

BASIC EDUCATION

Introduction

The office of the Legislative Fiscal Analyst was requested to survey other states regarding definitions for what constitutes a “basic” education. This report provides the findings of that survey. The methodology for the information in this report included researching the constitutions of each of the states, review of literature (Education Week, Education Research publications, etc.), and contacts with NCSL (National Conference of State Legislatures) staff, education legislative staff responses in eleven states, and education labs staff. Contacts were also made with the Utah State Office of Education. The information has been compiled and synthesized to compose this report.

Historical Perspective

The development of what we now call a “public system of education” started at a local level wherein an individual or group of individuals hired someone to instruct their children. The instruction in the most elementary of settings, consisted of reading, writing and arithmetic. This, generally defined, was a “basic” education. As society developed localities demanded more and education opportunity was defined by local boards of education and the strength of financial resources available to them. Thus the strength of local control over education evolved and is still prevalent today. The financing of education became, for the most part, a local effort generally based on property wealth for taxation purposes. Because of this prevalent method of funding there were and still are great disparities in educational resources between states, school districts, and individual schools.

Since the landmark court case of Serrano vs. Priest in California in 1970, which contested school funding disparities caused by property tax differentials, the nation has seen thirty years of litigation still trying to feather out educational equity, adequacy, rights, and yes, definitions of what constitutes a “basic” education. This has been and is still being fought out in individual courts in the states.

Basic Education

As it turns out, we did not find a common definition of what constitutes a “basic” education. There are numerous methodologies used to get at some understanding of basic education. This is demonstrated in a sampling of responses to the questions, “what constitutes a basic education and is it tied to funding?”, which eleven states responded to.

Comments From Other States:

Washington

“Washington state has a statutory basic education formula. It specifies the staffing ratios per 1000 students that the legislature must fund and the types of courses and amounts of education hours that school districts must provide. The statutory basic education definition does not specify amounts for all the formula elements. Further specification is provided though the biennial budget act.”

Colorado

“Colorado is a very strong local control state - we have very little in the state statutes about curriculum. We do have some statutes that emphasize education in reading, writing, math, and science (a few grant programs; those are the subjects tested in our statewide testing system; those are the subjects that are counted in determining each school's overall academic performance rating). These may be comparable to the basic education concept.”

South Dakota

“No such statute exists in South Dakota. In fact, the Legislature over the last 6 years has repealed a huge amount of mandates on school districts.”

Kansas

“Nothing in Kansas seems to fit what you are searching for.”

New Mexico

“From New Mexico the answers to your questions are no.”

Nevada

“The short answer is that Nevada does not define basic education. Nevada's constitution talks about the legislature establishing a "uniform system of common schools." The statutes don't really get into describing a "basic education" although under our academic standards statutes -- Nevada Revised Statutes 389.018 -- certain "core" subjects are designated (English, Math, Science, Social Studies) that must be taught versus other "enrichment" topics (Arts, PE/Health; computer tech), that are to be taught to the extent practicable. However, funding is not tied directly to the core subjects.”

Texas

“In Texas the state guarantees "that each school district in the state has adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's educational needs" (Sec. 42.002, Texas Education Code). However, "basic instructional program" is not defined in statute. It basically means whatever a district can provide with the amount the legislature sets for that year. Funding is tied to the concept in that there are two tiers to the funding system in Texas. The first is for the basic instructional program and is mandatory. Each district must have the minimum property tax rate and each district is guaranteed a minimum basic allotment from that rate. The second tier consists of any taxing above that minimum rate and is considered to be for "enrichment education." The second tier is optional and not as equalized.”

Oregon

“In Oregon we do not have anything in statute defining a basic education as such. However our ORS chapter 329 requires school districts to teach certain subjects. Funding is not tied to this. However, if a school district did not meet the requirements of the law funding could be withheld.”

Vermont

“We do not tie funding to the minimum course of study.”

North Carolina

“North Carolina has a statute that sets the basic education program. We also have had a State Supreme Court ruling that defines a "sound, basic education". The Court found that the constitutional right to an education has a qualitative aspect. The Court concluded that the State Constitution guarantees every child of this state an opportunity to receive a sound basic education in our public schools. A "sound basic education", at a minimum, is one that will provide the student with at least: (1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state, and nation; (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and (4) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.”

