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Introduction

In 1993, the Texas Legislature enacted far-reaching school finance reform to resolve the longstanding *Edgewood* school finance equity lawsuit.¹ Senate Bill 7, the resulting reform bill, was signed on May 31, 1993. In it, the system retained the two-part school finance equalization program enacted in 1984 and refined over the previous decade. The law also retained the foundation program formula weights and adjustments that characterize the Texas system. But the reform law made major changes to the treatment of school district property wealth, imposing tax base reductions and tax rate caps. These changes leveled down the revenue-generating capacity of school districts and reduced the range of wealth-related disparities between poor and wealthy school districts. In January 1995, the Texas Supreme Court declared the school finance system created under Senate Bill 7 to be constitutional.² Not wanting to tinker with success, the Texas legislature permitted the elements of Senate Bill 7 to survive intact when it rewrote the Texas Education Code in 1995. The only new school funding element that resulted from the reform was a facilities grant program.³ This report describes the current system of public school finance in Texas. It includes a brief assessment of the equity of the system, and a review of issues facing Texas as it continues to struggle to provide equitable and adequate support for schools.

The Foundation School Program

Tier I funding. The funding structure for the Texas Foundation School Program has two parts or tiers. The first tier is a traditional foundation program with a required minimum tax rate of 86 cents per \$100 of taxable value and a foundation level calculated to meet specific educational program costs and district needs. Determination of the foundation level for each district begins with a Basic Allotment set in statute. Currently, the basic allotment is \$2,387 per student. The level of this allotment remains a policy decision and, despite attempts to quantify it so that it represents the actual cost of a basic regular education program, the level remains low.⁴ The formula calculations adjust the Basic Allotment upward for district size and for an index to correct for the cost of education in different regions of the state. The cost of education index tends to increase the basic allotment for urban area school districts because it is keyed to salary costs within a region. Texas currently provides a small-district adjustment for districts with fewer than 1,600 students in average daily attendance (ADA).

Catherine Clark is associated with the Texas Center for Educational Research.

There is a mid-sized district adjustment for districts with ADA of between 1,600 and 5,000. Texas also provides an additional adjustment to districts that are both small and sparse. After both cost and size adjustments are computed, the Adjusted Basic Allotment ranges from \$2,487 to \$4,185 for Texas' 1,044 school districts.⁵

Each district's Adjusted Basic Allotment is applied to student enrollment in different programs.

Regular Program. The regular program allotment is determined by multiplying the number of regular education students times the Adjusted Basic Allotment. There is no special weighting associated with regular education, and the adjusted allotment is the same for all grade levels within a district.

Compensatory Education Program. Texas provides additional compensatory education funding to school districts. Calculation of the amount is keyed to the number of students disadvantaged by a poverty background, but districts are not required to spend the allotment on those particular students. Instead, districts identify at-risk students and develop appropriate programs to supplement their education. For each child identified for participation in the federal school lunch program, a district is entitled to an annual allotment equal to the Adjusted Basic Allotment times 0.2. In other words, compensatory education provides an additional 20 percent on top of the regular foundation program allocation. Children identified for the compensatory education allotment are not counted for the regular education allotment.

Bilingual Education Program. For each student in a bilingual education program, the district is entitled to an annual allotment equal to the Adjusted Basic Allotment multiplied by 0.1, or a 10 percent increase. Students who are both poor and bilingual generate a larger total allotment as a result of the two needs.

Gifted and Talented Education Program. Up to five percent of students within a district may be identified to qualify for gifted and talented education. The district's gifted and talented education allotment is equal to the Adjusted Basic Allotment times 0.12. This result is multiplied by the number of eligible students.

Vocational Education Program. Vocational education in Texas is now called "career and technology education." For each full-time-equivalent (FTE) student in an approved career and technology education program, the district is entitled to an annual allotment equal to the Adjusted Basic Allotment multiplied by 1.37.

