THE FAILURE OF LOCAL FUNDING:  
WHY ILLINOIS MUST REFORM  
PUBLIC SCHOOL FINANCING  

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INTRODUCTION

Illinois’ current public school funding formula relies primarily on local property tax revenue within school districts to support local schools. Under the current scheme, approximately sixty percent of a district’s income is generated by local property taxes.\(^1\) Further, Illinois state funds comprise only 28% of total public school funding,\(^2\) placing Illinois dead last nationally in terms of state contributions toward public education.\(^3\) Such extreme reliance on property taxes – and the State’s corresponding reluctance to provide centralized funding – has led to immense disparity between and among Illinois school districts in terms of per pupil education funding.\(^4\) This paper will explore the educational funding gap, examine the constitutionality of Illinois’ current funding scheme, and conclude that the judiciary has incorrectly abdicated its role as constitutional watchdog. Finally, this paper will provide a rudimentary proposal for a new funding system based on a progressive education tax scheme that permits districts to supplement state funding through local property tax revenue at the risk of losing a proportionate amount of state funding.

ILLINOIS’ CURRENT FUNDING SCHEME

Illinois’ current education funding is determined by a complicated formula based on a statutorily determined Foundation Level.\(^5\) The Foundation Level represents “the minimum level of per pupil financial support that should be available to provide for the basic education of each pupil” and is based on average daily attendance within the district.\(^6\) For the 2009-2010 school year, the Illinois General Assembly set the Foundation Level at $6,119.\(^7\)

In reaching the Foundation Level, the state primarily relies on local school districts to raise funds through local financial resources, namely personal and corporate property taxes.\(^8\) Based on the local revenue generated by these taxes, the State will provide supplemental funds
called General State Aid ("GSA") calculated according to a complicated statutory formula.\textsuperscript{ix} If a district’s property tax income results in funding that is less than 93\% of the Foundation Level, the State will provide enough GSA to bring the district up to Foundation Level funding.\textsuperscript{x} This is a Foundation District. If a district’s property tax income is able to comprise at least 93\% percent but less than 175\% of the Foundation Level, the State will provide GSA on sliding scale, ranging from 7\% of the Foundation Level for a district that can provide 93\% of the Foundation Level up to 5\% of the Foundation Level for districts at the high end of the range.\textsuperscript{xi} This is an Alternative District. Finally, if a district’s local tax revenues equal or exceed 175\% of the Foundation Level, it receives a flat grant of $218 per pupil.\textsuperscript{xii} This is a Flat Grant District.

Notably, 81\% of Illinois school districts are Foundation Districts, while 15\% are Alternative Districts, and just over 4\% are Flat Grant Districts.\textsuperscript{xiii} Additionally, any district may be awarded per-pupil supplemental grants correlative with the level of concentration of low-income students within the district.\textsuperscript{xiv}

\textbf{THE EFFECTS OF ILLINOIS’ SCHOOL FUNDING SCHEME}

In order to meet basic funding requirements, districts with low property assessments are forced to implement high property tax rates. According to a complaint filed by the Chicago Urban League in the Circuit Court of Cook County, the five districts in Illinois with the lowest valuation of taxable property tax their residents for education funding at a rate six times higher than the rate of the five wealthiest districts.\textsuperscript{xv} Indeed, in 2008, taxpayers in East St. Louis paid property taxes for school funding at a rate six times higher than residents in Rosemont.\textsuperscript{xvi} Despite increasing property tax rates, property poor districts experience a grave disparity in school funding. In 2005, the highest operating expenditure per pupil for districts maintaining
kindergarten through grade 12 was $28,205, while the lowest operating expenditure per pupil was $4,281.\textsuperscript{xvii} Indeed, according to the National Center for Education Statistics, in 2005, Illinois had the second highest ratio of highest to lowest average per pupil spending by district in the nation at 3.89 to 1.\textsuperscript{xviii} Similar funding gaps still exist today. For example, for the 2007-2008 school year, elementary schools in Metamora (a small town outside of Peoria) spent $5,847 per pupil, while Kenilworth’s district spent $16,541 per pupil.\textsuperscript{xix} Moreover, on average, Flat Grant districts spend $2,324 more per pupil on instructional expenses – not including operational expenditures – than Foundation districts.

