FUNDAMENTAL DISPARITIES: ILLINOIS EDUCATION FINANCING AND THE NEED FOR REFORM

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INTRODUCTION

The task of reforming education financing long ago fell to the states. To some extent, this occurred because the federal Constitution does not explicitly or implicitly grant a right to education. The United States Supreme Court declined the opportunity to intervene in this issue in San Antonio Independent School District v. Rodriguez, where the Texas school financing system was challenged because of the huge disparities that resulted between high-wealth and low-wealth districts.\(^1\) The Court characterized the Texas system as “chaotic and unjust” and emphasized the need for reform in a tax system that “relied too long and too heavily on the local property tax.”\(^2\) However, the Court concluded that this was an issue beyond the scope of the federal Constitution and eliminated the possibility of a federal solution.\(^3\)

On the other hand, nearly every state Constitution specifically guarantees a citizen’s right to a free and efficient education provided by the state. The Illinois Constitution is one of those that contains such an “education clause.” Specifically, The Illinois Constitution provides; “The State shall provide for an efficient system of high quality public educational institutions and services…the State has the primary responsibility for financing the system of public education.”\(^4\) Since San Antonio, many state judiciaries have grappled with the issue of school funding disparity. In some cases, including Illinois, state Courts deferred these necessary remedies to legislators, who struggled to make substantive changes to the state structure.\(^5\) As a result, Illinois is more dependent on local property taxes to fund schools than nearly any other state and consequently has one of the greatest wealth disparity gaps in the nation.\(^6\) The goal embodied in the Illinois Constitution is clear and it demands equal education for every child in the state. This requirement can’t be realized until a fair and equal funding mechanism is instituted for Illinois schools. In Illinois, only 36% of the total education funding

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\(^2\) Id. at 59.
\(^3\) Id. at 58.
\(^4\) Ill. Const. art. 10, §1
\(^5\) See infra Section IV
\(^6\) PEOPLE FOR THE AMERICAN WAY FOUNDATION, INEQUALITY IN ILLINOIS; HOW ILLINOIS SCHOOL FUNDING HAS ERODED PUBLIC EDUCATION 1 (2004).
was state supported when the national average is closer to 50%.7 This reliance on local funding is the root cause of the equity problems in the present school financing system. As long as school financing is dependent on local property tax revenue, the only solutions will be temporary or ineffectual. In order to truly address this issue, a fundamental change in the finance structure must occur. Specifically, this note will advocate for a greater state obligation and propose a funding mechanism premised on state implemented distributions to local school districts.

This note will summarize the current state of school finance in Illinois. It is not intended as a full analysis of the complexities that render school reform necessary nor the intricate balance between educational quality issues, socioeconomic impacts, and school financial resources. However, this note attempts to layout the current problem in Illinois, as well as one method of potential overhaul that could relieve the underlying issue.

First, the note will describe the current funding structure in Illinois and the problems that result from such a scheme. Next, the outcomes Illinois faces as a result of this structure are examined in terms of the hypothetical connection between quality education and monetary resources. Third, this note will highlight the aspects of statewide reform that would relieve some of the major issues inherent in the current system and then briefly examine the history of reform attempts, specifically aimed at a greater state obligation, in Illinois. Finally, the primary theoretical argument against statewide reform will be discussed with respect to the reality it imposes on Illinois students.

I. FINANCING PUBLIC SCHOOLS IN ILLINOIS

Although there are several different state education financing plans, the vast majority of states still delegate a large portion of the financing responsibility to local school districts, which, in turn, rely heavily on the local property tax.8 There are two general approaches to school funding that rely on primarily local taxation. The District Power Equalization method is designed to guarantee all local school districts will receive the same property tax yield for the same tax rate.9 The Foundation Support method, on the other hand, measures local property tax contributions against a pre-determined per-pupil expenditure level, and requires the state to cover the balance.10

A. A Formulaic Approach

Illinois operates under a Foundation Level system with two distinct components. First, the Illinois State Board of Education identifies the actual “Foundation Level”. This amount is simply the minimum amount that the state