Special Education Programs. Students in special education are served in instructional arrangements, each of which has a different funding weight. FTE student counts are determined for each arrangement, then the FTE is multiplied by the weight for the arrangement. The weight for resource room is 3.0, speech therapy is 5.0, homebound is 5.0, hospital class is 3.0, self-contained mild and moderate is 3.0, self-contained severe on a regular campus is 3.0, off campus instruction is 2.7, nonpublic day school is 1.7, and vocational adjustment class is 2.3. The weight for mainstreamed students is 1.1 applied to ADA rather than FTE. Weighted FTEs and mainstream ADA are multiplied by the Adjusted Basic Allotment.

To the Tier I foundation program total is added an allotment for transportation cost that the state determines using reported bus routes and a schedule of rates per mile. The Tier I foundation program total allotment is the sum of all the program costs. Program costs, in turn, are affected by size and

cost adjustments to the Basic Allotment. Once a district's foundation program allotment is calculated, the state determines the required local share and then the state share.

Prior to determining state share, Texas imposes limits on administrative costs. The commissioner of education is responsible for determining a cost ratio, or allowable percentage, of administrative costs for different district size groups. The administrative cost ratio ranges from 0.11 for districts with 10,000 or more in ADA to 0.26 for districts with ADA of less than 500. Districts that exceed the limit are notified so that they can reduce costs prior to the close of the fiscal year. The state will deduct from Tier I an amount equal to the amount by which the administrative costs exceed the limit in those districts that do not comply with the limitation.

Tier I Financing. The local share or "local fund assignment" of the first tier of the foundation program is determined by multiplying the prior year's total taxable property value by a rate of 86 cents per hundred dollars of value.⁶ The resulting local share is subtracted from the foundation program cost of Tier I, and the remaining amount is state funding. In 1995-96, Tier I local costs were \$5.2 billion and state aid was \$6.5 billion.

The state pays aid from revenue in the general fund and the Available School Fund. The Available School Fund is a constitutionally dedicated fund that must be distributed, in part, on a per-student basis. The 1995-96 per student distribution, based on earnings from the Fund, was about \$300. High-wealth districts that receive no foundation program state aid continue to receive the per-student allotment because the constitution requires it. The total amount of revenue "lost" to high wealth districts is about \$26 million, or one-tenth of one percent of the total budgeted expenditures for public education in Texas. The persistence of this disequalizing flat grant is debated briefly each legislative session. However, resolving the issue by denying the allotment to high-wealth districts requires a constitutional amendment.

Tier II Funding. In 1989, the Texas legislature replaced the percentage equalizing second level of the finance program with a guaranteed-yield funding structure. Tier II provides all districts the ability to raise similar revenues above the first tier at similar tax rates. The higher the tax rate, the more revenue the district will generate per student. In 1995, Texas set the guarantee at \$21.00 per penny of tax per student (or a guaranteed wealth base of \$210,000 per student).⁷ Districts set their tax rates at the desired level above 86 cents, but there is no requirement for participation in Tier II. Local tax levies yield as much as they can, and state aid will make up the difference between the guarantee and what the district can generate through its own tax base. The state limits its participation to 64 cents. The taxes that make up Tier II can be maintenance taxes or debt services taxes. Districts that are able to raise the guarantee entirely through local property taxation (districts that have wealth between \$210,000 and \$280,000 per student) do not receive state aid. Districts with wealth in excess of \$280,000 per student must redistribute their wealth according to one of the options described below. The current formula for Tier II results in 85 percent of Texas students receiving the \$21.00 minimum guaranteed revenue per penny of tax. The remaining students are in districts that are able to obtain more revenue for the same level of tax effort. In other words, districts above \$210,000 in wealth per student can generate and spend unequalized revenue. Some sources refer to this as Tier III, local enrichment.⁸

Tier II Financing. Tier II provides equal access to funding for tax effort above the minimum required in Tier I. In order to determine tax effort, tax collections that exceed the local share of Tier I are divided by the taxable property value for the prior year. The result is a tax effort measure which actually drives Tier II funding. To the extent that the local tax effort produces

less than \$21.00 per penny per student, state aid makes up the difference. For purposes of Tier II funding, the student count incorporates special program participation.⁹ State aid for Tier II was \$1.9 billion and local support in Tier II was \$3.4 billion in 1995-96.¹⁰

