a report of the southern legislative conference

doing the math

southern state school finance systems

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Introduction

The United States spends an enormous amount of money on education. According to the U.S. Department of Education, total public expenditures for K-12 education in 2000 was nearly $373 billion. The United States is at the top of the industrialized world in per pupil expenditures on education. Most of this money—more than 90 percent in most states—is from state and local sources. Education is the single largest categorical expenditure in state budgets throughout the South and, as enrollment has risen, the costs related to educating the nation's youth have grown. State governments have increased their expenditures on public education over the past few decades, with major investments made during the 1970s and 1980s, in part as a result of increases in staff and expansion of the roles of schools. The 1990s saw a slight increase in funding, primarily because states' shares of total education spending rose while federal spending remained relatively constant proportionately and local funding declined slightly. Shifts in policy and practice in education have increased both the role and responsibility of state government in education.

State school finance systems are extremely complex. This complexity is not simply a function of the political process by which funds are distributed, however. School finance systems attempt to accomplish a variety of policy goals. When public school systems first developed in the United States, direct state support for schools was essentially nonexistent. States initially provided school districts with little more than the ability to raise revenue. Over time, however, education increasingly became a state concern, although not a state responsibility. Following the industrial revolution, and particularly in the early part of the 20th century, having an educated populace shifted from a theoretical public benefit to a tangible benefit for states, and state support increased. Early on this amounted to a modest supplement to provide salaries for teachers sufficient to educate the children the system had in enrollment. This system evolved over time to become the "foundation model," which serves as the basis for most school finance systems today.

State funds for education come from a variety of sources, including general revenues from sales, income, and use taxes; earmarked taxes and fees and other revenues, such as lotteries; interest and revenue from state-managed lands set aside for education; categorical trust funds; and other sources. While in some instances these may actually be local revenues, the state plays a major role in determining their allocation. These funds are divided among local school systems according to a funding formula established by law. Foundation funding formulas generally consist of two parts: a base cost per pupil and categorical supplemental costs for specific, exceptional educational activities. Among these exceptional activities are usually special education, language-learner programs, and programs for children living in poverty.

State school finance systems become complicated in how the costs are calculated for each district and how they are shared between each local system and the state. In general, the state determines a base

cost for educating a child, allows for the categorical supplemental costs for exceptional services, and provides an algorithm for generating total annual costs for a school system. States vary in the number and extent of categorical programs they have, from only a handful in many states to up to more than 40 in Tennessee. These formulas may take into account a number of factors, including the sparsity of the population in a district, the size of the school district, and the growth (or decline) in the size of the student population the district serves. These additional costs may be factored into a total program cost for the system on a reimbursement basis or remain outside the foundation formula. The total cost for educating students in a district is determined as the total of all eligible costs for all eligible students in the district.

In determining the amount of funding for base and categorical programs, states may use one of several approaches, or a combination of these approaches. Perhaps the most common method is to determine the amount of funding available through the budgeting process and then dividing it among systems. A second method is to base appropriations on prior expenditures, with allowances for population changes, inflation, and programmatic alterations. Still another method is to determine through careful study the amount of funding necessary to meet state expectations for students and use this figure to determine funding for all schools. Essentially, the first mechanism begins with a cash amount and builds the funding amounts backwards; the second model builds a finance system based upon historical precedent; and the third model works from the desired outcomes and builds a finance system to meet them. This final method is termed an adequacy model, with the per pupil target funding level most often determined either through what is known as a professional judgment model (essentially the costs as determined by a panel of experienced individuals) or the successful schools model (wherein the expenditures of schools that meet the state's standards are reviewed, weighted and averaged).

Once the total cost is known, the state calculates the local share of this cost. The local district's ability to pay reflects its local wealth, typically a calculation of local tax bases (principally property, but also potentially sales and use, severance, and other taxes) as compared to the rest of the state. States may operate what are known as guaranteed yield programs, where the amount of revenue generated by each mill of tax effort is guaranteed to be a set amount, with the state making up any difference between the actual amount and the guaranteed amount. [1] There are a variety of other mechanisms for establishing a district's share as well, but the end result is to distribute state education funds on a wealth-adjusted basis.

Wealth equalization became a feature of education policy several decades ago. As the educational enterprise in the United States began to grow in the early 20th century, it became clear that the economic differences between wealthier and poorer communities produced vastly different educational environments and outcomes. As a remedy to this, states began to reduce aid to districts with greater wealth and increase aid to poorer districts as determined, generally, by the amount generated by a common rate of tax effort, in a process known as "equalization." This essentially established a target sum per student for education, with state aid making up the difference between the district's minimum mandated tax effort and the state target. Not all funding may be equalized, however, with some states allocating resources for categorical programs outside the foundation formula. Furthermore, in most states the wealthiest districts receive aid from the state or are allowed to supplement state funding in an unlimited manner. This situation complicates state's efforts to provide an equitable system of education, since it perpetuates a system that does little to equalize the per pupil expenditures between rich and poor districts while at the same time ensuring that all school districts receive some state aid and participate in state programs.

Education is a constitutionally mandated obligation of state government. In most instances, when territories petitioned Congress for statehood, education clauses were an expected component of the proposed state constitution. Although these clauses vary considerably, every state requires a system of schools to be maintained by the state. Over the course of the nation's history, the responsibility for establishing and operating schools primarily has been at the local level, with state oversight of the

[1] A mill is equal to one-one thousandths. In this context, a mill equals $1 of taxes per $1,000 of property value. A tax of 25 mills on a property with a taxable assessed value of $100,000 would generate $2,500 ($100,000 x .025 = $2,500) in property tax revenue. A property with a taxable assessed value of $250,000 would generate $625,000 ($250,000 x .025 = $625,000). State millage rates vary widely, in large part due to the percentage of market value considered for tax purposes, which can be as low as 10 percent or as high as full market value. Property may also be valued or assessed differently depending on its use.

system. In recent years the role of state government has increased as calls for reform and greater accountability have changed the landscape on which education operates.

State constitutional clauses can run the gamut from vague to specific. Some states require nothing more than a "system of free public schools." Other states introduce a quality component into their education clause, calling for a "general, suitable and efficient system" of schools or "thorough and efficient" system of education. In at least one state (Virginia), the constitution actually mandates a "high quality" system of schools. Florida has what may be the most specific education clause in the country, calling for "a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require."

The existence and nature of state constitutional education clauses are more than an interesting point of comparison. In 1973, the U.S. Supreme Court rejected a claim against the San Antonio Independent School District holding that, because education was not a fundamental right guaranteed by the U.S. Constitution, the case was outside the Court's jurisdiction. Subsequently, individuals and groups seeking to affect the manner in which resources are allocated to schools have done so through the state courts based upon state constitutional mandates. State courts become the final arbiters of the legality of school finance systems, often providing clarity on the expectations for state systems of education. While these are not limited to financing, they often involve significant changes to school funding systems. School finance litigation has affected every state in the Southern Legislative Conference (SLC) region except Mississippi, with a handful of states currently in the middle of lawsuits over the distribution of school funds.

During the past 35 years, the nature of school finance has been shaped dramatically by litigation over how funds are allocated and, recently, how much funding is available. Even after decades of wealth-adjusting school finance systems, the amount of revenue available at the local level in property-poor school systems continued to lag behind wealthier school systems to a great degree, resulting in gaps in the quality of educational opportunities available to students. Historically, states accepted these disparities as the consequences of local control, which has long been a central component of school governance. Beginning in the early 1970s, however, litigation began to reshape this discussion, as states were held in violation of equal protection clauses of their constitutions because of the gap that existed between rich and poor schools. Court orders mandating equitable school funding, and overruling local control as a defense for inequities, resulted in revisions of state school finance systems, which slightly increased the proportionate amount of state aid that flowed to schools in general, but in some instances dramatically altered where this funding went.

This report summarizes the current school finance systems for the 16-member states of the SLC. Each section includes the constitutional mandate for education; an overview of educational statistics collected by a common source; overviews of the state finance mechanisms and local funding system; the distribution of money for education from various levels of government; and a summary of school finance litigation. Statistical comparisons between state systems are very difficult to make with confidence given the multiple variables and forces at play in education finance. When possible, finance systems are both described and illustrated as mathematical formulas. Finally, it should be noted that it is well beyond the scope of this survey of school finance systems to draw conclusions as to their effectiveness, and no attempt is made to "grade" states' performance on school finance.

Alabama

Constitutional Requirement

Article XIV, Section 256: Duty of legislature to establish and maintain public school system; apportionment of public school fund. The legislature shall establish, organize, and maintain a liberal system of public schools throughout the state for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships.

School Characteristics[1]

Number of students	737,294
Percent in Title I schools	55.1
Percent with individualized education programs	13.2
Percent in limited English proficiency programs	1.0
Percent eligible for free/reduced-price lunch	48.7
Number of school districts	131
Number of schools	1,526
Pupil/teacher ratio	15.8:1
Number of FTE teachers	46,796

State Funding[2]

Average Per Pupil Funding: $4,145.41 (FY2002)

Alabama funds its public schools primarily through a combination of state and local funds. Local funds for each year are the equivalent of 10.0 mills of local school districts' property tax from the previous fiscal year, derived from any tax source. These funds constitute the required local tax effort. The bulk of the rest of the state's education funding is from the Education Trust Fund, which was created by statute in 1927 and consists of taxes earmarked exclusively for education. The state's sales and income taxes are the principal contributors to this fund.

The Education Trust Fund, the largest source for school funding and the largest fund in the state, receives the bulk of collections from the state income and sales tax, as well as revenue from taxes on utilities, use, insurance premiums, tobacco products, beer, and a few other sources. Sales tax accounts for 85 percent of the Education Trust Fund. Proceeds from the state income tax that are dedicated to the Education Trust Fund constitutionally are earmarked for teacher salaries. The Fund provides allocations for the state foundation formula and categorical aid programs.

Allocations from the Education Trust Fund are based on teacher units, which are determined at a building site level (essentially, at each school) through the use of weighted numbers of teachers per pupil. To arrive at the scheduled teacher units, a count of students in average daily membership (ADM) for the first 40 days of the previous school year is used. The matrix outlines the divisor per teacher unit at various grade levels, essentially the number of pupils in ADM to earn a teacher position. For every 14 students in grades K-4 at a particular school in the first 40 days of the previous school year, the school earns one teacher unit. In grades 4-6, the school earns one unit per 22 students. One teacher unit equates to 21 students in grades 7-8, and 18 students in grades 9-12. Special education students are weighted for calculation of allocation by an additional one-eighth value. Vocational education students also are weighted to reflect the differing instructional nature of these programs. Instructional support staff units for principals, vice principals, counselors, librarians, vocational directors and vocational counselors are added to a school's teacher units, generally based on accreditation standards established by the Southern Association of Colleges and Schools.

To account for changes in school populations, grade-by-grade comparisons are made between the current and previous years' first 40 days ADM. If the number of teacher units (that is, the number of students the state expects is needed to teach a given number of students) from the previous year is insufficient to serve the current population, a prorated amount of funding is directed to the school system.

Once the number of teacher units is determined, the actual amount a district receives is calculated through four cost factors (salaries, benefits, instructional support, and other current expenses) determined at the building site level. Salaries are calculated for staff actually employed based on a matrix (by educational attainment and years experience) approved annually by the state school board, with districts required to pay each teacher the minimum salary as determined by the matrix. Fringe benefit allocations are determined as either a percent of salary or a fixed amount per teacher at the building site level. Classroom instructional support is a single cost factor, again based on the teacher units, for textbooks, library enhancements, classroom materials, technology and professional development. The other current expenses category provides funding for administrative costs and salary support for principals and other administrative staff

(principal salaries are calculated at 122 percent of a teacher unit at the elementary level and 133 percent at the high school level), as well as salaries above allocation amounts and other expenses. The sum of the four costs for each school in a system is the total foundation funding cost for that district.

In exchange for state funding, local education agencies (LEAs) must provide a required 10 mills of local effort, have a school year of at least 175 days and submit plans for seven required programs (at-risk students, capital outlay, professional development, special education, technology, transportation, and vocational education). Among the features of this and other allocation arrangements is a guaranteed tax yield program that serves to equalize for local fiscal capacity, determined by the yield earned by one mill of school district property tax. Alabama's wealth index for each district is its share of this one mill calculation. While the state does not collect property tax for local schools, the state uses the collection at the district level of 1 mill to determine the relative fiscal strength of each district. LEAs must also allocate state and local funds equitably among all schools in the system based upon the needs of the students and schools and report to the state board of education annually on all state and local allocations. The 10 mills of local effort are subtracted from the total foundation costs to determine the state share.

State law requires each district to allocate an additional $100 per at-risk pupil, as determined at least in part by performance one grade level or more below standards set by the state board of education. This funding is to be spent on tutorial assistance programs including after-school, Saturday school, or summer school programs (or any combination of these). Additionally, these funds may be used on programs that encourage at-risk five-year-olds to attend an approved preschool program; identify at-risk students in the first grade; ensure strict enforcement of truancy laws; create alternative or disciplinary schools; encourage involvement of parents of at-risk children; and encourage literacy of parents of at-risk children.

The 1901 Constitution also created the Public School Fund, which consists of a statewide property tax levy of 3 mills and funds from 16th Section lands—land set aside at statehood to generate revenue for the state's public schools—and a handful of other sources. This fund is allocated as interest due to local school systems from 16th Section lands held in trust by the state as an allocation for district capital outlay projects. Distribution of capital funds requires a variable match from local school systems based on the yield per-mill per-ADM of district property tax, and is contingent upon the local school board adopting a comprehensive long-range capital plan. A "hold harmless" fund which guaranteed that districts would not receive less in per pupil aid than they received in fiscal year 1994-1995, when the new funding formula was instituted, expired in 2001.[3]

The state provides matching capital improvement funding to local districts from the Public School Fund on a wealth-adjusted basis. The formula used for determining allocations guarantees that half of all funds are distributed as a guaranteed tax yield grant and half as a per pupil grant to districts, a factor which insures all districts receive some funding, but which also limits the equalization capability of the grants. The amount of funding appropriated by the state determines the number of mills that will be equalized through the program. With the expiration of the hold harmless program associated with the Public School Fund, the number of mills available for equalization from the state rose.

When the foundation formula was rewritten in 1995, student transportation was removed as a component. Transportation is now a fully state-funded categorical program with no required local match. Each district operating a transportation program (for students living two miles or more from a school) receives an allowance from the state based upon the number of students served on approved routes. An amount for depreciation for school buses is calculated into the cost of the program.

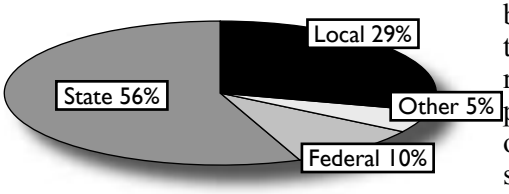
Because special education is calculated into the foundation formula, no additional categorical funding is appropriated for this purpose. The state's provisions for determining teacher units require one teacher per each group of eight to 15 students with exceptionalities, including learning disabilities, gifted and talented students, and children with physical disabilities.

Local Funding

The required 10 mills of local ad valorem tax support is the principal source of local funding. The state constitution is very restrictive on raising property taxes at any level of government, requiring a specific constitutional authorization and a local referendum. Excise, franchise and privilege taxes also are used to provide support for local schools. Certain municipalities may also levy a tax on amusements or tobacco for educational purposes. For those counties that opt to allow alcohol sales, up to 60 percent of the tax on these sales can be used for education as well.

Alabama

Distribution of Funds by Source



Litigation

Alabama's current foundation formula was crafted in response to a 1993 lawsuit. The Montgomery Circuit Court found in *ACE* v. *Hunt*, brought by the Alabama Coalition for Equity (ACE), that the state's 1935 State Minimum Program was unconstitutional on both adequacy and equity claims. Then-governor Fob James contested the jurisdictional authority of the Court in this matter. In August 1993, the Court issued a Remedy Order requiring the Legislature to reform the foundation formula to meet equity and adequacy standards outlined in the Court decision. Governor James supported a reform of the state funding program which eventually became the 1995 Foundation Program, replacing the state's 1935 funding plan. A court-ordered remediation plan negotiated by the parties included performance-based education, professional development, early childhood education, inclusive special education and funding reforms. The state Supreme Court affirmed the lower court's ruling in 1993 under Governor James Folsom, but eventually vacated the remediation plan following an appeal by Governor James when he returned to office in 1994.[4] In 2002, the state Supreme Court took the unusual step of reopening the case on its own initiative and then dismissed it. In dismissing the case, the Court's *per curiam* decision notes that "because the duty to fund Alabama's public schools is a duty that—for over 125 years—the people of this State have rested squarely upon the shoulders of the Legislature, it is the Legislature, not the courts, from which any further redress should be sought."[5]

Arkansas

Constitutional Requirement

Article 14, Section 1: Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education. The specific intention of this amendment is to authorize that in addition to existing constitutional or statutory provisions the General Assembly and/or public school districts may spend public funds for the education of persons over twenty-one (21) years of age and under six (6) years of age, as may be provided by law, and no other interpretation shall be given to it. [As amended by Const. Amend. 53.]

School Characteristics[6]

Number of students	449,805
Percent in Title I schools	66.1
Percent with individualized education programs	12.5
Percent in limited English proficiency programs	2.9
Percent eligible for free/reduced-price lunch	47.2
Number of school districts	312
Number of schools	1,153
Pupil/teacher ratio	13.6:1
Number of FTE teachers	33,079

State Funding[7]

Minimum Per Pupil Funding:
$5,400 per pupil beginning in 2005 school year

Arkansas' school funding plan was enacted during a 61-day special session beginning on December 8, 2003, and entering an extended recess on February 6, 2004. The funding formula the state had been using, which was declared unconstitutional by the state's Supreme Court, was approved by the General Assembly in 1995, and was amended in 1997. The 1995 funding system concentrated on the equalization of most state funds on a per pupil basis as well as requiring that the state meet the 125 percent requirement of the federal range ratio. In November 1996, the voters approved a constitutional amendment establishing established a uniform rate of taxation on all property, levying a state tax of 25 mills for maintenance and operation of public schools.

The most recent school finance reforms eliminated equalization, replacing it instead with a uniform per pupil grant but maintaining the 25 mills requirement from local districts. The plan guarantees foundation funding of $5,400 per pupil measured in average daily membership. The state also provides additional categorical funds which must be expended within each category. Among these are $3,250 per pupil in an alternative learning environment or secondary vocational area center and $195 per pupil identified as an English language learner.

Additional financial support for children living in poverty, as determined by participation in the national school lunch program, is provided on a tiered basis. School districts with 90 percent or more of their enrolled students in the national school lunch program receive an additional $1,440 per pupil eligible for the national school lunch program. Districts with between 70 percent and 90 percent of their enrolled students in the federal school lunch program receive an additional $960 per pupil eligible for the national school lunch program. Districts with below 70 percent of their enrolled students in the national school lunch program receive an additional $480 per pupil eligible for the national school lunch program. Unless it would negatively affect a school's receipt of federal funds, all additional funding for these students is to be expended according to a list of programs established by the state board of education including, but not limited to, classroom teachers; before- and after-school academic programs; pre-K programs; tutors, teachers' aides, counselors, social workers, nurses and curriculum specialists; parent education; summer programs; early intervention programs and materials, supplies and equipment.

In addition to funding for students, the education reforms addressed many areas concerning teacher pay, quality, recruitment, and retention. In the area of teacher pay, the General Assembly adopted an increase in the minimum teacher salary schedule, which increased the minimum beginning pay for a first-year teacher with a bachelor's degree from $21,860 to $27,500. In the area of teacher quality, the General Assembly has increased the basic contract length by five days to 190, of which 10 of those days must be for professional development. The reforms also instituted new funding for professional development (at $50 per student) that should be used for training conferences, materials, and other professional development activities as established by the state board of education. In the area of teacher recruitment and retention, the Assembly concentrated its efforts in the areas that have the greatest difficulty recruiting and retaining teachers, specifically, small, poor, rural school

districts. In any school district that has less than 1,000 students of whom 80 percent are eligible for the national school lunch program, new teachers will receive a $10,000 bonus over three years and existing teachers will receive a $4,000 bonus over two years. Finally, the state will study the possible implementation of a Knowledge and Skills Based Pay Program, which should include multipliers for teachers who teach in geographic or subject-area shortage areas.

State foundation funding is distributed to each district, computed as the per student difference between the foundation funding amount of $5,400 and the sum of 98 percent uniform rate of tax (25 mills, with an anticipated 2 percent non-collection factor) times the property assessment of the district plus 75 percent of the amount the district collected from miscellaneous sources (see *Local Funding* for details). Thus, each district is guaranteed the same minimum foundation funding amount per pupil, an amount that is considered sufficient to provide an adequate education regardless of the property wealth of the school district.