Ohio

“Ohio law does not define basic education per se. However, in fact, we do define it through the school funding system, which is based on ensuring a basic education to each student. For each school district, the cost per pupil of a basic education is computed and the state provides sufficient state funds that (when combined with a required amount of local effort), the school district has sufficient money to ensure that per pupil amount. One effect of Ohio's school funding system (sections 3317.01 through 3317.03 of the Ohio Revised Code) is to essentially define a basic education as: the educational services that can be provided by the average per pupil expenditures of the state's successful school districts (successful school districts are ones that meet 20 out of 27 state standards; the wealthiest five per cent of districts are excluded from the calculation) for most expenditures other than transportation, special education, vocational education, and special programs for at-risk students. For FY 2002, that amount is \$4,814 per pupil. This is assumed to be the base cost per pupil of regular education (i.e. the cost of the portion of education that can be apportioned to all students in the state equally).

When actually calculating state aid for a specific district, the base cost (calculated amount for basic education) is inflated by a factor reflecting the cost of doing business in the school district's county and by amounts based on the school district's need for special education, vocational education, at-risk programs, and transportation. These needs are generally referred to as part of basic education, but they are not considered to be statewide "per pupil" expenditures because not all students need these things. The need for transportation, for example, varies among districts and, in turn, the overall cost per pupil of all basic education varies significantly from district to district. Funding for these variable needs is based on calculating a state and local share percentage (based on the wealth of the district). The state pays the state share of the calculated cost of these variable needs.

The school funding system is extremely complex and I have oversimplified it, of course. Basically, though, Ohio uses an outcome-based method of determining the cost of basic education. That is, districts that seem successful are selected and the actual expenditures they have made for educational services that affect all students (i.e. excluding expenditures for students with various special needs for extra services, including transportation) are used to calculate an assumed cost for basic education on a statewide basis. The actual determination of funding for each district then starts with the statewide base cost and adds district-specific costs for special education, vocational education, at-risk programs, and transportation - plus a factor for the variable costs of labor in different counties within the state to determine the actual cost of a basic education within each school district.”

Kentucky

“Kentucky does not have a definition of basic education, but KRS 158.645 and 158.6451(b) outline the capacities required of students. The basic funding formula is not tied directly to these definitions though our assessment and accountability system is with the possibility of rewards and sanctions.”

Arizona

“Arizona does not have any statutes regarding "Basic Education," so our funding is not tied to that concept. Our state constitution does require a "general and uniform" educational opportunity for K-12 pupils.”

Conclusion From State Comments

These state responses give a feel for what may be currently defining basic education in the states. The question remains as to who or what should define basic education. Should it be defined by constitutional mandates, funding formulas that contain a basic foundation program, core curriculum, testing and assessing/graduation requirements, financial resources, per pupil expenditures, court decisions, state legislative action, etc.

Constitutional Provisions

We have surveyed all fifty state public education constitutional provisions and provide a summary of state requirements in Table 1, which the courts are currently using when litigating financing formulas. Detail of these provisions is provided in **Appendix A**.

Table 1

Provisions	
Requirement	Number of States
Free	23
Efficient	4
Suitable and Efficient	1
General and Efficient	1
Thorough and Efficient	6
Uniform	5
General and Uniform	6
Complete and Uniform	1
General, Uniform and Thorough	1
High Quality	3
Safe, Secure, High Quality	1
Equal	3
Adequate	1
Liberal	1

Funding Formulas

In essence, many states define basic education through their funding formulas. Most have a basic foundation program similar to the one used in Utah. Like Utah, many have a weighting factor tied to basic programs and then have categorical add-ons that may either be considered part of the basic program or outside of the basic program. The other major element of funding has to do with local share. While Utah funds its system at about 80 percent at the state level, many states still provide much less. In some states the local funds are providing up to 60 or 70 percent of the education funding. Some states define basic education as that funded by the state or some combination.

