III
Reform Through Congress

FEDERAL AID TO SCHOOLS: ITS LIMITED FUTURE

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Introduction

Hopes are continually pinned upon the federal government as the financial savior of hard-pressed state and local tax men and school men. These hopes wax and wane but are never fulfilled. The thrust of this article is that those hopes have been somewhat unrealistic in the past and will become less necessary in the future.

The first part of this article is a brief history of the development of the limited-purpose federal education programs in the United States, culminating in an even briefer discussion of 1972's halcyon days when a presidential proposal that the federal government shoulder a major fraction of school operating expenses was actually under serious—although brief—consideration. The recurring themes of this first section are the fundamental ambivalence toward most notions of a major federal role in educational finance and the contributions of distinct demographic and financial events to the recent intensity of interest in greater federal involvement in educational finance. The second section makes a case for the diminishing likelihood of a major federal initiative beyond the presently enacted categorical grant programs. Its arguments hinge upon the diminution of each of the demographic and financial pressures which raised the issue in the first place and upon the preemptive political and financial claims which other worthy federal initiatives—particularly in the areas of income security, health benefits, and tax policy—are likely to make on available federal resources. The article closes with the note that present limited federal programs, centering on education for the disadvantaged, have been significant, are being improved, and will likely remain the model for future federal interventions.

I

Historical Development of Federal Programs

Historically, American elementary and secondary education has been financed and operated largely at the state and local level. There is no logical

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necessity to this arrangement. Economists have conceived many good reasons for the public interest in education, and, in the modern American context, most of these reasons suggest that the central government might well become more involved. The political and economic benefits of a well-educated citizenry are increasingly national in character, particularly as differences among regional interests blur. Individual mobility is high, and the values of pluralism, tolerance, and informed civic behavior remain central to our society. These arguments have been so persuasive in most other nations of the world that education is financed and/or operated with the substantial and usually dominant participation of their central governments.[1]

In the United States, however, the foundations of public schooling were unique. In the early years of the Republic, the Northwest Ordinance and the land grant provisions of statehood acts encouraged educational use of the proceeds from public land sales; but the educational function, by the ordinary interpretation of the Constitution, remained—under the tenth amendment—with the states. It was not until the middle of the nineteenth century that the notion of a public responsibility for universal, free, and common education came into being, largely due to the efforts of Horace Mann and his fellow reformers. As these schools were developed, the original constitutional settlement was reinforced. Mann's distinctive innovation of local, lay control of education was adopted everywhere, and the passing years brought about a nation comprised of thousands of school districts, often noncoterminous with and independent from other local jurisdictions, with separate taxing authority. When, after the Civil War, the states began to exercise their constitutional prerogatives in this area, they found that local citizens everywhere remained intensely interested in retaining and exercising this local control over schools. The states usually accepted this indubitable civic benefit and confined their activities to setting minimum standards and providing basic levels of financial support for local school districts. Seldom did they intrude directly into such sensitive areas as whom a local school district should hire or how much money the district might choose to raise.[2] Except for broad grants of public support to public education through the sale of public lands (extended to the area of higher education through the Morrill Act), the federal government's only educational policy activity during the nineteenth century was the establishment in 1867 of an Office of Education to collect and disseminate information about education in the United States[3]—a measure having no objective beyond a general encouragement of education and certainly not aimed at accepting any continuing financial responsibility for schools.

A. Federal Aid to Education

The Elementary and Secondary Education Act of 1965 (ESEA) was the watershed in securing the permanent involvement of the federal government

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[1] C. BENSON, THE ECONOMICS OF PUBLIC EDUCATION 82 (2d ed. 1968).
[2] L. CREMIN, THE TRANSFORMATION OF THE SCHOOL 10 (1964).
[3] S. TIEDT, THE ROLE OF THE FEDERAL GOVERNMENT IN EDUCATION 15-19 (1966).

in the financial support of schools. Before ESEA, a few modest federal grant programs had been initiated—principally for vocational education (1917), for school systems affected by the establishment of new federal installations (1950), and after Sputnik, to promote scientific progress through education—but none of these implied any across-the-board support to public schooling, and altogether, federal grants for elementary and secondary education contributed little in the way of financial support to most school districts.[4]

ESEA brought the first noticeable levels of federal financial assistance to most school districts and, in the process, swiftly multiplied the level of federal support. Federal grants for elementary and secondary education programs jumped from under $1 billion in fiscal year 1965 to $2 billion in fiscal year 1966, and approached $3 billion (seven to eight per cent of national educational expenditures) by the end of the 1960's. ESEA provided new grants for books, for the development of innovative programs, and for state departments of education; but most of all, it provided (under Title I) assistance to school districts for the education of disadvantaged children.

Unlike all its predecessors and companions, Title I with its allotment system based on poverty criteria, promised to deliver significant financial resources (fifty per cent or more of local pupil expenditures for each eligible student) to most school districts in the nation. For districts with predominantly impoverished students (and there were many such in the rural South), the new federal aid could add forty to fifty per cent to the local school district expenditures, while for a more typical school district with twenty per cent eligible children, Title I, if fully funded, would add ten per cent to available funds.

The creation of the Elementary and Secondary Education Act in 1965 has rightly been hailed as a major political feat. President Lyndon B. Johnson and his assistants exploited their electoral mandate of 1964 and the renewed national interest in alleviating poverty and discrimination to break a ten-year legislative deadlock involving the dual shibboleths of race and religion in making "federal aid to education" a central feature of the Great Society.[5]

Less noted, however, have been some of the demographic and financial imperatives that were building political support for federal education programs. During the late 1950's and early 1960's, America's schools, after almost a half century of slow or zero growth, were feeling the full weight of the post-World War II "baby boom." Over 13 million students were added to public schoolrooms between 1950 and 1960. Some small portion of this increase can be accounted for by increased attendance in kindergarten and fewer dropouts in the secondary grades,[6] but most of the increases re-

[4] In fiscal year 1964, for example, these programs contributed about $500 million (or two per cent) of national educational expenditures, but of this about two-thirds was impact aid going to a relative handful of the nation's school districts. *See* K. SIMON & W. GRANT, DIGEST OF EDUCATIONAL STATISTICS: 1972 EDITION 131-32 (DHEW Pub. No. (OE) 73-11103, 1973) [hereinafter cited as DES 1972].