The effect these disparities have on education is \textit{at least} correlative. Not surprisingly, the schools in the districts with the lowest property values generally have higher poverty levels. In 2004, the fifty-one wealthiest districts had a taxable property base of $445,930 per pupil, while the taxable property base of the fifty-one poorest districts totaled only $81,422 per pupil.\textsuperscript{xx} The result is a vast disparity between these districts in per pupil spending on both total expenditures and instructional expenditures.\textsuperscript{xxi} For example, for the 2005-2006 school year, the average teacher salary in Flat Grant districts was $64,222, while the average teacher salary in Foundation districts was $46,511.\textsuperscript{xxii} Additionally, nearly 63% of teachers in Flat Grant districts held a master’s degree, compared to only 37% of teachers in Foundation districts.\textsuperscript{xxiii} Moreover, the students attending school in the Foundation Districts are more likely to be taught by a teacher not certified in the area she is teaching.\textsuperscript{xxiv} In addition to these disparities, school safety and special education in these districts also suffer from lack of funding.\textsuperscript{xxv}

Moreover, the districts with the lowest amounts of funding are also the districts with the highest percentage of minorities. Significantly, 93% of African American children and 66% of all Hispanic children in Illinois attend school districts with low-income rates of at least 30%.\textsuperscript{xxvi}
Conversely, property-rich districts are composed of predominantly white students, as evidenced by Flat Grant districts’ 76% white composition. Further, 87% of white students attend schools in districts with poverty levels in the lowest quartile. Students in these schools are 85% more likely to meet or exceed academic standards than students in predominantly black schools. Further, in 2001, 88.7% of whites had completed high school or higher education compared to just 79.5% of blacks.

Most importantly, the funding inequities caused by Illinois’ local funding are correlative with adverse student outcomes. In 2006, only 26.1% of students in the highest poverty districts met or exceeded Prairie State Achievement Examination standards, compared to 63.7% of students in low poverty districts. Similarly, in 2006, only 55% of sixth graders in high poverty districts met or exceeded reading standards for the Illinois State Achievement test, and only 61% met or exceeded the standards for math. Comparatively, sixth graders in low poverty districts met or exceeded those standards at rates of 89% and 93%, respectively.

**Constitutionality of Local Funding in Illinois**

The Supreme Court of Illinois has upheld Illinois’ local funding scheme on multiple occasions, most recently in 1996 in *Committee for Educational Rights v. Edgar* and in 1999 in *Lewis v. Spagnolo*. Presently, there are two cases pending at the circuit court level that challenge the constitutionality of Illinois’ public education financing system based upon new, and somewhat novel, theories.

In *Edgar*, the Committee for Educational Rights, an intergovernmental organization consisting of more than sixty schools, challenged the constitutionality of Illinois’ local funding scheme under the education clause and the equal protection clause of the 1970 Illinois Constitution. Specifically, in regards to the education clause, the Committee challenged that
Illinois’ reliance on property taxes for educational funding violated the following provision of the Illinois Constitution: “A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities. The state shall provide for an efficient system of high quality public educational institutions and services.”xxxvii The Committee challenged that, because of the vast disparities in funding between districts and the extraordinary academic shortfalls of districts with low property values, Illinois’ education system was neither “efficient” nor “high quality.”xxxviii

The Supreme Court rejected these arguments. First, the court rebuffed the Committee’s argument that the efficiency guarantee required the State to provide a measure of equality in school funding, noting that the framers of the 1970 Illinois Constitution explicitly declined to include language that would have equalized funding and opportunity.xxxix Second, the court determined that the “high quality” phrase in the constitution is not a command to the legislature, but is merely hortatory, and thus posed a political issue to be resolved by the legislature.xl For that reason, the court declared the question to be non-justiciable and therefore beyond the reach of the courts.