Tables 2 and 3 detail the state comparatives for categorical programs and the percent of funding that they represent of each state education budget:

Table 2

State	Number of Categoricals	Percentage of Budget
Alaska	3	12%
Hawaii	3	15%
Oregon	3	NA
Tennessee	3	1%
Montana	5	15%
New Hampshire	5	29%
Alabama	6	8%
North Dakota	6	13%
Arizona	7	2%
Arkansas	7	2%
Colorado	7	8%
Pennsylvania	7	17%
Vermont	7	14%
Illinois	8	31%
Iowa	8	29%
Maine	8	14%
Missouri	8	17%
Nevada	8	NA
North Carolina	8	28%
Florida	9	23%
Louisiana	9	16%
New Mexico	9	20%
Rhode Island	9	17%
Idaho	10	13%
Nebraska	10	24%
Ohio	10	17%
Washington	10	23%
Connecticut	11	27%
Massachusetts	11	12%
Kansas	12	18%
California	13	28%
Georgia	13	27%
Indiana	13	39%
Utah	14	1%
Kentucky	15	26%
Wisconsin	15	18%
Michigan	16	9%
Minnesota	17	22%
New Jersey	17	44%
Virginia	18	48%
West Virginia	18	1%
Oklahoma	20	24%
South Carolina	37	43%
Delaware	30+	70%
Maryland	30+	38%
New York	30+	35%
Mississippi	NA	NA
South Dakota	NA	13%
Texas	NA	NA
Wyoming	NA	NA
US AVERAGE	10	21%

Table 3

Neighboring States		
California	13	28%
Idaho	10	13%
Montana	5	15%
Colorado	7	8%
Nevada	8	NA
New Mexico	9	20%
Idaho	10	13%
Wyoming	NA	NA

**Curriculum, Testing
and Assessment,
Standards**

With the current wave of education reform continuing to emphasize the development of standards by which students, teachers, schools can be assessed and with utilizing tests of performance for graduation standards it could be suggested that this becomes the new basis of what an adequate or “basic” education should be. Many argue both ends of the continuum saying that requirements are too stiff or on the other hand they are dumbing down our education. As far as development of standards and testing requirements the states are all over the place in what they have currently accomplished. They differ in their application with some using state developed standards as suggestion for adoption by local school districts with others making their use a state mandate. Also, some suggest testing and others require testing with differing degrees of acceptance levels to comply with graduation requirements.

Our survey of the states indicate the various degrees of development with many having completion deadlines for full implementation. We also discovered a common thread among states on what is required to be learned. Most states have requirements for some degree of competency in four major areas of learning. These include, English/language arts, math, science, and social studies. Some have as many as sixteen or more proficiencies to meet required learning before graduation. **Table 4** reveals the results of a survey on expected proficiencies standards.

State-by-State Standards

Table 4

Standard	Number of States	Core Curriculum
Math	43	Utah
English/Language Arts	39	Utah
Science	38	Utah
Social Studies	33	Utah
Health	25	Utah
Foreign/world Languages	23	Utah
Arts	22	Utah
Physical Education	19	Utah
Technology	14	Utah
History	13	
<i>Reading</i>	12	
Career/Vocational Studies	10	
Writing	9	
Visual Arts	8	Utah
Music	7	Utah
Dance	5	Utah
Theatre	5	Utah
Business, Finance, Marketing	4	
Safety	3	
Geography	3	
Government & Citizenship	2	
Communication	2	
Environment and ecology.	2	
African - American Studies	1	
Civics	1	
Economics	1	
Character Education	1	
Life Management	1	
Agriculture Education	1	

As can be noted, most states have developed state standards in three to four basic areas and many are in the process of further development. Many of the states have or are in the process of developing end of level tests and requirements of what a student should be able to know and do before they are awarded a graduation certificate. States that are notably further along in the development process include; Texas, Ohio, Kentucky, and North Carolina.

Can standards be used to define a basic education?

The previous table (**table 4**) contains elements that could be folded into a general category such as Music, Dance, Theatre, Visual Arts, into one category of Arts. Since some or one state specified these as a test area and had developed separate specific standards they were listed separately. It might be concluded, from a review of standards and assessment development represented in the chart, that at the least a basic education consists of the first twelve listed areas of: Math, English/Language Arts, Science, Social Studies, Health, Foreign/world Languages, Arts, Physical Education, Technology, History, Reading, and Career/Vocational Studies. Indeed one may consider that reading could be folded into English/Language Arts, and History included with Social Studies and thus narrow the basic list to ten categories.

It was interesting to note that some states still leave the predominant development of education up to local prerogative with only general directive and no prescriptive requirements. An example of this was North Dakota. They reported: “The 2001 Senate has decided North Dakota will NOT require school districts to adopt or develop curriculum aligned to state academic content standards. However, the 2001 House has passed a requirement for the administration of a state standards-based test in mathematics and English/ language arts.”