[5] *See* S. BAILEY & E. MOSHER, ESEA: THE OFFICE OF EDUCATION ADMINISTERS A LAW (1968); E. EIDENBERG & R. MOREY, AN ACT OF CONGRESS (1969); P. MERANTO, THE POLITICS OF FEDERAL AID TO EDUCATION IN 1965: A STUDY IN POLITICAL INNOVATION (1967).

[6] NATIONAL EDUCATION ASSOCIATION, FINANCIAL STATUS OF THE PUBLIC SCHOOLS: 1973,

sulted from an unprecedented growth in the size and proportion of the school-age population. This sizeable increase in the amount of children was accompanied by a burgeoning parental interest in more and better education for all children: a college education for their children became the objective of most parents; diminution in class size and improvements in teacher qualifications became local imperatives. Smaller classes pushed up both capital and operating costs, as did the more complicated and expensive demands of an "up-to-date" educational program. In consequence school budgets multiplied, from $5.8 billion annually in 1949-1950 to $15.6 billion in 1959-1960, and to $26.2 billion in 1965-1966.[7] Local school officials, confined largely to one tax source (property) that did not expand apace with needs, were increasingly concerned about tax competition with other jurisdictions for population and business, especially since they were unsuccessful in persuading states to shoulder any additional share of the expense.[8] After a decade or so of unending pressure from students, parents, and taxpayers, many state and local officials enviously eyed the reportedly progressive and elastic federal revenue system which each year—economists were saying—generated a surplus of revenues over expenditures that had to be spent or returned to the private sector through tax cuts to avoid a drag on economic activity.

TABLE I

UNITED STATES POPULATION AND SCHOOL POPULATION
1900-1969

Year	a Population (in millions)	b Children (in millions)	c Percentage of school children (b÷a)	d Percentage increase in children during decade
1900	76	17.0	22.4	—
1910	92	19.6	21.3	15.3
1920	106	23.4	22.1	19.4
1930	123	28.6	23.2	22.2
1940	132	28.3	21.4	1.0
1950	151	28.7	19.0	1.4
1960	179	42.0	23.5	46.3
1969-70	203[1]	51.6[2]	25.4	22.9

Sources: U.S. COMMERCE DEP'T, STATISTICAL ABSTRACT OF THE UNITED STATES: 1972, at 5; DES 1972, at 7.
[1] April 1, 1970.
[2] Fall 1969 enrollment.

In enacting ESEA, then, the federal government was responding to widespread financial distress in the American educational system. In doing so,

at 10, Table 8 (Research Report No. 1973-R4, 1973).

[7] DES 1972, at 63. These dollar increases boosted real resources per pupil by over fifty per cent during these years.

[8] State contributions multiplied in absolute terms, but hovered near forty per cent of school expenditures during the entire period from 1950 through 1970. R. REISCHAUER & R. HARTMAN, REFORMING SCHOOL FINANCE 5 (1973).

though, it was also establishing clear, continuing limitations on the federal role. First, the federal programs were clearly not general aid, and deliberately so, in the mind of Congress. Even though there were several grant programs, each was of a categorical nature, designed to target federal funds at particular perceived shortcomings in existing educational programs—such as neglect in the education of poor children or the absence of a spirit of innovation. The ESEA programs were also intended to provide some general financial assistance to particularly poverty-stricken school districts, but the giant step to a "general aid" program, that is, to help with the basic operating costs of local schools, was not taken. The view was widely held that such aid would be siphoned off into higher teacher salaries rather than other educational improvements and that many localities would be tempted to reduce their own tax effort, rather than adding federal dollars onto existing local spending. Moreover, general aid to public schools only was opposed by parochial school interests, whereas special purpose aid was not.

Second, and not readily compatible with the first, the federal government intended to honor "local control of schools." Federal education legislation usually included a disclaimer—like that in Title IV, section 401 (a) (10) of ESEA itself—that, notwithstanding the detailed requirements for project applications, "[n]o provision of the Act . . . shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system"[9] of any local or state education agency. Such a prohibition seems based on a combination of allegiance to the values of local self-determination and in the critical social area of child-raising and reverence for the existing political and constitutional arrangements concerning the governance of public education, where states possess the formal authority which is further delegated to district and building level. In any event, it is a principle to which all parties and presidents have bowed.

Third, federal educational support would be fully subject to the annual appropriations process. Some of the social grants springing up in the 1960's—such as Medicare, Medicaid, food stamps, and the older but rapidly growing Aid to Dependent Children—effectively obligated the federal government to pay all or the major part of bills submitted to it by institutions and individuals; thus, the annual appropriations for these programs were beyond the full control of the government. The education legislation stopped short of such open-ended provisions, but created instead the more traditional closed-end grants-in-aid, with appropriation levels which were to be determined by Congress each year.[10]

During the half dozen years following passage of ESEA, the new federal education programs were beset by bewildering cross-currents so that these limitations were only slowly understood. For local school officials finan-

[9] HOUSE COMM. ON EDUC. AND LABOR, A COMPILATION OF FEDERAL EDUCATION LAWS 17 (1971).

[10] Title I, although a formula grant based on objective eligibility criteria for disadvantaged students, depended upon annual appropriation action, and called for ratable reduction of district allotments when the formula's authorization levels were not met. *Id.* at 36.

cial problems changed in nature but did not diminish. The annual increase in pupils tapered off from almost one million per year in the mid-1960's to virtually zero in the early 1970's. This relief was offset, however, by large increases in instructional (teachers') salaries[11] during a time of rapidly expanding collective bargaining in industry and public support for "catch-up" salary improvements in teachers' salaries. After the economic downturn of 1969, things soured quickly as voters began to reject substantial numbers of school referenda both for bonds and for millage increases.[12]

Negative voter reaction may have been related to another rising phenomenon: discontent and disillusionment with the performance of public schools. Both the federal education program and the previous twenty years of purely state and local effort had shared a common faith that additional resources would help overcome disadvantages and handicaps, enhance the productivity of the citizenry, and promote the accepted public virtues. In the late 1960's, each of these propositions was called into doubt. James Coleman's report on *Equal Educational Opportunity* shocked educators and public alike by its findings that the traditional school inputs—more teachers, newer buildings, more books—made only a slight difference in student achievement once their socioeconomic status was established.[13] Federal program evaluations soon revealed that the poor were not transformed (although they may have been charged up) by Title I and companion educational programs of the War on Poverty. An important alternative, school desegregation (the strongest single impetus to integration of social and economic classes), proceeded in fits and starts, brought unexpected levels of conflict to many communities, and was of uncertain educational benefit.[14]