7 Id.
9 Id.
10 Id.
determines should be distributed to each pupil across the state.\textsuperscript{11} Second, the Board uses a formula, known as the General State Aid formula ("GSA") to determine how much of the Foundation Level will be covered by the state and how much will be left to be funded by local property tax revenue.\textsuperscript{12} In theory, this approach is meant to actually minimize funding inequities by ensuring that every student is receiving a baseline funding distribution. In a state with significant variation in local property tax wealth, the Foundation Level is meant to even out the inequities that subsequently result. Initially, the Foundation approach was designed to operate under a standardized statewide property tax rate.\textsuperscript{13} School property taxes would have been capped which was intended to ensure that state revenues accounted for the base of funding and that the necessity of local property taxes was more limited.\textsuperscript{14} However, Illinois, like may other states, declined to use a statewide property tax system as part of their Foundational formula as initially intended. Instead, Illinois relies on primarily local, rather than state-based, property taxes, to fund the established per-child minimum level of Foundation support.

Some Illinois school districts in affluent communities make such significant contributions to per-pupil spending that they would receive no funding from the state under the GSA Foundation Level formula.\textsuperscript{15} In these instances, state contributions to local spending are based on the "Alternative Formula" or "Flat Grant Formula." Depending on the percentage near or above the Foundation formula that these districts can fund with their own resources, the state applies a separate formula to determine the amount the state will contribute. For example, if a district’s available resources per pupil are between 95\% and 175\% of the Foundation Level, the district qualifies under the Alternative Formula. If a district’s resources exceed 175\% of the Foundation Level, then the district qualifies for Flat Grant Formula.\textsuperscript{16} The policy concept behind using these alternative methods of calculating state input is that the state should be contributing to the education of every child in Illinois, even in those instances where local resources are able to provide more funds than the Foundation Level minimum requires.\textsuperscript{17}

B. Resulting Disparity and Detachment

The fact is, the Foundation Formula doesn’t meet its purpose of equalizing funding disparity because the property wealth in Illinois is so largely variant. Illinois is comprised of 862 schools districts and serves approximately 2,094,160 students.\textsuperscript{18} These districts are comparatively small to districts in other states,

\textsuperscript{11} Id. at 6.
\textsuperscript{12} Id.
\textsuperscript{13} Id. at 7.
\textsuperscript{14} Id. at 10.
\textsuperscript{15} Id.
\textsuperscript{16} Id. at 2.
\textsuperscript{17} Id.
\textsuperscript{18} FED. EDUC. AND BUDGET PROJECT, NEW AM. FOUND., “ILLINOIS” (2011) available at http://febp.newamerica.net/k12/IL
especially in the South and in the West, meaning that the wealth and demographics of the district vary more substantially and are concentrated more heavily.\textsuperscript{19} State funding formulas generally distribute funds more equitably in states with large districts because the funds are aggregated into larger pools and distributed to school districts in a more uniform fashion.\textsuperscript{20} Additionally, in larger school districts, property tax collections are redistributed over a larger area, thus reducing disparities in local revenues.\textsuperscript{21} The make-up of Illinois school districts helps account for the drastic inequalities in the state that have led it to become one of the most inequitable in the country.

Unaddressed at this point is the impact that disparate funding has on the quality of a child’s education. The debate regarding the connection between increased funding per-pupil and educational outcomes is addressed in the next section. However, for the purposes of examining the current state formula, it is important to understand the role that an “adequate” education plays in the determination by that state of how much financial support each student should receive. In the evolving concept of "adequacy," something beyond equity is at issue. There is a notion of sufficiency that plays into this debate. In other words, when discussing financing structures, one goal, beyond equity, is to provide a per-pupil resource amount sufficient to achieve some performance objective.\textsuperscript{22} Adequacy is increasingly being defined by the outcomes produced by school inputs, not by the inputs alone.\textsuperscript{23}

