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School Finance Equalization Lawsuits: A Model Legislative Response

Arthur E. Wise

On August 31, 1971, the California Supreme Court, in *Serrano v. Priest* tentatively concluded that California's public school financing system denies children the equal protection of the laws because it produces substantial disparities among school districts in the amount of revenue available for education. In the words of the Court:

We are called upon to determine whether the California public school financing system, with its substantial dependence on local property taxes and resultant wide disparities in school revenue, violates the equal protection clause of the Fourteenth Amendment. We have determined that this funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing. We have concluded, therefore, that such a system cannot withstand constitutional challenge and must fall before the equal protection clause.¹

The problems to which the case was addressed can be simply put. One school district in California expended only \$577.49 to educate each of its pupils in 1968-69 while another expended \$1,231.72 per pupil. The principal source of this inequity was the difference in local assessed property valuation per child: in the first school district the figure was \$3,706 per child while in the second it was \$50,885—a ratio of one to thirteen. Moreover, in the first, citizens paid a school tax of \$5.48 per \$100 of assessed valuation while in the second residents paid only \$2.38 per hundred—a ratio of over two to one.

* * *

The tentative decision in *Serrano* did not actually strike down the school finance system. The case was remanded to the trial court, which, if it determines that the facts are as alleged, apparently must find the system unconstitutional. The Court did not indicate what would constitute a constitutional school finance plan. However, a reading of the Court's opinion may begin to reveal what would be permissible.

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Serrano: The Wealth-Free Interpretation

The California Court noted that "the United States Supreme Court has demonstrated a marked antipathy toward legislative classifications which discriminate on the basis of certain 'suspect' personal characteristics. One factor which has repeatedly come under close scrutiny of the high court is wealth." Concerning the implicit classification by district wealth, the Court said:

To allot more educational dollars to the children of one district than to those of another merely because of the fortuitous presence of such property is to make the quality of a child's education dependent upon the location of private commercial and industrial establishments. Surely, this is to rely on the most irrelevant of factors as the basis for educational financing.

The Court thus found that the school financing system discriminates on the basis of the wealth of a district and its residents.

While the Court had substantial judicial precedent for finding wealth a suspect classification, it did not have judicial precedent for finding education a "fundamental interest." Such a finding was important for the theory which the Court was attempting to develop. Previously, the fundamental interest concept had been applied to the rights of defendants in criminal cases and voting rights. The Court relied upon a number of decisions which

“while not *legally* controlling” are “persuasive in the factual description of the significance of learning.” The classic expression of this position came in *Brown v. Board of Education*:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

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These cases, together with the Court’s own analysis of the importance of education, compelled it to treat education as a “fundamental interest.”

The final step in the application of the “strict scrutiny” equal protection standard was a determination of whether the California school financing scheme as presently structured was necessary to achieve a “compelling state interest.” Concluding that it was not, the Court declared:

The California public school financing system, as presented to us by plaintiffs’ complaint supplemented by matters judicially noticed, since it deals intimately with education, obviously touches upon a fundamental interest. For the reasons we have explained in detail, this system conditions the full entitlement to such interest on wealth, classifies its recipients on the basis of their collective affluence and makes the quality of a child’s education depend upon the resources of his school district and ultimately upon the pocket-book of his parents. We find that such financing system as presently constituted is not necessary to the attainment of any compelling state interest. Since it does not withstand the requisite “strict scrutiny,” it denies to the plaintiffs and others similarly situated the equal protection of the laws.