The operation of the new federal programs was a great disappointment to most local officials. Despite the legislative rhetoric of aid for the disadvantaged, they hoped from the outset that ESEA funds would be available for broad educational purposes.[15] Such was not to be the case; the notion of compensatory education came to dominate federal program guidelines. Furthermore, annual federal appropriations were chronically tardy and auditing practices, developed to disburse the funds, required separate and restrictive accounting for the federal dollars. Increasingly over the years, the federal government also insisted that these funds be truly over-and-above a fair local basis for school-by-school expenditures.[16] And in many school districts the federal funds became the currency of civil rights enforcement—

[11] From 1968 to 1971, for example, average instructional salaries rose twenty-seven per cent while the CPI rose twenty per cent and private nonagricultural earnings rose eighteen per cent. NATIONAL EDUCATION ASSOCIATION, ECONOMIC STATUS OF THE TEACHING PROFESSION, 1972-73, at 19 (Research Report No. 1973-R3, 1973). *See also* ECONOMIC REPORT OF THE PRESIDENT: JANUARY 1973, at 229 (1973).

[12] DES 1972, at 60.

[13] *See* J. COLEMAN, EQUALITY OF EDUCATIONAL OPPORTUNITY (1966).

[14] Coleman found that black students in integrated schools performed somewhat better than their black counterparts in segregated schools, *id.*; but this finding is of uncertain relevance in schools recently desegregated by legal action.

[15] S BAILEY & E. MOSHER, *supra* note 5, at 306-07.

[16] For a discussion of the "comparability" requirements, see note 67 *infra* and accompanying text.

which the government threatened to withhold for violations of the nondiscrimination requirement of Title VI of the Civil Rights Act of 1964.

Finally, the federal funding never reached expected levels. After jumping to $2.5 billion in fiscal year 1967, federal elementary and secondary funding made no further significant increase until fiscal year 1971. Title I, the only program that gave significant support to almost every school district, did not expand nearly as fast as its legislative authorization would have allowed, moving only from $1 billion in fiscal years 1966 and 1967 to $1.2 billion in fiscal year 1970 and $1.6 billion thereafter.[17] This outcome was the result of a grueling stalemate between the President and Congress. In the latter years of the Johnson Administration, the appropriations level was mostly a product of stand-pat presidential requests (a far cry from 1965 pre-Vietnam promises), trimmed back by an economy-minded Congress.[18] In the Nixon Administration, the roles were somewhat reversed, but the outcomes were the same—President Nixon plainly believed that the Great Society education programs should be trimmed back, and his elementary and secondary education budgets of 1970 and 1971 showed it.[19] Congress, however, still in the hands of the other party, reacted angrily and tried to add moneys back in; but their vision was merely one of restoring cuts

TABLE II

FEDERAL ELEMENTARY AND SECONDARY EDUCATION APPROPRIATIONS
(in billions of dollars* and as a proportion of other national expenditures†)

	Fiscal Year			
	1966	1968	1970	1972
* Federal budget authority[1]	2.0	2.5	2.8	3.7
† Share of federal budget	.012	.013	.013	.015
† Share of federal domestic spending	.020	.022	.020	.022
† Share of national school spending	.077	.076	.068	.076

Sources: DES 1972, at 61-63; THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1974 (1973); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1973 (1972); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1972 (1971); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1971 (1970); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1970 (1969); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1968 (1967); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1967 (1966); THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1966 (1965).

[1] Including ESEA, vocational and adult education, NDEA programs for elementary and secondary education, education for handicapped, teacher training and demonstration programs, Impact Aid, and emergency school assistance.

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[17] DES 1972, at 126.

[18] In 1967, the House Labor-HEW Appropriations Subcommittee became markedly more fiscally conservative after the death of its long-time chairman John Fogarty and the arrival of a new, more conservative Democratic membership to go with Melvin Laird's economy-minded Republican minority.

[19] The Nixon Administration trimmed Johnson's fiscal year 1970 budget request by $400 million, to the lowest level since fiscal year 1965.

and allowing only modest growth. Legislative warfare—vetoes, attempts to override, impoundments, and lawsuits—ensued, even though the stakes were modest in dollar amounts. By 1972, the federal elementary and secondary budget had inched up to $3 billion; however, as a share of the federal budget, as a share of the federal domestic budget, or as a share of the national school budget, it has remained a small and steady fraction since ESEA's inception.

B. Federal School Finance Proposals

During the latter part of 1971 and in 1972, there was a brief and intensive consideration of a substantially different (and greater) federal role in elementary and secondary education. The upward pressure of unit cost increases and declining marginal revenues for local school expenditures described above was near its peak, and was dramatized by truncated 1971-1972 school years in several major cities. The pressure was reinforced by the growing legal challenge to state school financing arrangements (which promised added educational costs) and was given urgency by the impending national elections. The solution proposed by the education interest groups, by the United States Commissioner of Education, and tentatively by the White House was that the federal government should assume a basic responsibility for some share (usually one-fourth or one-third) of all elementary and secondary expenditures through annual multibillion dollar transfers to the states. And yet, in the presence of every good reason and political temptation to adopt such a plan, the federal government—both executive and legislative—declined to do so and, in the process, confirmed the nature of federal financial support for the next several years.

The 1972 debate at the federal level had several impetuses outside the current fiscal hardships of the schools. The most important of these was the presidential interest in a new federal tax policy, reinforced by a considerable interest in reelection. The President's specific tax policy interests were two: (1) exploring the possibility of a federal tax on consumption expenditures (that is, a sales or value-added tax), an area of taxation previously reserved largely to the states; and (2) providing property tax relief, especially for homeowners who resented the tax greatly.[20] The second objective involved the President in school finance reform willy-nilly, inasmuch as the local property tax is almost the sole means of local support for most school systems, and schools, in turn, expend about half of all property tax receipts.

The challenge to state financing arrangements rising in state and federal courts between 1970 and 1972 also had implications for federal support to education. In addition to the manifold changes which these cases would precipitate within the states, the equalization cases also posed major issues concerning the federal role.