The foundation funding amount was determined using a matrix originally developed by Drs. Lawrence Picus and Allan Odden, nationally recognized school finance consultants.[8] The matrix is based on the following assumptions: a school size of 500 students for grades K-12; certified and professional personnel will be paid on average $48,750; pupil-teacher ratios of 20 to 1 in kindergarten, 23 to 1 in first through third grades, and 25 to 1 for all other grade levels; additional teachers at the rate of one specialty teacher (physical education, art, or music) for every five classroom teachers; additional support personnel consisting of 2.9 special education teachers, 2.5 instructional facilitators, 2.5 guidance counselors, and 0.7 librarian; one principal (at a salary of $71,837); and various per pupil amounts including: instructional materials ($250), technology ($250), pay for additional contract days ($101), extra-duty ($90), substitute teachers ($63), supervisory aides (for recess, lunch, bus duty, etc., $35), funds for clerical, transportation, general operations, etc. ($1,152) The matrix essentially is a guidance tool for assessing costs and providing background on site-based staffing, but is not a mandate on the number of positions that a school must employ. The foundation funding system provides flexibility to schools and districts in the use of personnel, but anticipates a restructuring of academic programs to strengthen academic courses.

The education finance plan provides additional resources to isolated schools that are subject to consolidation, reorganization or annexation on a variable per pupil basis. The per pupil amount each district receives is determined by statute and ranges from $1 to $2,219. Finally, the education finance plan also implements a pre-K program for 3- and 4-year-olds who are in households with incomes up to 200 percent of the federal poverty level, which will be phased in over several years.

The state continues to provide assistance to school districts in making debt service payments. In FY2004, this amounted to approximately $27 million. The state also provides approximately $10 million to assist districts with infrastructure and capital needs through the General Facilities Fund. The school funding plan allows local systems to continue to participate in both of these programs and provides an incentive for certain local districts to increase their local millage beyond the state-levied 25 mills, an action that would increase available local funds for both programmatic and capital costs.

State Financing of the System

The primary source for funding the new education finance system still is general revenues of the state. These are revenues primarily derived from state income and sales and use taxes. The public school fund encompasses approximately one-half of all of the general revenues of the state. This funding has been supplemented since 1991 by the public school fund's portion of the Excellence in Education Trust Fund, which is approximately equal to 14.14 percent of the previous year's collections of the sales and use tax. For fiscal year 2005, this is estimated to be approximately $1.6 billion in general revenue and $163 million in Excellence in Education Trust Funds.

The additional revenue required for the new school funding plan was raised primarily through increasing the state sales and use tax rate from 5.125 percent to 6 percent, which, in actual dollars, is the single largest tax increase in the state's history. Other tax changes include an increase in the state corporate franchise tax and the removal of exemptions of sales taxes on a number of services. These three components are anticipated to raise $380 million in fiscal year 2005. In addition, another proposed tax change involves increasing the state-levied uniform rate of tax from 25 mills to 28 mills. By constitutional operation, this increase must be approved by voters in the 2004 general election. The proposal, if approved, would increase revenue

for the maintenance and operation of schools by approximately $85.2 million annually.

The school funding plan has a unique feature that illustrates the degree to which education is a state priority. Act 108 creates the Educational Adequacy Fund from all revenues collected because of changes made during the 2003-2004 special session on education. Should the combined revenues from this fund and other revenue sources available to the Department of Education Public School Fund Account prove insufficient to cover the financial obligation of the state to fund an adequate education system, as determined by the state's chief fiscal officer, the difference must be made up by cutting the budgets of other state agencies across the board. This "doomsday" clause, unique among states, places education as the first priority for state funding.

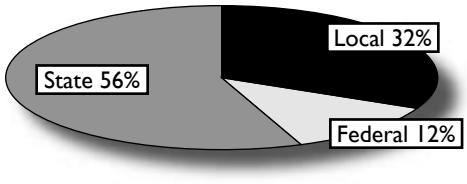
While not directly related to the issue of school funding, an important discussion during the special session on school funding was school district consolidation. Arkansas had 309 school districts in the 2003-2004 school year, serving 449,805 students, with several districts serving under 500 pupils. Indeed, the Lake View School district, which initiated the lawsuit leading to the court order mandating school funding reform, had only 160 pupils. Governor Mike Huckabee proposed consolidating any district with fewer than 1,500 students, a level that would have resulted in changes to all but 76 of the state's districts. The General Assembly approved a plan that requires administrative consolidation for school districts with fewer than 350 students, which affects 57 districts, ranging in size from the 84-student Alread Schools to the 342-student Hatfield and Union School systems. The result of this action is that for the 2004-2005 school year there will be 256 school districts, a reduction of 53 districts from the previous school year.

Local Funding

For discussion purposes, the constitutionally mandated uniform rate of tax is treated as though it were local revenue. In reality, though, the uniform rate of tax is a state levy not a local levy. The Arkansas constitution demands that there be a uniform levy of 25 mills on all taxable real, personal, and utility and regulated carrier property. It further provides that the revenues from the uniform rate of tax shall be deposited in the state treasury and distributed in accordance with law. Currently, the law specifies that school districts will receive an amount of revenue from the state treasury equal to the amount that the state-levied 25 mills would have generated if it had been a local tax.

Because school districts receive the revenues from the uniform rate of tax in such a manner that it looks like local revenue, the state treats it as such for purposes of distributing state foundation funding aid. The state provides the difference between the foundation amount ($5,400) and "local revenue." For this purpose, local revenue is considered to be 98 percent of the revenues from the uniform rate of tax plus 75 percent of locally collected miscellaneous revenues. Miscellaneous revenues are those moneys received by a local district from federal forest reserves, grazing rights, mineral rights, impact aid, flood control; wildlife refuge funds; severance taxes; and local sales and use taxes dedicated to education. This sum amounts to the local district's required effort. Any local property tax effort above 25 mills, as well as the other 25 percent of miscellaneous revenues, is not captured and is to be used by the local school district at their discretion.

Distribution of Funds by Source



Litigation

Arkansas has experienced two major legal challenges to its school finance law in the past 20 years. In 1983, the state Supreme Court rejected the state's school funding mechanism in an equity lawsuit, denying the state's local control defense in explanation of the disparities in funding and educational opportunities in the state. Even though the General Assembly revised the state's funding plan at least two times following the 1983 decision, the state found itself in court again in 1992. This case, brought by the small, rural Lake View district, contended that the state had an inequitable school finance model. A state trial court ruled for the plaintiffs in 1994, with a two-year stay to allow the state to correct the school finance system.

In the intervening years, the General Assembly extensively rewrote school finance legislation in 1995 and 1997. Amendment 74 to the state constitution required a uniform tax rate of 25 mills, and the state provided equalization aid to districts with less than base-level revenues. In 1998, the plaintiffs resurrected their case only to have it declared moot by the trial court. The dismissal was appealed to the state Supreme Court, which, in March 2000, ordered a compliance trial by a chancery court to determine if the state had remedied the inequities found in

the 1994 decision. This opinion also stated that the state must pay attorneys' fees to the plaintiffs' counsel because the state had waived its sovereign immunity while trying to settle the case. Before the state Supreme Court opinion, the Lake View plaintiffs filed a second lawsuit contending the state financing model did not provide an adequate education as guaranteed by the state constitution. The trial court held that the adequacy issue was a component of the equity lawsuit already being reviewed and subsequently issued an opinion in September 2000, which dismissed the second lawsuit.

On May 25, 2001, after a six-week trial, the trial court issued a ruling that the state neither provided an adequate or equitable system of education. In its decision, the court specifically noted that facilities and pre-K programs must be addressed in the resolution of the school funding inequities. The court ruling also touched on teacher salaries, which lagged behind the regional average. It is notable that in its decision, the court inverted the mechanism for funding schools by insisting that the state set a cost for providing an adequate education and then crafting funding to meet this goal instead of the historical principle of assessing the sum of funds available and determining how best to divide it among school districts.

Again, this trial court ruling was appealed to the state Supreme Court. In November 2002, the Court upheld the trial court's decision on most issues. The Court stated that each child in Arkansas was guaranteed an equal opportunity to an adequate education that consisted of substantially equal curricula, facilities, and equipment. But, the Court also reversed the trial court on a couple of issues. Most importantly, the Court said that under the constitution, no court could mandate pre-kindergarten education. The Court also substantially reduced the amount of attorneys' fees and costs due to the plaintiffs. Finally, the Court set a January 1, 2004, deadline for the executive and legislative branches to put in place a plan to provide an equal opportunity to an adequate education.

After the January 1, 2004, deadline passed and the General Assembly still was meeting in special session, the Court recalled jurisdiction over the case. At that time, the Court appointed two Special Masters to report back to the Court as to what the executive and legislative branches had or had not done to comply with its November 2002 opinion. The Special Masters submitted their report on April 2, 2004, and the state Supreme Court later heard oral arguments.

On June 18, 2004, the state Supreme Court issued its supplemental opinion. The Court voted 4-3 to release its jurisdiction over the case and issue the mandate. After accepting the Special Masters' factual findings regarding the measures adopted by the General Assembly and the Department of Education, the majority stated that it joined "the Masters and the State's experts in their praise for the work done by the General Assembly in the field of education, particularly during the Second Extraordinary Session after January 1, 2004. . . . The legislative accomplishments have been truly impressive."

On discrete issues, the majority also clarified and reaffirmed aspects of its November 2002 opinion. First, the majority clarified that the "substantial equality" required by the state constitution does not require "identical education assets for all:"

> An adequate educational opportunity must be afforded on a substantially equal basis to all the school children of this state. This does not mean that if certain school districts provide more than an adequate education, all school districts must provide more than an adequate education with identical curricula, facilities and equipment. Amendment 74 to the Arkansas Constitution allows for variances in school district revenues above the base millage rate of 25 mills, which may lead to enhanced curricula, facilities and equipment which are superior to what is deemed to be adequate by the State. Nevertheless, the overarching constitutional principle is that an adequate education must be provided to all school children on a substantially equal basis with regard to curricula, facilities and equipment. Identical curricula, facilities and equipment in all school districts across the state is not what is required.

Second, in response to arguments made by the plaintiffs and some intervening school districts that pre-kindergarten education should be enhanced and constitutionally mandated, the majority "disagree[d] that early-childhood education is a program that [the] court can now mandate to be funded at a certain level:"

> The General Assembly, and it alone, provides what early-childhood-education programs shall be implemented. The people have spoken on this issue [in the Arkansas Constitution], and this court will not second-guess the people. We conclude, as we did in *Lake View III*, that early-childhood education, apart from

legislative enactment, is not mandated by the Arkansas Constitution.

Third, in response to arguments by the governor and certain amici that the Court should mandate further school district consolidation to achieve "efficiency," the majority concluded that it was not proper for the Court to mandate such measures:

> We will not venture into this debate and mandate a specific consolidation program, as we are firmly convinced that an efficient public education as well as a general and suitable public education must be ordained by the executive and legislative branches of this State. What is radiantly clear, however, is that if an adequate curriculum, adequate facilities, and adequate equipment cannot be afforded to the school children in the smaller school districts of this state due to a lack of sufficient economic resources, more efficient measures to afford that adequacy will be inevitable.

Fourth, the majority acknowledged that future legislation would be needed to address educational facilities needs, but it conceded that it was not in a position to determine whether those needs would be adequately addressed:

> The statewide facilities and equipment [study] . . . will be completed by December 1, 2004, in order to permit the General Assembly to begin implementing it during the 2005 General Session. No one disputes the fact that this court's mandate for adequate and substantially equal facilities and equipment is only at square one. While, like the Masters, we believe a Facilities Study is necessary to define what needs to be done, the scope of renovation, new construction, and replacement is an unknown at this time, as is the time frame for the ultimate construction and the funding and debt service. Considerable legislation needs to be passed in this area, and that will not begin until 2005. Neither the Masters nor this court can gauge and assess in any respect the significant steps to be undertaken in the future to meet this constitutional challenge.

Finally, in response to the urging of some parties that the Court retain jurisdiction to oversee implementation of reforms, the majority found that separation of powers principles mandated that the Court reject those requests:

> At oral argument, this court was urged . . . . to retain jurisdiction. . . . A common theme throughout much of the oral arguments was that if this court does not serve as a 'watchdog' agency to assure full compliance with *Lake View III*, the General Assembly will not complete or fully implement what it has already begun. Indeed, the unspoken threat is that the General Assembly might renege or backtrack on school measures already passed.
>
> There are two things that bother us about these arguments. First, it is not this court's role under our system of government, as created by the Arkansas Constitution, and under the fundamental principle of separation of powers . . . to legislate, to implement legislation, or to serve as a watchdog agency, when there is no matter to be presently decided. . . . [The judicial branch cannot arrogate itself control of the legislative branch. Our role is to hear appeals and decide cases where we have original jurisdiction.
>
> * * *
>
> Our second point is aligned with the first. While the General Assembly began slowly in enacting compliance legislation, after this court recalled its mandate and appointed masters, a barrage of legislation was passed. Each of the ten points in *Lake View III* was addressed. . . . Admittedly, some measures, and specifically funding measures and those relating to facilities and equipment, have not been brought to fruition. Be we presume they will be, as we presume government officials will do what they say they will do. To assume otherwise runs counter to our case law. Furthermore, to retain jurisdiction under these circumstances will disparage the work of the General Assembly and cast the role of this court into that of a brooding superlegislature, when compliance with *Lake View III* is already well underway on all fronts.

One justice filed a concurring opinion agreeing with the result on separation of powers and jurisdictional grounds, and three justices dissented. The dissenting justices would have retained jurisdiction to ensure that educational reforms enacted would be implemented and funded and to ensure that educational facilities would be addressed during the 2005 legislative session.

Florida

Constitutional Requirement

Article IX, Section 1: The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

School Characteristics[9]

Number of students	2,500,478
Percent in Title I schools	32.5
Percent with individualized education programs	15.1
Percent in limited English proficiency programs	8.2
Percent eligible for free/reduced-price lunch	44.6
Number of school districts	67
Number of schools	3,419
Pupil/teacher ratio	18.6:1
Number of FTE teachers	134,684

State Funding[10]

Average Per Pupil Funding: $5,820 (FY2000)

Florida's primary source of state support for public education is the Florida Education Finance Program (FEFP), created in 1973. The program, essentially a foundation plan with extensive modifications, established the state policy on equalized funding to guarantee equal educational opportunities for all Florida students, regardless of geographic and local economic conditions. The FEFP recognizes four factors in equalizing funding: varying local property tax bases; varying education program costs; varying costs of living; and varying costs for equivalent educational programs due to sparsity and dispersion of population.

The FEFP bases its support for education on the number of students in a particular educational program, and not on the number of teachers or classrooms. Recognizing the cost differences in serving students in different grade levels and programs of instruction, the program arrives at a weighted student count for funding purposes by multiplying the number of full-time equivalent (FTE) students by certain categorical cost factors. Among these are exceptional student education (special education, gifted and talented), and vocational education programs, as well as adjustments for costs for serving students in various grade levels. Thus, students in grades K-4 and in high school are weighted slightly more than basic students in grades 4-8. Cost factors are established by the Legislature as part of the appropriation, generally using a three-year averaging method to compute costs. For the 2002-2003 school year, the cost multipliers ranged from 1.0 for basic program students in grades 4-8, to 5.591 for exceptional students requiring the greatest amount of support. Table 1 illustrates these cost factors.

Weighting Factors in the Florida Education Finance Program

Category	Cost (Weighting) Factor
Basic Programs	
K-3	1.005
4-8	1.000
9-12	1.122
Exceptional Student Education (ESE) Programs	
K-3 with ESE services	1.005
4-8 with ESE services	1.000
9-12 with ESE services	1.122
Support level 4	3.948
Support level 5	5.591
Other programs	
English for speakers of other languages	1.275
6-12 Vocational Education	1.186

table 1

Additional factors include students in advanced placement courses earning a score of 3 or higher on the AP exam or for each student in an International Baccalaureate course earning a score of 4 or higher on a subject examination. Other supplements include those for small, isolated districts and for small districts with low FTE counts of exceptional students in support levels 4 and 5.

The weighted FTE count that results from multiplying by cost factors is then multiplied by a legislatively set base student allocation—$3,537.11 for the 2002-2003 fiscal year—and by a district cost differential to determine each district's base funding. The district cost differential is computed annually by the state Department of Education to reflect each district's cost of living. The factor is calculated by an average of the past three years of the state Price Level Index (which reduces the impact of

sudden changes in the Index) and adjusted to reflect the approximately 80 percent of district costs related to salary.

A number of funding supplements can potentially adjust this base funding amount. Supplements are provided for declining enrollment; student sparsity; safe schools; discretionary tax equalization; supplemental academic instruction; exceptional student services; and a minimum guaranteed adjustment to arrive at the total state and local FEFP funding. The declining enrollment adjustment is determined through a comparison of current and previous years' unweighted FTE students to reduce the impact of sudden shifts in student populations. The sparsity supplement recognizes the relatively higher costs of delivering educational services in sparsely populated areas. Districts of fewer than 20,000 are eligible based on their unweighted FTE students and the number of high school centers in the district, and with the supplement adjusted for the wealth of the district. The safe schools supplement guarantees each district $30,000 plus an additional amount based upon the state's crime index for the district and the total enrollment of the district.

The discretionary tax equalization supplement ensures that districts levying the allowable discretionary mills earn at least $50 per FTE on it, with the difference being made up by the state. The supplemental academic instruction supplement provides funding to help students gain at least a year of knowledge for each year in school. The amount of the allocation is legislatively determined and can be used for reading instruction, curriculum modification, after-school instruction, tutoring, mentoring, class size reduction, extending the school year, intensive skills development in summer school, and other methods of improving student achievement.

The guarantee for exceptional education services provides assistance for each student enrolled in exceptional programs whose level of service is less than support levels 4 and 5 (indicating the highest levels of intervention). Exceptional students with support levels 1 through 3 are not weighted differently from basic program students, and this allocation provides for the additional services they require. Finally, in the 2002-2003 school year, every district was guaranteed a 1 percent increase in funding from the previous school year on an unweighted FTE basis, an adjustment accomplished by the final supplement to the formula. The result of these supplements is the State and Local FEFP dollars. Figure 1 illustrates the full FEFP calculation.

Once the amount of support is arrived at for each district, the state share is determined by subtracting the required local effort. The amount of required effort is established by the Legislature annually (for 2002-2003 this was $4,901,526,326). The commissioner of education computes a millage rate for this sum based on 95 percent of the state total taxable value of all eligible (that is, taxable for

State and Local FEFP Calculation

FTE student count	x	Program cost factors	=	Weighted FTE students	x	Base student allocation ($3,537.11 FY2003)	x	District cost differential	=	
Base Funding	+	Declining enrollment supplement	+	Sparsity supplement	+	Safe schools allocation	+	Discretionary tax equalization	+	
Supplemental academic instruction	+	Exceptional students guarantee	+	Minimum guarantee adjustment (1 % increase per FTE)	=	State and Local FEFP Funding				

figure 1

school purposes) property in the state, as reported by the state Department of Revenue. In 2002-2003, this rate was 5.808 mills. No school district's required local effort can be more than 90 percent of the total FEFP, however, and the rate was reduced in five counties in 2002-2003.

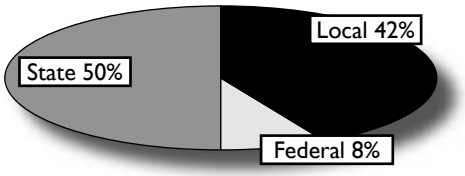
To offset inequities in the value of property between districts, and thus the ability to raise revenues, the state applies an equalization factor for each district. This factor—either positive or negative—is determined by the commissioner by assessing the degree to which the district's local effort diverges from the statewide average. This dollar amount is added to or subtracted from the local required effort. Any adjustments required from the previous year's allocation, including for items such as calculation errors, lawsuits and reporting errors, are then made to the amount of state support required by the FEFP after subtracting the adjusted required local effort from the total FEFP dollars. The resulting final millage rates for 62 of 67 counties in 2002-2003 ranged between 6.234 mills to 5.264 mills, with five counties having their local effort reduced because of the 90 percent limitation for local effort described previously. The resulting sum is the total state FEFP dollars for the district.

In addition to this net FEFP state amount, each district is eligible to receive a range of additional funds. These include District Discretionary Lottery Funds, which are allocated to every district according to weighted FTE counts, so long as a school improvement plan is in place. Other categorical programs and special allocations include school construction and infrastructure improvement; class size reduction; school lunch and breakfast program matches; instructional materials; technology; student transportation; teacher training; school recognition; and assistance to low-performing schools.

Beginning in the 2003-2004 fiscal year, local education agencies are required to distribute within the district an average of 90 percent of FEFP funds and ensure that no school receive less than 80 percent of the funds that the school generates (based upon its weighted FTE membership). This program also keeps all unexpended funds at the school level as carryover funds instead of reverting them to the state.