One interpretation of the *Serrano* opinion is consistent with the proposition developed by Coons, Clune and Sugarman—“the quality of public education may not be a function of wealth other than the wealth of the state as a whole.”² This proposition would only permit educational quality to vary from school district to school district so long as each district had an equal capacity to raise funds for education. Thus, for example, the state would guarantee that a community that chose to tax itself for education at the rate of 1 per cent would have \$400 per student available to spend on education, irrespective of the wealth of that community. A community that chose to tax itself at the rate of 2 per cent would have available \$800 per student, again irrespective of the wealth of that community. The state in this scheme commits itself to a specified level of expenditure per student in accordance with a district’s willingness to tax itself for education, regardless of what is

raised by the local tax. The state gives aid to localities in exactly the amount that local resources are insufficient to reach the expenditure level specified for any given degree of local district taxing effort. This scheme is known as “district power equalizing.”

This wealth-free interpretation of *Serrano* would remove variations in local wealth as a factor in determining how much is to be spent on the education of a child. The capacity of each school district to raise funds would be equalized. However, local school districts would be permitted to decide how heavily they are willing to tax themselves and, consequently, how much they wish to spend on the education of their children. The wealth-free interpretation focuses rather more on taxpayer equity and rather less on educational equity.³

Serrano: The Equal Educational Opportunity Interpretation

A second interpretation of the *Serrano* opinion is consistent with the proposition developed by the author—the quality of a child’s education may not be a function of where a student lives, what his parental circumstances are, or how highly his neighbors value education.⁴ This proposition would prohibit variations in the number of dollars spent on any child by virtue of his place of residence, other than variations based on such factors as differences in price levels and economies of scale. It would also permit variations based on educationally relevant characteristics of the child.

In the course of the opinion, the Court disposed of an argument “that territorial uniformity in respect to the present financing system is not constitutionally required.” “Where fundamental rights or suspect classifications are at stake,” said the Court, “a state’s general freedom to discriminate on a geographical basis will be significantly curtailed by the equal protection clause.” In support of this interpretation, the Court first relied upon the school closing cases in which the U.S. Supreme Court invalidated efforts to shut schools in one part of a state while schools in other areas continued to operate. Secondly, the Court relied upon the reapportionment cases in which the U.S. Supreme Court held that accidents of geography and arbitrary boundary lines of local government can afford no ground for discrimination among a state’s citizens. “If a voter’s address may not determine the weight to which his ballot is entitled, surely it should not determine the quality of his child’s education.” Consequently, it would appear that school finance plans cannot have different effects solely because of irrelevant geographic factors. In other words, neither wealth nor irrelevant geography is a permissible basis for classifying children for the purpose of determining how much is to be spent on their education.

One point which remains unclear in the opinion is whether the equal protection clause has been held to apply to children, to taxpayers or to school districts. If it is children who are entitled to equal protection, then it is difficult to understand how the quality of a child's education could be subjected to a vote of his neighbors.

The equal educational opportunity interpretation of *Serrano* would require that educational resource allocation not depend upon where a student lives, what his parental circumstances are, or how highly his neighbors value education.

The equal educational opportunity interpretation would permit a legislature to adopt one of a variety of educational resource allocation standards. For example, the *minimum attainment* standard would require that educational resources be allocated to every student until he reaches a specified level of attainment. The *leveling* standard would require that resources be allocated in inverse proportion to students' ability; the *competition* standard would require their allocation in direct proportion to such ability. The *equal dollars per pupil* standard would assume that ability is an illegitimate basis for differentiating among students. The *classification* standard would require that what is regarded as a "suitable" level of support for a student of specified characteristics is suitable for that student wherever he lives within the state.⁵

Differences in spending per child would have to be justified primarily by reference to educationally-relevant characteristics of the child. Geographical factors should be irrelevant except as they give rise to other inequities which affect the cost of education. Thus, in some sparsely-populated areas it is necessary to operate small schools which are more costly on a per-pupil basis. In other areas, particularly urban areas, there tend to be higher price-levels which affect the cost of purchasing goods and services for the schools. In other words, the cost of education of a given quality (however defined) varies as a result of economies of scale and regional price-level differences. A plan to achieve equality of educational opportunity must recognize these factors.