Should the federal government assist the states with the costs of equalization? The likely impact of state-level equalization would be "levelling up"—

[20] For an excellent discussion of the characteristics of the tax and the reasons tax authorities like it but citizens do not, see R. REISCHAUER & R. HARTMAN, *supra* note 8, at 24-34.

that is, raising state aid for lower expenditure, high-effort school districts, rather than bringing higher expenditure, low-effort school districts down toward the existing mean. The federal government was a conceivable source of assistance for the states in this effort, which could cost them several billion dollars.[21] The federal government could assist or underwrite these state expenses and thereby provide reward and/or incentive for equalization.

Should the federal government attempt to equalize educational expenditures among the states? The disparities existing among school districts within states were reflected among states as well. Average per pupil expenditures ranging from $543 in Alabama to $1441 in Alaska and $1466 in New York[22] could be explained partly on the basis of differences in the cost of education and sometimes by differences in the level of tax effort, but mostly they resulted from differences in wealth and the correspondingly different level of expenditure which similar levels of tax effort would generate. The logic, if not the legal argument, justifying intrastate equalization plans was similarly compelling for interstate equalization, and, in this instance, only the federal government could directly address the objective. The costs of such action, under moderate "levelling-up" assumptions, would also run to several billion dollars.

Should the federal government assist non-public schools? A third fundamental issue, resurrected by the consideration of a federal school finance initiative, was that of aid to non-public schools. The provision of limited federal aid to non-public schools (mostly parochial) had been an essential ingredient in the 1965 compromise creating ESEA. The pupil benefit theory of this indirect assistance (through equipment and book "loans") had withstood constitutional challenge, but state and local performance had never been satisfactory to Catholic educators. To them, state assistance was meager and usually offered on inconvenient terms. Many states had their own constitutional or traditional barriers to distributing any resources to the church-related schools, and the federal action which ESEA called for to redress state failures to comply was slow and incomplete. At the same time, the financial plight of the parochial schools was deteriorating as costs soared, enrollments declined, and efforts to obtain state and local financial aid were repeatedly rebuffed in the courts.[23] Needless to say, any large new federal support program had to address the claims of non-public schools for a share. Moreover, for political reasons the Nixon Administration was anxious in 1972 to consolidate 1968's gains in this sector of the electorate. Even given the will, though, it would have taken considerable constitutional ingenuity to find a way; and there was no guarantee that the assistance, once provided, would end the decline of the Catholic parochial schools. Their fortunes depended more on doctrinal and demographic changes among Catholic parents than upon the availability of funds.

[21] Roughly $3 billion to the 70th percentile district in every state or $7 billion for the 90th percentile (1969-1970 dollars and levels of expenditure). *Id.* at 45.

[22] Current operating expenditures as of school year 1971-1972. DES 1972, at 65.

[23] R. REISCHAUER & R. HARTMAN, *supra* note 8, at 95-112.

In his 1972 State of the Union message[24] and in accompanying tentative public proposals,[25] President Nixon hinted at a "revolutionary" new program for relieving the burden of property taxes and providing fair and adequate financing for education. The President's plan was grand in conception, trying to accomplish each of the President's objectives without harming those of others. Breaking sharply with previous federal practices of supporting only particular educational purposes, the President advanced a true finance initiative: install a federal value-added tax (VAT) sufficient to net about $12 billion annually and distribute the proceeds to the states on a matching per pupil expenditure basis ($1 federal per $2 state up to a limit of $400 in federal contribution per pupil) provided that the states agreed to eliminate all use of local property taxes and state residential property taxes for educational purposes. Less prominently mentioned in initial reports was a companion objective to distribute some of the new resources to private schools, either through the states or through a federal income tax credit to parents.[26] Within-state equalization effects would have been achieved indirectly, through the strong implicit incentive to a greater state share of educational finance produced by the prohibition for school use of local property taxes, combined with the assumed continued pressure of court actions. Although equalization of spending among the states was not an objective, some moderate equalization might have occurred if low-expenditure, low-property tax states used federal revenues to supplement educational spending while high-expenditure states used the federal dollars to substitute for lost residential property tax revenues.

Unfortunately, what seemed conceptually and politically plausible on the surface bristled with problems upon analysis. "A difficult and tangled problem," the President had called it; and he was right. There were, first of all, important gaps in the data required to estimate the effects of alternative federal policies. For example, the exact extent of the disparities in property tax assessment and administration on a state-by-state basis was unknown. Furthermore, there was no proven way to estimate specific or aggregate fiscal consequences of so large a federal addition to the intergovernmental financial system. Moreover, what information was available soon indicated the profound drawbacks of, and conflicts among, the President's objectives. For example, full dollar-for-dollar property tax relief would have bizarre and politically inconceivable effects, with heavy property tax users—such as many well-to-do suburbs—receiving substantial assistance while rural areas which made little use of the tax and many cities that had diversified their tax base would receive much less. Wealth-based disparities would often be aggravated by the ensuing selective reduction of local tax efforts.

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[24] 8 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 71 (1972).

[25] White House Staff Paper, A Tax Initiative, Feb. 7, 1972 (unpublished mimeo on file with author); Letter from President Richard M. Nixon to Robert Merriam, Chairman of the Advisory Commission on Intergovernmental Relations, Jan. 20, 1972 (reprinted in ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, THE VALUE-ADDED TAX AND ALTERNATIVE SOURCES OF FEDERAL REVENUE, [Information Report No. M-78, 1973]).

[26] *Id.*

In terms of state level finances the plan gave some states too little and some much too much to relieve residential property taxes,[27] and the hopes for long-run equalization through state assumption were just that—hopes.

One way out of this dilemma would have been to provide a per pupil grant large enough so that each state could arrange a distribution that would sufficiently equalize spending among its districts to withstand attacks in court and, in the process, to replace virtually all residential property taxes for schools. If the federal grants were weighted by cost and effort factors, the program could also bring about some equalization among the states. The first problem, however, with such a program was its cost—at least $20 billion per year.[28] Many of the dollars would be very inefficiently spent, providing high levels of assistance to many localities and, indeed, to many states (the low-to-medium effort, medium-to-high expenditure set) who were not in need in order to provide assistance to the limited number of districts (the most run-down cities, older suburbs with depressed residential property values, and the poorest rural areas) who really needed the help.