Tax Rate Limits. Texas tax rates are expressed in dollars and cents. They are applied to the taxable value of property expressed in multiples of \$100. In 1995, the average total tax rate in Texas school districts was \$1.41 per \$100 of value. Texas places statutory limits on school tax rates. The limit for the maintenance and operations (M&O) tax rate is \$1.50. A few districts have rates in excess of this amount because they raised the rate prior to enactment of the statute and they have a voter authorization to tax at that higher level. Several Texas school districts have voter authorization for M&O tax rates that are less than \$1.50. The large district of Arlington (50,000 ADA) is one notable exception at a \$1.35 authorized limit. The statewide average M&O rate for 1995 is about \$1.23. Texas also limits the tax rate school districts can adopt for debt service to \$0.50. The 1995 state average debt service tax rate is about \$0.18. Recall that the school finance equalization system is tied to a total tax rate of \$1.50 (86 cents in Tier I and 64 cents in Tier II).¹¹ Districts with wealth less than \$280,000 per student and with tax rates between \$1.50 and \$2.00 generate unequalized local revenue, usually for debt service.

Leveling Wealth to Create Equity. The key component of legislation enacted in 1993 was the requirement that school districts above a wealth level of \$280,000 per student take one of five permissible steps to reduce their wealth. Districts may (1) consolidate with another school district to reduce wealth, (2) detach property from the tax roll and cause it to be attached to the tax roll of a low-wealth school district, (3) buy attendance credits from the state, (4) contract for the education of students in another district or districts, or (5) conduct an election and form a consolidated tax base with another district or districts.¹² By offering options rather than a single mandate, legislators avoided the problems that mandatory recapture and the appearance of a state property tax present.

Within months of passage of the law in 1993, all 98 affected school districts had taken appropriate action to reduce wealth and comply with the law. Most districts selected options 3 or 4. Option 3 is easily accomplished by writing a check to the state to purchase attendance credits. By increasing the number of students, the district effectively lowers the wealth per student. Option 4 involves contracting with other school districts to finance educational programs. This approach is attractive because high-wealth districts maintain more contact with districts they help. However, low-wealth districts with contracts do not receive all the money as extra resources. Most redistributed revenue received by low-wealth districts offsets state aid. In fact, the resulting shift of per-student wealth and revenue from local districts results in roughly \$350 million of local tax money redistributed through the school finance system and counted as state aid.

In 1995, lawmakers rewrote the Texas Education Code, making major changes in governance, administration of educator certification, and student discipline among other requirements. However, the new Code retained the wealth equalization options. For the 1996-97 school year, 92 districts have reduced their wealth to the required level. Most of them have purchased attendance credits from the state because there is now a fiscal incentive to do so. A few districts pay for the education of non-resident students by supporting summer enrichment, alternative education programs, and other instructional programs.

Many high-wealth districts that had relatively high state and local revenue per student before the wealth reduction legislation passed are permitted to return to those levels under a

hold harmless provision. In exchange, districts must maximize local tax effort and purchase attendance credits from the state. Currently, 45 school districts participate in the hold harmless option, reducing the amount recaptured by over \$50 million per year.

Equity Results

According to simulations conducted by the Texas Center for Educational Research,¹³ in 1995–96 over 500,000 students (14 percent) are in school districts with revenues per pupil at or above \$5,375. The same number attend school in districts with revenues less than \$4,426. The remaining 2.5 million students are within a revenue range of \$4,426 and \$5,375. If every district taxed at the level of \$1.50, the gap between the poorest and the wealthiest district would be \$600. The Texas supreme court acknowledged the \$600 revenue gap in its 1995 ruling but determined that evidence established that “all districts can attain the funding for a general diffusion of knowledge at a lower tax rate.” Since the state has a duty to provide equal access to revenue to provide funding for a general diffusion of knowledge, the \$600 gap at \$1.50 does not represent a violation of the Texas Constitution, according to the court.¹⁴ Low-wealth school districts are dissatisfied with this reasoning and argue that \$600 is a pernicious gap because it permits more advantaged districts to generate roughly \$20,000 more per classroom than poor districts.¹⁵