Local Funding

Property tax is the primary source of local school funding. Taxes are levied on all real estate and tangible property at market value. Farm land in active use is valued on its agricultural usage. School districts are required to levy the millage established by the commissioner of education. Homes used as primary residences receive a homestead exemption of $25,000 on the assessed value. Federal, public school, church and park properties are not on the tax rolls. School boards have the option of setting discretionary levies for capital outlay and maintenance (up to 2.0 mills) and supplementary levy for current operations (up to .25 mills). Additional levies also may be approved by voters in school districts for operations and capital outlay purposes. Levies for debt service are limited to 6 mills and 20 years in duration. Districts are limited in their bonding authority to 10 percent of district valuation. There is no equalization for additional or supplemental tax levies approved by districts, with the exception of the minimum $50 per FTE student equalization for supplemental assistance.



Distribution of Funds by Source

Litigation

There have been several lawsuits brought against the state school finance system in the past decade, none of which has so far proven to be successful. A case brought in 1995, and decided in 1996, held that the state funding formula failed to provide resources sufficient for an adequate education, which the court maintained was a fundamental constitutional right. The state Supreme Court rejected the claim for relief, in part noting that the Florida constitution only obligated the state to provide an equal opportunity to achieve basic educational goals. The Court also indicated that it did not wish to "usurp the exercise of the appropriations power allocated exclusively to the Legislature."[11] Following this, a voter-approved amendment to the constitution created one of the most explicit education clauses in the country. Subsequently, in 1999, a class action case was brought against the state (*Honore* v. *Florida State Board of Education, Leon County*) claiming that the state was not fulfilling the obligation of the new constitutional mandate to provide an adequate education. This case was dismissed after the plaintiffs failed to pursue it.

Georgia

Constitutional Requirement

Article VIII, Section I: Public education; free public education prior to college or postsecondary level; support by taxation. The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or post-secondary level shall be free and shall be provided for by taxation. The expense of other public education shall be provided for in such manner and in such amount as may be provided by law.

School Characteristics[12]

Number of students	1,470,634
Percent in Title I schools	43.8
Percent with individualized education programs	11.6
Percent in limited English proficiency programs	4.3
Percent eligible for free/reduced-price lunch	44.2
Number of school districts	180
Number of schools	1,969
Pupil/teacher ratio	15.9:1
Number of FTE teachers	92,732

State Funding[13]

Average Per Pupil Funding: $7,279.82 (FY2003)

Georgia's school funding program was passed as part of the Quality Basic Education (QBE) Act of 1985, which also outlined curricular and other educational requirements for the state. The Act outlines the education policy of the state to provide "all children and youth in Georgia with access to a quality program which supports their development of essential competencies in order that they may realize their potential." To this end, the Act establishes the state's policy to provide "an equitable public education finance structure which ensures that every student has an opportunity for a quality basic education, regardless of where the student lives, and ensures that all Georgians pay their fair share of this finance structure."[14] State aid for education is primarily derived from state income and sales taxes.

The state uses a modified foundation formula program, based on weighted full-time equivalent (FTE) students. The formula foundation supports 14 instructional programs, reflecting the different ages and needs of students in public schools. The weighting counts include adjustments for differences in program costs, including direct instructional expenses (e.g., salary, benefits, textbooks, supplies, and equipment), indirect costs (e.g., maintenance and operations, support personnel, school and central office personnel), and other related costs.

A weighted FTE count is arrived through a count of students enrolled in specific programs for each one-sixth segment of the school day, dividing this number by six to arrive at the FTE program count for each state-recognized program. General education students in grades 9-12 are considered the base FTEs against which all other programs are compared. Thus, each program FTE student in general education in grades 9-12 are figured as a factor of one. Since the costs of different programs vary depending on student/teacher ratios and specific services required, the state then weights the remaining 18 categories. Table 2 illustrates these different program weights.

Georgia Instructional Programs and FTE Weights

Program	Weight
Kindergarten	1.6226
Kindergarten early intervention program	1.9952
Grades 1-3	1.2686
Grades 1-3 early intervention program	1.7617
Grades 4-5	1.0258
Grades 4-5 early intervention program	1.7549
Grades 6-8	1.0102
Grades 6-8, separate facility	1.1104
Grades 9-12	**1**
Vocational laboratory program	1.2010
Program for person with disabilities	
Category I	2.3409
Category II	2.7330
Category III	3.4778
Category IV	5.6253
Category V	2.4233
Program for intellectually gifted students	1.6430
Remedial education program	1.2917
Alternative education program	1.5683
English for speakers of other languages	2.4521

table 2

Program weights are based upon an assumed base size of a local school system of 3,300 FTE students. Programs for grades K-5 reflect a base school size of 450, with a base school size of 624 for grades 6-8, and 970 for grades 9-12. Statutorily, the base funding amount is expected to be sufficient to cover the costs of maintenance and operations, the beginning salaries for all teachers needed to provide basic instruction, and necessary support and administrative staff.

To calculate the total amount of QBE aid, the program FTE count is multiplied by the respective weight value. The resulting weighted FTE count is then multiplied by the base amount established in the General Appropriations Act. For FY2003-2004, the base cost per pupil was set at $2,343.90 per pupil. To this amount is added an adjustment for training and experience for the instructional program, as determined by the school board each year, resulting in a categorical program cost. Because the QBE base cost is built off the minimum beginning salary for a teacher in Georgia, this adjustment recognizes the additional costs of teachers with greater experience and training. Each district's categorical program costs are then added to arrive at the total QBE amount for each district. From this the required local effort of 5 mills is subtracted and the remainder is the state share.

School districts and schools below the base sizes receive prorated support for supervisory, administrative and support positions. Certain districts are eligible to receive grants from the state based on sparsity of population. To be eligible, the district must meet specific criteria, including an inability to offer typical educational services because of FTE counts below base levels and a determination by the state board that a merger of local school systems and the resulting consolidation would lead to unacceptably long travel for students, or a merger was rejected for a variety of reasons.

In addition to the QBE, school districts receive support for transportation for students living more than 1.5 miles from school, as well as for children with disabilities and those who must travel outside the district for special programs. The amount of funding is determined by the allotted number of standard and special education bus drivers and miles; the state minimum bus driver salary and benefits; and the costs of bus replacement, operation and insurance.

Categorical aid for students performing below age- or grade-level is provided through two programs: the special instructional assistance (SIA) program and remedial education. The SIA program provides funding to districts for students in grades K-3 with documented developmental levels below expectations for their age group. Remedial education is available for students in grades 2-5 and 9-12 who are below grade level in reading, writing and mathematics. Students who are eligible must have been retained a grade and meet other criteria.

The Georgia Pre-K program was established in 1993 as a pilot program and now provides high-quality preschool experiences to over 60,000 Georgia four-year-olds. The program is supported by the state lottery and receives no QBE money. Pre-K centers can be at either public or private facilities meeting program criteria. Participation is open to all Georgia four-year-olds.

Local Funding

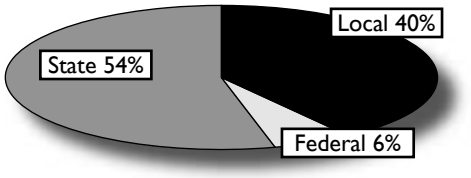
Local funding is mandated at a minimum 5 mills and is equalized. Local districts can apply revenues from any source toward the required 5 mills share except for federal funds not intended to replace local funds, state funds, student tuition and fees, and funds transferred from another local government unit. The state equalizes up to 3.25 mills above the minimum required millage. This equalization is determined as the difference between the amount the local district is able to raise and what is generated by the local district at the 90th percentile of property wealth per pupil. A maximum of 20 mills can be levied by local school boards without a vote of the people of the school district. Local required contributions cannot exceed 20 percent of the cost of the formula. The required 5 mills of revenue can be applied to any mandated program within the QBE program, but not for optional programs outside it.

Property tax is applied at 40 percent of the fair-market value of the property. The state publishes an adjusted tax digest for tax purposes which compensates for differences in assessment practices. Furthermore, a statewide homestead exemption of $2,000 applies to all homeowners, with elderly homeowners eligible for additional exemptions of between $4,000 and $10,000, and disabled veterans and the surviving spouses of veterans killed in action eligible for exemptions of up to $43,000. School districts are held harmless for this loss of local tax revenue.[15]

Local school boards can seek voter approval for a 1 percent special purpose local option sales tax (SPLOST) for schools at the county level. SPLOST revenues can be used for specific capital improvements, to retire bond debt incurred for capital improvements or to issue new bonds for this purpose. The additional sales tax cannot be imposed for longer than five years. Because Georgia has 21 independent city school districts operating within the 159 county school systems, the proceeds from any sales tax revenues are to be shared by the county with the city district(s) according to the ratio of the

student enrollment in each school district, unless other arrangements are made, at the time the tax was imposed. Of the 163 elections on imposing a tax since 1996 when the state created the authority, 145, or 89 percent, of these referendums have been successful, raising an estimated $5,465,467,994 since the SPLOSTs' inception.[16]

Distribution of Funds by Source



Litigation

Georgia's school funding system was challenged in 1981 in the case of *McDaniel* v. *Thomas*, in which a trial court found that the "inequalities in the school finance system deny students in property-poor districts equal educational opportunities." While the state Supreme Court upheld the system on appeal, the Court made clear the need for the state to better equalize educational opportunity. The Quality Basic Education Act was a response to that charge from the Court. On September 14, 2004, a group of 51 mostly rural school districts filed suit against the state, charging that Georgia provides inadequate funding for education.

Kentucky

Constitutional Requirement

Section 183: The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State.

School Characteristics[17]

Number of students	654,363
Percent in Title I schools	73.6
Percent with individualized education programs	15.0
Percent in limited English proficiency programs	0.9
Percent eligible for free/reduced-price lunch	49.1
Number of school districts	196
Number of schools	1,456
Pupil/teacher ratio	16.2:1
Number of FTE teachers	40,375

State Funding[18]

Average Per Pupil Funding: $7,271 (FY2003)

Kentucky uses a combined state and local funding formula, Support Education Excellence in Kentucky (SEEK), that equalizes local tax efforts to provide for the funding needs of all students, with additional support for handicapped children and children living in poverty and for providing student transportation. The program guarantees a minimum level of funding per pupil for operating and capital expenses, with additional funding provided for exceptional students, economically disadvantaged students, transportation, and students served in home and hospital settings. Each school district's base funding level is adjusted by a range of factors.

Every district is guaranteed an adjusted base amount for each student in average daily attendance. The base amount is adjusted for the number of at-risk students, numbers and types of exceptional children and transportation costs. At-risk students are identified as those approved for free lunch programs. The count of these students is weighted an additional .15 per pupil, with the additional funding authorized for use for either alternative programs for these students or hazardous duty pay supplements for instructors in alternative programs with students who are violent.

Exceptional children in the state are differentiated by the severity of their disability. Severely disabled students, such as those with functional mental disability, hearing or visual impairment, and autism, receive an additional 2.35 weight factor. Moderately disabled students, including those with mild mental disabilities, specific learning disabilities or orthopedic impairments receive an additional 1.17 weight factor. Speech-language disabled students have an additional .24 weight factor.

Transportation costs are determined by averaging the costs per pupil per day of providing transportation to pupils in districts with similar density of pupils receiving this service per square mile of area served. The Department of Education must calculate these costs for at least nine different density groups. Costs are to include all current costs for each district as well as depreciation on vehicles. All pupils who live more than one mile from school are eligible for transportation services, as are all children with disabilities. County and independent (city) school districts are calculated separately, and the maximum amount for an independent district cannot exceed the minimum calculated costs for any county district. Transportation costs are recalculated every two years.

The total state and local funding amount for SEEK is the adjusted average daily attendance multiplied by the guaranteed base amount, which is set by the General Assembly (for FY2002, this figure was $3,081). Local districts must raise no less than 30 cents per $100 of assessed property evaluation, or its equivalent from another eligible tax source. The state share of SEEK funding is the total amount as per the formula less the yield from the required local effort. The state guarantees this minimum level of support. Districts are guaranteed receipt of the same per pupil funding as they received in the 1991-1992 school year, unless the reason for the decline in state support is due to declining enrollment.

If the average daily attendance of any school decreases by 10 percent or more in one year, the attendance figure for the next year is adjusted upward by two-thirds of the decrease for funding purposes. If the same district experiences a drop of 10 percent or more in the next year, the attendance figure for calculating funding is adjusted upward by an amount equal to one-third of the decrease for the first year of decline.

The SEEK base guarantee includes funding for capital outlays of $100 per pupil for construction costs. Local districts may use 80 percent of this funding to issue bonds. Beyond SEEK base capital funding, the state has the optional Facilities Support Program for Kentucky (FSPK) and the School Facilities Construction Commission (SFCC). To participate, districts must levy 5 cents per $100 of

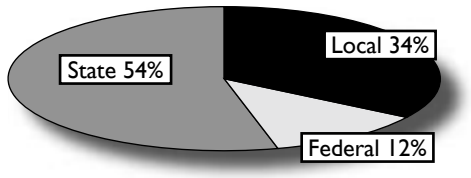
property assessment. The FSPK equalizes funding for those districts whose property wealth is less than 150 percent of the state average if the levy is applied to debt service. The SFCC provides funds to districts for debt service on new construction and renovation. SFCC monies are distributed to districts based on how their unmet needs compare to those of the entire state.

Supplemental funding is made available to districts for a variety of categorical programs outside of the SEEK base. Among these are extended school services for students who need additional instruction and tutoring, half-day preschool for at-risk four-year olds (with eligibility criteria identical to the federal school lunch program), and professional development. Other categorical funding includes safe schools, textbooks, family and youth services centers and technology.

Local Funding

As has been noted, local districts must raise at least 30 cents per $100 of assessed property. After this amount is raised, additional tax effort is equalized according to a two-tier system. The first tier allows school districts to levy taxes up to 15 percent above the adjusted SEEK base. Local effort is equalized at 150 percent of the statewide average per pupil assessed property valuation. The second tier allows additional levies up to 30 percent of the adjusted SEEK base plus the revenue in Tier I. Tier II funding is not equalized. Districts wishing to levy a tax higher than the limit allowed in Tier I must submit the levy to voters.

Distribution of Funds by Source



Litigation

Kentucky's 1985 case, *Rose* v. *Council for Better Education*, remains a watershed in education litigation. In it, the state Supreme Court made its decision unambiguous. "Lest there be any doubt, the result of our decision is that Kentucky's entire system of common schools is unconstitutional."[19] In doing so, the Court swept away local control as a central legal defense for the existence of unequal funding and educational opportunities. In essence, the Court concluded that the state's responsibility to ensure equal educational opportunities for all students is of primary importance. In deciding the *Rose* case, the Court ordered the General Assembly to "re-create, re-establish a new system of common schools in the Commonwealth."[20] The decision required the General Assembly to provide for adequate funding of Kentucky's schools by 1990, mandating several specific taxation provisions, including uniform tax rates and assessments. The resulting school finance system, established in 1990 by the Assembly, increased overall funding considerably, and established seven learning goals for all Kentucky school children.

In January 2003, a group of Kentucky parents and students, mostly from rural areas, filed a lawsuit claiming the General Assembly did not fund schools in the state equitably or adequately. This lawsuit is backed up at least in part by the Pritchard Committee, a nonprofit education advocacy group that recently has raised worries that the state's education finance system is inadequate to provide a high-quality education. The Council for Better Education, a party in the 1985 lawsuit representing 160 of the state's 176 school districts, has commissioned a series of reports on what level of funding is needed to meet the state's constitutional mandate and will consider filing a lawsuit after reviewing the outcome of the General Assembly's 2004 Regular Session.[21]

Louisiana

Constitutional Requirement

Article VIII, Section 1: The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system.

Article VIII, Section 13 (part): Minimum Foundation Program. The State Board of Elementary and Secondary Education, or its successor, shall annually develop and adopt a formula which shall be used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems. Such formula shall provide for a contribution by every city and parish school system.

School Characteristics[22]

Number of students	731,328
Percent in Title I schools	50.7
Percent with individualized education programs	13.4
Percent in limited English proficiency programs	1.5
Percent eligible for free/reduced-price lunch	59.1
Number of school districts	88
Number of schools	1,540
Pupil/teacher ratio	14.6:1
Number of FTE teachers	49,980

State Funding[23]

Average Per Pupil Funding: $6,547 (FY2002)

Louisiana's Minimum Foundation Program (MFP), adopted by the state Board of Education and approved by the Legislature, establishes the per pupil cost of education for the state's public schools and provides for the equitable allocation of state resources to parish and city schools. The MFP operates as a block grant from the state to local education agencies, providing local districts with flexibility to spend their funds in the manner they determine will best serve their students within the confines of meeting state program requirements.

The MFP is arranged in three levels: a local/state foundation formula (Level 1); an incentive program for districts to meet their effort targets (Level 2); and enhancements from the Legislature for various programs (Level 3). The basic MFP is a modified foundation formula, starting with a base per pupil funding amount, to which is applied certain weighting factors to arrive at the total state and local funding amount. Local and state shares are calculated on an equalized basis through the application of a local wealth factor.

The MFP begins with a base per pupil amount, set at $3,276 for FY2003. The state Board of Elementary and Secondary Education sets this per pupil amount annually, subject to legislative approval. Should the Legislature not adopt a new resolution regarding school funding, the MFP operates under the previous resolution with an increase of 2.75 percent over the prior year's per pupil amount.

The base per pupil amount is multiplied by a weighted count of students enrolled in each district. The weighting accounts for the additional costs of serving students in various programs, with students eligible to be counted in multiple weighting categories. The categories of students eligible for additional count units are at-risk students, vocational education participants, exceptional students (including those with disabilities and gifted and talented children), as well as a weighting for districts smaller than 7,500 students to compensate for any diseconomy of scale related to small district size. The respective weights are provided in Table 3.

Student Characteristics Contributing to Total Weighted Membership

Category	Weight
Total membership	1.0
At-risk students	+.17
Vocational education students	+.05
Special education—other exceptionalities	+1.5
Special education—gifted and talented	+.60
Economy of scale	max+.20

table 3

Each district conducts an annual base student count on October 1, or the nearest school day to October 1, to establish total membership. Each student counted in membership of one of the four exceptional categories is multiplied by the respective weight, with the resulting weight factors added to the total membership to arrive at the district's total weighted membership. The number of at-risk students is calculated from the number of approved applications to participate in the free and reduced-price lunch program. The vocational education count is determined as the number of vocational education courses per student (thus a student enrolled in two vocational education programs would count as two units). The number of students in special education for other exceptionalities and for gifted and talented programs is determined through enrollment in state outlined programs.

The economy of scale adjustment available to districts smaller than 7,500 students recognizes the increased costs for fixed overhead for smaller school systems. The adjustment factor is determined by subtracting the October 1 membership count from 7,500 and dividing this figure by 37,500. The result

is the economy of scale factor which varies from district to district. Thus, a district with membership of 5,300 students would have an economy of scale factor of .059 ((7,500-5,300)/37,500=.059), which is then multiplied by the membership to arrive at the pupil weighting, in this case an additional 310 student units. The maximum this adjustment can be is .20. When all of these factors have been added, the result is the total weighted membership. This count, multiplied by the base per pupil amount, results in the shared state and local Level 1 costs.

The Level 1 costs are to be shared between the state and local authorities at the average rate of 65 percent for the state and 35 percent for the local district. The exact percentage each district contributes is based on a formula that takes into account the relative fiscal capacity of each district. The total fiscal capacity of each district, including its prior year's sales and property tax revenues as well as other eligible revenues, is divided by the district's weighted membership to determine the fiscal capacity per pupil. This amount is then divided by the state average fiscal capacity to establish a local wealth factor for the district. This factor is then multiplied by the district's weighted proportion of state membership to arrive at the local equalization factor.

Once a local equalization (or proration) factor has been determined, the local costs of Level 1 funding are calculated by multiplying this factor by the total (state and local) base foundation costs and the result by 35 percent (the standard base foundation cost share for local districts). The state support for Level 1 costs is the amount of the total costs that remain.

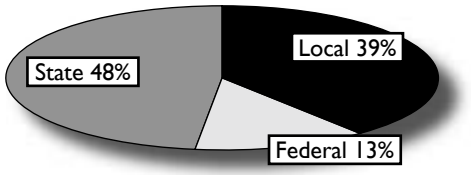
The state offers incentives for districts to meet its share of the Level 1 funding target through Level 2 funding, which essentially matches a portion of additional local effort up to an amount equal to one-third of the local Level 1 share. The award is set at 40 percent of eligible revenue. To determine the amount of Level 2 funding a district can receive, the local eligible revenue must first be calculated. This is equal to the amount of total local revenue above the amount required by the Level 1 formula or one-third of the Level 1 formula (the state limit for Level 2 calculation), whichever is lower. The amount of Level 2 funding the district receives is calculated by multiplying the district's eligible additional revenue by 40 percent of their equalized wealth factor (the state award amount).