To persons interested primarily in school finance (as the President was not), an obvious alternative would have been to loosen the property tax relief constraint so that states could receive per pupil grants on the basis of financial and/or educational need, reasonably defined by measures of effort and socioeconomic status.[29] Either continuing court pressure or minimum federal standards could then promote intrastate equalization. Some property tax cuts would occur in the communities where the call for additional school expenditures—relative to other needs—had the least popular support, and relief in the form of foregone property tax increases would be widespread. Low-cost companion programs could provide federal support for reformed property tax administration and for property tax relief for selected purposes (namely, the "circuit-breaker" which limits the amount that property taxes may take from current income for certain classes of taxpayers, such as the elderly).[30] The total costs given this alternative would have been nearer those of the President's original proposal.[31]

In fact, however, neither the Administration's proposal nor any major alternative to it generated much political or legislative support in 1972. The President's proposed revenue source, the VAT, aroused no enthusiasm at all. Evidently, neither did the prospect of several billion dollars for education drawn from existing revenue sources; the idea received only desultory consideration in Congress. Thus, the exchequer's maxim, that tax laws should never be initiated in election years lest they provide more relief than revenue

[27] C. SCHULTZE, E. FRIED, A. RIVLIN, & N. TEETERS, SETTING NATIONAL PRIORITIES: THE 1973 BUDGET 342-47 (1972).

[28] Memorandum from Sidney P. Marland, Commissioner of Education, to Elliott L. Richardson, Secretary of Health, Education and Welfare, Aug. 1, 1972 (on file with the author).

[29] *See, e.g.*, E. FRIED, A. RIVLIN, C. SCHULTZE, & N. TEETERS, SETTING NATIONAL PRIORITIES: THE 1974 BUDGET 201-06 (1973) [hereinafter cited as 1974 BUDGET].

[30] Several alternative forms of both policies are discussed in ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, FINANCING SCHOOLS AND PROPERTY TAX RELIEF—A STATE RESPONSIBILITY 43-80 (Policy Report No. A-40, 1973).

[31] 1974 BUDGET 201-07.

(or simply frighten the voters), easily carried the day in 1972. Except for his initial "illustrative proposal," the President's revolutionary plan was never seen.

Later in the year, though, the President proposed aid to non-public school parents through a tax credit.[32] In terms of educational policy for the campaign, the issue of "forced busing" quickly eclipsed property tax relief. After the election, moreover, there was no renaissance for school finance. In successive reports the Advisory Commission on Intergovernmental Relations (ACIR), which had been the original recipient of the President's proposal, threw cold water on the notion of federally financed property tax relief and—at best—lukewarm water on the VAT.[33] The President's program in 1973, and thereafter, contained only "circuit-breaker" and non-public school proposals. Finally, as if the coffin needed more nails, the Supreme Court in March of 1973 held, in *San Antonio Independent School District v. Rodriguez*,[34] that reform of state school financing systems to equalize the disparities among school districts arising from differences in property wealth was not required by the equal protection clause of the fourteenth amendment. Any remaining pressure for quick federal action was thereby dispelled.[35]

II

THE DIMINISHING LIKELIHOOD OF A MAJOR FEDERAL INITIATIVE BEYOND PRESENT PROGRAMS

Whatever opportunity might have been present to alter the federal school finance role dramatically seems to have passed. The inadequacies (in both quantity and quality) of feasible proposals for federal action, together with the vicissitudes of election year politics, were sufficient to bury the notion in 1972; but other considerations—dealing with the future requirements of educational finance and the relative priority of these requirements in competition for federal tax resources—stand more solidly in the way of its revival today.

It is often the case that a social crisis is well-developed before government notices it and almost over before government can decide whether or not to do anything about it. The issue of a major federal role in school finance

[32] Address by President Richard M. Nixon, 69th Annual Convention of the Catholic Education Association, Apr. 6, 1972, in 8 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 727 (1972); *Hearings on H.R. 16141 and Other Pending Proposals (Tax Credits for Nonpublic Education) Before the House Ways and Means Comm.*, 92d Cong., 2d Sess., ser. 57, pts. 1-3 (1972).

[33] ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, FINANCING SCHOOLS AND PROPERTY TAX RELIEF—A STATE RESPONSIBILITY (Policy Report No. A-40, 1973); ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, THE VALUE-ADDED TAX AND ALTERNATIVE SOURCES OF FEDERAL REVENUE (Information Report No. M-78, 1973).

[34] 411 U.S. 1 (1973).

[35] There is reason to doubt that an opposite holding by the Supreme Court in *Rodriguez* would have altered the decision to abandon a federal initiative. The Nixon Administration never espoused intrastate equalization as an objective, viewing it rather as a constraint on the method of property tax relief. What is more, the problems of inventing a federally financed instrument that would efficiently address the widely disparate situations of the fifty states remained to be solved in 1973, and does so today.

comes close to fitting this description. By 1972, every one of the financial and demographic pressures for additional federal finance commitment to education had abated; many promised actually to recede.

A. Diminution of Pressures Responsible for Initial Intervention

First, public school enrollment increases ended. The years 1970 to 1972 marked the peak in enrollments—about 46 million children each year. During the remainder of the decade, enrollments will decline significantly. As the birth rate remains low, 1980 enrollment projections continue to fall. The Office of Education's 1972 estimate of a two per cent decline in enrollment for the decade was almost matched by the actual decline (1.3 per cent) from 1972 to 1973 alone. More recent calculations suggest a decline of at least ten per cent by 1980.[36]

As the pupil increases ended, so did much of the demand for teachers. The average increase in public school instructional staff declined from over four per cent per year for the period 1967-1970 to only slightly more than one per cent per year for the period 1970-1973.[37] The demand for new teachers fell off by fifteen to twenty per cent during the same period and will likely remain below 1970 levels throughout the decade.[38] As yet, however, the production of teachers has not declined proportionately. According to the NEA, 324,000 persons completed the bachelors requirements for a teaching position in 1972, but only 197,000 vacant teaching positions awaited them—and among their competitors were former teachers returning to the labor pool. Many states which formerly reported a shortage of applicants for teacher vacancies now reported an excess.[39] Consequently, annual salary increases for teachers began to slacken after 1970, and they appear likely to stay moderate for at least several years. To the extent that the number of teachers stays constant and the work force grows more senior, average wages will continue to climb somewhat even if across-the-board salary increases are slight; but the climb will still be slower than it was during the past decade.

