital outlay - The costs to communities concerning such areas as transportation, capital outlay, and debt service vary so greatly that the burden cannot be equalized using any existing formulae.

Transportation, although currently treated by the state with an equalization formula, does not result in an equal burden upon the local citizens. A good example of the disparity is a comparison of Unit A with 2,000 pupils and transportation expense of \$20,000 yearly, because of compactness, as opposed to Unit B with 2,000 pupils and an expenditure of \$100,000 for conveyance.

Unit A and B may have similar per pupil valuations and thus both receive 50% state aid on transportation costs. The net results of this is that Unit A needs only drain \$10,000 from its educational program for conveyance while Unit B drains \$50,000.

Maine has, as have most states, attempted to equalize educational opportunity from doorstep to school and back to the home. Our system of transportation subsidy, although utilizing an equalization formula, does not consider such cost factors as

miles of road, size of buses, age of vehicles or cost of operation.

It would be far easier to equalize the educational opportunity for the child if transportation costs were borne by the State.

Huge tax burden disparities also exist between school units in the area of debt service. The age and condition of facilities are factors that cannot be treated with an algebraic expression. Such factors determine when the local unit indebts itself by constructing a new facility. Some units have debts. Others do not. The State should assume 100% of the costs of debt service.

Non-construction capital outlay represents about 2% of the total cost of educating a pupil in Maine. The needs for and the purchase of equipment vary considerably from one unit to another. Although the amount of money is comparatively small, the state should equalize this burden by assuming 100% of such costs.

e) Permit an isolation factor for small units - No consolidation plan is imaginative enough to successfully solve the problems of such small units as Matinicus, North Haven, Vinalhaven, Islesboro, Jackman, or Allagash Plantation.

While the courts have been stating that the burden on the property taxpayer must be equalized, the rulings can hold equal importance for the things they did not say. The court did not state that each pupil must be supported with the same amount of money.

More than likely, there will be units isolated by the Gulf of Maine or by a mountain that will require a per pupil allotment in excess of the vast majority of units.

The state should provide those units with an annual entitlement equivalent to 100% of the previous year's cost, subject to approval by the State Board of Education.

f) Adjust units with high or low per pupil expenditures to the state average at a reasonable rate.

When dealing with averages, one factor holds true almost universally. That is, that approximately half the distribution will be above average and half the distribution will fall below average.

For those units that are below the state average per pupil cost, the legislation should permit an allotment to those units at a percentage greater than the local per pupil cost for the previous year but not necessarily the full state average.

The reason for this percentage increase allowance factor is obvious. Should a community receive a full allotment based on the state average when that community was expending at a rate of \$200.00 per pupil less than average, the local unit could have great difficulty in wisely using the additional funds.

A unit may be spending below the state average while having a quality program because of low teacher salaries or high pupil-teacher ratios and be unable to expend the substantially larger allotment that would result if no percentage increase factor were used.

On the other hand, a unit may be far below state average because it is not offering quality programs or is in a position of extreme overcrowdedness. Should that unit suddenly have a new facility available that would allow them to expand their programs

and employ more staff, a fixed percentage increase in allotment would not solve their problem.

Therefore, a mechanism to handle such contingencies should be instituted. The State Board of Education should be empowered to increase the allotment to a unit if special conditions exist in much the same manner that extra funds are allotted currently for excessive enrollment increases.

At the other end of the expenditure spectrum are those communities that are currently expending in excess of the state average cost. To suddenly reduce the flow of money to those units would be chaotic for their schools.

We suggest that units be brought to the state average cost at a reasonable rate. Statewide equalization of expenditures cannot occur overnight.

g) Allow a local leeway - Once a system of full state funding becomes active, an imaginative government will provide a method whereby the local unit can, if it so chooses, tax itself in excess of the uniform rate, to provide additional services to their school children.