Full State Funding

The years since a constitutional attack on current school finance legislation was proposed have seen an unprecedented level of activity directed at legislative reform. The concept of full state funding has entered the vocabulary of educational finance.

In a paper prepared at the request of the Education Commission of the States we stated:

That the state should assume a large proportion of the cost of public education seems to many to be an idea whose time has arrived. It is attractive for a number of reasons:

- (1) There is a renewed concern for the inequalities which characterize the manner in which education is provided. . . .
- (2) Local support of education relies heavily on the property tax. This is the most poorly administered of all major forms of taxation. Furthermore, it is highly regressive, so that the burden of supporting education tends to fall heavily on low-income families.
- (3) Cost pressures, and particularly salary awards to teachers, are placing heavy strains on the existing fiscal structure, causing legislators, educators, and taxpayers to seriously consider alternatives.

These forces are causing some states to consider seriously a shift in the support of education from the local district to the state. In Michigan, a gubernatorial task force recommended such a shift and Governor Milliken has expressed himself strongly in support of it. Such leading figures as James Conant and Commissioner of Education James Allen have taken similar positions. At the present Constitutional Convention in Illinois, proposals for state assumption of the responsibility for a high quality educational program for all children lead in the same direction. . . .

These proposals do not suggest that non-fiscal decisions be centralized. Local school districts would continue to exist, but they would give their attention to educational rather than revenue matters. Hawaii's structure of educational governance, a single school district for an entire state, is probably not appropriate for other states.⁶

The Advisory Commission on Intergovernmental Relations (ACIR), an appointed, bi-partisan inter-governmental agency representing federal, state and local branches of government, has recently recommended that the States assume "substantially all" of the responsibility for financing local schools in order to grant property tax relief and ensure equal educational opportunity. The recommendation envisions replacing property tax revenue with income and sales tax revenues.

Local schools are claiming more and more of the property tax take. At the beginning of World War II about one-third of all local property tax revenue went to the public schools; now the school share is more than 50 percent—and still rising.

Other local public services, the Advisory Commission believes, should have a stronger claim on the local property tax base. . . .

The proposal is not utopian. At present, New Mexico, North Carolina, Delaware, and Louisiana for example are within striking distance of this goal. And Hawaii for many years has both paid for and administered all its public schools.

What is involved is the substitution of State income and sales tax dollars for local property tax dollars. The change-over could be gradual. However, as many as 20 States could assume complete responsibility for public school financing in the near future if they would make as intensive use of personal income and sales taxes as the "top ten" States now make on the average. . . .

The case for State take over of the non-Federal share of education costs rests in part on the conviction that this is the best way to make sure that the financial resources underlying public education are equalized throughout the State. Because the social and economic consequences of education are felt far beyond school district boundaries, States no longer can tolerate wide differences in the quality of education offered in its many local districts. Yet so long as each district has wide latitude in setting its own tax levy, great variations both in wealth and willingness to tax are inevitable. And these variables produce wide differences in the fiscal resources behind the students. As a result the quality of education today is shaped in large measure by the accidents of local property tax geography.⁷

The Commission thus views the concept of full state funding as not only desirable but feasible.

Governor William G. Milliken of Michigan has been endeavoring to achieve broad reform in educational finance in that state for the last two years. In his "Special Message to the Legislature on Excellence in Education—Equity in Taxation" (April 12, 1971), he proposed the virtual elimination, by constitutional amendment, of the property tax for school operating purposes. In its place, he would substitute an increase in the individual income tax and a value-added tax on businesses. According to his estimates, a 2.3% increase in the individual income tax would compensate for the loss on individually held property. In place of a corporate income tax, which according to him would have to be set at too high a rate if it were to yield adequate revenue, he proposes a value-added tax of approximately 2%. The substitution of these taxes for the property tax would probably assure that revenues for education would increase over time. The increased elasticity of the tax structure would probably eliminate the need for regular increases in education tax rates.