One of the most fascinating aspects of the Illinois funding system is that the current Foundation Level is not at all tied to any actual objective measure of the cost of an adequate education. Instead, the state’s Foundation Level is typically based on the funds available in the state General Revenue.\textsuperscript{24} In 1997, Governor Edgar signed into law Public Act 90-548 creating the Illinois Education Funding Advisory Board (“EFAB”).\textsuperscript{25} The purpose of this nonpartisan board is to identify a minimum per-pupil expenditure amount that correlates with the expected costs of providing an adequate education.\textsuperscript{26} An “adequate” education is defined by EFAB as one in which at least two-thirds (67%) of Illinois students defined as “not-at-risk” will pass performance expectations on standardized tests.\textsuperscript{27} (At risk children, who come from concentrated poverty or broken homes or have special needs are far more expensive to educate.)\textsuperscript{28} EFAB computes the cost per child of

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\textsuperscript{20} \textit{Id.}
\textsuperscript{21} \textit{Id.}
\textsuperscript{23} \textit{Id.}
\textsuperscript{24} \textit{Ctr for Tax and Budget Accountability, Money Matters: How the Illinois School Funding System Creates Significant Education Inequities that Impact Most Students in the State 12 (2008). [hereinafter Money].}
\textsuperscript{25} \textit{Id.}
\textsuperscript{26} \textit{Id.}
\textsuperscript{27} \textit{Id.}
\textsuperscript{28} \textit{Id.}
\end{flushleft}
satisfying this standard, and recommends that amount as the Foundation Level minimum for the academic year. Since 1997, Illinois has failed to meet the recommendation set out by EFAB every single year. In fact, the state is increasingly getting farther and farther behind the amount that EFAB has determined is necessary to provide an adequate education. In 2000 there was only a $100 difference between EFAB’s recommendation and the actual Foundation Level. However, that differential has grown to $1,944 in 2012. The Illinois State Board of Education estimates it would cost $3.1 billion to increase the current Foundation Level to the EFAB recommendation.

II. THE STATE OF THE STATE

The current funding mechanism, therefore, is based on a formula that doesn’t fully account for the vast variation in district property wealth. Many states operate under a similar Foundation approach; however, in Illinois the results are particularly pronounced. The results of this funding mechanism, in terms of wealth disparity by district, are drastic. In 2011, the 10 poorest schools in the state spent only 30% on average of what the 10 wealthiest schools spent on average, to educate each student. In an alarming example, one can compare two districts, both in the Chicago area, one spending approximately $7,023 per student in 2010 and the other spending $24,244 per student, or more than three times the spending of the poorer district. It is not uncommon in Illinois to see a spending differential between districts of $15,000 or more.

Most studies indicate that Illinois has one of the largest disparity percentages in the country, and there is no doubt that that Illinois ranks in the bottom third of states, if not the bottom three, when it comes to per-pupil funding disparities between high-poverty and low-poverty districts. The Federal Government established a standardized measure, called the "equity factor" as part of Title I, Part A of the No Child Left Behind Act that measures school finance equity among the districts in a state. In 2009, Illinois ranked second under this measurement for highest levels of school district inequity.

A. Quality as Reflected in Dollars

30 Id.
31 Id.
32 Id. at 14.
33 Id.
34 Lisa Black, Spending gap between state's rich, poor schools is vast, CHI. TRIB., Nov. 7, 2011.
35 Id.
36 See INEQUALITY, supra note 6 at 5.
39 Id.
One major argument against reform is that wealth disparities by district do not reflect the quality of the education each student actually receives. The big question is whether or not increased spending actually increases student performance. There is substantial evidence that the quality and quantity of resources has some impact on the adequacy of student education.

In one regression analysis study conducted by the Illinois Center for Tax and Budget Accountability (“CTBA”) in 2008, academic performance was tracked against instructional expense. The analysis focused on districts in Illinois with low concentrations of poverty. At a spending level of approximately $5,000 per-pupil in instructional expenses, about half of the districts met the expected outcomes or better and about half of the districts performed worse than expected outcomes projected. As instructional spending increased, however, so did student performance. At $7,000 in spending per student, nearly all the districts performed at or above the predicted levels. So, an increase in per-pupil spending at a rate of approximately $2,000 per student had a noticeable impact on student performance. Coincidentally, on average, Flat Grant districts in Illinois spent $2,324 more per child than Foundation Level districts in that same year.