The state requires that not less than half of each school district's increased state funding from Level 1 and Level 2 to be used to supplement and enhance full-time certified staff salaries and benefits, with reduction of the size of this mandate for increase due to increased enrollment. The state also allocates a per pupil amount to districts for the purpose of salary increases. To provide for accountability of state funds while affording local school board flexibility, local school boards must ensure that 70 percent of their general funds, including all revenue sources, are expended on instruction. When performing this calculation, the total of all state and local monies reported in the local school system's general fund is considered.

Local Funding

As has been noted, Louisiana's foundation program assumes districts will support schools at 35 percent of total costs on average. Capital costs also are considered to be exclusively the responsibility of the local education agency. Local school boards have the constitutional authority to levy a 5 mills tax (the lone exception being Orleans Parish, which can levy 13 mills). Residential property is assessed at 10 percent of market value. An important consideration for Louisiana's school finance system is the relative importance of the sales tax to local tax effort, accounting for 55 percent of local revenue and 21 percent of all revenues, including state and federal. In contrast, ad valorem property taxes account for only 36 percent of local revenues.

Distribution of Funds by Source



Litigation

In 1992, Louisiana was sued by two groups charging that the state was failing to meet its constitutional obligations with regard to education, citing a range of shortcomings in facilities, instructional materials and staff, curriculum, student achievement, and other areas. The case was dismissed by summary judgment at the state appeals court level, with the court highlighting the constitution's requirement for a "minimum" foundation cost for education. A lawsuit was filed against the state Board of Elementary and Secondary Education in December 2003 over the lack of support for capital costs in the MFP. The plaintiffs maintain that by not providing capital outlay support within the state foundation program, the state violates the equal protection clause since the capacity of districts to raise funds for capital improvements varies so greatly.

Maryland

Constitutional Requirement

Article VIII, Section 1: The General Assembly, at its First Session after the adoption of this Constitution, shall by Law establish throughout the State a thorough and efficient System of Free Public Schools; and shall provide by taxation, or otherwise, for their maintenance.

School Characteristics[24]

Number of students	860,640
Percent in Title I schools	26.6
Percent with individualized education programs	13.0
Percent in limited English proficiency programs	3.8
Percent eligible for free/reduced-price lunch	29.7
Number of school districts	24
Number of schools	1,385
Pupil/teacher ratio	16.0:1
Number of FTE teachers	53,774

State Funding[25]

Average Per Pupil Funding: $7,491 (FY2002)

Maryland rewrote its school funding program during the 2002 session of the General Assembly following recommendations from a commission on education finance, equity and excellence established by the Assembly during its 1999 session. The 23-member commission (known as the Thornton Commission after its chair Dr. Alvin Thornton, a former Prince George's County School Board member) hired an outside consulting firm to conduct adequacy and equity studies using a variety of approaches to arrive at the base cost of providing an adequate education to a student in the state. The Commission also held a number of hearings around the state to gather input from families, advocates, and experts in various fields. The Commission's final report, issued in advance of the 2002 session, provided a detailed roadmap for Maryland legislators. The study and revision of the state's finance system is interesting, in part, because the state undertook the change without a court mandate to do so.

Funding education is a shared responsibility of state and local government in Maryland, with the state contributing more than 40 percent of school aid in the 2003 fiscal year. The legislation passed as a result of the Thornton Commission's report, Senate Bill 856-The Bridge to Excellence in Public Schools Act, greatly increases the amount of funding the state provides to local school districts, while eliminating 27 categorical state aid programs in an effort to simplify the state's funding system. When the Act is fully implemented in 2008, the state will distribute funds to districts based on student enrollment and local wealth.

The new model adopts an adequacy approach which establishes a base cost for providing for the education of a general education student in a system. This base cost is then adjusted for the additional costs of educating students with special needs, divided into three categories: students with disabilities; students eligible for free- or reduced-price lunch programs; and students with limited English proficiency. Finally, the formula accounts for differences in local costs of providing education and variations in local wealth. The resulting funding per pupil varies widely across school districts in the state, with two districts already exceeding the projected costs for providing an adequate education. The average per pupil adequacy target for the state is $8,944, which is $1,453 above the FY2002 per pupil expenditures of $7,491. The adequacy targets range from a low of $7,357 per pupil to a high of $11,947 per pupil. The targets include anticipated local, state, and federal revenues. A number of funding programs not directly related to student performance, including transportation, school construction and student nutrition, remain as categorical programs within the state education budget.

The adequacy formula upon which the Maryland school finance system is based presumes that the amount of funding per pupil outlined is sufficient to provide for the educational services and resources, including instructional, support and administrative staff, textbooks, and instructional equipment for students to meet state academic stndards. The formula begins with a per pupil "base cost," $4,124 for FY2002, and increasing to $6,400 in FY2008 as the program is phased in over the next five years. In general, the foundation is split evenly between the state and local governments, although this figure varies depending on the county's wealth.

The first step in calculating the state and local share of the minimum foundation amount is to determine the number of full-time equivalent students enrolled in grades 1-12 and in evening high school programs, along with a proportion of the students in kindergarten. The kindergarten calculation will rise from 50 percent the first year to 100 percent of kindergarteners by 2008 as the mandate to implement full-day kindergarten is phased in. The second step is to calculate district wealth which is determined as 40 percent of the real property assessable

base, 50 percent of the personal property assessable base, and the net taxable income. Once student enrollment and local wealth are calculated, a state total is determined.

The local contribution rate represents a statewide tax rate for counties that is their aggregate share of total foundation support. The local rate is determined by multiplying the state total enrollment by $624 (the historical first tier per pupil amount), and then calculating a rising percentage of this figure depending on the year–46 percent in FY2004, increasing to 50 percent in FY2008. The statewide enrollment also is multiplied by the amount by which the annual per pupil formula exceeds $624, with 50 percent of this product added to the percent from the previous calculation. The resulting sum is divided by the sum of the cumulative district wealth for the state. The rounded result is the local contribution rate. The local share of foundation funding is the product of the local contribution rate and the county's wealth. The state's share of the foundation formula is the difference between the local share and the mandated per pupil amount. Districts are guaranteed a minimum state contribution of 25 percent in FY2004, which declines to 15 percent in 2008, after which it will remain at this level. Figure 2 demonstrates these calculations.

The formula also includes legislatively established adjustments for increased cost of education for counties in the Baltimore/Washington area. Anne Arundel County earns an increase of 1 percent; Baltimore City and Howard County both merit 3 percent increases on state aid; and Montgomery County benefits from a 4 percent increase in state aid. The state Department of Education is to conduct a study to create more detailed cost of education adjustments for each county, to be implemented in the 2005 fiscal year. The formula includes a phase in for this provision in which the difference between the base amount of $4,124 and the year's adequacy target ($5,730 in FY2004, and adjusted for inflation thereafter) is increasingly included in the final foundation amount. For FY2004, the difference is funded at 40 percent, increasing to the full difference by FY2008. Estimates of state foundation aid for FY2004 indicate that only two counties would receive less in state aid than the guaranteed minimum due to their local wealth, with most counties' state formula aid well above the required minimum contribution.

Calculating Foundation Program Variables FY2004

	Per pupil Foundation Amount			
(1)	Target per pupil amount	$5,730	=	"adequate" funding level
(2)	Base year per pupil amount	$4,124	=	FY2002 per pupil amount
(3)	Difference	$1,606	=	Row 1 – Row 2
(4)	Percent of difference funded	40 %	=	FY2004 phase-in percent
(5)	Difference funded	$642	=	Row 3 x Row 4
(6)	Actual amount	$4,766	=	Row 2 + Row 5
	Minimum State Per pupil Foundation Amount			
(7)	Per pupil amount	$4,766	=	Row 6
(8)	Minimum state share	25 %	=	FY2004 phase-in percent
(9)	Minimum amount	$1,192	=	Row 7 x Row 8
	Local Contribution Rate			
(10)	Per pupil foundation	$4,766	=	Row 6
(11)	First tier per pupil amount	$624	=	Historical first tier funding
(12)	Local share of first tier	46%	=	FY2004 phase-in percent
(13)	Second tier per pupil amount	$4,142	=	Row 10 – Row 11
(14)	Local share of second tier	50 %	=	Constant
(15)	FTE enrollment (as of 9/30/02)	817,376.80	=	Estimate (actual data will be used)
(16)	Wealth base	$242,461,393,589	=	Estimate (actual data will be used)
(17)	Local contribution rate	0.0079493	=	[((R11xR12)+(R13xR14))xR15]/R16

figure 2

Source: Maryland Department of Legislative Services

As noted, the formula considers the additional costs related to educating three subgroups or students: those eligible for free or reduced-price lunch programs; those with limited English proficiency; and those eligible for special education programs. Each of these three categories provides additional funds on top of the state formula aid for general education students. Students may be counted in all three categories, and are included in the general enrollment figures for the school system. Unlike foundation programs, however, local schools are not required to match state aid to receive funding. All three categories use similar calculations, with variations related to the phasing out of existing support programs for special education and limited English proficient students. All three special needs programs include in their calculations a proportionate calculation to align the total state aid to counties by the intended state contribution, since the algorithms used to determine allocations introduce some variations due to rounding.

Students in special education programs receive an extra 74 percent of formula aid, which, when combined with additional federal support, amounts to an increase of 117 percent in funding over general education funding. The state share for special education is 29 percent in FY2004, increasing to 50 percent in FY2008 and thereafter. As the formula is phased in, the existing, non-equalized "first tier" funding for special education students is phased out, beginning with 20 percent in FY2004, and increasing to a total elimination by FY2008. This funding is based on the base state expenditure of $70 million spread among the state's special education population. State aid is the difference between the amount of formula aid and the amount provided by the "first tier" funds. An unadjusted grant allocation for each district is arrived at by multiplying the number of eligible pupils with the state aid formula. This amount is then equalized for wealth by multiplying the unadjusted grant allocation by the ratio of local wealth to state wealth. The resulting amount cannot be less than the guaranteed minimum state share—50 percent in FY2004, rising to 80 percent in FY2008. Figure 3 illustrates part of this calculation.

The amount of funding available for compensatory education funding—related to students in poverty as measured by eligibility for federal feeding programs—is calculated on a per pupil basis. The state's per pupil amount for compensatory education is equal to 97 percent of the county's annual per pupil foundation amount multiplied by the state share of compensatory education funding, a figure that rises from 29 percent in FY2004, to 50 percent in FY2008, where it remains for subsequent years. Each county's share is calculated as the number of eligible students multiplied by the compensatory per pupil amount. This amount is then divided by the ratio of local wealth per pupil to statewide wealth per pupil. This amount cannot be less than a minimum amount, determined as 50 percent of the compensatory per pupil grant amount for FY2004, increasing to 80 percent in FY2008 and thereafter. Figure 4 illustrates calculations for FY2004.

Special Education Formula Funding FY2004

(1)	Per pupil funding level	$4,766	=	From foundation program
(2)	Adjusted special education weight	74%	=	Established in legislation
(3)	Target per pupil amount	$3,527	=	Row 1 x Row 2
(4)	State share of target per pupil amount	29%	=	Legislatively set; increases to 50% in 2008
(5)	Per pupil state aid amount	$1,023	=	Row 3 x Row 4
(6)	Phase-out of first tier funding	20%	=	Legislatively set; increases to 100% in 2008
(7)	Per pupil first tier funding	$500	=	($70 million x (1 – Row 6))/special education enrollment (estimate)
(8)	Per pupil formula state aid	$523	=	Row 5 – Row 7
(9)	Minimum state share of per pupil aid	50%	=	Legislatively set, increases to 80 percent in 2008
(10)	Minimum grant amount per pupil	$261	=	50 % of Row 8

figure 3

Source: Maryland Department of Legislative Services

Compensatory Education Formula Funding FY2004			
(1) Per pupil funding level	$4,766	=	From foundation program
(2) Adjusted compensatory education weight	97%	=	Established in legislation
(3) Target per pupil amount	$4,623	=	Row 1 x Row 2
(4) State share of target per pupil amount	29%	=	Legislatively set; increases to 50% in 2008
(5) Per pupil state aid amount	$1,341	=	Row 3 x Row 4
(6) Minimum state share of per pupil aid	50%	=	Legislatively set; increases to 80 percent in 2008
(7) Minimum per pupil grant	$670	=	Row 5 x Row 6

figure 4

Source: Maryland Department of Legislative Services

Funding for limited English proficient (LEP) students was found to be particularly lacking by the Thornton Commission, which called for a doubling of the amount spent on these students. The amount for LEP funding per pupil is 99 percent of the state foundation aid amount, with the state responsible for 29 percent in FY2004, a figure that rises to 50 percent in FY2008 and thereafter. As the state increases its share of LEP funding, the existing non-equalized aid for LEP students of $1,350 per pupil is phased-out, reducing by 25 percent over FY2005 to FY2008 (the full per pupil amount is distributed for FY2004). The amount of formula aid districts receive is equal to the difference between the calculated state LEP formula amount (the phased-in share of 99 percent of state general education formula aid) and the phased-out, non-equalized amount. The formula aid is then multiplied by the county's wealth per pupil. The minimum amount this could reduce the aid to counties is 50 percent of the per pupil formula amount in FY2004, rising to 80 percent in FY2008. The total aid for schools for LEP students is the formula calculation amount added to the non-equalized amount. Figure 5 illustrates calculations for FY2004.

Transportation is not a component of the state foundation formula, with counties instead receiving specific grants for this purpose. To determine the FY2004 base grants, the state began with set amounts for each county (based on historical expenditures), and is to increase each by the amount of increase in the transportation category of the Consumer Price Index (CPI) for all urban consumers for the Baltimore-Washington area and to then adjust for student enrollment increases (but not for declines) proportionate to the per pupil amount distributed the previous year. The increase related to the CPI is restricted to a minimum of 3 perecent and a maximum of 8 percent annually. In addition to the base transportation grant, each county receives an additional sum for each disabled student requiring special transportation equal to $600 per pupil in FY2004, rising to and remaining at $1,000 per pupil in FY2008 and thereafter.

School construction also is outside of the state foundation formula. State aid for school construction is a shared local/state responsibility, with the Interagency Committee on School Construction

Limited English Proficiency Formula Funding FY2004			
(1) Per pupil funding level	$4,766	=	From foundation program
(2) Adjusted special education weight	99%	=	Established in legislation
(3) Target per pupil amount	$4,718	=	Row 1 x Row 2
(4) State share of target per pupil amount	29%	=	Legislatively set; increases to 50% in 2008
(5) Per pupil state aid amount	$1,368	=	Row 3 x Row 4
(6) Phase out of $1,350 per pupil non-equalized aid	0%	=	Legislatively set; increases by 25% annually until 2008
(7) Per pupil formula state aid	$18	=	Row 5 – ($1,350 x (1-Row 6))

figure 5

Source: Maryland Department of Legislative Services

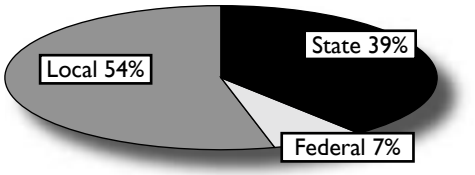
providing oversight. The Committee notifies local governments of the amount of funding available, adjusted for cost-sharing provisions. Local governments must submit master plans for the Committee's review and project approval. The cost share formula follows the distribution of funds to each county according to the pre-SB856 foundation formula. Two exceptions to this are Baltimore City and Prince George's County, which have enhanced allocations, with Baltimore receiving a 90 percent match up to $20 million and a 75 percent match above this amount, and Prince George's County receiving a 75 percent match for FY2003 through FY2007, up to $35 million, after which a 40 percent match in FY2003, and 35 percent match in subsequent years, is applied. The amount matched by the state ranges from a low of 50 percent for seven counties to a high of 80 percent (not counting Baltimore City) in Somerset County. The majority of Maryland's 24 counties receive matches of 65 percent or less. The state share of construction, as with the foundation formula, is greater for low-wealth districts than for wealthier counties. In this manner, state aid for school construction is equalized.

The Bridge to Excellence Act established a guaranteed tax base program to be phased in from FY2005 to FY2008. The program is to encourage low-wealth districts to increase local education tax effort. Districts which have less than 80 percent of the statewide average wealth per pupil and provide local funding above the required local share can receive additional state aid. Qualifying districts receive additional aid based on their wealth, enrollment and local tax effort. The local effort is determined as the amount of the county appropriation for education less the county's local share of the foundation program, with the difference then divided by the county's wealth. State aid per pupil is then determined as this figure (local effort), multiplied by the difference between 80 percent of statewide average wealth per pupil and local wealth per pupil. This figure, multiplied by enrollment, equals the total state aid, although per pupil aid is limited to 20 percent of the foundation aid amount. This program is particularly important as the state increases the amount of funding it is contributing to education, since it provides a strong incentive for local districts to maintain or increase their tax effort.

Local Funding

Local school districts are dependent on county financing, mostly through local property and income tax revenues. Local wealth for school funding purposes includes 100 percent of the assessed value of operating real property of public utilities; 40 percent of the assessed value of all other real properties; and 50 percent of the assessed value of personal property. Local schools must raise funds equal to the local contribution rate and their county's wealth.

Distribution of Funds by Source



Litigation

While Maryland reformed its school finance system without being ordered to do so by the courts, the state is no stranger to school finance litigation. An equity lawsuit brought against the state in 1986 was rejected by the state Supreme Court on the Court's finding that the state constitution did not mandate equality in per pupil expenditures among school systems. The Court's decision opened the door to an adequacy lawsuit, however, and one was filed in 1994 by the ACLU and Baltimore City, alleging that students in the district did not receive an adequate education. While the Court agreed with this assertion, it could not conclusively identify the root of the inadequacy and recommended a trial proceed. Just prior to the trial, however, a settlement was reached which afforded the district an increase in state funds in exchange for changes in school governance. The district returned to court in 2000, asserting that the state had not held up its end of the bargain. At the time, the state was engaged in a comprehensive study of the issue—the Thornton Commission—which led to the reform of the state finance system, essentially rendering the suit moot.

Mississippi

Constitutional Requirement

Article VIII, Section 201: The Legislature shall, by general law, provide for the establishment, maintenance and support of free public schools upon such conditions and limitations as the Legislature may prescribe.

School Characteristics[26]

Number of students	493,507
Percent in Title I schools	70.5
Percent with individualized education programs	12.6
Percent in limited English proficiency programs	0.5
Percent eligible for free/reduced-price lunch	65.3
Number of school districts	162
Number of schools	1,037
Pupil/teacher ratio	15.8:1
Number of FTE teachers	31,213

State Funding[27]

Average Per Pupil Funding: $5,908 (FY2002)

School funding in Mississippi is guided by the Mississippi Adequate Education Program (MAEP), crafted by the Legislature in 1994 and funded in 1997. By 2003, the program was fully funded. The MAEP is designed to establish funding levels for schools to provide programs necessary for an adequate education, defined statutorily as meeting the state Department of Education's Level 3 accreditation standards. The state awards five differing degrees of accreditation determined by meeting performance standards and process standards (school climate, professional personnel, organizational makeup, and instructional program). Performance standards are related to a variety of assessments administered to students in certain grade levels. Level 3 is considered "successful," with two categories below this level meriting "warned" and "probationary" status. State funds for MAEP are from four principal sources: general funds; budget contingency funds (severance taxes previously earmarked for the Education Trust Fund); one-time allocations; and the Public School Building Fund.

To determine the cost of an adequate education, the state Department of Education uses a sample of school districts performing at the Level 3 standard. Districts are to be selected with consideration of six factors: school size; assessed valuation per pupil; percentage of students receiving free or reduced-price lunch; local district maintenance levy; other local school district revenues; and the district's accreditation levy. The department calculates a base student cost using four cost categories: instructional; administrative; operation and maintenance of facilities; and ancillary costs. Costs deviating from the mean by more than one standard degree are not used to compute the average for any category. The resulting categorical averages are summed to arrive at a student base cost used to allocate funds. For the 2002-2003 school year, the student base cost was $3,427.

Schools are to report average daily attendance (ADA) each fall, which is used to calculate the district allocation (unless attendance is lower than the previous year, in which case the previous year's figure is used). The ADA figure includes all students and is multiplied by the base cost to determine the base student allocation. To this is added an allocation for at-risk students, calculated as 5 percent of the base student cost (for 2002-2003, $171.35) multiplied by the number of students in the district eligible to participate in the federal free or reduced-price lunch program. The sum of the base cost and at-risk adjustment is the program cost.