Table 4 also shows Utah’s core curriculum development. However, the development of tests includes Math, Language Arts, and Science. Under the new assessing and testing program these are being redeveloped using new criteria.

Financial Resources, Per Pupil Expenditures, Other Criteria

If a basic education is to be defined by what states spend on education and in what areas they utilize their financial resources we could conclude that there is a great diversity among the states. Indeed, if per pupil expenditures or teacher pupil ratios are the criteria Utah is at the bottom of the states. However, if test rankings or outcomes are used as the criteria then Utah is near the top of the states. We developed a state-by-state comparative table utilizing the 2001 Quality Counts report published by *Education Week* along with other statistical resources.

Table 5

Table 6

Table 5 compares thirteen western states at the top of the chart with the remaining states following. There are four categories of comparisons under the Equity and Adequacy criteria; Students, Funding, Teachers, and Choice. The next section deals with Accountability and Assessment. **Table 6** follows up with comparatives in Basic Educational Standards which include: Core curriculum development; Specific Achievement Standards related to the core in English, math, science, and history/social studies; and Teacher Licensure Standards in Written Basic Skills Test, Teaching Subject Knowledge Requirement, and State Funding for Professional Development. Finally, we indicate, in the last column, states that are in litigation over issues of Facilities, and Equity/Adequacy.

**Highlights
From Tables Five
and Six**

There are thirty-six states that provide sixty percent or better of the instructional funding and seventeen states that provide sixty percent or better of total funding. Inequities of funding the school districts in states vary from 5.4 percent to 31.7 percent. Teachers as a percent of total staff average 52.7 percent and education expenditures for teachers average 37.7 percent.

There are fourteen states that do not allow charter schools and 17 that do not allow open enrollment. There are four states that do not have school report cards and twenty-two states that do not have requirements for school ratings. Twenty states have some form of reward system attached to their assessment program and twenty-seven states provide assistance to low performing schools. Thirteen states impose sanctions for schools that do not improve.

Twenty-three states require a high school exit exam. Forty-four states have some form of testing in English and math with only twenty-five requiring history/social studies, and thirty-one requiring science testing.

Three states have not developed core curriculum requirements in four basic areas, and the number of states that have specific achievement standards related to core in the areas of English are thirty-six, Math forty-four, Science forty-three, and History/Social Studies twenty-seven.

There are twelve states that do not require a written basic skills test for teachers, and nineteen states that do not have a teaching subject knowledge requirement. There are eight states that do not provide funding for professional development.

Twenty states are in some form of legal litigation over facility or equity/adequacy issues.

Court Decisions

The latest summary of state-by-state litigation is provided in the June 15, 2001 issue of State Budget & Tax News published by the NCSL (National Conference of State Legislatures). This publication summarizes court action in eighteen states. The primary issues are over equity/adequacy and facilities. Utah could be vulnerable for similar contests as capital outlay-school facilities are primarily funded at a local level utilizing revenue derived from property tax assessments. Thus Utah's facilities needs are met through a structure that depends on local wealth and is not equalized like the rest of the school finance structure. The NCSL Report of litigation is in **Appendix B**.

Summary

There is no apparent consensus on a definition of what constitutes a "basic" education. A review of state constitutions for the most part provides for a free education and other terms most generally found are requirements for: a uniform, general, efficient, thorough system of education.

Funding of education in the states is as varied as are their constitutional provisions. Funding formulas generally define what the state will support as educational opportunity and other options are dealt with in categorical funding mechanisms. State/Local share of funding varies from state to state but provides some sense of what state Legislatures are willing to fund, and in most instances, provides a "basic" education.

Financial resources and per pupil expenditures may be a guide as to what an overall level of supported educational attainment might be. However, dollar indications do not necessarily equate to outcome measures or indicators represented by national comparative scores on such tests as the ACT or SAT. Would it be appropriate to assume that basic funding is everything but categorical programs? Probably not considering what various states fund under the categorical heading.

Court decisions are giving some indication in some states as to what an appropriate education should be and the funding requirements necessary. The issues of equity, adequacy, quality, and now equal educational facility requirements are continuing to find their way to the courts and judges are generally ruling in behalf of the plaintiff. Many states have had to come up with totally new funding methodologies. The court decision impacts on states may also be defining what constitutes a "basic" education.