An important aspect to this analysis, that informs the current debate is that this particular study controls for family environment. The students in the schools analyzed in the CTBA regression analysis, live in little to no poverty overall. The students have supportive families and have education reinforced at home. These types of demographic characteristics are often pointed too as the most significant factors indicating student performance. When discussing the impact of additional resources in schools, it is notable that a meaningful improvement in academic performance correlates directly with an added investment in instruction even when equalizing the impact of socioeconomic factors.

The purpose of this note is not to make definitive conclusions regarding the correlation between educational funding and educational quality. However, for the purposes of proving the need for substantive reform, it should be noted that the “weight of authority clearly supports” a connection between appropriate levels of funding and increased quality of education. Notwithstanding that the impact of increased school funding on the adequacy of education is a difficult issue to fully quantify, there is an argument to be made that there should be equality, for equality’s sake, in a constitutionally mandated state program.

The thrust of the problem boils down to a reliance on local property taxes. A large infusion of cash isn’t the answer to the disparity problem. As long as schools are funded through primary local sources, those districts with high wealth concentrations will find ways to support funding and recreate the gap that might

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40 See Money, supra note 24, at 11.
41 Id.
42 Id.
43 Id. at 12.
44 Id.
45 Id.
be minimized by a cash infusion that might bring up the bottom.\textsuperscript{47} Thus, most proposed solutions would not correct the underlying deficiency in the system. The proposition isn’t that spending necessarily needs to be increased, instead, evidence from around the country suggests that full state funding in the only way “to guarantee our public schools can be faithful to the nation’s foundational imperative of equal education opportunity.”\textsuperscript{48}

III. FULL STATE FUNDING

An adoption of a statewide funding mechanism may be able to solve the equity and adequacy issues faced in Illinois schools. Statewide funding would create a transparent system where everyone knows what to expect in resource allocations.\textsuperscript{49} More importantly, however, it offers the opportunity to disperse funds equally, as needed, by districts all over the state, ensuring that every student receives funding enough to enjoy a baseline adequate education and generally equalize the dollars spent per pupil. The most logical replacement financing structure would include a uniform statewide property tax. The state budget simply cannot currently withstand the burden of full state funding without any additional resources from local revenue. A flat income tax increase was proposed in the early nineties to handle the budget constraints the state would face if it took on the bulk of the school-funding obligation.\textsuperscript{50} Though a tax increase did finally come to fruition last year, it lacked the educational component called for by early education reformists and barely helps cover current state expenses as is.\textsuperscript{51}

Therefore, any modern effort for reform would require the assistance of property tax revenue. The difference, of course, is that at a state level, the tax could be (and would need to be) levied uniformly. The regressive nature of such a uniform tax is certainly not ideal, but it is objectively more equitable than the current scheme simply by eliminating the unfairness low-property value districts face. Currently, the poorest individuals paid the highest tax rates and still suffer from a lack of school funding in their communities. The legislative battle to implement this type of uniform tax would no doubt be a substantial obstacle to implementation.

A. Prior Attempts for Reform

The history of school reform legislation in Illinois is convoluted. Since at least the early 1980’s, both political parties in the state have pushed for change.

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\item See generally, Laurie Reynolds, Uniformity of Taxation and the Preservation of Local Control in School Finance Reform, 40 U.C-DAVIS L. REV. 1835 (2007).
\item Laurie Reynolds, Uniformity of Taxation and Illinois School Funding, 34 J. EDUC. FIN. 179, 195 (2008).
\item Thomas Hardy, State’s Big Teachers Union Puts Weight Behind Netsch, CHI. TRIB., July 03, 1994.
\item Lauren Etter and Douglas Belkin, Illinois House Passes Big Income-Tax Increase, WALL ST. J., Jan. 12, 2011.
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Specifically, proposals often relied on a theory of increasing the burden on statewide taxes and easing the reliance on local property taxes. In 1992, Illinois voters narrowly defeated a proposed constitutional amendment that would have required the state to pick up more than half the school tab statewide.\(^{52}\) Four years later, the Illinois Supreme Court declined to get involved in the school funding debate, ruling in a lawsuit that the state's school funding scheme "might be thought unwise, undesirable or unenlightened," but it was up the legislature to fix it.\(^{53}\) A similar fate was met by a second case brought before that Court in 1999.\(^{54}\)