The court in Edgar also rejected the Committee’s equal protection claim, relying heavily on the U.S. Supreme Court’s decision in San Antonio Independent School District v. Rodriguez.xli In reaching its decision, the court concluded that education, despite being a “fundamental goal” and a constitutional right, was not a fundamental right for equal protection purposes.xlii Consequently, the court applied the highly deferential rational basis test, and found that although Illinois’ financing of public education “might be thought unwise, undesirably, or unenlightened,” it was not irrational.xliii

In Spagnolo, the Supreme Court re-affirmed the non-justiciability of the “high quality”
phrase in the constitution, declining to decide whether the phrase guaranteed a “minimally adequate education.” The court also re-affirmed that education is not a fundamental right under the Illinois constitution, and flatly rejected a due process claim that Illinois’ compulsory education law constituted a deprivation of liberty that triggered a duty on the part of the state to provide a minimally adequate education. The court also rejected the due process argument that such a duty arose because the State subjected the plaintiffs to state-created dangers.

In 2008, the Chicago Urban League filed suit against the State alleging that: (1) Illinois’ funding scheme violates the Illinois Civil Rights Act of 2003 because it has a disparate and adverse impact on minority students; (2) Illinois’ funding scheme violates the Uniformity of Taxation provision of the Illinois Constitution, which requires that taxes on real property must be levied uniformly; (3) Illinois’ funding scheme violates the Illinois Constitution by not providing for an efficient and high quality educational system; and (4) the funding scheme violates the equal protection clause of the Illinois Constitution. The circuit court dismissed all claims except for the allegations that Illinois’ violates the Illinois Civil Rights Act of 2003.

In 2010, the organization Business and Professional People for the Public Interest filed suit on behalf of two taxpayers against the State alleging that Illinois’ public education financing system causes similarly situated citizens to pay disparate property tax rates, in violation of the equal protection clause of the Illinois Constitution. The complaint alleges that some property owners are forced to pay higher property tax rates than others in order for the school districts to reach the Foundation Level, despite that the value of the residents’ homes is identical. Because the Supreme Court has consistently deferred to the legislature, funding reform in Illinois must come in the form of systematic statutory reform. The following section will discuss the various reforms that the Illinois General Assembly has recently considered.
Illinois relies too heavily on local property taxes to fund its educational system and this results in disparate funding between the districts. These disparities have resulted in various lawsuits and have forced the courts to consider and reconsider the constitutionality of Illinois’ educational funding scheme. The Supreme Court of Illinois has consistently deferred to the legislature in reforming the funding system in Illinois. As such, the legislature should implement school funding reform. There have been several alternatives suggested for reform: (1) the use of vouchers, (2) uniform taxation throughout the state, and (3) an increase in income tax.

The first alternative for funding reform has been the use of vouchers. This alternative provides select students with a voucher, and allows them to use the voucher towards the school they wish to attend. Senator Kevin Joyce recently proposed a voucher program whereby parents of children attending the bottom 10% of the lowest achieving schools or the top 5% of the most overcrowded schools were given $3,700 to attend a private or parochial school of their choice.\textsuperscript{li} However, this was defeated in the House on May 5, 2010.\textsuperscript{lii} The voucher proposal has been met with criticism because it diverts money away from public schools already suffering from a lack of funding.\textsuperscript{liii} Furthermore, the voucher program is not a funding overhaul; the program would merely redistribute funds.

