

VERMONT

William J. Mathis
Rutland Northeast Supervisory Union
University of Vermont

I. GENERAL BACKGROUND

State

Trends - Between 1964 and 1997, the state share of basic educational expenditures varied between 20% and 37%. Characteristically, the state share would drift down to around 20% at which time general dissatisfaction and political pressures would result in a change in the formula and an infusion of new dollars. A spike in state share occurred in 1969 with the adoption of a percentage equalizing formula (Miller formula) based on property wealth. The state share degenerated and a new percentage equalizing formula (Morse-Giuliani) was put into place in 1982 which combined property and income wealth measures. The state share again deteriorated to the 20% range and a foundation formula was put into place in 1987.

With a weak economy, the state share again degenerated in both absolute dollars and in state share percentage. By 1997, state share fell to 25.3% of foundation costs. Property tax and educational funding reform emerged as the primary public issue during the mid-1990s. Reform plans would pass the House of Representatives but fail to muster enough votes in the Senate. In the early 1990s, a plan for a statewide teachers' contract (which would fund about 53% of the costs from the state) gained momentum but failed enactment.

Supreme Court Decision - Tax burdens for the various towns ranged from 0.0% to 8.2% of income. Frustrated by legislative inaction, a group of parents, school districts and citizens brought suit against the state, *Brigham v. State*, 692 A. 2d 384 (Vt. 1997). The result of the action was a unanimous state supreme court decision in February 1997 ruling the funding system unconstitutional. In the immediately preceding November 1996 elections, a new Senate was elected with an avowed purpose of property tax reform.

Act 60 - On June 26, 1997, Act 60 was signed into law. The new educational finance system had a four-year phase-in. The first year of the transition program

(FY1998) was the last year of the foundation program, which was bolstered by additional general and special education aids.

For FY1999, the second of four transitional years, the system provided a first tier block grant of \$5,010 per student and a second tier guaranteed yield above that level. In essence, a graduated state property tax rate was used along with a transitional sliding scale guaranteed yield. The yield varied according to property wealth. Property poor towns had their taxes stepped down while property rich towns were stepped up. Caps were placed on maximum tax increases. When a town's property wealth is sufficiently high to collect more funds than the state's guaranteed yield, excess monies are recaptured and returned to the state's education fund.

For households with less than \$75,000 income, the education property tax burden was capped at 2% of income unless the local town voted to tax itself at a higher level. For FY2000, households over \$75,000 income enjoy an additional protection in that the 2% cap is extended to homesteads with values of \$160,000 or less.

The law has generated controversy particularly around the recapture provision. The towns with high property wealth have initiated political and court actions to modify, eliminate or circumvent recapturing the above yield revenues. Funding of special education, technical education and transportation are under review and possible degeneration of these shares is a concern. Expansions of the tax burden cap to higher income households, protecting small schools from extreme population fluctuations, continuation of a guaranteed yield and the block grant cost of living adjustment were all elements addressed in the spring 1999 legislative session.

Local

Organization - The primary units for educational funding are the 252 town, city and incorporated school districts. Except for some categorical funds and grants, all state monies go to the towns. While most towns operate schools, some towns are non-operating and tuition students to other towns under a variety of contractual and voucher arrangements.

In addition, there are 32 union school districts, four unified districts and two joint operating districts. These combinations allow towns to combine resources to provide educational services.

There are 51 supervisory unions where towns share a superintendent of schools, co-ordinate special services, conduct affairs of the schools, provide curriculum and instructional leadership, and provide other central office functions. There are 10 additional superintendencies whose boundaries are contiguous with the boundaries of a single city or town. Union, unified, joint operating, and supervisory unions are financed by assessments to the member towns. County governments play no role in educational funding or governance. There are no intermediate or special services units.

Funding Sources - With Act 60, a statewide property tax was instituted to equalize the highly unequal local property tax system. The statewide property tax (\$377 million), the state general fund (\$257.5 million) and recaptured guaranteed yield funds and Act 60 tax receipts (\$88.1 million) resulted in an 84% state share in FY1999. The primary source of local funds is the local property tax. Under an Act 60 temporary transition provision, one town has implemented a local sales tax for FY2000.

Gifts and Endowments - Many towns have small foundations, bequests and endowments that are not considered part of school revenues under the state funding system. Historically, these gifts and endowments were a nominal portion of educational funding and the state did not collect information on these revenues. Seeking to escape recapture provisions and the equalized yield scheduled for FY2001, many of the more affluent towns are combining substantial external foundation grants with local fund raising to avoid sharing what they view as local tax revenues. These efforts are under significant media, legislative, legal and administrative scrutiny (see Section XXI).

Budget Approvals - All town, unified, and union school district budgets must be approved by the voters at the annual town meeting. The method of voting is gradually shifting from votes off the floor to Australian ballot. Capital construction, bonded indebtedness, and sinking funds must also be approved by the voters. A few city districts operate under individual charters where the budget does not have to be voted as long as it is below the threshold specified in the particular charter.

Supervisory union budgets are determined by delegates from the constituent local boards and assessments are made upon the member towns. Joint operating boards do not have to take their budget to the voters for approval although one of the two joint boards has chosen to do so.

Funding Summary 1998–99

Total State School Aid (All Programs)		\$ 663.3 million
Grants in Aid	645.2 million	
Teacher Retirement Contributions	18.1 million	
FICA	0 million	
Total Local School Revenue		\$ 128.3 million
Property Tax	128.3 million	
Other local source tax revenue	0 million	
Local source non-tax revenue	0 million	
Total Combined State and Local School Revenue		\$ 791.6 million
State Financed Property Tax Credits		
Attributable to School Taxes		\$ 71.8 million

II. LOCAL SCHOOL REVENUE

Local Share Tax Revenues totaled \$128.3 million in 1998–99. About 16% of school revenues are from local sources which are raised almost exclusively through local property taxes. State revenues are generated by the statewide property tax, income tax, sales tax and a miscellany of smaller taxes and fees.