At the state level, school finance reforms have continued despite the *Rodriguez* decision. During the past two years, eleven states have adopted new school finance plans, most of which offer significant equalization of tax burdens and/or school expenditures and provide for a high proportion of state (vis-à-vis local) support for educational operations.[40] In several

[36] DES 1972, at 1; U.S. COMMERCE DEP'T, SCHOOL ENROLLMENT IN THE UNITED STATES: OCTOBER 1973 (Bureau of the Census Pub. No. 261, Ser. P-20, 1974). Robert Reischauer of The Brookings Institution, using recent birth rate data, estimates 40.8 million students by 1980 as compared with today's 46.8 million. *See, e.g.*, Address by Robert Reischauer, End of the Rainbow: The Future Prospects for Federal Aid to Education, National School Finance Conference, March 17, 1974.

[37] NATIONAL EDUCATION ASSOCIATION, ESTIMATE OF SCHOOL STATISTICS 11 (Research Report No. 1972-R12, 1972).

[38] K. SIMON & M. FRANKEL, PROJECTIONS OF EDUCATIONAL STATISTICS TO 1981-82, at 69 (DHEW Pub. No. (OE) 73-11105, 1973).

[39] *Id.*

[40] Grubb, *The First Round of Legislative Reforms in the Post-*Serrano *World*, 38 LAW & CONTEMP. PROB. 459 (1974). The eleven states with new plans include California, Colorado, Florida, Illinois, Kansas, Maine, Michigan, Montana, North Dakota, Utah, and Wisconsin.

other states reforms are in various stages of study or legislative action.

No doubt a good part of this activity is the result of initiatives launched when a court mandate for reform seemed to be in the offing. Some part of it may result from the arrival of the first general revenue sharing installments;[41] and some of it probably reflects a practical judgment that further help from the federal government is unlikely to arrive. But it also reflects fundamental improvements in the financial outlook of many state and local governments. As a consequence of the decline in enrollment and salary demands, current education spending has been climbing more slowly than in the past. For the remainder of the decade, annual public school expenditure increases will continue to fall significantly below those of the last decade—averaging less than ten per cent per year.[42] In the aggregate, other state and local expenditures will not find such relative relief. Thus elementary and secondary education spending will decline as a share of state and local spending.[43] Partly as a consequence of the relative decline in demand, but also because of increased reliance on user charges (in such areas as highways, hospitals, and sanitation services) and expanded federal aid through general revenue sharing and categorical grants, states and localities will be able to operate with modest surpluses from 1975 through 1980 simply by maintaining current tax rates.[44] In the process, state and local reliance on the property tax as a revenue source will continue to decline.[45]

TABLE III

CURRENT PUBLIC SCHOOL EXPENDITURES
(Selected School Years, 1965-1966 to 1973-1974)

School year	Current expenditures (in billions of dollars)	Percentage change for two years
1965-1966	21.7	—
1967-1968	27.7	28
1969-1970	34.5	25
1971-1972	41.9	21
1973-1974 (projected)	48.3	15

Source: K. SIMON & M. FRANKEL, PROJECTIONS OF EDUCATIONAL STATISTICS TO 1981-82, at 95 (DHEW Pub. No. (OE) 73-11105, 1973).

Finally, the academic public finance community has recently come to view the property-tax basis of school finance with less alarm than it did in

41 Unlike local governments, states may use general revenue sharing for educational spending, and they have done just that. Of the first $1 billion expended under General Revenue Sharing (through June 30, 1973), states devoted $664 million to education. OFFICE OF REVENUE SHARING, GENERAL REVENUE SHARING—THE FIRST ACTUAL USE REPORTS 8 (1974).

42 TAX FOUNDATION, INC., THE FINANCIAL OUTLOOK FOR STATE AND LOCAL GOVERNMENT TO 1980, at 37 (1973); Reischauer, State and Local Government Expenditures on Education 1972 to 1980, at 13a (mimeo, Oct. 1973). Both projections include allowances for inflation.

43 From twenty-nine per cent in 1970 to twenty-six per cent in 1975 and twenty-five per cent in 1980. TAX FOUNDATION, INC., *supra* note 42, at 37, 76-77.

44 *Id.* at 92-95, 103.

45 From approximately forty-six per cent for the period from 1950 to 1960 to thirty-nine

the 1960's. Ten years ago, it was almost the conventional wisdom that " the property tax, particularly the residential part of it, is objectionably regressive."[46] Now, economists are much less sure that the tax bears so heavily on the lower income classes.[47] The tax on residential structures may still be mildly regressive, but the components taxing land and business property are probably progressive—with local conditions and uneven (often poor) tax administration causing a great deal of variation among jurisdictions. Under this analysis the property tax, given its money-raising capacity, stacks up moderately well against other similarly imperfect sources of state and local income, such as the sales tax. Also, the recent improvements in administration of the property tax may have "muted the taxpayers' revolt" and may continue to do so.

> In some cases more frequent reassessments have been started, in others assessment ratios are inching up and disparate assessments being reduced. Circuit breaker programs and other devices that attempt to shield low income families from excessive property tax burdens are becoming widespread. Close to half of the states now offer such relief. But increased equity undoubtedly has not had half as soothing an effect on the taxpayer revolt as have the moderations in tax increases. After years of 9, 10, and even 12 per cent increases, property tax collections are now rising at the fairly modest pace of 7 per cent. Since real property values are probably increasing at a faster pace, effective property tax rates may be declining in large parts of the nation. These trends should continue.[48]

The voters seem to be responding already. While one must suspect that the earlier rejections of school bond issues were associated as much with poor economic conditions (high unemployment, inflation, and interest rates) as with popular discontent over schools, it is still surprising to see the zest with which voters are now approving new school bonds—the approval rate has jumped from forty-seven per cent for the period 1970-1972 to fifty-six per cent for the 1972-1973 period, with the annual dollar value of approvals reaching $2.3 billion, it highest level since 1967-1968.[49]

B. Preemption by Other Federal Initiatives

The federal financial situation is, in the respects under analysis here, going in just the opposite direction from that of the states. Major trends of several years' duration—all pointing away from new money for school finance—have become more pronounced over the past few years and will likely remain with us during the seventies.

1. *The Fiscal Dividend Evaporated*

During the early 1970's, economists began to notice that the annual full

per cent in 1970 and to thirty-five per cent in 1980. *Id.* at 89.

[46] Netzer, *The Incidence of the Property Tax Revisited*, 26 NAT'L TAX J. 515, 516 (1973).

[47] *The Incidence of the Property Tax Revisited* is a substantial revision of the same author's earlier views. *See* D. NETZER, THE ECONOMICS OF THE PROPERTY TAX (1966). *See also* Aaron, *The Property Tax: Progressive or Regressive*, 64 AM. ECON. REV. 212 (1974).