The Milliken Plan would have important consequences. It would remove the necessity for frequent school millage elections. It would replace the relatively inelastic property tax with taxes which are more responsive to economic growth. It would eliminate the situation wherein some school districts with low tax rates are able to provide adequate levels of education, while others, with high tax rates, are unable to generate sufficient revenue. It would replace a regressive tax with taxes which are proportional and progressive.

More recently, it has been reported that the Fleischman Commission in New York State, which

is examining the financing of that state's public schools, will be recommending full state assumption of the costs of education, imposition of a statewide property tax, stabilization of spending in wealthy school districts, and ultimately greater spending in districts with poor, disadvantaged youth. The concern for legislative reform of public school finance systems is fortunate because it is certainly envisioned that it is legislatures which will have to respond to possible court mandates.

A Slight Digression on Local Control of Public Education

The strongest objection to full state funding is the belief that it would result in a diminution of local control over schools. To be sure, the belief is most strongly voiced by those who wish to protect the economic advantage of taxpayers and students in the wealthier school districts. All that can be predicted with certainty at the moment is the loss of one element of local school control—the power of school districts to determine their level of expenditures. The projected loss of any other powers is purely speculative.

The assumption that local financing is inextricably intertwined with local control was called into question by James B. Conant in a speech before the Education Commission of the States in 1968:

I would point out, however, that in the years in which I have tried to convince people of the importance and the correctness of our system here in the United States, I always assumed that local control of schools was a necessary consequence of local financing of the schools and vice versa. I think the New Brunswick example is a demonstration that this equation may well be wrong. It may well be that you can have local control of all the vital aspects of the public schools and still have the financing at the state level through state taxes and not through the local property tax.

On the issue of local control the Advisory Commission on Intergovernmental Relations has said:

State assumption of school financing in the Commission's judgment is not inconsistent with effective local policy control. Ample room for local initiative and innovation would remain. Liberated from the necessity of 'selling' bond issues and tax rate increases, school board members and superintendents could concentrate on their main concern—improving the quality of their children's education. The long tradition of local control of education and the keen concern of parents for the educational well-being of their children would serve as sturdy defenses against any effort to short-change educational financial needs.⁸

A former superintendent of schools in Maryland has said:

For nearly 14 years I served as superintendent of schools for a county adjacent to the state of Delaware, and enjoyed a close working relationship with a number of my counterparts in that state. Delaware, at that time, provided up to 90% of the total cost of operating the local school systems, whereas Maryland provided from 30% to 40%. I can testify

that the local school systems of Delaware enjoyed at least as much, if not greater, autonomy than did those of Maryland. The reason for this, I suspect, would be found in the statutory powers given to state and local authorities in each case, and the roles assumed by the state authorities. I suspect that these factors have more to do with the presence of local control than the level of state funding.⁹

Congressman John Dow of New York, speaking in support of his proposed legislation to ease the local property tax burden for local educational costs, said:

The principal objection I have heard to the plan contained in my school tax bill is the presumption that local school boards, if no longer responsible for raising school taxes, would lose local control of their educational systems, and that there would be a State takeover. To this criticism, I reply that in my own State of New York the State now provides 45 per cent of the school support. With that much leverage the State could exert immense influence on local school decisions, even today; but it does not. Why? It does not for one reason, because the State legislature made up of local representatives would not allow it and, second, that is not the nature of our educational system. Nobody wants it that way.¹⁰

Congressman Dow makes an extremely important point. If states were inclined to assume control of local schools, they have had both the financial leverage and the legislative power for years.

The only actual test of centralized financing and decentralized control has been in the Canadian Province of New Brunswick. The Advisory Commission on Intergovernmental Relations, in its report on the New Brunswick experience, concluded that the provincial takeover of school finance "leaves room for local administration and local discretion rather than necessitating centralized decision-making on the Hawaii model."¹¹ New Brunswick is still in the process of establishing new relationships caused by the shift from local to provincial financing. Moreover, there are enough differences between the Canadian and American situations to prevent direct comparisons. For example, curriculum was and remains a provincial responsibility, although efforts are being made to decentralize it. Nonetheless, the New Brunswick experience suggests that substantial control can remain at the local level with centralized financing.