Conclusion

In conclusion, the decision of defining basic education is left up to state legislatures and refined by the courts. Legislatures have the prerogative of making the definition as narrow or as broad as the wish if they even choose to provide a definition. However, state practices indicate that limited resources, and all the other factors discussed in this report have a part in the final definition.

The state curriculum, assessing, testing, and graduation requirements provide a benchmark as to what may be considered the most important for education learning. Indeed, if high school exit exam requirements are considered, the focus of what is to be learned could be summed into ten or twelve basic categories. This could represent an indication of a “basic” education.

It may be that the Legislature would then want to evaluate current and future Public Education Program funding against this benchmark.

Appendix A

Basic Education Survey State by State Constitutional Provisions for Public Education

Alabama

Duty of legislature to establish and maintain public school system; apportionment of public school fund; separate schools for white and colored children. The legislature shall establish, organize, and maintain a liberal system of public schools throughout the state for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

Alaska

The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

Arizona

The general conduct and supervision of the public school system shall be vested in a state board of education, a state superintendent of public instruction, county school superintendents, and such governing boards for the state institutions as may be provided by law.

Arkansas

Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, *suitable and efficient* system of *free* public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education. The specific intention of this amendment is to authorize that in addition to existing constitutional or statutory provisions the General Assembly and/or public school districts may spend public funds for the education of persons over twenty-one (21) years of age and under six (6) years of age, as may be provided by law, and no other interpretation shall be given to it. [As amended by Const. Amend. 53.

California

The Legislature shall provide for a system of common schools by which a *free* school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

Colorado

A *free* public school, within the contemplation of the constitution, is one to which any resident of the state, between the ages of six and 21 years, shall be admitted, and there be educated gratuitously, that is to say, at public expense, or from the public funds provided for that purpose. Every public school shall be open for the admission of all children, between the ages of six and twenty-one years, residing in that district without the payment of tuition. The board of education shall have power to admit adults and children not residing in the district if it sees fit to do so and to fix the terms of such admission.

Connecticut

There shall always be *free* public elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation.

Delaware

The General Assembly shall provide for the establishment and maintenance of a *general and efficient* system of *free* public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means.

Florida

The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a *uniform, efficient, safe, secure, and high quality system* of *free* public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

Georgia

The provision of an *adequate* public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be *free* and shall be provided for by taxation. The expense of other public education shall be provided for in such manner and in such amount as may be provided by law.

Hawaii

The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefore. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution, except that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist not-for-profit corporations that provide early childhood education and care facilities serving the general public.

Idaho

The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a *general, uniform and thorough* system of public, *free* common schools.

Illinois

A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities. The State shall provide for an *efficient system of high quality* public educational institutions and services. Education in public schools through the secondary level shall be *free*. There may be such other free education as the General Assembly provides by law. The State has the primary responsibility for financing the system of public education.

Indiana

Knowledge and learning, general diffused throughout a community, being essential to the preservation of a free government; it should be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and provide, by law, for a *general and uniform system* of Common Schools, wherein tuition shall *without charge*, and equally open to all.

Iowa

Kansas

The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

Kentucky

The General Assembly shall, by appropriate legislation, provide for an *efficient* system of common schools throughout the State.

Louisiana

The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system.

Maine

Legislature shall require towns to support public schools; duty of Legislature. General diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public

schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State; provided, that no donation, grant or endowment shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in any such literary institution, as shall be judged necessary to promote the best interests thereof.

Maryland

The General Assembly, at its First Session after the adoption of this Constitution, shall by Law establish throughout the State a *thorough and efficient* System of *Free* Public Schools; and shall provide by taxation, or otherwise, for their maintenance.

Massachusetts

Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

Michigan

Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The legislature shall maintain and support a system of *free* public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Minnesota

The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a *general and uniform* system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a *thorough and efficient system* of public schools throughout the state.

Mississippi

The Legislature shall, by general law, provide for the establishment, maintenance and support of *free* public schools upon such conditions and limitations as the Legislature may prescribe.

Missouri

A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain *free* public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law.

Montana

It is the goal of the people to establish a system of education which will develop the full educational potential of each person. *Equality* of educational opportunity is guaranteed to each person of the state.