Each unit, at its own volition, should be allowed to tax itself, in addition to the state assessment, up to seven per cent (7%) of the current operating cost subsidy allocable to the applicable administrative unit.

h) Efficient use of funds - It is possible that under any version of "full funding," even with a factor which limits increases, a unit might receive, on rare occasions, more money

than it can reasonably expend in a given school year. It seems reasonable to plan for such occasions in such a manner that wasteful spending is discouraged while still not penalizing a unit for expending its entitlement in a wise and prudent fashion. A gradual plan of bringing units which are presently spending substantially less than the base rate of reimbursement per pupil up to such an average level, with an opportunity for a unit to justify a need for an increased allotment should serve to encourage local planning on a long range basis. One plan which could serve to promote the efficient use of funds would be to require that all operating balances in excess of 10% of the unit's operating budget for the year just concluded be returned to the state unless a suitable plan for the use of such balance is approved by the State Board of Education.

Recommendation 2.

The 106th Legislature should direct the Department of Educational and Cultural Services to present a plan for reorganizing the existing school units of the State into the district structure that would be most compatible with the school finance plan outlined above.

Argument for Recommendation 2.

Factors such as teacher salaries, pupil-teacher ratios and geography cause huge disparities in expenditures among units. Two towns offering identical programs with the identical number of pupils and an identical number of teachers can have a cost differential of \$100 per pupil. One town may have teachers at the top of the scale while the other does not.

If one town employs more teachers, for reasons of space or other reasons, than a neighboring town with the same number of students, the per pupil cost can be significantly different even though the educational offerings are identical. These differences do occur and must be dealt with.

Reorganization should be encouraged by 1975 that will:

- a) require all units not maintaining any schools to consolidate with adjacent units of their choice, and
- b) organize all units with fewer than 250 pupils with adjacent units of their own choice, except where geographic isolation or excessive transportation are factors.

Instead of units counting pupils on the basis of residency, pupils should be counted on the basis of where they attend school. This would do away with tuition as a school-connected expense, except in those instances where educational services are provided by private schools.

While having a system of financing that would allow the funds to follow the pupil is desirable, we can find no formula that will function well for all units. Therefore, the current practice of paying tuition will have to remain until the existing school units are reorganized.

If the Legislature attempts to encourage a further reorganization of existing Maine school units into larger and more efficient units, it must also arrive at a system for determining the representation each municipality would have on the school committee for the reorganized unit. Such representation should be both fair and consistent with citizen desires.

There are currently four methods by which units may vote to reorganize for school purposes: School administrative district, community school district, union school, and cooperative agreement. Each method allows for agreement at the local level to determine representation on the respective governing board. Whatever approach the Legislature uses to encourage further reorganization, it would seem to be desirable to have some uniformity

in the determination of representation and in the process of election so that all units would elect their school officials on the same basis.

One method which appears to have some appeal is to allow each town within a unit to have one school committee member and to allow a varying number of members to be elected at large within the reorganized unit. It may also be necessary to consider setting a minimum and a maximum number of members in order to keep the size of the school committees within a realistic range.

With the exception of School Administrative Units, the school committees of Maine do not maintain their own treasurers. The usual method of dealing with warrants and payrolls is for the school committee to sign a warrant and the execution of that warrant becomes the responsibility of a Board of Selectmen, a Town Council, or City Council.

We believe the fiscal management of the schools would be improved if all school committees became responsible for handling the funds as are currently Boards of Directors in School Administrative Districts.

S. OF R

In House April 15, 1971

Ordered, the Senate concurring, that the Maine Education Council, established under chapter 452 of the public laws of 1967, is authorized and directed to conduct a comprehensive study of the Bill, "An Act to Fund the Costs of Public School Education from State Sources," H. P. S35, L. D. 1131, as introduced at the regular session of the 105th Legislature; and be it further

ORDERED, that the Maine Education Council submit a written report of their findings, together with any necessary recommendations and implementing legislation, to the next regular or special session of the Legislature; and be it further

ORDERED, upon joint passage, that a copy of this Order be immediately transmitted to said Council as notice of this proposed study.