The resulting state base program cost is then adjusted for several add-on costs including transportation; vocational and technical education; special education; gifted education; alternative schools; extended school year programs; university-based programs and bus driver training programs, which are computed by the state Department of Education. These add-on programs do not require local contributions. Transportation allocations are determined by average costs for transporting students in districts of similar density of population. School districts are arranged in different density groups, with the greatest allowance provided to school districts with the lowest student densities. Included in a district's transportation allocation is an amount for the replacement of school buses or the purchase of new school buses. Districts receive the equivalent of one teacher unit for each program for exceptional students and gifted and talented students, with the funding determined by the certification and experience of the approved teacher. One-half teacher unit is added for each approved vocational program, with funding based in the same manner as for exceptional students. Should a special education student's individualized education program require extended year services, the state provides these funds as well. Support for alternative schools is determined as the greater of .75 percent of the districts ADA, or 12 students multiplied by the average per pupil expenditure in public funds from the previous year.

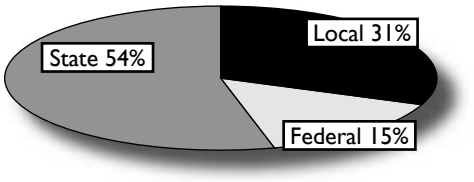
Each district is required to provide a determined amount of tax effort toward the MAEP allocation. Districts must levy 28 mills, reduced by the Ad Valorem Tax Reduction grants established by the Legislature every year, or 27 percent of the basic adequate education program cost, whichever is less. The state excludes this revenue from the program cost, although local districts can levy above the 28 mills or 27 percent minimums.

The amount a district receives from the state is equal to the total program cost less the required local contribution, with the caveat that each district is to receive at least an 8 percent increase annually in the base cost allocation (that is, excluding add-ons such as transportation, vocational and technical education, special education and others) from the previous year's funding. Each district also receives a statutorily prescribed supplemental amount equal to .13 percent of the base costs per pupil. This amount is not subject to the local revenue requirement.

Local Funding

Local districts are required to levy 28 mills, less the Ad Valorem Tax Reduction grant amount. Property tax revenue is the sole source of local tax used to support schools at the local level. Single-family residential property is assessed at 10 percent of market value, with other real property assessed at 15 percent, public utility property assessed at 30 percent, and motor vehicles at 30 percent. A maximum levy of 55 mills is allowed for local districts, with levies above this amount permitted in 4 mills maximum increments annually if approved by referendum. Districts levying above 55 mills prior to the passage of MAEP are not required to reduce their levies to 55 mills.

Distribution of Funds by Source



Litigation

Mississippi is the only state in the South, and one of only seven in the country, which has not had its education finance system challenged in court, and one of only five states in the country in which cases have never been filed.

Missouri

Constitutional Requirement

Article IX, Section 1(a): A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law.

School Characteristics[28]

Number of students	909,792
Percent in Title I schools	47.4
Percent with individualized education programs	15.4
Percent in limited English proficiency programs	0.9
Percent eligible for free/reduced-price lunch	35.1
Number of school districts	530
Number of schools	2,380
Pupil/teacher ratio	21:1
Number of FTE teachers	65,240

State Funding[29]

Average Per Pupil Funding: $7,345 (FY2003)

Missouri revised its school funding formula in 1993 as part of the Outstanding Schools Act. The formula increased aid to districts over its implementation period, achieving full implementation in 1996-1997. While the program was fully funded between FY1997 and FY2001, funding was incomplete for FY2002 through FY2004, with a similar situation likely for FY2005. State formula aid uses an eligible pupil (EP) count and the local tax base to create a system which responds to local wealth. Missouri uses a guaranteed tax base approach to ensure equitable funding.

The funding formula begins with a count of the EP by district. The EP count is calculated as the average daily attendance (ADA) for the school district for the regular school term plus twice the ADA of a summer program, if one exists. For each district, this count is multiplied by the lesser of the district's equalized operating levy or the state minimum levy of $2.75 per $100 of assessed value. This is multiplied by the product of the year's proration factor and the per pupil guaranteed tax base. The proration factor is the ratio of funds appropriated by the General Assembly to the total funds required to fund all districts according to the plan. The guaranteed tax base is the state average assessed valuation per EP for the third and fourth preceding years, multiplied by a constant factor of 2.167. A second calculation is made for district tax effort above the minimum levy, with this sum also being prorated by eligible pupil. The two amounts are then summed and represent the district's entitlement to state and local money.

From this figure the formula makes several deductions. Among these is 100 percent of the local property valuation divided by 100 multiplied by the district's income factor, with this multiplied by the district's levy for school purposes. The district's income factor is a calculation based on the ratio of the district's adjusted gross income per state income tax return, to the state average adjusted gross income per state income tax return. The state further deducts 100 percent of receipts from the intangibles tax, state assessed railroad and utilities taxes, "fair share" funds (revenue from a cigarette tax imposed in 1982 and distributed to schools based upon ADA), and the state school textbook fund, along with any other fines, fees, or other payments earmarked for non-categorical aid. The state further deducts half of the receipts from the 1-cent Proposition C state sales tax. While statutorily Missouri has authority to deduct 90 percent of federal impact aid, there has been no actual deduction. Missouri cannot deduct impact aid since the formula does not meet the federal range ratio equity test. The resulting figure is the state's obligation to the district's entitlement aid.

To this is added several categorical supplements. Among these is funding for approved professional and paraprofessional staff employed or contracted to provide special education services, as well as funding for these services provided at a non-public school and support for remedial reading instructors. These funds are adjusted annually by the percentage increase in state entitlement aid. The state also contributes 75 percent of the costs of approved instructional personnel and materials for gifted and talented education programs. Furthermore, the state provides matching funds for at-risk students based on the number of students eligible for free and reduced-price lunch programs and local tax effort. The calculation, like that for general education, is divided into two separate matches, one for the state minimum levy ($2.75 for every $100 of assessed value) and one for local effort above this minimum, with an adjustment in the latter for court-ordered desegregation aid received by the district for operating purposes. No district currently receives such money for operating purposes, however, so no adjustments are being made.

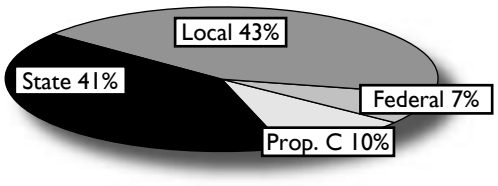
Districts receive state aid for the costs of transportation for students to and from school and approved vocational courses (but not for field trips or other activities). The state reimburses districts for 75 percent of their costs, with aid capped at 125 percent of the state average for the second preceding year calculated on a per pupil basis. Other categorical add-ons include career ladder entitlements to reimburse districts for the cost of mandated pay supplements related to professional development, vocational education and educational screening programs. While law specifies the maximum state reimbursement, such as 75 percent for gifted or 75 percent for transportation, the state funding level for these areas and others does not allow the actual reimbursement to be at those maximum levels. Districts' at-risk apportionments through the formula cannot fall below the 1992-1993 appropriation. The sum of all categorical aid is then added to the district's entitlement aid for the total district apportionment.

Local Funding

Property taxes are the sole source of local district tax revenue. To be eligible for state aid, districts must levy a minimum of $1.25 per $100 of assessed value on all property. To receive an increase in funds over 1993-1994 levels, the minimum levy is $2.75 per $100 of assessed value. Some wealthy districts are allowed to assess less than this amount, however. Tax levies in excess of $6.00 per $100 of assessed property must be approved by a two-thirds vote of the people in the district. Residential property is assessed at 19 percent of market value. Commercial property is assessed at 32 percent of market value. Farmland is assessed at 12 percent of productivity value, as determined by the University of Missouri. The productivity value is not the market value of this land.

A 1-cent sales tax for the purposes of education was passed by Missouri voters in 1982 as Proposition C. This technically is a state-managed tax, although all the revenues are required by a court decision to be treated as local. The local contribution to the cost of education is the sum of all deductions from state entitlement aid, excluding the deductions for textbooks and "fair share" funds, which are from state monies. Local income factors adjust the amount deducted by the state for property. Districts with income factors below the state average have their deductions reduced proportionate to their deviation from the norm, and districts above the state average have their deductions increased proportionate to their deviation from the norm. Since 1994, if a district's income factor is greater than 1.00, there is a cap of 1.00 applied to the increase in assessed valuation since 1994. Thus, if a district's income factor is 1.75, then 1.75 is applied to the 1994 assessed valuation, and 1.00 is applied to the growth since 1994.

Distribution of Funds by Source



Litigation

Missouri was subject to two lawsuits in 1990, which were subsequently consolidated into one case, contending that the state school finance system was unconstitutional with respect to both equity and adequacy. A coalition of rural and poor urban school districts, the Committee for Educational Equality (CEE), advanced the lawsuit to the trial court, which agreed with the plaintiffs and ordered the state to provide for an adequate and equitable system of funding schools, a decision that was not appealed by the state. The decision provided the impetus for the Outstanding Schools Act, which both increased state aid for education and introduced standards-based reforms and assessments.

In 2003, a study commissioned by a coalition of groups using both professional judgment and successful schools approaches to determine the costs of an adequate education reported that the state fell short of the necessary level of funding by $913 million (over the $6.5 billion in local, state and federal money spent in 2001-2002). In January 2004, a reformed CEE filed a combined equity and adequacy lawsuit against the state claiming that the underfunding of the formula has lead to essential resources, including teachers, courses, facilities, and equipment, being unavailable to students.

North Carolina

Constitutional Requirement

Article IX, Section 1. Education encouraged. Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged. Sec. 2. Uniform system of schools. (1) General and uniform system: term. The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students. (2) Local responsibility. The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

School Characteristics[30]

Number of students	1,315,363
Percent in Title I schools	35.7
Percent with individualized education programs	14.2
Percent in limited English proficiency programs	4.0
Percent eligible for free/reduced-price lunch	38.4
Number of school districts	212
Number of schools	2,234
Pupil/teacher ratio	15.4:1
Number of FTE teachers	85,684

State Funding[31]

Average Per Pupil Funding: $6,696 (FY2002)

The North Carolina General Assembly appropriates money to the Public School Fund, principally from sales tax revenues. The Fund is distributed to schools based primarily upon average daily membership (ADM). This count is calculated as the greater of the actual count from the previous year or the projection of the count for the current year. ADM is used in whole or in part to determine district allotments for 18 categories of need, although there is considerable flexibility provided to districts in how they spend their allotments. In exchange for this flexibility, local districts are held accountable through a system of state assessments. Local wealth also plays a factor in how much funding a district receives.

State funds take the form of three basic allotments: position, dollar, and categorical. Position allotments provide staff for a specific purpose, with the local school system paying the local wage rate for that position. Districts are allotted their average salary amount, which allows for variations among districts. Examples of position allotments are funds for teachers, instructional support personnel, and school building administration. Dollar allotments are specific amounts provided to districts for specific purposes. These allotments are not subject to local averaging and include teacher assistants, central office administration, textbooks and classroom materials, supplies and equipment. Categorical allotments are allocations to provide services to meet the needs of a specific population. Examples of these are at-risk student services, special education, transportation and noninstructional support personnel.

To generate the appropriation for local education agencies (LEAs), the General Assembly takes a projection of the total ADM for the state by grade and by LEA, and uses it to determine the basic (position and dollar) and categorical allotments for the state. The state uses a matrix to determine the number of personnel and funds in each category of the basic allotment, which outlines the number of pupils in ADM per teacher at various grades, and the amount of administrative and clerical support. This matrix includes both position and dollar allotments, depending on the category of staff or service. Table 4 provides the matrix for FY2004.

Instructional Personnel and Support Services Allotments FY2004	
Category	**Basis of Allotment**
Classroom Teachers by Grade K-2 3 4-6 7-8 9 10-12 Math/Science/Computer Teacher	 1 per 18 pupils in ADM 1 per 22.23 pupils in ADM 1 per 22 pupils in ADM 1 per 21 pupils in ADM 1 per 24.5 pupils in ADM 1 per 26.64 pupils in ADM 1 per county, or based on subagreements
Teacher Assistants	$824.83 per K-3 in ADM
Instructional Support	1 per 200.1 in ADM
School Building Administration Principals Assistant Principals	 1 per school with at least 100 in ADM and/or 7 or more full-time equivalent state allotted/ paid teachers 1 month per 76.12 in ADM
Vocational Education	Base of 50 months per LEA with additional based on ADM in grades 7-12
Classroom Materials/Instructional Supplies/ Equipment	$46.51 per AMD plus $2.69 per ADM in grades 8 and 9 for PSAT Testing
Textbooks	$56.50 per ADM in K-12
Non-instructional Support includes clerical assistants, custodians, and substitutes	$211.08 per ADM $6,000 per Textbook Commission member for clerical assistants

table 4

The Public School Fund budget is created by the General Assembly using state average salaries for instructional and school building administration personnel. For FY2004, the state average teacher salary was $38,065, and the state average for instructional support was $42,666. Principals, vice principals and vocation education staff salaries are calculated on a month of employment basis, with principals calculated as the state average of $5,568 per month, vice principals as $4,753 per month, and vocational education calculated as $3,979 per month. The allotment each district actually receives from the state reflects its local average salary for these positions. The state calculates the basic allotment for each district by multiplying the allotted positions by the LEA average salary for those positions, and adding these to the dollar allotments for the district (which are not adjusted by local expense). The school system pays whatever is required to hire these personnel, with the state salary schedule determining the minimum allowable salary.

An allotment for central office administration, to pay for district superintendents and associate and assistant superintendents, finance officers, child nutrition supervisors/managers, community schools coordinators, maintenance supervisors, transportation directors and the like, is calculated as a base allotment, divided into four categories differentiated by ADM count, with a supplement for ADM above the minimum count within each size range.

Categorical aid is provided for a variety of areas. Categorical aid may be based upon general ADM, as is the case with gifted education, technology and driver education, or upon the number of students enrolled in a program. There are 14 categorical aid programs to districts: Academically or Intellectually Gifted Students; At-risk Student Services/ Alternative Schools; Children with Special Needs; Driver Education; Improving Student Accountability; Intervention/Assistance Teams; Limited English Proficiency; Low Wealth Supplemental Funding; Recruitment Retention Bonus; School Technology; Small County Supplemental Funding; Staff Development; Transportation; and Vocational Education Support.

At-risk student services include funding for one resource officer per high school that receives a principal allotment. The remaining funds are distributed to districts on a 50/50 basis, with half of funds allotted based on the number of children in poverty as per the Title I Low Income poverty data (equal to $347.88 per poor child in FY2004) and half allotted to districts based on ADM (equal to $60.04 per ADM in FY2004). Each district is guaranteed a minimum allocation of the salary and benefits of two

teachers and two instructional support staff (equal to $192,564 for FY2004). Academically or Intellectually Gifted Students allotment is equal to 4 percent of each district's ADM, regardless of the number of children identified as eligible for related services.

Children with Special Needs funding for school-aged children is calculated as the number of children with disabilities multiplied by a determined dollar amount—for FY2004, the figure was $2,720.72. The headcount for children with disabilities is capped at 12.5 percent of ADM. Funding for preschool children with disabilities is calculated on a headcount basis as well—for FY2004, the per pupil funding was $2,004.64—with an additional supplement equal to the average salary of a classroom teacher plus benefits.

Districts receive Improving Student Accountability funding based upon the number of student performing below grade level on either reading or mathematics end-of-grade tests in grades 3-8. Half of these funds are distributed based on the previous year's tests, with the remainder calculated based on the current year's results, once available.

Driver Education funding is allotted to districts per their ninth grade ADM, with $250.67 per pupil allotted in FY2004. School Technology funding is allotted on an ADM basis, with $5.59 per ADM allotted for FY2004. Staff Development funding is allotted at $750 per district, with the 25 percent of the remaining amount allocated by the General Assembly allotted equally to each district and 75 percent by ADM. Vocational Education Support funding is allotted at $10,000 per district with the remaining allocated funds distributed by ADM in grades 7-12; for FY2004, this was $25.34 per ADM.

Funding for limited English proficient (LEP) students is available for schools with at least 20 LEP students or 2.5 percent of the district ADM. Each eligible district receives a base of an allotment for one teacher assistant. The remainder of funding is distributed on a 50/50 basis, with half of the allocation distributed according to eligible ADM and half according to the district's concentration of LEP students.

Low Wealth Supplemental Funding provides resources to counties that do not have the ability to generate revenue to support public schools at the state average level. Three criteria are used in determining eligibility: the county's total anticipated revenue, including revenue generated from property taxes as well as any receipts from sales taxes and fines and forfeitures; the tax base per square mile (density); and per capita income, calculated as a three-year average. Each of these criteria is compared to the state average. The resulting percentages are then weighted: 40 percent for county revenue, 10 percent for density and 50 percent for per capita income. The sum of the three percentages indicates the county's wealth as a percentage of the state's average wealth. If the total is less than 100 percent, the county is eligible to receive funding.

To receive funding, the county must meet a minimum "local effort" standard. For full funding, the county must either have an effective tax rate higher than the state average or a county appropriation higher than what the county could provide given only the county's ability to generate wealth and an average effort to fund public schools. To determine what a county could provide, the state average contribution is multiplied by the county's wealth percentage. The amount a district receives is calculated as the difference between the county's appropriation per pupil and the sate average local appropriation per pupil, multiplied by the district's ADM. The degree to which a county meets either of the "local effort" criteria is the amount of funding the otherwise-eligible county will receive. Funds allotted through this program can only be used for specific purposes, including instructional positions, substitute teachers, instructional support positions, overtime pay, instructional equipment and supplies, staff development and textbooks. In FY2004, 81 districts in 69 counties qualified for low-wealth funding. Because the program was not fully funded, districts received funding on a prorated basis.

Small County Supplemental Funding provides additional support to small school systems. County school districts with fewer than 3,239 pupils in ADM are entitled to funding, as are county school districts up to 4,080 with an adjusted property tax base per student below the state average. The amount the district receives is equal to the sum of:

the dollar amount, rounding up all fractions of position allotments to the next whole position (e.g., an allotment of 4.3 instructional staff becomes 5);

the dollar equivalent of five and one-half additional regular classroom teachers for districts in which the ADM per square mile is greater than four, or seven additional regular classroom teachers for districts in which the ADM per square mile is less than four;

a graduated scale of additional program enhancement teachers adequate to offer the standard course of study, ranging from five for the smallest districts to one for the largest;

the dollar equivalent of one teacher assistant per 400 ADM less the initial duty-free period allocation ($2 per ADM in FY2004);

the dollar difference between the allotment for classroom materials, instructional supplies and equipment and $614,148; and

the dollar equivalent of vocational education months of employment and program support generated based on sixth grade ADM.

In FY2004, 27 districts qualified for supplemental funding under this program.

As noted, the General Assembly extended considerable flexibility to districts in return for increased accountability. The North Carolina school finance system includes several performance-based supplements. The ABC Incentive Reward provides funding to districts that meet or exceed growth standards outlined in the state guidelines. Certified personnel in districts attaining high growth are eligible for awards of up to $1,500 plus benefits, with teacher assistants eligible for up to $500 plus benefits. In districts with expected performance growth, the rewards for certified personnel and teacher assistants are $750 and $375 plus benefits respectively. The ABC Intervention/Assistance Team funding is to provide for salary, benefits and support costs for staff assigned to a team of specialists detailed to a low-performing school from a high-performing district. The program consists essentially of a loan of staff from one district to another, with the receiving district paying the associated costs out of this fund.

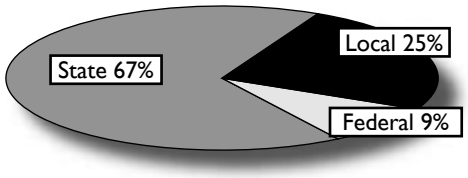
Continually Low Performing School funding is available to the state's chronically low-performing schools to provide tools to increase student achievement. Funds can be used for class size reduction, staff development and additional instructional days. Schools must be designated as low performing for three consecutive years. Eligible schools receive a base of $100,000 each, with the remainder of funds allocated distributed on a per-ADM basis. This program was not used in the 2003-2004 school year as the state board implemented other intervention strategies.

Every district is eligible for transportation funding based upon a budget rating formula that includes pupils transported, the total operating expenditures from local and state sources, and the number of buses operated. Districts must maintain 100 percent efficiency or have their funding decreased in the following year.

Local Funding

Local funding is principally from property taxes and local sales taxes. Local districts receive part of corporate income tax receipts, which are administered by the state, for school construction projects. There is no required minimum contribution to the school funding formula. To the extent that local education agencies wish to provide additional funding for programs, additional programs, or pay teachers above the state salary schedule, they are free to do so. Officials note that most local funds are expended on additional personnel and salary supplements.

Distribution of Funds by Source



Litigation

The North Carolina Supreme Court denied claims raised in 1987 that the state school funding system was inequitable. In 1994, a claim was raised in *Leandro* v. *State* that children in poor school districts do not receive an education adequate to meet state standards. The case also put forth an equity claim insofar as these children do not have equal educational opportunities because of the disparity between these districts and wealthier ones. Early in the lawsuit an appeals court ruled that the state was only obligated to provide equal access. In 1997, however, the state Supreme Court concluded that the state constitution guarantees every child an opportunity for a "sound basic education." The Court further outlined four characteristics of a sound education: sufficient knowledge of the English language, math and science in order to function in society; sufficient knowledge of history, geography, and basic economics and political science to be an involved citizen; sufficient academic and vocational skills to prepare the student for college or vocational training; and sufficient skills to compete equally in further education or employment.[32] The case was remanded to trial court, which began hearing testimony shortly thereafter.