1. The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.
2. The legislature shall provide a basic system of *free* quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Nebraska

The Legislature shall provide for the *free* instruction in the common schools of this state of all persons between the ages of five and twenty-one years. The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof.

Nevada

Uniform system of common schools. The legislature shall provide for a *uniform* system of common schools, by which a school shall be established and maintained in each school district at least six months in every year, and any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools.

New Hampshire

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination.

New Jersey

The Legislature shall provide for the maintenance and support of a *thorough and efficient* system of *free* public schools for the instruction of all the children in the State between the ages of five and eighteen years.

New Mexico

A *uniform* system of *free* public schools sufficient for the education of, and open to, all children of school age in the state shall be established and maintained.

New York

The legislature shall provide for the maintenance and support of a system of *free* common schools, wherein all the children of this state may be educated.

North Carolina

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. Uniform system of schools. (1) *General and uniform* system: term. The General Assembly shall provide by taxation and otherwise for a *general and uniform* system of *free* public schools, which shall be maintained at least nine months in every year, and wherein *equal* opportunities shall be provided for all students.

North Dakota

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a *uniform* system of *free* public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind. Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Ohio

The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a *thorough and efficient* system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

Okalahoma

The Legislature shall establish and maintain a system of *free* public schools wherein all the children of the State may be educated.

Oregon

The Legislative Assembly shall provide by law for the establishment of a *uniform, and general* system of Common schools.

Pennsylvania

The General Assembly shall provide for the maintenance and support of a *thorough and efficient* system of public education to serve the needs of the Commonwealth.

Rhode Island

Duty of general assembly to promote schools and libraries. The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools and public libraries, and to adopt all means which it may deem necessary and proper to secure to the people the advances and opportunities of education and public library services.

South Carolina

The General Assembly shall provide for the maintenance and support of a system of *free* public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable.

South Dakota

The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the Legislature to establish and maintain a *general and uniform* system of public schools wherein tuition shall be *without charge*, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

Tennessee

The state of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of *free* public schools. The General Assembly may establish and support such post-secondary educational institutions, including public institutions of higher learning, as it determines.

Texas

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an *efficient* system of public *free* schools.

Utah

The Legislature shall provide for the establishment and maintenance of a *uniform* system of public schools, which shall be open to all children of the State, and be free from sectarian control.

Vermont

The right to public education is integral to Vermont's constitutional form of government and its guarantees of political and civil rights. Further, the right to education is fundamental for the success of Vermont's children in a rapidly-changing society and global marketplace as well as for the state's own economic and social prosperity. To keep Vermont's democracy competitive and thriving, Vermont students must be afforded substantially *equal access* to a *quality* basic education. However, one of the strengths of Vermont's education system lies in its rich diversity and the ability for each local school district to adapt its educational program to local needs and desires. Therefore, it is the policy of the state that all Vermont children will be afforded educational opportunities which are substantially equal although educational programs may vary from district to district.

Virginia

The General Assembly shall provide for a system of *free* public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of *high quality* is established and continually maintained.

Washington

It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex. The legislature shall provide for a *general and uniform* system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established.

West Virginia

The Legislature shall provide, by general law, for a *thorough and efficient* system of *free* schools.

Wisconsin

The legislature shall provide by law for the establishment of district schools, which shall be as nearly *uniform* as practicable; and such schools shall be *free* and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the

legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours.

Wyoming

The legislature shall provide for the establishment and maintenance of a *complete and uniform* system of public instruction, embracing *free* elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary.

Appendix B

State Budget and Tax News, June 15, 2001 Report on Education Finance Litigation

Education Finance Litigation

Education finance and state budget policy are inextricably linked because state constitutions require provision of basic education. K-12 education already is the largest single state expenditure category accounting for 33.1 percent of general fund appropriations in FY 2001. But the ties have become stronger in recent years as court decisions forced states to play a larger role in funding schools including both capital and operating expenses. Although education finance litigation comes in a wide variety of shapes and sizes, the recurring theme is that plaintiffs are asking states to do more.