Statistical measures provide additional information about the equity of the Texas system. The coefficient of variation is a measure of revenue disparity. In 1995–96 it measured 0.0970. This means that about two-thirds of all students attend school in districts with revenue within 9.7 percent of the state average revenue, and about 95 percent of the pupils are in districts within 19.4 percent of the state average. The slope (weighted by the number of observations) is 0.0021, and the elasticity is 0.0520. Perfect wealth neutrality would exist if the slope and elasticity were zero. Lastly, the correlation coefficient measures the strength of the relationship between revenue and wealth. In 1995–96, it was 0.3905. The correlation coefficient squared is a measure of the proportion of change in revenue that is attributable to variation in wealth per pupil. In 1995–96, about 15 percent of revenue variation (0.1524) was due to school district wealth. The remaining 85 percent is due to other factors. There are three major sources of variation in addition to wealth: lack of equalization between wealth levels of \$210,000 per pupil and \$280,000 per pupil in Tier II, variation due to tax rates that exceed \$1.50, the hold harmless provision, and variation in tax rates among districts with less than \$210,000 wealth per pupil.

Issues

Tax Reform. School finance in Texas continues to be a shared responsibility between the state and local taxpayers. Independent school districts have their own locally elected school boards that have the power to levy and collect property taxes within limits set in law. However, even with biennial efforts by the state to keep up with rising enrollments, the requirement to provide a system that is “substantially financed through state revenue sources” has been difficult to meet. To fund teacher salary increases, new programs, technology, facilities, and inflation, school districts have drastically increased property tax rates and levies. Although state revenue for public education increases each year, it has not kept pace with increases in local property taxes.¹⁶

Approximately 42 percent of school district revenues come from state sources. Another 8 percent come from federal program revenues. The remaining 50 percent comes from the local property tax. Clearly, the property tax plays an important role in Texas school finance. In fact, from 1984 to 1996, the

school property tax levy increased 258 percent, from \$3.6 billion to \$9.3 billion.¹⁷ Parallel to the increase in tax levies, property tax rates have shot up dramatically, from about 60 cents per \$100 of taxable property value to nearly 1.41 in 1995.¹⁸ As a result of the dramatic rise in property tax support for schools, Texas has seen the state’s share of funding slip to 42 percent from a little over 50 percent in the mid-1980s.

These conditions provided the backdrop for two campaign pledges of Texas Governor George Bush. He pledged to work to increase the state’s share of school funding to 60 percent—a share that could be deemed “substantial.” He also pledged to provide Texans with significant property tax relief. In early 1996, effort was directed toward identifying a source of revenue to replace the more than \$9 billion school property tax levy. A group of experts was assembled to study revenue sources. When the governor set the income tax off limits for consideration, identification of a new source to replace such an enormous source of taxes proved difficult. The experts identified a business activity tax (similar to a value added tax) of three to four percent; a gross receipts tax of between one and two percent; or nearly double the current 6.25 percent sales tax.¹⁹

Realizing that total elimination of the school property tax is unrealistic, lawmakers are considering less drastic measures. Among the taxpayer relief mechanisms under consideration are relief from school taxes through homestead exemptions, some business property tax exemptions, and reduced property tax rates. It is also possible that legislators might impose more voter control over the school tax rate-setting process, with voter approval of the local tax rate. To replace lost revenues, policymakers are discussing small increases in the sales tax and a new business activity tax. If the business activity tax were enacted, the current tax on business (the Texas franchise tax) would be repealed. Lawmakers are considering whether to replace dollar-for-dollar lost local revenue or whether to put “replacement” revenue into the system through increasing the guaranteed yield above \$21.00 or increasing the maximum Tier II rate to a level above 64 cents. These issues are under discussion in the 75th legislative session (1997).

Property tax reform and increasing the state share of school support go together. If lawmakers provide dollar-for-dollar replacement of lost tax revenue with state aid, along with controls to prevent property taxes from rising in the near future, the state’s share will automatically increase. Estimates are that a replacement of \$2 billion of local revenue by \$2 billion of state revenue would increase the state share to about 57 percent.²⁰

Enrollment Growth. Each year Texas struggles with the requirements of increasing enrollment. The Texas Education Agency estimates that enrollment will grow by 73,000 in 1997–98 and by an additional 77,000 in 1998–99. At an average cost per student of \$4,934, this amounts to an additional \$1.1 billion over the course of the biennium. Growing enrollment will further strain school facilities in Texas and increase school district debt as districts build new schools. Fast-growing school districts face a particularly difficult situation. Enrollment growth usually brings growth in the property tax base, but the equalization system simply reduces state aid to offset that growth. In many districts, student growth is outstripping even property wealth increases, and some districts are at or near the statutory tax rate and cannot raise taxes to provide appropriate instructional services to students when state aid declines. Fast-growing districts have banded together to press the Texas Legislature for relief in the form of an adjustment to the foundation program.