To simplify matters the judge in the proceedings, Howard Manning, instructed both parties to focus on one small county, Hoke County, one of eleven counties in the case. Judge Manning issued a series of rulings beginning in October 2000 with a decision that performing at grade level on end-of-course and end-of-grade tests was the minimum standard for determining if a student had received a sound education. In his second ruling, Manning concluded that the educational needs of at-risk students throughout the state were not being met, and that these students were entitled to pre-k programs that place them on an equal footing with other children entering kindergarten. He also concluded that the state's school finance system *was* constitutional and did not mandate, as has happened elsewhere, an increase in expenditures for education. Manning held that the level of funding was not at fault for at-risk students' poor performance academically, placing the burden on a lack of a "coordinated, effective educational strategy."[33]

While Manning essentially placed responsibility for poor student performance squarely on the shoulders of local agencies, in what is likely final ruling in the case, he identified several "root causes of the failure of an LEA to provide and administer effective, targeted educational programs." While these again targeted local districts, Manning faulted the state for not stepping in to improve the situation, leaving final responsibility at the state level. Essentially, the decision indicates, local districts serve as agents of the state in delivering educational services, and the state must hold them accountable to their obligations.

Judge Manning's ruling specifically called for the executive and legislative branches to "use their informed judgment as to how best re-allocate and strategically apply funds, modify or change existing programs and, if needed, create new programs and approaches to remove the barriers to an equal opportunity to a sound basic education." He added that, "Throwing money, either local or state, at the problem without strategic and effective planning accompanied by accountability for results will not be acceptable."[34] The judge's ruling also outlined several criteria necessary for students to receive an adequate education, including the presence of effective principals in each school; competent certified teachers in every classroom working in their field of expertise; educational flexibility to meet the needs of all children; safe and orderly school environments, and high expectations of teachers and students.[35] The case currently is before the state Supreme Court on appeal of the use of test scores to determine minimum standards and the requirement for pre-K for at-risk pupils.

Oklahoma

Constitutional Requirement

Section XIII-1: Establishment and maintenance of public schools. The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.

School Characteristics[36]

Number of students	618,358
Percent in Title I schools	58.6
Percent with individualized education programs	14.1
Percent in limited English proficiency programs	6.0
Percent eligible for free/reduced-price lunch	48.7
Number of school districts	541
Number of schools	1,844
Pupil/teacher ratio	13.1:1
Number of FTE teachers	47,259

State Funding[37]

Average Per Pupil Funding: $6,237(FY2003)

Oklahoma uses a weighted pupil count to determine the degree of state support for each district. The formula accounts for variations in the cost of delivering educational services to different students and in different districts, including students in certain grade spans, requiring special services, or living in sparsely populated areas. Oklahoma's funding formula begins with a count of students separated by grade level and student characteristics. District calculations for small schools, sparsity and an index of teacher salaries also are generated. Once a weighted student count, called the weighted average daily membership (ADM), is calculated for the district, it is multiplied by a foundation aid factor ($1,344 for FY2003) to determine foundation aid and by a teacher salary incentive factor ($62.73 for FY2003) to determine the state salary incentive amount. The weighted ADM for the current year is calculated from the first nine weeks of the school year and is compared to the previous two years' weighted ADM. An initial calculation of state aid is determined as the higher of the previous year's or the second previous year's weighted ADM, with the final allocation of state aid based on the higher of the three counts.

Weighted ADM comprises four counts: pupil grade level; pupil category; district calculation; and teacher index. The first three begin with a raw ADM calculation, derived from district attendance rolls. To calculate the weighted pupil grade level ADM, the raw grade average ADMs are divided by categories and multiplied by a weight factor reflecting relative costs of providing educational services. Table 5 provides the categories and weights.

Pupil Grade Level Weights

Grade Level	Weight
Early Childhood (half day)	.7
Early Childhood (full day)	1.3
Kindergarten (half day)	1.3
Kindergarten (full day)	1.3
Grades 1-2	1.351
Grade 3	1.051
Grades 4-6	1.0
Grades 7-12	1.2

table 5

The state matrix also provides weights for students served in out-of-home placements which vary by the level of services required. Each weighted pupil grade level category is then summed, to arrive at the total weighted pupil grade level calculation.

The weighted pupil category calculation uses data from district special education, gifted and talented education program, bilingual program, and free and reduced-price lunch eligibility reports to determine the number of students in each district who are eligible for add-on weights according to participation in one or more of these programs. These weights reflect the added costs of delivering these various services. The raw ADM for each category is multiplied by the weight factor, resulting in a weighted pupil count for each category. The weights are then summed to arrive at the weighted pupil category ADM. The weights assigned to pupils in these programs are detailed in Table 6.

Pupil Category Weights			
Category	**Weight**	**Category**	**Weight**
Learning Disabled	.4	Mentally Retarded	1.3
Hearing Impaired	2.9	Emotionally Disturbed	2.5
Visually Impaired	3.8	Physically Handicapped	1.2
Mentally Handicapped	2.4	Gifted	.34
Speech Impaired	.05	Deaf and Blind	3.8
Bilingual	.25	Special Education Summer	1.2
Traumatic Brain Injury	2.4	Economically Disadvantaged	.25
Autism	2.4		

table 6

The district calculation provides for additional ADM weighting in the case of small or sparsely populated school districts. For school districts with less than 529 ADM, the amount by which their population is below this threshold is divided by 529 with the result multiplied by .2. This product is then multiplied by the total ADM of the same year to arrive at the small school district weight. Schools above the 529 ADM may qualify for district sparsity-isolation weighting if they have a total area in square miles greater than the state average (129 square miles). To be eligible, the districts must have equal to or fewer than 2.21 raw ADM per square mile. Once this requirement is met, the district calculates the density for each school level (elementary, middle and secondary), with a cost factor arrived at for each grade level group based on separate formula calculations, which are subsequently summed. The resulting district cost factor is then multiplied by either the ratio of the district's area to the state average or 1 (whichever is greater) to arrive at an isolation factor. This isolation factor multiplied by the district's raw ADM is the district's isolation weight. The greater of the small district weight or the isolation weight is used as the weighted district weight. Obviously, some districts have neither of these weights.

The weighted teacher index calculation accounts for differences in teacher pay because of experience and training. It also provides incentives to districts to hire more experienced and educated teachers. Each district compiles a count of teachers by type of degree held and years of experience. The number of teachers in each degree and years experience category is then multiplied by a statutorily assigned weight. Table 7 lists the teacher index weights.

The sum of all weights results in a degree index, which is divided by the total number (not FTE) of teachers. This is the weighted average district teacher. The district average is subtracted from the state average to determine the school district teacher index. This figure is multiplied by .7 and the product by the weighted ADM for grade level and pupil category weight for economically disadvantaged children. The resulting product is the weighted teacher index for the district.

Once these four calculations have been completed, the sum of them is the total weighted ADM. The total weighted enrollment is then multiplied by the base support level of $1,344 (for FY2003) for the foundation program in state aid formula. State aid is the balance remaining after local effort has been accounted for. If the total revenue from various local sources exceeds the amount of the base funding times weighted ADM, the state foundation aid total is zero.

Each district also is eligible for transportation aid, which is a supplement to state formula assistance. Allocations are calculated as the district's average daily haul by a per capita figure multiplied by a transportation factor of 1.39. Average daily haul is the number of students transported who live at least 1.5 miles from school.

Oklahoma has a salary incentive component of its funding system that is tied to district weighted

Teacher Index Weights			
Years of Experience	**Weight**		
	Bachelor's Degree	**Master's Degree**	**Doctorate Degree**
0-2	.7	.9	1.1
3-5	.8	1.0	1.2
6-8	.9	1.1	1.3
9-11	1.0	1.2	1.4
12-15	1.1	1.3	1.5
15+	1.2	1.4	1.6

table 7

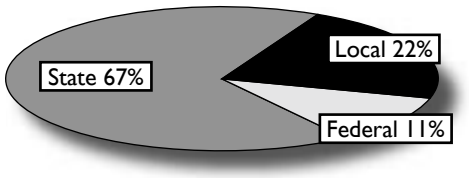
ADM and the district's adjusted assessed valuation. To participate, districts must levy 20 additional mills above their general education levy. Essentially a guaranteed yield program, the district's weighted ADM is multiplied by the incentive aid factor ($62.73 for FY2003). From this sum, the district's adjusted assessed valuation expressed in mills is subtracted. This result is then multiplied by 20 mills to figure the salary incentive aid. Total state aid is the sum of foundation aid, transportation aid, and salary incentive aid.

Local Funding

Most local school revenues are derived from *ad valorem* taxes. Property tax is levied on the first 35 percent of fair market value, with properties listed as homesteads eligible for a $1,000 exemption. Local school boards levy up to 15 mills of assessed valuation for education, which comprises the bulk of the local contribution to the state foundation formula. Annually, voters decide up to 20 additional mills for general fund support from three separate levies, including a 5 mills county levy, a constitutional 5 mills emergency levy, and a constitutional 10 mills local support levy. Proceeds from these levies are equalized through the teacher incentive aid formula. While these levels are technically the maximum that can be levied by districts, they are so connected to the state aid formula that it is not possible for even a wealthy district to levy less than this amount. Because this assortment of levies adds up to the constitutional cap of 35 mills, it also is the maximum districts can levy for general education purposes. Local districts also receive a portion of a 4 mills countywide levy based on their average daily attendance, 75 percent of which is chargeable income against the state foundation formula.

Districts may also seek approval from the voters in the district for a 5 mills building fund levy for capital outlays and a "sinking fund" levy to service debt. These funds are not equalized by the state. To these local funds are added a handful of other funds, including revenues from school land (known as 16th section lands elsewhere); taxes levied on rural electrification association cooperatives in lieu of property tax distributed in proportion to the miles of transmission lines in the district, 35 percent of all motor vehicle fees; and 10 percent of tax revenue from oil, gas and other minerals. All of these sources are also deducted from the state formula aid amount calculated as the weighted AMD times the foundation aid factor.

Distribution of Funds by Source



Litigation

Oklahoma faced a challenge to its school funding in 1987 when the claims of an equity lawsuit were rejected by the state Supreme Court. The state increased funding in 1989 following the decision of the Kentucky Supreme Court in the *Rose* case, increasing state sales and income taxes to fund reduced class sizes and increased teacher pay. The resulting plan also implemented new standards-based assessments. An adequacy challenge to this new plan was raised but subsequently abandoned before reaching the trial phase after the standards were affirmed in a statewide repeal referendum.

South Carolina

Constitutional Requirement

Article XI, Section 3: The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable.

School Characteristics[38]

Number of students	684,504
Percent in Title I schools	58.6
Percent with individualized education programs	14.9
Percent in limited English proficiency programs	0.8
Percent eligible for free/reduced-price lunch	47.2
Number of school districts	85
Number of schools	1,121
Pupil/teacher ratio	13.6:1
Number of FTE teachers	50,437

State Funding[39]

Average Per Pupil Funding: $7,907 (FY2003)

Pupil Categories and Weightings 2003-2004 School Year

Classification	Weighting
Kindergarten	1.30
Primary (grades 1-3)	1.24
Elementary (grades 4-8)	1.00
High School (grades 9-12)	1.25
Trainable Mentally Handicapped	2.04
Speech Handicapped	1.90
Homebound	2.10
Emotionally Handicapped	2.04
Educable Mentally Handicapped	1.74
Learning Disabilities	1.74
Hearing Handicapped	2.57
Visually Handicapped	2.57
Orthopedically Handicapped	2.04
Vocational 1 (one class period)	1.29
Vocational 2 (two class periods)	1.29
Vocational 3 (three class periods)	1.29
Autism	2.57

table 8

The Education Finance Act of 1977 (EFA) established the school funding system still in use today. State education revenue comes from a variety of sources, primarily a 1-cent sales tax imposed in 1984 as part of the Education Improvement Act. The state provides funding to school districts based on their weighted pupil count, with the amount of state aid determined in part by the ability of the local district to raise revenue. The formula provides for 15 pupil categories for weighting purposes. Each school district compiles a count of students in average daily membership (ADM) by program classification. These counts are multiplied by their respective weighting factor to determine the categorical weighted pupil units (WPU), which are summed to establish the district's composite WPU count. Table 8 provides a listing of the categories and their weights for the 2003-2004 school year.

The General Assembly sets a base student cost (BSC) as the per unit dollar amount for foundation funding. The BSC for the 2003-2004 school year is $1,777. The product of the district's WPU multiplied by the BSC is the total cost for the foundation program. The amount of support each district actually receives from the state is determined by the district's taxpaying ability. Local districts, as an aggregate, are expected to pay 30 percent of the total cost of the foundation program, with the state paying the remaining 70 percent. To provide for each district's relative fiscal ability, the amount each district pays of this amount is determined by its district index of taxpaying ability. The district index is a comparison of the district's percentage of statewide assessed property, as calculated at full market value.

The district allocation is then the cost of the formula for the district less the amount of the formula that is expected to be borne by the district. This latter is determined as the cost of the state foundation formula (that is, state WPU multiplied by the BSC) multiplied by the district index, multiplied by .3. In graphic terms, the formula looks like this:

$$\frac{\text{(district WPU x BSC)} - \text{(state WPU x BSC x index x .3)}}{= \text{District Allocation}}$$

At least 85 percent of state and local funds allocated for each weighting classification, except speech, must be spent in direct and indirect aid in the specific program for students in that category.

Transportation funding is not a component of the foundation formula and is a shared responsibility of the state and local districts. The state is responsible for program oversight, including the purchase of new school busses, fleet maintenance, and training drivers, among other areas. School districts are responsible for daily operations of the system. A second major source of funding for schools is provided through the Education Improve-

ment Act (EIA), which was approved by the General Assembly in 1984. The EIA provides funding above basic foundation (that is, EFA) levels for a number of programs. EIA funds are not equalized by wealth and cannot supplant foundation funding. In order to qualify for state funding under the EIA, school districts are required to pay each certified teacher or administrator an annual salary not less than the state's minimum compensation for a staff member of the employee's experience and class, and must increase their local tax revenue on a per pupil basis by at least the rate of inflation. This provides funding for a wide range of categorical programs, including arts education, school innovation, class size reduction, school improvement, teacher professional development and literacy.

The voters of South Carolina approved a statewide lottery in 2000, the proceeds of which are dedicated for public education. Lottery funding pays for a variety of programs, including the K-5 enhancement program, which supports strategies designed to improve teachers' skills and improve academic performance in core subject areas. Each district receives $40,000 under this program, with an additional $100 per K-5 student based on ADM and an additional allocation ($2,000 per school and $40 per K-5 student) for schools that received an unsatisfactory or below average rating in the state's accountability system in the previous year. Other programs funded in part by the lottery include a program that transfers principals and teacher specialists to schools in need of improvement to support teaching and learning at these schools, homework centers for students in low-performing schools, and a $1 million fund to reward schools for high academic performance and improvement.

Support for capital improvements, while not a component of the state formula, has substantially increased over the past few years. South Carolina provides aid through the state school building fund, with the amount allocated by the General Assembly divided by the state ADM in grades K-12 and then distributed by district ADM. This funding can be used for school construction, improvement, or maintenance or debt service. Infrastructure and capital outlay funds also are available through the Children's Education Endowment, funded through tax revenues collected from the Barnwell low-level radioactive waste facility. Seventy percent of these revenues are earmarked for K-12 capital needs. Of the funds, 35 percent is allocated according to weighted pupil units for the preceding. Another 35 percent is allocated according to the preceding year's foundation formula. The remaining 30 percent is distributed by a formula with half based on the prior five year's average expenditures for capital projects and debt service divided by the average assessed value of all property subject to school taxation and adjusted to reflect an equalized per pupil mill value and half based on a standardized assessment of the district's facilities needs relative to state total facilities needs.

South Carolina provides considerable flexibility to districts in how they apply funds. Districts are authorized to transfer 100 percent of funds allocated between programs so long as these funds are used for direct classroom instruction. Districts can also transfer Barnwell facilities funds to instructional programs. This flexibility does not affect the 85 percent requirement for weighted pupil funds. Lottery funds are excluded from this allowance.

Local Funding

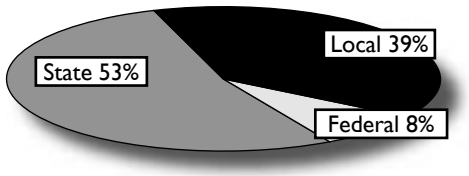
Local funding for education is primarily from property taxes. Property is assessed at various percentages of value, depending on the property's use, with primary residences and private agricultural lands assessed at 4 percent. Manufacturing and utility properties are assessed at the top end of the scale at 10.5 percent, with other categories of property falling in between. Given that the assessment percentages are very low, millages can be very high (over 300 in some districts). Homeowners are exempt from property taxes on the first $100,000 of the value of their home, and residents 65 years of age or older, totally and permanently disabled, or legally blind have a $20,000 homestead exemption. South Carolina also has wide variations in what 1 mill of tax effort can raise, from lows in the thousands of dollars to highs of over $1 million.

Districts vary in the level of fiscal autonomy they have been granted by their voters. Roughly one-quarter of school districts have total independence, allowing them to increase millage without other approval. Of the remaining three-quarters, half have limited authority to increase by a set amount, inflation factor, or mandated maintenance effort. The other half have either no authority to raise millage or statutory caps on millage. For these latter districts, the only means to raise millage are through other governance bodies (such as county legislative delegations, county councils or town meeting) or through referendum.

As part of the Education Improvement Act, districts are required to maintain their local effort at a constant rate as a minimum, accounting for inflation. Thus, districts must annually increase local

tax effort at a rate no less than the annual rate of inflation, or apply for a waiver from the state board of education.

Distribution of Funds by Source



Litigation

In 1988, the state Supreme Court upheld a circuit court dismissal of an equity school finance lawsuit. In 1993, 40 school districts challenged the state's funding system, particularly the manner in which the state funded teacher benefits, transportation, construction and textbooks, none of which were funded on a wealth-adjusted basis. A circuit court dismissed the case in 1996, emphasizing the constitutional obligation of the state to provide a "free" education. Upon appeal, the state Supreme Court upheld the school funding system as constitutional, rejecting all but one claim against the state. The remaining claim, on the question of whether the constitution placed a qualitative claim on the education provided by the state, the Court affirmed and remanded the case to the trial court to determine what an adequate education was. In making this decision, the Court highlighted the need for students to attend "adequate and safe schools in which they have the opportunity to acquire: 1) the ability to read, write and speak the English language, and knowledge of mathematics and physical science; 2) a fundamental knowledge of economic, social and political systems, and of history and governmental processes; and 3) academic and vocational skills."[40] The case currently is in the trial phase.

Tennessee

Constitutional Requirement

Title 49, Part 1, Section 101: There is established a system of public education.

School Characteristics[41]

Number of students	974,133
Percent in Title I schools	31.1
Percent with individualized education programs	14.9
Percent in limited English proficiency programs	1.5
Percent eligible for free/reduced-price lunch	42.4
Number of school districts	138
Number of schools	1,659
Pupil/teacher ratio	16.9:1
Number of FTE teachers	57,654

State Funding[42]

Average Per Pupil Funding: $6,648 (FY2003)

Tennessee's school funding system is the Basic Education Program (BEP), established through 1992's Education Improvement Act. The Act created, in addition to the BEP, the Education Trust Fund, which receives unexpected balances from the BEP (as opposed to the funds reverting to the General Fund), and the BEP fund. Tennessee does not have a state personal income tax and is dependent on sales and use taxes to fund public education. Because of this, nearly every tangible item that is bought or sold, along with many intangibles, is subject to sales tax at some point. By statute, .5 percent of the state sales tax is earmarked for the Education Fund, although much more of the state's sales tax revenue actually is allocated for schools. Other important sources of revenue for schools are the litigation privilege tax, the tax on tobacco products, and the state's mixed drink tax, each of which have significant earmarks for public education.

The BEP groups education components into two broad categories: classroom and nonclassroom. Classroom components, as the name implies, include funds for regular, vocational and special education; guidance counselors; art, music and physical education; librarians; substitute teachers; instructional assistants; English language learners' instructors and translators; textbooks, materials, equipment and supplies; and technology, among other things. Nonclassroom components include funds for school superintendents; system clerical supports; technology coordinators; school secretaries; non-instructional equipment; transportation; maintenance and operations; staff benefits and insurance; and capital outlay.