HOUSE OF REPRESENTATIVES
READ AND PASSED

APR 15 1971

SENT UP FOR CONCURRENCE

Bert W. Johnson

IN SENATE CHAMBER

TABLED BY SEN. SEN. FERRY
OF OF BERTHLEAF

APR 15 1971

PENDING Passage

HARVEY W. MARSHALL, Secretary

928124

APR 15 1971

IN SENATE CHAMBER *Taken from the Table* PRESIDENT

APR 20 1971

READ AND PASSED
IN CONCURRENCE

HARVEY W. MARSHALL, Secretary

Name: (Smith)

Town: Dover-Foxcroft

APPENDIX II

Implementing Legislation for Recommendation 1

AN ACT to Fund the Costs of Public School Education from State Sources.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Payment of Basic Operating Costs for Public Schools by the State.

R. S., T. 20, § 3731 to 3734 inclusive of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

3711. Intent

To insure a relatively equal educational opportunity to all public school students, to provide a significant measure of relief to property taxpayers and to distribute the tax burden more equitably, it is declared that it be the intent of the Legislature that the State provide all basic operating funds for public schools. The basic operating cost subsidy will be derived from existing General Fund tax sources and from revenues generated by a new source of undedicated General Fund revenue, a state property tax applied at a uniform rate upon the State valuation.

3712. Definitions

Adjusted Elementary Per Pupil Operating Cost: Elementary shall include a two year childhood educational program as defined by Title 36, § 859, through to grade 8. Adjusted elementary per pupil operating cost shall mean the elementary per pupil operating cost established by the Legislature. The current adjusted elementary per pupil operating cost shall be Six Hundred Thirty Dollars(\$630.00)

Adjusted Secondary Per Pupil Operating Cost: Secondary shall include grades 9 through 12. Adjusted secondary per pupil operating cost shall mean the secondary per pupil operating cost established by the Legislature. The current adjusted secondary per pupil operating cost shall be Nine Hundred Forty-Five Dollars (\$945.00).

Average Number of Enrolled Students: Average number of enrolled students in reference to elementary or secondary pupils shall mean the average number of pupils officially registered or enrolled, regardless of whether such pupils are in actual attendance, on October 1st and April 1st of each school year.

Excess Operating Costs: Excess operating costs are defined as expenditures in excess of the adjusted elementary and secondary per pupil operating cost and applicable Federal subsidies, if any.

Operating Costs: Operating costs shall exclude transportation, community services, capital outlay items, debt service and excess operating costs.

Special Education for Subsidy Purposes: Special Education for subsidy purposes shall include educational programs for the benefit of mentally or physically handicapped children.

Vocational Education for Subsidy Purposes: Vocational Education for subsidy purposes shall mean training in trade, industrial, agricultural, technical and service occupations. It shall not include business education, consumer education or home economics programs.

3713. Computation

The State shall pay a subsidy covering the basic operating cost for public school education to each eligible administrative unit. The basic operating cost subsidy paid to each administrative unit shall total the following:

- A. The product of the average number of enrolled elementary pupils by the adjusted elementary per pupil operating cost.
- B. The product of the average number of enrolled secondary pupils by the adjusted secondary per pupil operating cost.

- C. The excess operating cost for special education during the current year.
- D. The excess operating cost for vocational education during the current year.
- E. Excess operating cost attributable to the geographical isolation of an administrative unit.
- F. Cost attributable to transportation, community services, capital outlay items, and debt service during the current year.

3714. Adjustments

Deficiency Adjustments: Administrative units expending less than the adjusted elementary and secondary per pupil operating cost in the school year 73-74 shall be raised to the adjusted subsidy level over a three year period as follows:

- A. For the school year 74-75 such school administrative units shall receive one hundred and seven per cent (107%) of the amount expended per pupil in 73-74, plus one-third of the difference between that amount and the adjusted elementary and secondary per pupil operating cost.
- B. For the school year 75-76 such units shall receive one hundred and seven per cent (107%) of the 74-75 subsidy, plus one-half of the difference between that amount and the adjusted elementary and secondary per pupil operating cost.