In 1994, Dawn Clark Netsch made school funding reform a centerpiece of her gubernatorial campaign, advocating for a 1.25% income tax increase in order to reduce local property taxes and implement a system of statewide financing.\(^{55}\) She was defeated in that race by Gov. Jim Edgar who vocally opposed her education plan.\(^{56}\) However, by 1996, Edgar proposed a plan for education reform that mirrored many of the elements he had formally opposed.\(^{57}\) When Democrats swept the state in 2006 and swore in Gov. Rod Blagojevich, it appeared that Illinois was finally poised to implement reform.\(^{58}\) However, instead of adopting a version of earlier plans, Gov. Blagojevich proposed a gross receipts tax to fund education in the state that was severely unpopular. Following this failure, the issue of school reform fell into the background, losing the support it had been building for over a decade.\(^{59}\)

Now, the state is facing a substantial budget crisis. Illinois leaders including Gov. Pat Quinn and Speaker of the House, Michael Madigan, called for action in January and February of this year that would force local school districts and universities to take on part of the financial burden for employee pensions and retirement plans.\(^{60}\) This move would essentially reverse any momentum school reformers had achieved in the last thirty years, and instead, would actually impose a higher property tax burden on local school districts, relieving the state of even more obligations for school financing costs.\(^{61}\)

In March 2010, two individual taxpayers initiated new equity litigation, claiming that Illinois’ education finance system violates the state constitution’s equal protection clause.\(^{62}\) The complaint alleges, among other things, that residents of property poor K-8 school districts pay a property tax rate that is 23%
higher than that paid by similarly situated taxpayers in property-rich K-8 districts, but that per-pupil spending in the property-poor districts is 28% lower than in the property-rich districts. This is the first time since 1999 that a school funding case will reach the Supreme Court of Illinois. Even if the judiciary elects to get involved, the impact of this case is questionable. The fact that it is being brought by taxpayers may indicate that it will equalize tax pressures more than it will impact school funding inequities.

One argument for implementing statewide financing suggests using the courts as a mechanism to implement a statewide funding structure. Abandoning the adequacy and equity arguments that have proved unsuccessful in Illinois before, this argument proposes a judicial challenge on that state’s guarantee of education, coupled with the state’s mandate of uniform taxation. This approach has actually been successful once, in New Hampshire and could offer, at the very least, a forum for continued reflection and action regarding school funding reform. However, the Illinois courts have historically noted their reluctance to compel substantive reform in the state. Therefore, the most certain method for attempts at change should be directed at the state legislature.

There is no way around the fact that state funded education would be a tough battle in the current political climate. Today any budget proposal that could be perceived as a tax increase or, more specifically, as a wealth redistribution mechanism will face vehement opposition. However, fifteen states already levy some form of state property tax, and nine of them use some or all of the proceeds for education. These numbers suggest that a proposal for a statewide property tax is not only possible but also relatively common; thirty percent of our states already operate one.

There are many arguments for the retention of the current tax structure. However, the most facially persuasive, and probably the most discussed argument, is the desire to retain local administration and control.