The argument that centralized financing will lead to a loss of local control is a largely untested hypothesis. At its worst, the argument is a smokescreen for opponents of equality of educational opportunity. At its best, the argument is an expression of concern for our public schools as we know them and wish to preserve them. We will not know the effect of full state funding on local decision-making until we implement it. In the meantime, the state is granting more of its educational resources to some children and withholding resources from others.

None of the proponents of centralized financing advocate centralized control. All stress the importance of local control over crucial curriculum and personnel decisions. It is clear that the states have long had the wherewithal to usurp local prerogatives if they were so inclined. Yet the concept of local control is so strong in American public education that it is probably its own sturdiest defense.

A Model Legislative Response¹²

The specific plan outlined below was designed for the State of Maryland. Its principles seem consistent with the second interpretation of *Serrano* and not inconsistent with the first interpretation of *Serrano* discussed earlier. The principles may be feasible for many states, although the proposal, in its detail, is surely not applicable to other states without modification. Major differences between Maryland and many other states are the fact that Maryland has only twenty-four school districts and the fact that expenditure variations within the state are relatively moderate. In addition, Maryland has already taken a major step in the direction of equalization in having assumed responsibility for all construction costs. A state committee sets priorities based upon requests from school districts. Consequently, the recommendations here deal only with current operating expenses.

Our concept of full state funding calls for a school finance system which brings to bear all of a state's educational tax base on the education of all children in the public schools of that state. It provides for equity both in educational taxation and in educational resource allocation. It requires that educational resource allocation not depend upon where a student lives, what his parental circumstances are, or how highly his neighbors value education.¹³ It avoids the specious state/local distinction in the generation of educational revenues, for all taxes raised for education are in reality state taxes.¹⁴ This concept clearly accommodates a variety of educational resource allocation schemes and systems for educational taxation. Its only essential characteristic is that there be equity in the benefits and burdens of education. The concept is compatible with the present system of local school control. A version of full state funding is explicated in the recommendations which follow.

1. It is recommended that the state assume financial responsibility for all public schools.

2. It is recommended that, over a period of three years, per pupil expenditures from state and "local" funds be equalized among school districts in the state. The movement from the present mechanism of school finance to a full state funding mechanism cannot occur in a responsible manner in a single year. Substantial additions to revenues in poorer school districts cannot be judiciously accommodated at once. An increment of several hundred dollars per pupil in some school districts could not be planned for in an educationally and fiscally responsible manner. It is proposed that the new system be phased in over a period of three years. Thus a "freeze," with perhaps

some accommodation for a cost of living increase, would immediately be placed on the highest-spending school district until the lowest-spending districts reach the level of the highest.

The effects on decision-making in the lower-spending districts would obviously be dramatic. The availability of substantial new revenues will lead to increases in educational quality only with careful planning and analysis. Those responsible for planning in the poorer districts will, for the first time, have the means to emulate the desirable characteristics of the more affluent schools and school districts. The onus on the planners will be heavy. The easiest step would be merely to increase the number of teachers. The real task for the planners is to evaluate the efficacy of alternative educational arrangements. Indeed, in the poorer school districts, the ability to determine goals and means locally will be substantially enhanced. The lack of available revenues will no longer be an excuse for failure to act on educational problems. Also, the importance of improved decision-making by wealthier school districts will be heightened. Wealthier school districts will be in a position of having to evaluate their alternatives more carefully. There will be no diminution of local responsibility for educational decision-making.

Phasing in a system of equalized expenditures per pupil will obviously require new revenues.¹⁵ A three-year period will permit a gradual assumption by the state of this responsibility.