- C. For the school year 76-77 and subsequent years, such units shall receive the full subsidy.

Expenditures in Excess of Subsidy: Administrative units expending more for operating costs per elementary and secondary pupil for the school year 73-74 than the adjusted state elementary and secondary per pupil operating cost shall be paid the difference until such time as the adjusted State elementary and secondary per pupil operating costs equals or exceeds the expenditures for operating costs of such unit for elementary and secondary pupils for the school year 73-74. In no instance shall the 73-74 per pupil expenditures of an administrative unit used in this section exceed 110% of the 72-73 per pupil expenditures for said administrative unit.

3715. Biennial Legislative Review

The State Legislature shall, at each regular session of the Legislature, review and revise, if needed, the adjusted per pupil operating costs for both elementary and secondary schools. Such adjusted per pupil operating cost shall be sufficient to support the current operating costs of public education. The established adjusted elementary and secondary per pupil operating cost subsidy shall be applicable for the next two fiscal years of the State, July 1st to June 30th.

3716. Payment

One-twelfth of the subsidy reflecting adjusted elementary and secondary per pupil operating costs and estimated excess, special, vocational costs and costs attributable to geographic isolation shall be paid to the treasurer of each eligible administrative unit each month. Adjustments reflecting actual excess special education, vocational education costs and costs attributable to geographic isolation shall be made with the applicable administrative units during the last month of the State's financial year. Unexpended subsidy balances at the end of the fiscal year of any administrative unit may be carried forward and credited to the subsidy for the subsequent year in an amount not in excess of ten per cent (10%) of the total subsidy. Unexpended balances in excess of ten per cent (10%) shall be returned to the State Treasurer, except for unexpended balances reflecting municipally contributed "local leeway" increases.

3717. Appeal

The subsidy allocated to an administrative unit may be appealed to the State Board of Education by the School Committee or Board of Directors of an administrative unit. The Board of Education shall review the appeal and shall have the power to revise the subsidy in conformity with the provisions of this sub-chapter. The Board of Education's decision shall be final.

3718. Rules and Regulations

The State Board of Education may make all rules and regulations necessary to administer the provisions of this chapter.

3719. Local Leeway

Municipalities may raise and appropriate funds to provide a "local leeway" increase supplementing the basic operating cost subsidy. Such increase shall not exceed seven per cent (7%) of the current operating cost subsidy allocable to the applicable administrative unit.

3720. Local Control

Each local school administrative unit must receive approval from the local appropriating body before expending the subsidy or any portion thereof received from the State under section 3713.

Section 2.. R. S., T. 36, §453, repealed and replaced.

Section 453 of Title 36 is repealed and replaced by the following section:

Section 453. Payment of State Tax by Municipalities.

The Treasurer of State, in his said warrants, shall require the said mayor and aldermen, selectmen or assessors, respectively, to pay or to issue their several warrants requiring the collectors of their several municipalities to collect and to pay to the treasurers of their respective municipalities the sums against said municipalities required by this sub-chapter.

Said municipal treasurer shall pay to the Treasurer of State on or before the 1st day of December next, the following sum:

- A. If the amount expended by said municipality for the school year 1973-74 for elementary and secondary school operating costs equals or exceeds the revenue yield of a mill rate of 10.5 (applied to a 100% valuation as determined by the State Tax Assessor) said municipal treasurer shall pay a sum equivalent to 12½ mills applied to a 100% valuation as determined by the State Tax Assessor, from the proceeds of the tax assessed under Section 451, or
- B. If the amount expended by said municipality for the school year 1973-74 for elementary and secondary operating costs is less than the revenue yield of a mill rate of 10.5 applied

to a 100% valuation as determined by the State Tax Assessor, said municipal treasurer shall each year pay a sum equivalent to the following:

(1) the mill rate (applied to a 100% valuation as determined by the State Tax Assessor) equivalent to the revenue yield of the amount expended by such municipality for the school year 1973-74 for elementary and secondary school operating costs plus (2) an increment increase of 2.5 mills (applied to a 100% valuation as determined by the State Tax Assessor) for the initial and each successive year until the sum of (1) and (2) total 12½ mills, from the proceeds of the tax assessed under Section 451.