Litigation has focused on two shortcomings in state funding approaches equality and adequacy. Equality refers to differences in funding levels across school districts. Because state (and federal) support only covers a portion of total education expenses, the wealth of individual school districts often plays a crucial role in determining what local resources are available to schools and students. In a number of states, plaintiffs (often low-income school districts) have argued that equal protection guarantees in state constitutions mandate equal educational opportunities for all students. Courts have found that widely disparate school funding levels violate these guarantees. The second class of lawsuits has sought to force states to guarantee a standard of adequacy. Advocates argue that states are required to provide an adequate education by their constitutions' education clauses. Adequacy can encompass a number of measures including facilities, resources and student outcomes. State constitutions contain education clauses, and lawsuits in recent years have focused on these clauses rather than equal protection guarantees.

A court ruling that a state's education finance system is unconstitutional is often only the starting point in resolving funding problems. Courts generally give legislatures wide latitude in designing and implementing solutions to satisfy constitutional provisions. But funding mechanisms that clear constitutional hurdles of equity and adequacy, while maintaining appropriate levels of local control, are not obvious. They normally require redistribution of tax collections from wealthy to poor school districts introducing additional issues of tax fairness from both political and constitutional perspectives. **Ohio** provides an example of the difficulty in resolving education finance problems. Plaintiffs filed suit against the state in 1991. A lower court judge ruled Ohio's education finance system unconstitutional in 1994. After an appeals court overturned the decision, the state Supreme Court found in favor of the plaintiffs in 1997. The court revisited the case in 2000 after policymakers had introduced some reforms, but the system still was ruled unconstitutional. Ten years after the process began, a resolution still eludes policymakers.

New Hampshire is another state that has struggled to implement school funding reforms to satisfy court decisions. The state funded K-12 education largely through local property taxes until a state Supreme Court decision in 1997 found the system unconstitutional. The court ruled that the state must fund education primarily through a uniform tax to reduce the disparity in spending between rich and poor school districts. A statewide property tax was created in 1999 to fund the majority of the state's education obligation, but it encountered problems. Because wealthy school districts faced big tax increases under a statewide property tax, policymakers included phased-in rate provisions for low-income taxpayers in these wealthy districts. The provisions were ruled unconstitutional because they caused "unreasonable and disproportionate" variations in tax rates. The property tax law was rewritten, replacing the phased-in increases with rebates for low-income households, and withstood a new court challenge. But the statewide property tax didn't raise enough revenue to cover the full cost of what policymakers have determined from court instructions as the state's adequate education obligation. Lawmakers still are struggling to find revenue sources at the state level to meet this obligation.

State Summaries

The following summaries address recent education finance decisions and ongoing cases in the states. It is not an exhaustive list of all education-related litigation. Some cases that address specific issues, such as teacher pay or special education funding, are not included.

Alabama

A state circuit court judge ordered the state in March 1993 to define a level of adequacy and an appropriate funding formula to meet it. The Alabama Supreme Court has affirmed the decision twice since then. In January 1998, the court directed the governor and Legislature to comply within a "reasonable" time frame. The state superintendent is still developing a definition of adequacy and a funding formula.

Alaska

A trial judge granted summary judgment against the state Sept. 1, 1999, finding that Alaska's capital funding of schools constituted a non-uniform system and was unconstitutional. The state appealed the decision and asked the judge to re-examine the case. To date, the court has not addressed the state's appeal.

Arizona

The Supreme Court found that it was the state's responsibility to provide education facilities, and ordered the Legislature to find an appropriate funding mechanism. The Legislature initially allocated \$374 million for school facilities, but plaintiffs re-filed suit, stating that additional funding was needed. Arizona voters passed Proposition 203 in November 2000, which will provide an additional \$800 million for school facilities.

Arkansas

As part of an ongoing case dealing with the education funding formula, the state Supreme Court in March 2000 ordered the *Lake View* case back to trial court for consideration. The state believed that the case was based on three equity measures that were part of a 1994 court order. However, when the case opened at the trial level on Sept. 8, 2000, the trial judge stated that adequacy also was at issue. A county court ruled in May 2001 that the education funding system continues to violate the state constitution.

California

A statewide class action suit was filed on May 17, 2000 on behalf of students in 18 schools across the state. Plaintiffs claim that these children are deprived of educational opportunities because they attend schools that lack such basic and necessary learning tools as books, trained teachers and seats for students.

Colorado

The state settled a case during the 1999-2000 legislative session in which plaintiffs argued that an adequate education included safe and updated school buildings for which the state must provide sufficient funding. To comply with the terms of the settlement agreement, the state agreed to spend \$190 million over 10 years on capital construction, repair and maintenance.