B. Flaws in Foundational Opposition Argument

The principle of local control and local school funding has been a controversial point in school finance reform due, in part, to the broader views on the “size of government” debate that it tends to encompass. Generally, advocates for local point to the connection between community interest and finance. Theoretically, districts with a strong interest in better education can control the local tax rate and implement more funding when it is desirable. Additionally, the concern is that more state presence in school financing will mean greater state

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63 Id.
65 See generally Reynolds Illinois, supra note 47.
66 Id.
67 Id.
68 See Reynolds Uniformity, supra note 47 at 1873.
69 Id.
regulation of school policies and administration, reducing local control over schools.\textsuperscript{70}

The theory that communities will be most responsive to educational needs if given the means to express their support of local schools through locally assessed property taxes is, objectively, a commendable civic idea. It’s certainly true that dispersing local revenues into a statewide pool will alter the connection taxpayers feel between taxation and education.\textsuperscript{71} However, there are several problems inherent in this civic proposition. First of all, the power to fund education inherently includes the power to underfund education.\textsuperscript{72} The doctrine of local control may have significant impacts for students in communities with a high number of retirees, for example, where the overriding interest in town may not be the implementation of sufficient K-12 school funding.\textsuperscript{73}

Additionally, in very low-property value districts, no matter how high the tax rate (and the corresponding “value” the community places on education), the funding generated will still be insufficient to provide an adequate education, rendering the doctrine of local control to those districts merely a “cruel joke.”\textsuperscript{74}

Finally, the very foundational idea behind local fiscal control doesn’t truly reflect the options a state citizen is presented with when considering their personal interest in quality school offerings.\textsuperscript{75} In theory, citizens who highly value public education will choose a district with a high property tax and correspondingly high spending on education. However, that reality can only exist in an instance where the property values all over the state are neutral. Obviously, that isn’t the case, and some areas enjoy substantially higher property values than other areas. The result of this disparity is that those who reside in high property value communities are able to generate substantially more dollars with comparatively lower tax rates than those who reside in low property value districts.\textsuperscript{76} There is a disturbing inequality at work in this structure. The burden is heavy for those in the poor school districts who increase their tax rates in an effort to provide better education in their community and yet, still come up short.\textsuperscript{77} The point being that those with the economic ability to make substantive choices regarding communities to live in have no need to accept a high tax rate in order to reside in an area that spends heavily on education and provides schools with the greatest resources.\textsuperscript{78} Hence, the idea that local financing control is a representation of a community’s commitment to high-quality education is simply an inaccurate portrayal of the reality.

The other major obstacle for reformers hoping to shift away from the local property tax structure in school financing is the concern that local administrative
control will be lost in a move toward greater state commitment to funding. Assuming that local administrative control is, in fact, a compelling state interest, the present financial system shouldn’t be considered necessary to further this interest. No matter how the state decides to finance its system of public education, it can still leave this decision-making power in the hands of local districts. The decentralization of authority is not an absolute when it comes to state versus local funding.

IV. CONCLUSION

The school financing structure in Illinois results in vast, apparent disparities in the amount of money spent for educational purposes per-pupil in the state. The Foundation Formula isn’t enough to combat the hugely disparate property-wealth encompassed in state school districts. The relatively small school districts in Illinois compound demographic and wealth concentrations throughout the state, resulting in funding imbalances that disadvantage students in low-property school districts who do not have access to the same resources that are provided in the more affluent areas. Even more alarmingly, these low property-value districts pay tax rates that sometime far exceed the rates of those paid by individuals in the high property-value districts. The injustice in this inevitable outcome leads to the conclusion that the reliance on local property tax revenue to fund education in Illinois is fatally flawed and must be disbanded.

The only logical conclusion, in the current political and budget climate in Illinois, is to shift to a statewide property tax. This movement would allow the state to have more control over funding distributions that led to such significant disparities in the past decade. State control would also relieve, in some sense, the burden placed on low-property-value districts to increase tax rates to their highest levels, just to make ends meet in a generally inferior school environment. The local control arguments that generally advocate for some retention of the local property tax and revenue structure are simply flawed in their application to the current Illinois education system. Districts who place a greater emphasis on education do not necessarily reap the benefits of greater funding resources, and districts that commit “less” financially to the education system can end up with huge sums of money to be allocated to schools with already ample resources. This problem has not only persisted in Illinois for many decades, but the disparities have only grown worse. It is time for the legislature to fully commit to education reform and mend the serious inequality and inadequacy problems that plague Illinois education.

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80 Id.