Section 3. R.S. T.36, §891-A additional. Title 36 is amended by adding a new section, 891-A to read as follows:

Section 891-A: School Subsidies Withheld from Delinquent Municipalities.

When any state tax assessed upon any city, town, or plantation remains unpaid, such city, town or plantation may be precluded from drawing from the State Treasurer the school subsidy set apart for such city, town, or plantation so long as such tax remains unpaid.

APPENDIX III

Implementing Order for Recommendation 2.

STATE OF MAINE

IN HOUSE _____

ORDERED, the Senate concurring, that the Department of Educational and Cultural Services is authorized and directed to develop a plan for reorganizing the existing school units of the State into the district structure most compatible with the proposed Bill, "AN ACT to Fund the Costs of Public School Education from State Sources," to be introduced in the regular session of the 106th Legislature; and be it further

ORDERED, that such plan be presented in a written report together with any necessary recommendations and implementing legislation, to the next regular or special session of the Legislature; and be it further

ORDERED, upon joint passage, that a copy of this Order be immediately transmitted to said Department.

Name:

Town:

Form 005

APPENDIX IV

SCOTUS AND THE RODRIGUEZ CASE

Some Monday in the near future, the U. S. Supreme Court will render a decision on the Texas school finance case. What will this decision look like? What should a school finance "court watcher" watch for? These questions were posed to R. Stephen Browning of the Lawyers' Committee for Civil Rights Under Law -- his answer gives us at least four directions to look:

I. "Broad Affirmances:

- A. SCOTUS could do as the lower court did: declare that the Texas system -- being based on a suspect classification (wealth), affecting a fundamental interest (education) and lacking any compelling state interest to justify its discriminatory effect -- is unconstitutional. This result would suggest that similar citations of unconstitutionality would follow for most if not all states which fund their schools through property taxes levied by local districts of unequal wealth.
- B. Another broad affirmance would be to hold that the unequal treatment provided by the state to local districts with low property evaluation has no rational basis. This result is less likely than the first, because it would have to extend the equalization coverage of the Serrano and Rodriguez decisions from education to other types of municipal services, as the funding systems for the latter services are similar to those used to finance education.

II. Narrower Affirmances:

- A. The court might affirm the lower court's decision in a manner that would limit its application beyond the borders of Texas. This could be done in at least two ways. It could hold that a school finance system is unconstitutional because it distributes educational funds in inverse proportion to the level of personal poverty within each school district (a situation that apparently exists in Texas but perhaps not in other states). Similarly, the court could declare unconstitutional a state system of school finance that allocates funds in inverse proportion to the level of minority enrollment in each district (this again according to evidence in the lower court record appears to be a situation that exists in Texas but perhaps not in other states).
- B. Still another type of affirmance which might be limited in applicability to other states would be a ruling that the state of Texas in its defense of the Rodriguez case failed to make any significant effort to justify its fiscally unneutral school finance system.

III. Reversals:

The Supreme Court could reverse Rodriguez and cite any number of reasons for doing so. Yet almost any reason it would cite, should it decide to reverse the lower court decision, would have a "slowing" effect on school finance suits pending in other states throughout the country.

IV. Other Possible Decisions:

Besides an affirmance or a reversal, there are numerous other decisions the court might announce in dealing with Rodriguez:

- A. It could set the case for a rehearing (NOTE: the first oral argument in October was only one hour in length) to cover issues that might require further argumentation.
- B. It could vacate the lower court's decision and remand it for further examination of the factual issues surrounding the operation and effect of the Texas system of school finance.
- C. It could vacate the order below and announce that the appeal was incorrectly taken to the Supreme Court because the lower court's order not an injunction (which would be appealable to the U. S. Supreme Court) but a declaratory judgment (which is appealable to the U. S. Court of Appeals for the 5th Circuit)."