3. It is recommended that the equalized level of per pupil expenditures in three years be set at the level of the highest-spending school district in 1971–72. The highest spending school district has in one sense defined for the state a conception of high quality education, at least insofar as inputs are concerned. Moreover, to equalize expenditures per pupil at any but the level of the highest would mean interfering with the programs currently in operation in the high spending school districts.

Of course, there will be some revenue-cost squeeze on the high spending school districts. These districts may have to make some difficult trade-off decisions. For example, they may not be able to accede to teachers' demands for salary increases without cutting back on other services or without hiring fewer new teachers. Each district will have the responsibility for deciding how to allocate its revenue between salary and non-salary expenses.

4. It is recommended that, in order to allow for regional price-level differences, the per pupil expenditure in any *school district* may vary five per cent in either direction from the state-equalized level. It is undoubtedly the case that regional price-level differences affect the cost of education. However, assessing the impact of such differences is difficult and the

issue becomes intertwined with the question of quality. For example, housing and perhaps other goods and services for teachers are less expensive in rural areas. Consequently, it may be possible to pay somewhat lower salaries in rural areas. On the other hand, if rural salaries are much lower than average, rural districts may have difficulty in recruiting high quality teachers. Indeed, it is possible to argue that salaries in rural districts should be higher so that teaching in such districts may be perceived as more desirable. Because the question of regional price-level differences is so fraught with intangibles, it is proposed that a five per cent variation be allowed in per pupil expenditures in any school district. It is assumed that the higher expenditures will be found in urbanized areas and the lower in rural areas.

5. In addition, it is recommended that, in order to allow for differences in economies of scale, the per pupil expenditure in any *school* may vary five per cent in either direction from the district-equalized level. It is almost certainly the case in education, as in other areas, that the principle of economies of scale operates. In other words, it is probably the case that a reduction in cost per student occurs as school size increases, up to a limit at least.¹⁶ Studies of the economies of scale in schools has not resulted in definitive knowledge about how extensively the principle operates. As a starting point, we recommend that in any school per pupil expenditures may vary five per cent in either direction from the equalized level. It is assumed that per pupil expenditures will be higher in smaller schools and lower in larger schools. As more definitive knowledge becomes available, the five per cent rule should be modified accordingly.

A second reason for this recommendation is to require a school-by-school audit of funds in order to ensure that the effect of statewide equalization is not lost through misallocations within school districts.

Both the five per cent difference for economies of scale and the five per cent difference for regional price-levels are designed to allow for some play in the system. For the most part, the economies of scale factor will operate in favor of small schools in rural areas while the price-level factor will operate in favor of school districts in metropolitan areas. However, it is conceivable that occasionally a small school in an urban setting will be operating at a level ten per cent above the equalized level.

6. It is recommended that certain types of federal aid, notably Title I (assistance for educationally deprived children) of the Elementary and Secondary Education Act (ESEA), be allocated *in addition* to the equalized level of per pupil expenditure. The recommendation to grant federal compensatory aid to educationally deprived children in an equalized

state system is a natural evolution of the present system and is in recognition of the special needs of such children. In fact, the federal government is now requiring "comparability of services" *within* a school district, before Title I, ESEA funds can be awarded, although enforcement of this requirement to date has been spotty. Under this requirement, no federal Title I funds are to be awarded to a local school district otherwise entitled to such funds unless that district allocates all funds it receives from local and state sources in an equitable manner among the individual schools in the district. The reasoning is simple: federal funds can hardly be compensatory and supplementary until school districts are providing at least comparable services to schools which receive them.

Under the proposed plan, the responsibility for comparability of services would be transferred from the local to the state level and comparability would seem to be satisfied by a state's provision of equal per pupil expenditures. The effectiveness of Title I projects should be enhanced, since educationally deprived children will already be receiving the benefits now enjoyed by children in affluent school districts.