School Facilities Financing. It has been a continuing source of concern among Texas educators that state support for facility construction and debt service has been weak or nonexistent. The original court opinion in the Texas school finance litigation clearly envisioned that support for facilities

and equipment be included in the equalized program of finance. Travis County District Court Judge Harley Clark wrote in 1987:

The Court hereby declares and enters Judgment that the Texas School Financing System . . . is UNCONSTITUTIONAL AND UNENFORCEABLE IN LAW because it fails to insure that each school district in this state has the same ability as every other district to obtain, by state legislative appropriation or by local taxation, or both, funds for educational expenditures, including facilities and equipment, such that each student, by and through his or her school district, would have the same opportunity to educational funds as every other student in the state, limited only by the discretion given local districts to set local tax rates . . .²¹

In response to *Edgewood*, the Texas legislature passed the Public School Facilities Funding Act in 1989, establishing a School Facilities Aid Fund and a School Facilities Aid Reserve Fund. Neither fund was actually created. The state tried again in 1990, and the legislature established a facilities grant program which was not funded. In 1991, the legislature took the step of identifying facilities and enrichment as the purpose for Tier II funds, and it also provided \$50 million for an emergency facility grant program. The grant program was not renewed in the next biennium. 1991 also saw the completion of the first school facilities inventory since the Depression. The inventory estimated \$2 to \$3 billion in current need (depending on the definition of "need") and an additional \$480 million in annual need for construction and renovations. In 1993, the legislature passed Senate Bill 826 which allowed school districts to use lease-purchase agreements to acquire facilities. None of these efforts provided general school facility support.²²

In 1995, Texas began to contribute to school construction needs through a facilities assistance grant program included in the omnibus education reform bill that rewrote the Education Code. For the 1996–97 biennium, the state appropriated \$170 million, a small fraction of the estimated \$4.6 billion needed currently to renovate and replace space, replace portables, and deal with growth and overcrowding.²³ Districts are eligible to submit construction programs for approval if they have wealth below an established level and if the M&O tax rate is above \$1.30 or the debt service rate is at least \$0.20. Each eligible district is limited to one award per biennium, and the maximum project supported is the greater of \$266 per student or \$500,000. Over 560 districts were eligible for grants, but only 276 received authorization to apply for grants because of program funding insufficiencies. To fund all 566 eligible districts would have required \$425 million for the biennium.²⁴

The Legislative Budget Board has recommended \$170 million for the 1998–99 biennium and the commissioner of education has made a biennial budget request of \$300 million for facilities. Given the press for property tax reform and the reluctance of legislators to raise taxes beyond what it may take to replace property tax revenue, it appears unlikely that public school facilities will receive a funding boost beyond the current level in the next biennium.

Outlook for the Future

The press for property tax reform will serve to change school finance in fundamental ways. In order to preserve school finance equity, lost revenue needs to be replaced by state revenue, the first year and every year thereafter. A more likely consequence of tax reform will be constraints on all school districts to keep taxes lower. While keeping taxes low and receiving only replacement revenue, districts will search for resources to fund facilities, employ teachers to serve growing enrollments, and to keep up with inflation. Of course, fiscal distress is not assured, and the legislature could provide addi-

tional funds for facilities, salaries, and other needs. The challenge is to help taxpayers understand that, whatever mechanism the legislature selects for lowering property taxes, funding education will continue to require the participation of Texas taxpayers, whether they pay local, business, sales, or other forms of taxes.