Another avenue for funding reform is to impose a uniform tax throughout the state. Proponents of this reform argue that education should be funded at the state level, and a uniform tax rate should be imposed throughout the state.\textsuperscript{liv} To support their argument, they rely on the Illinois Code, which states that taxes on real property should be levied uniformly.\textsuperscript{lv} To determine if the taxes are levied uniformly, one must look to the governmental body imposing the tax.\textsuperscript{lvi} For example, if it is the city, then the taxes must be uniform throughout the city; if it is the state,
the taxes must be uniform throughout the state. The State bears the obligation to provide an adequate education, and the State has the responsibility to ensure that poor districts are minimally afforded sufficient resources to provide for adequate schools. As such, the State would impose the tax in a uniform manner, and collect the tax in a way that results in equal tax efforts and expenditures for each pupil in the State. Since there are wealth disparities among districts, a taxing scheme that relies on local taxes will inevitably result in inequities.\textsuperscript{lvi}

The third avenue for reform is for the state to fund education through income taxes and put the revenues into a common school fund. This has been introduced to the state legislature through House Bill 0174 sponsored by Senator James Meeks and Senator David Miller. Senator Meeks believes this is the way to correct the inequities between public school districts and would “ensure that all children in the state receive a quality education.”\textsuperscript{lvii} The current bill is a reformed version of House Bill 0750, previously introduced by Meeks that passed the Senate, but was defeated in the House.\textsuperscript{lviii} The bill provides for an income tax increase from 3\% to 5\%, a corporate income tax increase from 4.8\% to 5\%, an increase in the standard exemption from $2,000 to $3,000, and an increase in the earned income tax credit from 5\% to 15\%. Additionally, the bill provides for property tax relief by permitting an increase in the percentage of the state personal income tax credit an individual claim from 5\% to 10\%, but there is a $1,500 cap. Furthermore, the bill places a tax on consumer services that were previously untaxed.\textsuperscript{lix} Beginning in fiscal year 2011, 33 1/3\% of this revenue will be placed into the Common School Fund to be distributed to each school district, thereby eliminating the real property tax as the main source of school funding.\textsuperscript{lxi}

**The Future of School Funding**

These authors embrace the General Assembly’s recent attempts to push through public
school funding reform. However, the current proposal, HB 0174, only minimally shifts school funding from property tax to income tax by raising an estimated $5 billion, only one-third of which would go into the Common School Fund.\textsuperscript{xii} This constitutes only a small increase in State responsibility, particularly considering that the State currently provides for less than 28\%\textsuperscript{xiii} of total education funds, ranking 49th in the nation in that category.\textsuperscript{xiv} Because these authors believe the State must take on a more significant role in funding education, we propose the following public school funding plan for Illinois.

Preliminarily, Illinois should adopt the Illinois Education Funding Advisory Board’s Foundation Level recommendation. For 2009, the Board recommended a Foundation Level of approximately $7,400 per pupil.\textsuperscript{xv} For 2008-2009 school year, the statutory Foundation Level was $5,959.\textsuperscript{xvi} The statutory Foundation Level was increased to $6,119 for the 2009-2010 school year.\textsuperscript{xvii} To meet the Board recommended Foundation Level, education funding would need to be increased from the 2008-2009 level of $26.1 billion\textsuperscript{xviii} by approximately $2.15 billion.\textsuperscript{xix}

To meet this funding goal in an equitable way, Illinois should institute a progressive “Education Income Tax” at such a rate that the tax would generate 50\% of total education expenditures per year. Such an income tax would undoubtedly be heavy. If the tax were to be added onto the current Illinois flat income tax of 3\%\textsuperscript{xix} the tax burden would likely increase substantially, potentially between 4.5\% and 5\%. However, the Education Income Tax would not be a part of Illinois’ present flat income tax system, but instead would be a separate, progressive tax. The revenue from the tax would go directly to Illinois’ Common School Fund, and would be dispersed to schools on a per-pupil basis as determined by the enrollment, rather than average daily attendance, in each district.
Local revenue would generate the remaining outstanding per-pupil education funds according to a system similar to the one already in place. However, schools that generate local funds equal to or more than 100% of the Foundation Level (not including any State funds received) will lose a proportionate amount of State aid as distributed from the Common School Fund. That is, for every dollar raised through local revenue sources beyond 100% of the Foundation Level for the corresponding year, that district will lose one dollar of GSA as distributed from the Common School Fund.