[48] Address by Robert Reischauer, *supra* note 36, at 16.

[49] NATIONAL CENTER FOR EDUCATION STATISTICS, BOND SALES FOR PUBLIC SCHOOL PURPOSES, 1971-72, at 2 (1973). *See also* NATIONAL CENTER FOR EDUCATION STATISTICS, BOND SALES FOR PUBLIC SCHOOL PURPOSES, 1972-73 (1974).

employment surplus which federal revenues usually produce, vis-à-vis expenditures at current program levels, was shrinking,[50] would be just about zero in the near term, and would remain of modest size for several years to come. The single greatest source of the new fiscal squeeze was unforeseen expansions in the cost of domestic expenditures, which more than doubled between 1965 and 1973 (from $81.2 billion to $168.2 billion) and, in the process, absorbed effortlessly the $15 billion reduction in military expenditures concomitant with the cessation of fighting in Vietnam. Another significant source was the cumulative effect of federal income tax cuts in 1964, 1969, and 1971. By 1973, these reductions (income and excise tax decreases of $44.5 billion, less social security payroll tax increases of $18.5 billion) were lowering federal revenues by $26 billion per year.[51] The force of these dual developments has thus far reached its peak in the federal budget for fiscal year 1974. And that budget was brought into full employment balance without a tax increase only by the President's whacking $12 billion from projected program expenditures—most of it from social programs like education.[52]

Currently, our rate of inflation—as one of its good side effects—has brought about a short-run easing of the federal fiscal situation,[53] but projections based on more normal rates of inflation indicate that the marginal revenues available for new expenditures will be modest throughout the decade—$35 billion in fiscal year 1978 and $37 billion in fiscal year 1979, according to recent federal budgets.[54] History indicates that a good part of this prospective fiscal margin will disappear, as soon as it arrives, into tax cuts (enough to keep effective tax rates level) and new social security benefits (which usually receive political priority at least to the extent that trust fund surpluses help account for the annual margin). Moreover, new educational expenditures are likely to have many worthy competitors for whatever small slice of the new federal pie is left after these old favorites take their portion.

2. *Domestic Roles and Priorities Are Clarified*

The last decade's doubling of domestic spending has not been spread evenly among programs, either by function or by type. The lion's share of the increase has gone into programs of cash income maintenance (such as social security, unemployment compensation, and Air for Dependent

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[50] *Compare* C. SCHULTZE, E. FRIED, A. RIVLIN, & N. TEETERS, SETTING NATIONAL PRIORITIES: THE 1972 BUDGET 319-33 (1971), *with* C. SCHULTZE, E. HAMILTON & A. SCHICK, SETTING NATIONAL PRIORITIES: THE 1971 BUDGET 186-88 (1970).

[51] C. SCHULTZE, E. FRIED, A. RIVLIN, & N. TEETERS, *supra* note 27, at 407.

[52] 1974 BUDGET 15-19.

[53] This has occurred mainly because inflation raises income tax receipts higher and faster than general wage and price inflation boosts expenditures. In fiscal year 1974, for example, inflation has already boosted receipt projections by $10 billion, but has added only $2 to $3 billion on expenditure levels. *See* THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1975, at 36 (1974) [hereinafter cited as BUDGET 1975]; THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1974, at 61 (1973).

[54] *See* BUDGET 1975, at 35; THE BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1974, *supra* note 53, at 46.

Children) and limited-purpose transfer payments, reimbursements or subsidies to individuals (such as Medicare, Medicaid, and food stamps)—to a total of almost $110 billion in fiscal year 1974.[55] By contrast, the much discussed Great Society grant-in-aid programs, including education, have grown from almost nothing, but only to $15 billion, since the mid-1960's.[56] During the late 1960's, much of this domestic spending surge was attributable to expanded benefits and beneficiaries for the ever-popular social security program and to the unanticipated expansion of the welfare and health benefit programs. To some extent, these expansions were caused by federally-determined improvements in program benefits; but, for the most part, the cause lay in the nature of the programs. The welfare and health benefit programs are among the so-called "uncontrollable" grant programs whereby the bill for added beneficiaries, improved state benefit levels, and cost increases is passed on to the federal government for full or partial payment on a statutory entitlement basis. Thus, the expansion of welfare rolls and the inflation of medical costs acted together to boost federal obligations by several billion dollars each year. Education grants, as noted earlier, contained no such automatic boosters.

It would be wrong, though, to conclude that capricious differences in payment structure among programs were serving to depress the level of federal education spending unfairly and unintentionally. To the contrary, a good deal of thought has been done about the nature of the social problems and of the federal interest, and this thinking has, for the most part, ratified and reinforced the basic choices reflected by the program structures. For at least a generation the national government has acknowledged a responsibility to provide income security to the poor, unemployed, disabled, and aged—and has, in the last ten years, accepted a similar responsibility toward the provision of adequate individual resources to enable these same classes to purchase basic care from the health industry. It seems obvious to both economists and politicians that such programs are best carried out by the central government because of their relationship to fundamental questions of economic policy and income distribution, because of the large spillover effects and day-to-day mobility of recipients, because of the sheer economic and administrative efficiency of centralized income transfer programs, and because there is little political or bureaucratic interest in financing and operating such programs at lower levels of government.

To be sure, these arguments do not go so far as to exclude a central government interest in educational finance. Theoretically education can change the income distribution, affect economic growth, develop local talents that will be used elsewhere, and foster national values and identity. But these effects are indirect, to some extent controverted, and far in the future; in addition, federal assistance would go—with uncertain efficiency and effect—to institutions and not to individuals. What is more, even though the increasing complexity of educational management has had a strong

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[55] 1974 BUDGET 170-232.
[56] *Id.*

centralizing effect, particularly as between state and local levels of authority, there is still a lively interest in keeping the control of educational policy as local as possible. It is this interest which postulates restrictions on federal influence even while it seeks federal financial support. There is thus considerable support for the "federalist" view such as that put forth by the ACIR. Seeking to sort out and clarify functions among levels of government —in a manner that makes programmatic sense and yet maintains a balance in fiscal activity and capacity among the levels of government—the ACIR has long held that the main responsibility for financing education should remain with state and local government[57]—the more so if the federal government assumes greater responsibility for individual income-maintenance security and health finance. All in all, the arguments for major federal involvement in the income transfer programs are clearer and more widely supported than is the case in educational finance.