Under current law Texas has a constitutional school finance system characterized by a unique system for forcing high property wealth districts to level down their wealth by sharing it with other districts or the state. According to the court, if the state provides funds sufficient to support the "general diffusion of knowledge," measured by satisfactory performance within the state's accountability system, the system remains constitutional. The funding level in 1994, coupled with wealth reduction, appeared to the court to be satisfactory. However, high-wealth school districts are dissatisfied with the circumstances in which they find themselves, and low-wealth districts find the existing revenue gap unacceptable. Even citizens in districts not affected by the wealth reduction options are opposed, in principle, to sending local tax dollars to be spent someplace else in Texas. General dissatisfaction may lead to legislative efforts to completely revamp school finance—if not in the 1997 legislative session, in the session after that.

Endnotes

1. *Edgewood Independent School District, et al. v. William N. Kirby, et al.*, Cause No. 362,516 (250th Dist. Ct., Travis County, Texas, 1987); *Edgewood Independent School District, et al. v. William N. Kirby, et al.*, 777 S.W.2d 391 (Tex. 1989); *Edgewood Independent School District, et al. v. William N. Kirby, et al.*, 804 S.W.2d 498 (Tex. 1991); and *Carrollton-Farmers Branch Independent School District, et al. v. Edgewood Independent School District, et al.*, 826 S.W.2d 488 (Tex. 1992).
2. *Edgewood Independent School District, et al. v. Lionel R. Meno, et al.*, 893 S.W.2d 498 (Tex. 1995).
3. Texas Education Code, Chapter 42, Subchapter H.
4. Accountable Costs Advisory Committee, *The 1985–1986 Accountable Costs Study and Recommendations of the Accountable Costs Advisory Committee to the State Board of Education* (Austin: Texas Education Agency, October 1986); State Board of Education, *1987–1988 Accountable Costs Study* (Austin: Texas Education Agency, November 1988); *Public Education Special Cost Studies Staff Report* (Austin: Legislative Education Board, December 1992); *Foundation School Program Funding Elements* (Austin: Legislative Budget Board, October 1994).
5. Virgil E. Flathouse. "School Finance in Texas" (Austin: Texas Education Agency, October 1996). (Draft)
6. The Texas Comptroller of Public Accounts, Property Tax Division determines this value annually.
7. Texas uses a weighted student calculation in Tier II. Weighted ADA (WADA) is the sum of all foundation program allotments minus transportation and 50 percent of what flows through the CEI, divided by the Basic Allotment.
8. William E. Sparkman and Clint Carpenter, "Texas—1995" in *School Finance Policy Issues in the States and Provinces*, Carla Edlefson, ed. (Columbus: Ohio State University, Policy Research for Ohio-Based Education, 1995), pp. 163–165.
9. The weighted student concept applies here in computing wealth per student. See footnote 7.
10. Daniel T. Casey, *The Basics of Texas Public School Finance*, sixth Edition, TASB, 1996, pp. 42–49.

11. Texas Association of School Boards, *Bench Marks 1995-96* (Austin: TASB, 1996).
12. Texas Education Code Chapter 41 addresses the equalized wealth level.
13. Laurence Toenjes, "School Finance Simulations—Changing the Chapter 41 Wealth Level," (Austin: Texas Center for Educational Research, 1996).
14. 893 S.W.2d 450 (Tex. 1995) at 13.
15. *Equity Center News & Notes*, Craig Foster, ed. (Austin: Equity Center, October 1996).
16. Texas Legislative Budget Board, *Fiscal Size Up, 1997-98 Biennium* (Austin: Legislative Budget Board, 1996), p. 6-8.
17. Casey, *The Basics*, p. 105.
18. Casey, *The Basics*, p. 46.
19. Staff Work Group, *Report of the Staff Work Group on Property Tax Relief, Part I* (Austin: Governor's Office of Budget and Planning, March 1996), p. i.
20. Daniel T. Casey, "Impact of Two Property Tax Replacement Scenarios" (Austin: Texas Association of School Boards, October 1996).
21. *Edgewood Independent School District, et al. v. William N. Kirby, et al.*, Final Judgment, June 1, 1987, p. 5.
22. Lisa Dawn and Michele McLaughlin, "Financing Public School Facilities in Texas" (Austin: The Equity Center, December 1996), pp. 7-10.
23. *Ibid.*, p. 36.
24. Richard Kirkpatrick, "Facilities assistance plan upsets many school officials." *Equity Center News & Notes*, June 1996.