7. It is recommended that certain types of federal aid, notably school assistance in federally impacted areas, *not* be allocated in addition to the equalized level of per pupil expenditure. Certain types of federal aid are given merely to subsidize costs. "Impacted area" aid is currently the most important of this type. It is given to school districts which have experienced an influx of students because of a federal activity. It was established on the assumption, probably shaky, that federal employees would not be contributing their fair share of school costs through taxes. Unlike Title I of ESEA, it is not given in recognition of the special needs of the children of federal employees. Under the present mechanism for allocating impact aid, the state should reduce its share of support in exactly the amount that a school district receives such aid.

8. It is recommended that a uniform statewide tax on property or a mandated uniform locally-imposed tax on property be instituted, for the purpose of financing education. It is further recommended that additional revenues for education be generated by other statewide taxes, preferably the income tax.

There are two broad approaches which will achieve equalization of per pupil expenditures. Both will have the same effect with respect to equalizing educational tax rates and per pupil expenditures, but involve the use of different mechanisms to gain that effect. The first is full equalization, in which locally-raised funds predominate and through which the same local tax effort for education in every school district of the state, combined with state financial assistance,

will yield the same number of dollars per pupil. The second, full state funding, is a system under which the *state* assumes responsibility for raising a substantial portion of the funds for education at the state level and adopts policies which ensure that funds from all state and local sources will yield the same number of dollars per pupil.

Both of these approaches can have as their object the equalization of per pupil expenditures. Both envision that all tax rates for educational purposes are uniform throughout the state. Their difference is one of degree, not kind, and in its most important dimension the difference is psychological. Under both systems a given taxpayer will pay the same taxes for the support of education. Under the first approach, a larger portion of the education bill will be financed from locally-generated taxes; under the second, these same locally-generated taxes will initially flow to the state through a mechanism such as a state income tax or state property tax, thence to be reallocated to local school districts.

The full equalization approach appears to be a less dramatic change from our present system and, say some, is less likely to affect the sense of local control. On the other hand, when legislatures begin to act on equalization formulas to supplement locally-based taxes, they inevitably "tinker" with these formulas and the result is always decreased equalization.

A bolder approach is to opt for full state funding, placing the responsibility for educational finance squarely with the legislature. Perhaps this approach will be less subject to tinkering by the legislature. It certainly is more forthright and recognizes that all school taxes are in reality state taxes.

It is estimated that full state funding would increase the cost of education in Maryland by \$200 million by 1974-75. In other words, Maryland would require approximately an additional \$66 million per year each year beginning in 1972-73. The cost of education in 1972-73, the first year of the proposed phase-in, is estimated to be \$725 million.

The following table projects the per pupil expenditure, the total cost and enrollment for each of the three years in question.¹⁷ The expenditure estimates are based upon an extrapolation of 1969-70 rates (the latest year for which data were available when the study was done) and do not account for inflation.

PROJECTED OPERATING EXPENSES

Year	Enrollment	Expenditure	
		Avg. per Pupil	Total
1972-73	903,681	\$803	\$725,358,000
1973-74	895,968	\$885	\$793,136,000
1974-75	886,989	\$968	\$858,605,000

There are alternative ways of generating this revenue. In 1971–72, it is estimated that state and federal aid will already be providing \$312 million, leaving an additional \$413 million to be provided from what were formerly locally-raised tax monies. A statewide uniform property tax of \$2.00 per \$100 of assessed valuation to replace the local property tax for education would yield \$420 million, more than enough revenue to finance the first year of the proposed plan. At the present time, all school districts, save five, have local appropriations for education equivalent to levies in excess of \$2.00 per \$100.