The BEP is based on a student count of average daily membership (ADM). The components of the program are essentially the categorical expense, such as regular instruction, substitute teachers, school nurses, textbooks, superintendents, capital outlay, etc., that constitute a school district's range of expenditures. Each component has either a ratio per ADM or a unit cost per ADM associated with it. For example, regular education affords 1 unit per 20 students in ADM in grades K-3 and 1 unit per 20 students in ADM in grades 7-9 (ratios); for every student in ADM, districts receive $72.00 for textbooks and $59.00 for classroom materials and supplies (unit costs). Some programs apportion units by population identified and served, such a special education or English language learners. The sum of the dollar amount associated with each component represents the district's BEP cost.

For units that fund personnel positions (as in the ratio examples above), the costs of salary and benefits are applied to those positions. The BEP allocation for salaries for each school system is based on the number of each type of position generated by the cost components and the current average salary for licensed personnel in that school system, based on the state salary. Adjustments are made on a county-by-county basis to correct salaries up or down for variation from the statewide average by the difference between local non-governmental wages and the statewide average.

Transportation is a component in the BEP, but funds (which are categorized as non-classroom) are allocated to districts according to a formula using the number of students transported, the miles transported, and the density of pupils per route mile. Capital outlay also is included in the BEP, calculated as a number of allotted square feet per pupil in elementary, middle and secondary schools by a state-determined cost per square foot. These funds may be used to pay for the purchase of large capital items such as equipment, buildings, or to retire debt. In all, there are 36 classroom components and nine non-classroom components in the BEP. Tables 9a and 9b provide a sampling of classroom and non-classroom components.

Classroom Components of the BEP	
Component	**Funding Ratios/Levels**
Regular Education	1 per 20 ADM K-3 1 per 25 ADM 4-6 1 per 30 ADM 7-9 1 per 26.5 ADM 10-12
Vocational Education	1 per 20 vocational education FTE ADM
Special Education	Based on caseload allocations of the number of students identified and served
Elementary Guidance	1 per 500 ADM K-6*
Secondary Guidance	1 per 350 ADM 7-9
Elementary Art	1 per 525 ADM K-6
Elementary Music	1 per 525 ADM K-6
Elementary Physical Education	1 per 350 ADM K-4 1 per 265 ADM 5-6
Elementary Librarians (K-8)	.5 per school <265 ADM 1 per school 265-439 ADM 1 per school 440-659 ADM (+ .5 assistant) 1 per school >660 ADM (+ 1 assistant)
Secondary Librarians	.5 per school <300 ADM 1 per school 300-999 ADM 2 per school 1,000-1,499 ADM 2 per school >1,500 ADM (+ 1 per additional ,750 ADM)
Substitute Teachers	$41.00 per total ADM
Instructional Assistants	1 per 75 ADM K-6
English Language Learners (ELL) Instructors	1 per 50 ELL students identified and served
ELL Translators	1 per 500 ELL students identified and served
Special Education Assistants	1 per 60 special education students in certain categories of service
Principals	.5 per school <225 ADM** 1 per school >225 ADM
Assistant Principals (Elementary)	.5 per school 660-879 ADM 1 per school 880-1,099 ADM 1.5 per school 1,100-1,249 ADM 2 per school >1,300 ADM
Assistant Principals (Secondary)	.5 per school 300-649 ADM 1 per school 650-999 ADM 1.5 per school 1,000-1,249 ADM 2 per school >1,250 ADM (+ 1 per additional ,250 ADM)
Psychologists	1 per 2,500 total ADM*
Nurses	1 per 3,000 total ADM (min. 1 per system)
K-3 At-Risk Class Size Reduction	Systems are allocated additional teachers to reduce pupil-teacher ratio to 15:1 for 1/3 of students on free and reduced-price lunch program
Textbooks	$72.00 per ADM
Classroom Materials and Supplies	$ 59.00 per regular ADM $137.00 per vocational education FTE ADM $ 28.00 per special education I & S $ 26.00 per academic exit exam (12th grade) $ 10.00 per technical exit exam (1/4 voc ed)
Instructional Equipment	$60.00 per regular ADM $94.00 per vocational education FTE ADM $12.00 per special education student identified and served
Technology	$22.18 per total ADM $20 M distributed on ADM basis

table 9a

Non-classroom Components of the BEP	
Component	**Funding Ratios/Levels**
Superintendent	1 per county***
School Secretaries	.5 per school < 225 ADM 1 per school 225-374 ADM 1 per 375 per school > 375 ADM
Maintenance and Operations	100 square feet per total K-4 ADM 110 square feet per total 5-8 ADM 130 square feet per total 9-12 ADM Total sq ft x $2.46/sq ft**** 1 custodian per 22,376 calculated sq ft
Capital Outlay	100 sq ft per total K-4 ADM x $78/sq ft 110 sq ft per total 5-8 ADM x $85/sq ft 130 sq ft per total 9-12 ADM x $80/sq ft Add equipment (10% of sq ft cost) Add architect's fee (5% of sq ft cost) Add debt service (20 yrs @ 6.00%) Divide total by 40 yrs = annual amount

Table 9b

Source: Tennessee Basic Education Program *Blue Book 2003-2004*, State Board of Education, May 2, 2003

*If a system within a county having more than one system does not have enough pupils to qualify for a position, the relevant county totals are used and each system receives a prorated share based on its proportion of total relevant enrollment. If county totals are insufficient to generate a position, the county is allocated one position to be shared by the systems on a prorated basis.

**Elementary schools < 100 are not allocated a principal.

***One superintendent is allocated for each county. If there is more than one school system in a county, each system receives a pro-rata share based on its proportion of total county ADM.

****For purposes of calculating benefits and insurance: for maintenance add 60% of sq. ft. cost to salary allocation; for pupil transportation add 45% of amount to salary allocation. Apply calculated rate (insurance, FICA, TCRS) for classified personnel as specified to 50% or 45% of allocation, respectively.

The sum of all component costs is equal to the total cost of the BEP for the district. The overall state share for classroom components is 75 percent of funds generated by the BEP, and 50 percent for non-classroom components. The balance of the support is to come from local districts. Because the BEP adjusts funds by local fiscal capacity, the actual amount each district receives varies from system to system. The state Board of Education is responsible for determining fiscal equalization, which is calculated by county. Five factors are considered in assigning a fiscal capacity index: three-year average per pupil sales tax base; three-year average per pupil tax base; three-year average per-capita personal income; ratio of residential and farm property assessment to total assessment; and ratio of ADM to total population. The model estimates the average, statewide effects of these factors on revenue and multiplies this by each county's respective factors to calculate the county's fiscal capacity—essentially a measure of the county's comparative ability to raise revenue for schools compared to the state average.

Local districts are responsible for 25 percent of the cost of classroom components and 50 percent of the cost of non-classroom components. Because the actual district responsibility is adjusted by the local fiscal capacity index, how much each district actually pays can vary greatly. In 2001-2002, Davidson County had the state's highest fiscal capacity per ADM, which resulted in a local responsibility of 41 percent of classroom components and 89 percent of non-classroom components. Hancock County, with the lowest fiscal capacity index per ADM, had local responsibilities of 6 percent for classroom components and 10 percent for non-classroom components.

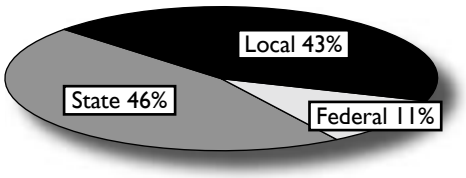
Local Funding

Local funds come from a combination of property tax and local option sales taxes. County and municipal governments have the authority to levy property tax, which is subject to uniform assessment: 55 percent of market value for utility property; 40 percent for commercial and industrial property; 30 percent for personal property; and 25

percent for residential and farm property. Tax rates are set by the counties and municipalities, with most counties applying different rates for rural and municipal properties. Tax rates within a county can vary, depending on the location of the parcel.

Counties and municipalities both can levy an additional 2.75 percent local option sales tax, at least half of which must be allocated for education. Counties have priority and can choose to levy the full 2.75 percent. Municipalities may only levy the balance remaining up to 2.75 percent. Counties with more than one district are required to allocate these revenues to the districts on a per ADM basis. With the exception of a handful of "special districts" created by an act of the General Assembly, school districts are not fiscally independent but are reliant on the counties, primarily, to set school tax rates. City school districts may seek additional support from their municipal governing bodies.

Distribution of Funds by Source



Litigation

Seventy-seven small, primarily rural school systems filed suit against the state in 1988 contending that the Tennessee Foundation Program (TFP), as the school funding system was then known, was unconstitutional because the inequities in funding lead to unequal educational opportunities for Tennesseans. A trial court supported the plaintiffs' charge in 1991, a decision subsequently appealed to the state Supreme Court.

In the meantime, the General Assembly responded with the Education Improvement Act, creating the BEP and a new, wealth-balancing formula for school funding reflecting local fiscal capacity. The state Supreme Court, hearing the case after the passage of the EIA, unanimously affirmed the trial court's decision holding the TFP unconstitutional and asked the trial court to provide a remedy. The plaintiffs in the case allowed that the BEP resolved much of the inequity in the previous plan, but sought immediate full funding and additional funds for rural schools' infrastructure and for teacher salary equalization. The trial court denied these alterations to the plan, a decision that also was appealed to the state Supreme Court.

The Court also supported the BEP's incremental (over five years) implementation as reasonable, but affirmed the plaintiffs' claim on the teacher salary issue. The BEP did not include teacher salary increases as a component of the equalization formula, an exclusion the court held would "substantially impair the objectives of the plan; consequently, the plan must include equalization of teachers' salaries according to the BEP formula."[43] The result of this was the 1995 Teacher Salary Equity Plan, enacted by the General Assembly, which provided funds to districts with an average compensation package for teachers that is below the state average when the BEP was put into place. Participation requires a local match adjusted for local fiscal capacity.

In 1998, the case was back in court over the issue of teacher salary again, with the plaintiffs calling for salaries to be completely equalized. The trial court rejected the claim, but the state Supreme Court reversed the decision, finding the Salary Equity Plan unconstitutional in October 1998. The issue is currently before the General Assembly, which is obliged by the court decision to include teacher salaries in the BEP formula.

Texas

Constitutional requirement

Article 7, Section 1, Section 3: §1 A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools. §3 (a) One-fourth of the revenue derived from the State occupation taxes shall be set apart annually for the benefit of the public free schools. (b) It shall be the duty of the State Board of Education to set aside a sufficient amount of available funds to provide free text books for the use of children attending the public free schools of this State. (c) Should the taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State.

School Characteristics[44]

Number of students	4,239,911
Percent in Title I Schools	57.7
Percent with individualized education programs	11.6
Percent in limited English proficiency programs	13.5
Percent eligible for free/reduced-price lunch	45.4
Number of school districts	1,039
Number of schools	7,733
Pupil/teacher ratio	14.7:1
Number of FTE teachers	288,386

State Funding[45]

Average Per Pupil Funding: $6,919 (FY 2003)

Texas has a combination of dedicated and undedicated revenues of various types, with the largest share being provided by undedicated general revenue funds. Roughly three-quarters of funding for education in the state is from undedicated general funds, with the remainder composed of earmarked revenues. The largest component of funds paying into the general fund is sales tax, which represents more than half of general revenues. General revenues that are allocated to the Foundation School Fund are used by districts to pay instructional salaries, infrastructure, administrative and other education-related costs.

The state dedicates 25 percent of motor fuels taxes, 100 percent of state lottery proceeds, and the spendable portion of an endowment fund known as the Permanent School Fund. For 2004 fiscal year, those sources are estimated to amount to about $720 million, $903 million, and $869 million, respectively. There are some additional dedications of minor tax sources, known generally as "occupation taxes," which collectively amount to about $639 million. The remainder, about $6.8 billion, is funded from undedicated general revenue.[46] Education-specific resources include the Available School Fund, which is funded through interest and dividends from the Permanent School Fund and one-quarter of the motor fuels tax. Of this fund, large portions are allocated for non-foundation accounts, specifically technology and textbooks.

School funding in Texas is in a state of flux. As this report was being written, Texas Governor Rick Perry called the Legislature into special session to reform the state's school finance system. The core issue before the Legislature is the future of the state's so-called "Robin Hood" rule which transfers (or recaptures, as the practice is termed in the plan) revenue from wealthy districts and distributes it to poorer districts.

The current Texas school funding program, known as the Foundation School Program (FSP), was established by the Legislature in 1993. Under it, state aid to schools is a multi-tiered system that provides support to districts in inverse relation to their local property wealth. The first tier of the FSP provides the base funding for students at a local tax rate of $0.86 per $100 of property value. The second tier provides state funding to districts based on effort above the $0.86 level, up to a state mandated cap of $1.50 per $100 of property value. This tier operates as a guaranteed yield of revenue per weighted pupil per penny of local effort, regardless of local property wealth. This second tier also includes the recapture provision which limits school district wealth and transfers revenue from high-wealth to low-wealth districts to promote equity. Fewer than 10 percent of Texas school systems are donor districts under the recapture provision. The second tier acts as a limit on the revenue generating capacity of wealthy districts. The wealth of districts is a measure of the total property value divided by the weighted average daily attendance. Districts with property wealth exceeding $305,000 per pupil were required to reduce their wealth in the 2002-2003 school year, with the two most common mechanisms for accomplishing this sharing the excess revenues with other districts or the state. This system allows poorer districts to generate revenue similar to wealthier districts at the same level of tax effort.

The FSP is driven by student enrollment adjusted by categorical factors depending on the programs and services each student require.

Tier 1 funding is calculated beginning with the basic allotment ($2,537 for 2002-2003) for each student in average daily attendance (ADA). The basic allotment is then possibly adjusted for each district by three factors: cost of education; small and mid-sized district; and sparsity. The final outcome results in the adjusted allotment.

The cost-of-education adjustment reflects differences in costs that are beyond the control of the district. The cost-of-education index (CEI) considers five factors: salary costs compared to neighboring districts; school district size in terms of enrollment; low-income enrollment as a percentage of total enrollment; location in a rural county; and classification of the district as "independent town" or "rural." The CEI can adjust the basic allotment by a weighting factor of between 1.02 and 1.20.

Small and mid-sized school districts earn an adjustment to compensate for the higher costs related to providing educational services in these districts. Districts with fewer than 1,600 students receive an adjustment based on the difference between their ADA and the threshold. A second adjustment is provided for districts with low enrollment and service areas of 300 square miles or more. Districts with more than 1,600 students, but fewer than 5,000, are eligible for a smaller per pupil adjustment based on the amount by which their enrollment falls below the 5,000 student mark. The adjustment ranges from 1.0 to 1.61.

The sparsity adjustment is determined by the number of students and the range of grades the district offers and, if high school is not offered by the district, the distance to a district with a high school. For K-12 districts with at least 90 students, the minimum basic allotment is based on 130 students. For K-8 districts with no fewer than 50 students, the minimum basic allotment is based on 75 students. For K-6 districts with at least 40 students, the minimum basic allotment is based on 60 students. In all cases, if the district is more than 30 miles from a high school the minimum allotment applies.

Instructional program weights further affect the adjusted allotment. Students in special education, career and technology education, compensatory education, bilingual and English as a second language (ESL), and gifted and talented education each affect the allotment through the application of a programmatic weight. Special education students are weighted depending on the level of care and special services they require, with adjustments ranging from 1.7 to 5.0 per FTE student served. Career and technology education students also are calculated on an FTE student basis, with each FTE adjusting the allotment by a factor of 1.37. Students eligible for free or reduced-price lunch programs are weighed .2. If the student is pregnant, the ADA is weighted by 2.41. Students in bilingual or ESL programs earn an add-on weight of .1. Gifted and talented students earn an add-on weight of .12. The number of students who can be counted toward this allocation is limited to 5 percent of the ADA.

Each district also receives a transportation allotment in Tier 1 funding based on mileage reimbursement rates for seven groups of linear density, determined by dividing the number of students transported by the miles of routes in the district. This calculation provides rural districts, with more miles for fewer students, greater funding than lower cost urban districts with greater pupil density. The state funds about 40 percent of all student transportation costs.

The adjustments to the basic allotment and ADA result in the total (state and local) Tier 1 funding. To receive state aid, districts must levy a minimum tax rate of $0.86 per $100 of assessed value. The district's property value determines how much of the Tier 1 funding it must provide, and how much will be provided by the state. The local share is calculated as the amount the district will raise at the state required minimum tax rate. Any shortage between the Tier 1 requirement and the Tier 1 allotment for the district is made up by the state.

The second tier of funding includes the guaranteed yield program, which ensures that districts choosing to tax above the minimum amount (but below the $1.50 cap) receive no less than a set minimum per weighted ADA ($27.14 for the 2002-2003 school year) per penny of tax effort above the minimum, regardless of local wealth. Tier 2 does not guarantee revenue per pupil, instead providing a guaranteed yield per penny of tax effort, which maintains the authority for setting local tax rates at the local level. The use of weighted ADA in determining Tier 2 funding directs funding to districts with greater numbers of at-risk and exceptional students. Because the fund operates on a tax value per pupil basis, districts with greater than $271,400 per pupil in property wealth (the equalization threshold) do not receive Tier 2 assistance. State Tier 2 funds cannot be used for debt service or capital expenditures. Figure 6 summarizes the FSP.

Districts with per pupil property wealth in excess of the equalized level of $305,000 must reduce their wealth according to one of five options afforded them by Chapter 41 of the Texas Education Code. These options include consolidation with a poorer district, shifting property to a poorer district

Tier 1 and Tier 2 Funding Summary

Tier 1							
Tax Rate	Basic Allotment ($2,537)						
	+	District Level Adjustments (CEI, Small/Mid-sized Schools, Sparsity)					
	+	Student Level Adjustments					
0.86	+	# Pupils in Regular Program	# Pupils in Special Ed. x Weights for Special Ed.	# Pupils in Voc. Ed. x Weights for Voc. Ed.	# Pupils in Comp. Ed. x Weights for Comp. Ed.	# Pupils in Bilingual/ESL x Weights for Bilingual/ESL	# Pupils in Gifted and Talented x Weights for Gifted and Talented
	+	Transportation Allotment					
	=	Total Tier 1 Funding					
Tier 2							
Up to 1.50	Each Penny of Tax Effort Yields $27.14						

figure 6

for taxation purposes, transfer funds to the state in the form of ADA credits, shift revenue to another district for education of non-resident students, or consolidate the district's tax base with one or more other districts. So called Chapter 41 districts can exceed $30.50 per weighted ADA per penny of tax effort up to a levy of $1.50 per $100 of assessed value without state assistance, but must "share the wealth," generally choosing between transferring funds to the state or to another district. Because of this, the wealth equalization approach is known as Robin Hood. There are 101 Chapter 41 districts in Texas (out of 1,039 districts in the state). Tax effort for debt service and sinking funds (that is, funds to repay bond issues) are exempt from recapture. A hold-harmless provision allows districts to retain any effort above the equalization level that they would receive if they maintained a $1.50 tax rate.

The state operates two programs to aid districts with capital outlays. The Instructional Facilities Allotment (IFA) guarantees districts $35 per unweighted ADA per penny of tax effort to pay for debt related to new instructional facilities. The IFA operates in a fashion similar to Tier 2, with district's receiving from state funds the difference between their local revenue and the guarantee level. Districts must apply for assistance, however, and not all districts in which the voters have approved a bond initiative will receive funding, since funding may not be sufficient to fulfill the requests of eligible districts. Consideration is given by the Texas Education Agency when reviewing applications for the IFA to district wealth (which is the principal factor for awarding grants) as well as a previous application that was denied, student population growth in the previous five years, and the lack of other debts.

Districts need apply for the IFA only once, however, and once approved, the amount guaranteed (but not that which is provided by the state) cannot be reduced below the level that was established when the bonds were issued. State and local shares are responsive to changes in local wealth, however, with the state share of the guaranteed amount rising as local wealth decreases and falling as local wealth rises.

The second state capital outlays fund is the Existing Debt Allotment (EDA), which provides assistance to districts for debt on which the district has already made payments. The EDA operates as a guaranteed yield program as well on the same terms ($35 dollars per unweighted ADA per penny of tax effort) as the IFA. Essentially, the IFA provides state assistance to guarantee tax yield for new debt, and the EDA guarantees the yield for old debt. Districts also can apply for $250 per ADA in state funding for new facilities under the New Instructional Facilities Allotment for the first two years of a school's operation.

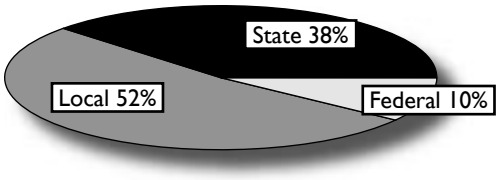
Local funding

Local funding for education is almost entirely from property tax receipts. All real personal and commercial property is subject to taxation, with some homestead exemptions and adjustments for agricultural lands. Districts adopt two tax rates annually. The first, for maintenance and operations, is for operation of schools and is equalized

by the state under the FSP. The second, for debt service and interest or sinking funds is not included in the FSP, but can be affected by the IFA and EDA programs. Local tax rates cannot exceed $1.50 per $100 of assessed value for maintenance and operations, and $0.50 per $100 of assessed value for debt service, interest and sinking funds. This latter cap was imposed in 1992, with districts with debt service levies in excess of this amount grandfathered in.