Florida

Plaintiffs are awaiting a trial date for a third suit the first two were dismissed that claims the state finance formula for education is not adequate or equitable.

Idaho

The state is in the process of complying with an Idaho Supreme Court ruling to ensure health and safety standards at schools. A district court reviewed an updated study of school facilities and ruled in February that the state had met standards in some cases but not in others. It ordered the state to address those areas that were still not up to standard.

Kansas

A federal suit was filed on May 21, 1999, by 23 public school students who alleged that the way the state funded education violated the federal Equal Protection Clause and due process provision of the 14th Amendment of the U.S. Constitution. Defendants made a motion to dismiss the case because state officials and the state are immune from suit in federal court. The court disagreed and did not dismiss the case. The state attorney general has filed an appeal, but the Court of Appeals has not yet set a hearing date. A state case, filed Dec. 14, 1999, is similar to the federal case. The state case is expected to go to trial in the fall of 2001.

Massachusetts

Plaintiffs are returning to court to revisit the state's landmark education finance case. The case which resulted in major funding reforms in 1993 was left open in the event that problems of adequacy and equity were not solved by the reforms.

Michigan

Plaintiffs representing 366 school districts filed suit on Nov. 15, 2000, seeking more money for special education. This is the third time since 1978 that districts have sued for more special education money. The Michigan Supreme Court ruled in 1997 that the state was in violation of Section 29 of the Headlee Amendment which prohibits the state from imposing unfunded mandates on local governments. Although the state increased special education funding to comply with the ruling, school districts will argue that it simply shifted money from grant programs and that the total funding level still does not meet court orders. A trial date has not been set.

New Jersey

A state court ruled Dec. 29, 2000, that 17 poor rural school districts had satisfied the requirements to qualify for additional funding. The New Jersey Supreme Court in 1989 found that in order for students in disadvantaged districts to have the opportunity to succeed the state must provide extra funding for poor districts. Later rulings stipulated that to be eligible for additional assistance districts must demonstrate that they are using existing funds appropriately. The 17 rural districts join 30 urban districts as special needs areas.

New Mexico

The circuit court originally found in favor of 41 school districts that claimed the state funding formula for capital construction was unconstitutional. The court gave the state until July 2000 to devise a new formula. Governor Gary Johnson (R) vetoed a funding reform bill in the 2001 legislative session so the issue is likely to end up back in court this year.

New York

A New York district court in January found that the method by which the state funds education violates the state constitution's education clause and federal civil rights regulations. The court ordered the state to reform the funding and governance of schools to address its concerns by Sept. 15, 2001. New York will report on the progress of the reforms at a hearing scheduled for June 15, 2001.

North Carolina

A North Carolina superior court in March issued its third decision in a case challenging the constitutionality of the state's education funding system. It concluded that although the academic problems of certain students are not being adequately addressed, additional funding is not necessarily required. Instead the court authorized the state to compel school districts to focus their resources to assure that all students attain basic education before spending money on programs or services that go beyond the constitutionally required level. In prior decisions, the court concluded that: (1) North Carolina's educational delivery system met constitutional requirements, and that all students performing above a specified level on statewide tests were obtaining a sound, basic education; and (2) the state should provide quality pre-kindergarten programs for at-risk students.

Ohio

The Ohio Supreme Court in May 2000 directed the state to continue efforts to meet constitutional requirements established in a series of court rulings over the previous decade. Most recently, plaintiffs moved to have the state immediately provide resources for unfunded mandates and create a new formula. The court rejected these motions and scheduled a hearing for June 15, 2001. The General Assembly approved an education finance reform bill in May, but an analysis by the nonpartisan Legislative Service Commission found that the plan contained more than \$500 million in unfunded mandates.

Oregon

Plaintiffs argued that 21 education service districts that provide particular services to school districts across the state were not funded equally, which plaintiffs alleged was unconstitutional. The circuit court found in favor of the state on May 15, 2000.

Wyoming

The Wyoming Supreme Court in February upheld the overall education finance system, but ruled certain components unconstitutional. The state must improve schools that do not meet basic statewide standards and reform its method of funding construction and repair projects. In addition, the Legislature was directed to impose a statewide tax for education that would shift more of the burden from local districts to the state. The court also ruled that a system for adjusting costs in small schools was unconstitutional because the adjustments were arbitrarily determined.