A \$2.00 tax rate would take care of the first year of the plan; subsequently, however, additional revenues will have to be realized through other tax sources. Adjustments in the state sales tax to employ features used in other states would yield from an additional \$33 million to an additional \$82 million. Adapting the state income tax to the Oregon model (rates from four to ten per cent and an exemption of \$600 per person) would yield an additional \$54 million.¹⁸

This treatment of alternative tax sources is not meant to be definitive. Rather, it is meant merely to illustrate that the proposed full state funding plan is feasible in Maryland. On general tax burden for education, Maryland currently ranks in the middle of the states. With an expenditure of \$50.73 per \$1,000 of personal income, Maryland is just above the national average of \$46.88, but below twenty-two other states.¹⁹ In Maryland, there appears to be some leeway to increase school revenues.

9. Assuming the institution of these recommendations in 1972–73, the state will have achieved an equalized level of per pupil expenditure by 1974–75. At that point, the state legislature can begin to set levels for educational spending in competition with its assessment of needs for other public services. This recommendation recognizes that education is only one of a number of public services competing for a share of governmental revenue. From a statewide perspective, the legislature will be in a better position to assess these competing demands.

Summary

These recommendations taken as an interrelated set will result in a full state funding system of financing public education. There will be an equitable distribution of the educational tax burden. The quality of a child's education will not be a function of the wealth of his parents, neighbors, or school district. The state will be spending as much money on the education of all of its children as it had previously been spending on the education of its rich children. Having achieved equity in the distribution of the state's resources,

the distribution of such federal funds as Title I, ESEA, will become truly compensatory; the model thus recognizes the special problems of educating some children.

As was stated at the outset, what *Serrano* mandates is not clear. The model proposed satisfies both interpretations of *Serrano* advanced above. The model satisfies the interpretation that the capacity of school districts to raise funds be equalized; it also satisfies the interpretation that all educational funds be made available to students on an equitable basis. If only the first interpretation is correct, then the model goes further than the California Supreme Court intended. If the Court did not intend the second interpretation then the opinion is concerned only with taxpayer equity and not equality of educational opportunity.

1. 5 Cal. 3d 584 (1971).
2. J. Coons, W. Clune, and S. Sugarman, *Private Wealth and Public Education* (1970).
3. For a more detailed analysis, see Wise, Review of *Private Wealth and Public Education*, Saturday Review, April 17, 1971, at 76 ff.
4. Wise, *Is Denial of Equal Educational Opportunity Constitutional?*, Administrator's Notebook, February, 1965, at 1-4. Cf. A. Wise, *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity* (1969).
5. For a more detailed analysis, see Wise, *Rich Schools, Poor Schools*, chapter 8.
6. J. Thomas, R. Jewell, and A. Wise, *Full State Funding of Schools*, a paper prepared for the Education Commission of the States, March, 1970, at 1-2.
7. Advisory Commission on Intergovernmental Relations, *State Aid to Local Government* 4-6 (1969).
8. *Ibid.*, at 6.
9. P. Cooper, *State Takeover of Education Financing*, a paper presented at the National Tax Association Seminar, Washington, D.C., July 23, 1971, at 25-26.
10. 117 Cong. Rec. H1918 (daily ed. Mar. 23, 1971).
11. ACIR, *Financing Elementary and Secondary Education* 3 (undated). Hawaii, of course, was established as a centralized school system in its pre-statehood period.
12. The model was initially proposed in a report by the author to the Citizens Commission on Maryland Government which has been conducting a study of school finance in Maryland under a grant from the Ford Foundation. The assistance of Shelly Weinstein is gratefully acknowledged.
13. See p. 125, *supra*.
14. For a supporting analysis, see Wise, *Rich Schools, Poor Schools* 104-112.
15. See *infra*, recommendation 8.
16. See J. Thomas, *The Productive School* 45-50 (1971).
17. Enrollment and cost projections for the study were prepared by George B. Kleindorfer.
18. Due, *Alternative Tax Sources for Education*, in Johns *et al.*, *Economic Factors Affecting the Financing of Education*, National Educational Finance Project, Vol. 2, at 291-328.
19. The highest state, Wyoming, spends half again as much (\$72.73) for each \$1,000 of personal income as in Maryland.

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