The funds recouped from these property-rich districts will be used to supplement districts unable to meet Foundation Level funding through local tax revenue sources, namely personal and corporate property, at a rate of at least 3%. Any surplus funds will be distributed on an as-needed basis to districts in the bottom quartile of funding, and, beyond that, funds will be remain in the Common School Fund as surplus.

**CONCLUSION**

Illinois’ current school funding scheme is resulting in tremendous disparities between and among school districts. Since public school financing heavily relies upon real property taxes, students living in districts with high property values attend schools with educational opportunities vastly superior to those provided by districts with low property values. Although there have been several constitutional challenges to the funding scheme, the judicial system has failed to address funding inequality, and has consistently deferred to the legislature. Therefore, the legislature must answer the call of reform, and restructure school funding in a way that results in educational equity in Illinois. Any such reforms should significantly shift funding burdens onto the state and away from local financing. The funding proposal set forth in this paper is only one of a myriad of potential reforms that could be utilized to distribute funds more
evenly across school districts, and help guarantee that all children in Illinois’ have equal access to a high quality education.

ii Id.
iv Id.
v 105 ILL. COMP. STAT. 5/18-8.05(A)(1).
vi Id.
vii 105 ILL. COMP. STAT. 5/18-8.05(B)(3).
viii 105 ILL. COMP. STAT. 5/18-8.05(D).
ix 105 ILL. COMP. STAT. 5/18-8.05(E).
x 105 ILL. COMP. STAT. 5/18-8.05(E)(2).
xi 105 ILL. COMP. STAT. 5/18-8.05(E)(3). When calculating districts’ total revenue from property taxes, the State computes the property tax rate at 3% for districts maintaining kindergarten through grade 12, at 2.3% for districts maintaining kindergarten through grade 8, and 1.05% for districts maintaining grades 9 through 12. The remaining GSA computations are based on these figures. The result is that a poor district is forced to tax property at a rate that is at least equal to the statutory rate in order to receive enough GSA to bring the district’s per pupil funds to the Foundation Level. Additionally, GSA is based on average daily attendance, rather than total enrollment. 105 ILL. COMP. STAT. 5/18-8.05(C).
xii 105 ILL. COMP. STAT. 5/18-8.05(E)(4).
xiii MONEY MATTERS, supra note 3 at 6.
ix Secter, supra note 15.
xx MONEY MATTERS, supra note 3 at 15 fig.14.

xxi Id. at 15.

xxii Id. at 9 fig.5.

xxiii Id. at 9 fig.6.


xxv Id.

xxvi MONEY MATTERS, supra note 3 at 7.

xxvii Id. at 19 fig.27.

xxviii Id. at 18 fig. 25, 20.

xxix Guzman, supra note 24 at 159


xxxi MONEY MATTERS, supra note 3 at fig.19.

xxxii Id. at fig.18.

xxxiii Id.

xxxiv Guzman, supra note 24 at 191-192, 196.


xxxvii Id. at 1183.

xxxviii Id.

xxxix Id. at 1186-87, 1189.

xl Id. at 1189-90.

xli Id. at 1193-94.

xl ii Id. at 1194-95.

xl iii Id. at 1196.

xl iv Lewis v. Spagnolo, 710 N.E.2d 798, 802 (Ill. 1999).

xlv Id. at 805.

xl vi Id.


1 Taxpayers Sue Over School Funding System, supra note 49.


4 Id.

5 Laurie Reynolds, Full Funding of State Education as a Constitutional Imperative, 60 HASTINGS L.J. 749, 753 (2009).

6 Ill. Const. art. IX, §4(a).

7 Reynolds, supra note 54 at 768.

8 Reynolds, supra note 54 at 768.


12 Id.


15 Money Matters, supra note 3 at 5.


17 105 ILL. COMP. STAT. 5/18-8.05(B).

18 Id.


20 See 35 ILL. COMP. STAT. 5/201(b)(2)