Districts vary considerably in property wealth per pupil. The Kelton Independent School District (enrollment: 63) in the panhandle has roughly $2.7 million in property wealth per weighted ADA, while the Boles Independent School District just east of Dallas (enrollment: 517) has less than $10,000 in property wealth per weighted ADA. Most of the wealthiest districts generate the bulk of their wealth through commercial property. The wealthiest district when only residential property is considered is Highland Park Independent School District in Dallas, which generates 83 percent of its wealth from residential properties.

Distribution of funds by source



Litigation

Texas has a long history of school finance litigation. Demetrio Rodriguez filed suit in federal court in 1968, contending that the state school finance system was unconstitutional under the equal protection clause of the U.S. Constitution, the same clause which was the basis of the U.S. Supreme Court's decision in 1954's *Brown* v. *Board of Education*. The U.S. Supreme Court overturned a federal district court decision in favor of the plaintiffs, holding in a 5-4 ruling that the issue was out of the jurisdiction of the Court, and remedy was to be sought from state legislatures. In 1984 the Mexican American Legal Defense and Education Fund filed suit on behalf of the property-poor Edgewood school district, challenging the equity of the school funding system. The case prompted a number of reforms to the school finance system from the Legislature, including the use of weighted ADA, small and sparsity adjustments, and equalization funding.

Regardless of these remedies, the case went to court, with the state Supreme Court upholding a district court decision that the state's financing system was neither "efficient," as required by Article 7, Section 1 of the state constitution, nor was it in compliance with the state's equal protection clause, as stipulated in Article 1, Section 3. The Supreme Court did not mandate strict equality of funding, allowing for differences in revenue, but outlined an expectation of "equal access to similar revenues per pupil at similar levels of tax effort."

The legislative response, crafted in 1990 after six special sessions, was rejected by the state Supreme Court in Edgewood II, as was its successor, created by the Legislature in 1991. The Edgewood III decision disallowed the new plan's creation of consolidated (and thus equalized) tax bases for school districts within counties. The Legislature again provided a plan in response, this time proposing, among other remedies, a statewide property tax which was rejected by the voters. This resulted in another special session in 1993 and Senate Bill 7, which formulated much of the existing system. A challenge to this plan, Edgewood IV, was unsuccessful, although the state Supreme Court did warn the state that there was a need to include a facilities component to the school finance system in the very near future, a caution the Legislature quickly heeded.

In 2001, two separate lawsuits were filed against the state, contending that the state's cap on tax rates serves as a statewide property tax, which is prohibited under the state constitution. The cases also included an adequacy component. Both claims were rejected by the district court, noting that slightly fewer than one in five districts was operating at the tax rate cap, and that is was outside the jurisdiction of the court to determine if the Legislature had allocated sufficient funds for education. The state Supreme Court reversed the decision on appeal and remanded the case for trial.

In the meantime, the governor called a special session to reform the state school finance system in April 2004, which concluded without a new funding system. On September 15, 2004, a state district court declared the state's system of school financing unconstitutional, largely because it fails to close an achievement gap between white and minority students. The presiding judge's opinion specifically notes that the state's cap on property tax rates prevents the state from raising sufficient revenue to ensure that all students meet state standards. The court is expected to issue an injunction prohibiting the state from relying on the current system after October 1, 2005, although enforcement likely will await a state Supreme Court decision on the state's appeal of the case.

Virginia

Constitutional Requirement

Article VIII, Section 1: The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained.

School Characteristics[47]

Number of students	1,163,091
Percent in Title I schools	30.6
Percent with individualized education programs	14.1
Percent in limited English proficiency programs	3.7
Percent eligible for free/reduced-price lunch	29.3
Number of school districts	136
Number of schools	2,090
Pupil/teacher ratio	13:1
Number of FTE teachers	89,314

State Funding[48]

Average Per Pupil Funding: $7,836 (FY2002)

Virginia funds education using a modified foundation program with a per pupil expenditure amount that reflects calculated local costs for meeting state standards and a required local share. The primary source of funding for schools is through the constitutionally established Standards of Quality (SOQ), which prescribe the minimum requirements for public education in the state, including programs and staffing levels. The costs for each component of the Standards are calculated for each school district. Once the total costs for the SOQ have been calculated, state and local shares are determined based upon districts' ability to pay. The state also provides funding for districts through voluntary incentive programs to encourage reduced class sizes, remediation and early reading intervention, among others; categorical programs outside the SOQ but mandated by federal or state laws; and direct grants for specific school systems or regions.

The starting point for determining costs for the SOQ is the state board of education approved Standards of Accreditation, which outlines the staffing requirements for various levels of education. Each district's per pupil amount is determined in part by the costs for instructional and support staff as required by the SOQ staff requirements based on actual enrollment. The actual per pupil funding amounts for the SOQ basic program varies by district based on staffing standards for school and grade. Required instructional positions are calculated at the school and grade level and then summed for the district. Support costs are calculated based on the expenditure level around which most districts cluster. For FY2004, the average per pupil funding amount for the basic program was $4,195. The basic aid per pupil amount does not include funding for special education or vocational education programs, which are determined through a separate calculation.

The district's per pupil funding amount, multiplied by the number of pupils, determines the total cost of the SOQ program for the district. Each district receives a pro-rata share of the total amount the state takes in on a 1-cent sales tax earmarked for schools. This amount is deducted from the total basic costs of the SOQ. The remaining amount is a shared state-local responsibility, with the state bearing an average of 55 percent of the costs.

Each district's allocation varies based upon its ability to pay, as determined by two considerations of wealth, one based on population and the other on the number of students in the district (average daily membership, or ADM). Each district's share of the statewide total for wealth in three areas is calculated: the true value of real property in the area (which counts toward half of the total); the local adjusted gross income (which accounts for 40 percent of the total); and the local taxable retail sales (which is the remaining 10 percent). The percentage weights given each revenue source reflect the proportion, roughly, of each category as a component of total local school revenues. Each category (property value, income and sales) is totaled for the district and the state and then divided by the ADM of the district and state for the student population index and by the local and state populations for the population index component. The weighted sum of the three categories is the per pupil or population component. These are then combined, with the ADM component weighted two-thirds and the general population component weighted one-third, with the result multiplied by .45 to arrive at the local composite index, representing the 45 percent average local share of the cost of the SOQ. Figure 7 illustrates these calculations.

Calculation of the Composite Index of Local Ability to Pay

.5 x [(Local property value/Local ADM)/(State property value/State ADM)]
\+ .4 x [(Local income/Local ADM)/(State income/State ADM)]
\+ .1 x [(Local sales tax/Local ADM)/(State sales tax/State ADM)]
= ADM index

.5 x [(Local property value/Local population)/(State property value/State population)]
\+ .4 x [(Local income/Local population)/(State income/State population)]
\+ .1 x [(Local sales tax/Local population)/(State sales tax/State population)]
= Population index

[(.6667 x ADM index) + (.3333 x Population index)] x .45 = Local Composite Index

figure 7

The local composite index is multiplied by the cost of the SOQ (after subtracting the district's share of the 1-cent sales tax), to determine the local share of SOQ costs. The balance is the state's share. Only the basic aid formula (which pays for instructional personnel and materials) deducts for the revenue from sales tax. Other programs use the program costs and the local composite index alone as factors.

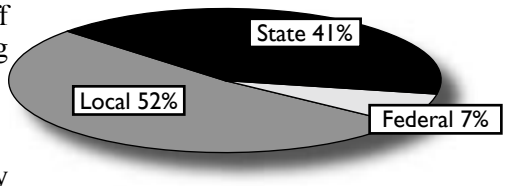
Special education funding also is an SOQ program, with district allocations determined by the cost of instructional staff to serve the identified population. Different categories of special education students have different class size standards. Each districts' special education child count is used to determine the number of instructional staff required. The state share is determined according to the local composite index.

Local Funding

Local funding is principally through property tax. Schools also receive a portion of local revenues from the personal property tax, levied primarily on vehicles. While this tax has been in the process of being phased out for the first $20,000 of a vehicle's value over the past several years, the state is required to make up for lost revenue at the local level.

Local districts are required to spend their local share of the SOQ. Districts may spend above the amount required by the SOQ, but may not reduce their expenditures below the match level. Total costs of operation for the district are calculated, excluding debt service and capital outlays. From this amount the total state and federal operating revenues are subtracted. The remaining amount must be equal to or greater than the local share of the SOQ. Districts with amounts above the required local share cannot reduce their budget unless they can demonstrate that they have met all of the state's Standards of Accreditation.

Distribution of Funds by Source



Litigation

Virginia was subject to school finance litigation in the early 1990s, when 11 public school students and seven local districts filed an equity lawsuit against the state. The state Supreme Court ruled against the plaintiffs, however, contending that the state constitution did not mandate equal funding or programs. The Court did not address the issue of whether the school finance program provided adequate funding for meeting the state's Standards of Quality.

West Virginia

Constitutional Requirement

Article XII, Section 1: The Legislature shall provide, by general law, for a thorough and efficient system of free schools.

School Characteristics[49]

Number of students	282,885
Percent in Title I schools	43.5
Percent with individualized education programs	17.7
Percent in limited English proficiency programs	0.3
Percent eligible for free/reduced-price lunch	50.4
Number of school districts	55
Number of schools	822
Pupil/teacher ratio	14:1
Number of FTE teachers	20,139

State Funding[50]

Average Per Pupil Funding: $7,300 (FY2003)

West Virginia's public school finance system, called the Public School Support Program, dates back to 1939, and has been rewritten several times over the years. The program was substantially revised in 1983 following a lawsuit in which the state system was found to be unconstitutional. The current system operates through an aggregate computation of costs for school districts in seven categories: professional educators; service personnel; fixed charges; transportation costs; administrative costs; other current expenses, substitute employees, and faculty senates; and improvement of instructional programs.

The funding formula is based on the number of positions authorized for the level of enrollment. The enrollment count is either a net enrollment count of all students enrolled in grades K-12 on a full-time equivalent basis, or an adjusted enrollment, which is a count of students enrolled in special education programs, and honors and advanced placement programs. Special education students are weighted two additional times; honors and advanced placement students are weighted one additional time. Some limitations apply to this calculation.

The first step of the formula provides districts with the cost of the minimum salary and supplemental equity for professional educators equal to 74 professional educators per 1,000 students in net enrollment; 53.5 professional educators per 1,000 in adjusted enrollment; or the number of professional educators actually employed, whichever is lowest. The equity supplement is paid to certain employees in districts to keep pay variation between the highest and lowest paying districts to within 10 percent at each pay grade level. Each school district is required to have 50 professional educators per 1,000 students in adjusted enrollment or suffer a prorated reduction in their foundation support, excepting districts which have experienced rapid population growth.

The second step of the formula provides each district with an allowance for the cost of the monthly minimum salary and supplemental equity amount for service personnel. The program provides funding for 43.6 service personnel per 1,000 students in net enrollment for districts whose ratio of students to square miles is greater than the state average, 44.5 service personnel per 1,000 students in net enrollment for districts below the state average on this measure; 34 service personnel per 1,000 students in adjusted enrollment; or the number of service personnel actually employed, whichever is lowest. The third step of the formula covers the cost of employer contributions to Social Security, unemployment compensation, and workers' compensation and an allowance for contributions to the teachers' retirement system, both of which are based on percentages of salaries for eligible employees.

The fourth step of the formula is an allocation for transportation costs. Districts receive allowances for 85 percent of actual transportation expenditures for maintenance, operations and contracted services for districts whose ratio of students to square miles is greater than the state average and 90 percent for those whose ratio is less. The formula also includes 100 percent of insurance premium costs and 8.33 percent of the replacement value of the bus fleet, as well as the remaining value for buses purchased after July 1, 1999 with fewer than 180,000 miles. Finally, the formula provides an allowance for aid paid to students in lieu of transportation. Each district's mileage is limited to one-third above the state average allowance on a student-mileage basis.

The fifth step provides an allowance for administrative costs, determined by multiplying the total number of professional educators allowed in the first step of the formula for the entire state by $150, with the amount distributed to districts equally. This step also includes an allowance for regional education service agencies (RESAs), equal to .63 percent of the total allowance paid under the first step. Sixty percent of this funding is distributed equally among the eight RESAs in the state, with the remainder

distributed according to the net enrollment of the districts served by the RESA.

The sixth step provides for other current expenses, substitute salary costs and faculty senates. The calculation for current expense is made as 10 percent of the total allowance for salaries, distributed to districts proportionate to their enrollment. Substitute salary costs for professional educators and services personnel are calculated as 2.5 percent of the allowance for salaries for these categories, distributed proportionately to districts based upon the number of professional educators and service personnel authorized. The allowance for current expenses and substitutes cannot exceed the previous year's allowance by more than 4 percent. The allowance for expenditures by faculty senates for academic materials, supplies and equipment used in instructional programs is calculated as $200 for each professional educator.

The seventh step provides an allowance for the improvement of instructional programs. Each district receives $150,000, with the balance of any funds appropriated for this purpose distributed on the basis of the each school district's average daily attendance. These funds are intended for programs to improve instruction according to a plan submitted to the state board of education for approval. Districts may use up to one-quarter of their funds to employ professional and service personnel, with restrictions on the increase of the number of central office staff employed by the district.

The sum of these seven steps is the total basic foundation allowance, which includes both the state and local share. The local share of this amount is calculated by multiplying the assessed value of all property in the district by 98 percent of the regular levy rates set for the year and deducting 5 percent from this amount to provide for uncollected and uncollectible sums. The amount resulting from this calculation is the local share. The state share of the foundation allowance is the difference for each district between the total basic foundation allowance and the local share. The state share is adjusted in certain cases when the local share does not reflect local funds available because the district is under court order to refund or credit property taxes paid in prior years; due to the district collecting at a lower rate than published by the state tax commissioner because of an error; and when the district is unable to collect taxes due to pending court proceedings.

The state school finance program also provides funding for the Legislative Reserve Fund which accrues through adjustments in net and adjusted enrollments. The program provides incentives to districts for administrative efficiency equal to 80 percent of the difference between what the district receives in salary and fixed charges based on the actual number of professional educators and the amount the district would receive if the maximum number were employed. To be eligible, districts must maintain a minimum personnel ratio of 50 professional educators per 1,000 students, and reduce by 25 percent the number of class size exemptions and split grade exemptions from the state. A similar incentive also applies for service personnel. The program also provides allowances for increased enrollment equal to the district's average per pupil state aid multiplied by the increase in net enrollment. Finally, the state provides aid to districts for the operation of alternate education programs.

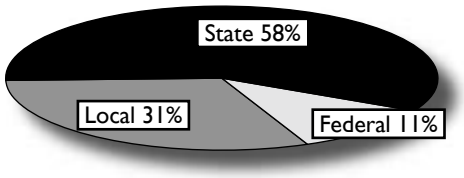
Local Funding

The sole local source for school funding in West Virginia is property tax. Property is divided into four classes, depending on use and location, which determines the maximum rate of levy. Tangible personal property used exclusively for agriculture (Class I) is subject to the lowest maximum levy at 22.95 cents per $100 of assessed value. Residential property and agricultural land occupied and cultivated by owners or tenants (Class II) is subject to the next lowest rate of 45.90 cents per $100 of assessed value. Property inside or outside municipalities (Classes III and IV) not falling into the prior two categories is subject to a levy of 91.80 cents per $100 of assessed value.

The state implemented a program in 1990 to ensure that all property in the state was assessed at the same rate. Every parcel of property in the state is assessed at 60 percent of current fair market value, with exceptions for farms and managed timberland. Whenever property assessments result in an increase of 1 percent or more in the projected regular levy total property tax revenues for county boards of education, the rates of levy are to be reduced uniformly statewide, in proportion for all classes of property, to a level that will not increase revenues by more than 1 percent. This calculation does not include increases due to new construction, improvements to existing property or newly acquired personal property. The Legislature sets the regular levy amounts. For FY2003, the levy set by the state was 20.48 cents per $100 of value for Class I properties; 40.96 cents per $100 of value for Class II properties; and 81.92 cents per $100 of value for Classes III and IV. Districts are allowed to levy up to the maximum rate established for a period not to exceed five years upon approval of the voters of the county. Of the 55 counties in the state, 43 levy in excess of the regular amount. Counties also are

authorized to impose levies to satisfy bond and other debt obligations, with 22 counties doing so, and for permanent improvement funds, not to exceed 1.5 cents per class. These funds are similar in purpose to the allowance in step seven of the funding formula. Four counties currently impose such a levy.

Distribution of Funds by Source



Litigation

Recent school litigation in West Virginia dates back to 1975, when several parents filed suit against the state in *Pauley* v. *Kelly*, claiming that the state provided inadequate educations to their children in violation of the equal protection clause of the state constitution. The state Supreme Court concurred with the constitutional mandate for education and remanded the case to district court for trial in 1979. The trial court subsequently declared in 1982 the state's school finance system unconstitutional, which prompted a legislative reform the following year. The case returned to the courts in 1994 with a motion to reopen the case on the grounds that the state had failed to implement the master plan it developed in response to the earlier decision. The following year the court agreed with the plaintiffs and held that the state had failed to fulfill its mandate. In 1998, in addition to changes to the school finance system, the Legislature created a state office to review schools and school systems and report on their needs to the Legislature as part of a court order in the case. In January 2003, the trial court rejected the remaining claim of the plaintiffs for changes to specific components of the state funding system. The court affirmed the constitutionality of the system as revised by the Legislature in 1998.

Endnotes

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[3] University of Alabama Superintendent's Academy, *Financial and Education Law Training Program Module 6: The Public School Fund*, Birmingham, Alabama, February 2003.

[4] Advocacy Center for Children's Educational Success with Standards, "Finance Litigation: Alabama," from the Internet site *http://www.accessednetwork.org/litigation/lit_al.html*, accessed March 10, 2004.

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[6] Sources for School Characteristics: Arkansas Department of Education and *2003 State Profiles*, National Assessment of Educational Progress (NAEP), National Center for Education Statistics, U.S. Department of Education, Washington, D.C.

[7] Sources: Arkansas State Code; interview with Senator Shane Broadway; SLC survey.

[8] Letter from Senators David Bisbee and Shane Broadway dated January 27, 2004, Journal of the Ark. Senate, 84th General Assembly, 2nd Extraordinary Session, pages 778-780. See also: Lawrence O. Picus, Allan R. Odden, Mark Fermanich, *An Evidence-Based Approach to School Finance Adequacy in Arkansas*, Report presented to the Arkansas Joint Committee on Educational Adequacy, September 1, 2003.

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[10] Sources: Florida Department of Education, *2002-2003 Funding for Florida School Districts*; R. Craig Wood, Mary L. Chambers, Sarah Mendonca, and Keith Birkett, *Public School Finance Programs of the U.S. and Canada: Florida*, U.S. Department of Education, National Center for Education Statistics, Washington, D.C., 1999; Florida Revised Statutes.

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[12] Sources for School Characteristics: Georgia Department of Education and *2003 State Profiles*, National Assessment of Educational Progress (NAEP), National Center for Education Statistics, U.S. Department of Education, Washington, D.C.

[13] Sources: Dwight R. Doering and Larry R. Gess, *A Review of Georgia's Quality Basic Education Formula, Fiscal Year 1987 through 1998,* Georgia State University, Atlanta, Georgia, September 1998; Catherine Sielke, *Public School Finance Programs of the U.S. and Canada: Georgia*, U.S. Department of Education, National Center for Education Statistics, Washington, D.C., 1999; Code of Georgia.

[14] Georgia Code, §20-2-131.

[15] *Property Tax Exemptions and Deferrals*, Georgia Department of Revenue, Property Tax Division, from the Internet site http://www2.state.ga.us/departments/dor/ptd/adm/taxguide/exempt/homestead2.html, accessed March 22, 2004.

[16] *Selected Excerpts & Citations from the Laws Governing SPLOST*, Georgia Department of Education, from the Internet site http://www.doe.k12.ga.us/doe/finances/splost.asp, accessed March 22, 2004.

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[18] Sources: Kentucky Department of Education, *Financial Management Manual 2003*; Lawrence O. Picus, Allan Odden and Mark Fermanich, Assessing the Equity of Kentucky's SEEK

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[19] *Rose* v. *Council for Better Education*, 790 S.W.2d 186, 60 Ed. Law Rep. 1298 (1989), decision of the Kentucky Supreme Court.

[20] *Ibid*.

[21] "Kentucky Joins States Seeing New School Finance Litigation," *Rural Policy Matters*, The Rural School and Community Trust, Washington, D.C., Volume 5, Number 3, March 2003.

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