The Nixon Administration developed its predelictions in this regard into an explicit "income strategy."[58] Its initiatives in social policy have, in fact, referred mostly to programs transferring money to individuals—notably in welfare reform and national health insurance proposals.[59] A corollary "negative initiative" has been what are called "New Federalism" or special revenue-sharing proposals designed to contain the growth of categorical grants-in-aid for social services (such as education, manpower training, and community development), to remove many of their categorical features, and to devolve decision-making powers under them to state governments—on the theory that only governments "close to the people" could accurately gauge the precise nature of local needs.[60] In legislative terms, Congress has been slow to accept either prong of the Nixon domestic strategy. Among individual support programs it has not passed a welfare reform or a new health insurance program, although it has expanded and improved both food stamps and the "adult" categories in welfare (aid for the aged, blind, and disabled). With respect to the consolidation and decentralization of service grant programs, Congress has accepted some consolidation (notably in manpower training programs) and is considering more in community development and a few education programs. Within the negotiated settlement called annual appropriations, however, congressional and presidential priorities (if not preferences on levels of spending) are quite similar: the income support programs command most new resources. The President's 1975 budget notes that federal payments to individuals will grow $32.5 billion between 1973 and 1975[61]—largely

[57] *See* ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, FINANCING SCHOOLS AND PROPERTY TAX RELIEF—A STATE RESPONSIBILITY 125-31 (Policy Report No. A-40, 1973).

[58] *See, e.g.*, D. MOYNIHAN, THE POLITICS OF A GUARANTEED ANNUAL INCOME 113-347 (1973).

[59] And in its most substantial educational initiative, the reform and expansion of voucher-like student aid programs for higher education.

[60] The counter argument behind the categorical grants was, of course, that lower levels of government had ignored the needs of many less-advantaged people; the federal government has to meet these needs and, in the process, target the money carefully lest the intervening institutions divert the federal resources into traditional channels.

[61] BUDGET 1975, at 38.

because of improved social security benefits, expanded food stamp distributions, and the federalization of the "adult" categories. Such payments are estimated to expand another $50 billion by 1979;[62] and the Administration's major proposals—in both the budget and in the President's State of the Union message—for national health insurance and a new welfare reform would add several further billions.[63] By contrast, the budget reports modest growth for aid to state and local governments (from $44 billion in 1973 to $52 billion in 1975) and foresees more of the same (another $17 billion by 1979). There are no major financial initiatives proposed for education or any other service delivery program.[64]

It is unlikely that the priorities suggested by the Budget will be markedly altered during the next few years. Past increases in program support levels for income security programs owe as much—if not more—to congressional initiative as they do to Administrative preferences. By a wide consensus, consideration of tax reform, health insurance, social security provisions, and welfare reform (not to mention the onrushing energy crisis) stand far higher on the federal agenda than a major initiative in school finance.

CONCLUSION

Even if chances for a sizable federal subsidy for tax relief or school tax and expenditure equalization are remote, there are substantial areas for improvement in federal education policy. One of the side benefits of federal school finance deliberations over the past few years has been a new appreciation of the unique value of the existing federal commitment to support the education of disadvantaged youngsters. Most school finance equalization schemes of recent invention afforded surprisingly little help to large cities which, despite the large numbers of poor children, enjoyed substantial tax bases and found it hard to identify precisely the "municipal overburdens" and "urban disbenefits" which seemed to eat up those resources and diminish their effects. By contrast, Title I, while it did not solve these problems, did avoid many of them by distributing resources to school districts simply on the basis of numbers of poor children, thereby benefiting most large cities substantially in the process.[65] Moreover, Title I has lately had a modest impact on equalizing expenditures between schools within school districts through the belated enforcement of its "comparability" requirement that school-by-school instructional expenditures be equalized before the application of the federal compensatory funds.[66] Finally, the federal emphasis on education for the poor, which Title I symbolizes, has had some fundamental effect on the priorities of the institution of American education. The rhetorical evidence on this score is overwhelming; but,

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[62] *Id.*

[63] *Id.* at 125; 10 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 122 (1974).

[64] *See* BUDGET 1975.

[65] J. BERKE & M. KIRST, FEDERAL AID TO EDUCATION: WHO BENEFITS? WHO GOVERNS? 27-28 (1972).

[66] Badger & Browning, *ESEA Title I Comparability: One Year Later*, 1 NEW DIRECTIONS FOR EDUCATION, Autumn 1973, at 51.

more importantly, states and localities (including several large urban states) are now adding their own compensatory education programs to the once-lonely federal effort.[67]

This spring, in connection with the renewal of ESEA, the purposes and structure of Title I have been extensively debated. Both Houses of Congress have rejected moves to make Title I a more general form of aid. They have retained educational disadvantagement as the prime distributive factor—and low family income as the appropriate criterion, rather than the proposed alternative of low achievement test scores. With the support and advice of the Administration, they devised more equitable and up-datable income criteria and more realistic maxima on per pupil awards for future resource distribution. The modified program is much more likely to be fully funded (at $3.2 billion) than the previous legislation, which had an unnecessarily high contribution scale and distorted eligibility factors that put full funding beyond reasonable hope in every previous year.[68]

In the midst of such considerations, the outcome of which will determine the contours of federal education policy until almost the end of the decade, major new federal interventions to help finance the general operation of our nation's schools have received scant consideration. The House-Senate Conference on ESEA amendments agreed in July, 1974, to authorize grants to states to help them develop plans for equalization. The grants will range from $100,000 to $1 million per state.[69] The total cost of this program will be about two-thirds of one per cent of the President's 1972 proposal. Unless the dreamed-of veto-proof Congress arrives soon, this may be the extent of federal school finance reform.

[67] In 1972-1973, eleven states were financing compensatory education programs. OFFICE OF EDUCATION, PUBLIC SCHOOL FINANCE PROGRAMS, 1971-72, at 4 (DHEW Pub. No. (OE) 73-00001, 1973).

[68] *See* H.R. REP. No. 93-805, 93d Cong., 2d Sess. (1974). H.R. 69 as adopted by the House-Senate conferees, also contains a modest consolidation of smaller categorical grants-in-aid for education. The ESEA amendments have not yet been passed and transmitted to the President.

[69] Education Daily, July 8, 1974, at 1.