State and local property taxes are based on per hundred dollars of fair market value.

Local Property Tax. After a local budget is established by the voters in the annual referendum, the amount of the state provided first tier block grant (general state support grant) and other revenues is subtracted. The amount of spending above the block grant is then calculated on a per pupil basis. For the FY1999 transition year, the above block spending was translated into a sliding scale guaranteed yield, which varied as a function of town property wealth per student. The average was about \$42 per pupil for each 1% increase in the statewide property tax.

For low tax rate towns, incremental tax increases and a maximum tax increase cap were in place. For high tax rate towns, the statewide property tax moved down to

\$1.15 per hundred dollars property value. The local property tax obligation was added to the state property tax and collected at the town level.

For FY2000, the statewide rate falls from \$1.15 to \$1.11 for the high rate towns and a minimum guaranteed yield is set at \$40 for each percentage point on the statewide property tax. The actual amount of the yield may increase to about \$43 due to an extra state appropriation voted in spring 1999.

Fair Market Value and Common Level of Appraisal. Taxes were assessed and collected on a local basis in FY1999. Total town tax liability was adjusted by the town's "Common Level of Appraisal." That is, the market value of properties (based on actual sales) was compared to the local tax lister's value of the property within each category of property (house, mobile home, farmland, etc) and the town's common level of appraisal was determined. Effective tax rates were then computed so that the town paid taxes based on 100% of fair market value.

If town officials believe that the state's determination of fair market value is in error, they are provided a 30 day window to appeal to the state for a re-determination.

Other Local Taxes. As part of the transition provisions in Act 60, local options taxes could be voted to alleviate the effects of property tax increases in wealthier and lower tax towns. To prevent disturbing the recapture provisions of the yield, local option taxes were authorized for municipal purposes only.

Authorization for local options taxes expires on December 31, 2004. To date, only one of the 252 towns voted a local sales tax.

III. TAX AND SPENDING LIMITS

Tax Limits

Tax Burden Cap. Property Tax Income Sensitivity "Prebates"- (\$85.3 million appropriation, \$58.8 Million expenditure).

For households under \$75,000 income, education taxes were capped at no more than 2% of income to support the General State Support Grant (Block Grant). For the 239 towns (95% of the towns) that voted a budget above the block grant amount of \$5,010 per pupil, the taxes were proportionately higher based on the yield coefficient for that town. Nevertheless, the average total tax burden for

education, in almost every town, was below 3% of income. A "prebate" check was issued to homestead owners (house and two acres) to pay for homestead property taxes in excess of the cap. Local towns collect the state and local property taxes.

Eligibility for the 2% tax cap was extended to homestead values of \$160,000 or less for households earning over \$75,000.

Homeowner or Renter Rebate. Super Circuit Breaker - (\$7.7 million).

This provision caps the combined education and municipal assessed tax burden at between 3.5% and 5% of household income provided that the sum of all household incomes is below \$47,000. The limit applies only to homesteads (house and two acres) used as the primary domicile. The lowest increment is a maximum tax of 3.5% for all municipal and education property taxes for incomes of less than \$5,000. Refunds are provided through filing the annual state income tax form.

Renters' property taxes are calculated as 21% of the rent paid.

Current Use Program. (\$3.4 million). This program was established to protect the environment, the tourist industry, agriculture and the property owner. Oftentimes, the market value of certain farm and forest land is greater for development purposes than it is for its current use. Taxes are assessed on the lower current use value of the property rather than the higher market value.

For municipal taxes, the state reimburses the town the difference between the use value and the fair market value in a "hold harmless" payment. For school taxes, the lower current use value reflected in the education grand list translates into higher state aid.

Timelines and restrictions apply to prevent exploitation of the program.

Payment in Lieu of Taxes. (\$1.9 million) State payments to towns in lieu of property taxes for state lands, natural resources and facilities.

Spending Limits

Town Meetings. For almost all towns and municipalities, the education budget must be approved at the annual town meeting vote. Bonded indebtedness, as well as sinking funds, must also be approved by the voters. Twelve cities and large

towns have municipal charters that typically allow inflationary increases but require a city vote if a threshold is exceeded.

Special Education Caps. Originally, districts that exceeded a 5.0% increase in spending in FY1999 were to have their reimbursements reduced in FY2000. This penalty was repealed in spring 1999. The provision was widely viewed as unrealistic given the huge variations in special education costs. The total state appropriation in special education is scheduled to be capped at 5.5% for FY2001 and at 4.5% in 2002, and indexed to inflation for years thereafter.

Two separate task forces are examining special education costs and further examination of this rapidly growing area is expected.

Deficit Spending. School districts may not intentionally deficit spend. If they encounter a deficit, it must be completely recovered in the following fiscal year.

Fund Balance Accumulations. A positive fund balance is carried as a revenue in the following year's budget. Thus, the revenue is a tax offset in the following year.

IV. STATE /PROVINCIAL EARMARKED REVENUES

Education Fund - A total of \$852.5 million in revenues is budgeted for the education fund in FY1999.

Statewide Property Tax. The largest earmarked contributor is the statewide property tax, which provides \$377 million. The statewide property tax rate varied in the FY1999 transitional year but is moving toward \$1.11.

Act 60 Tax Receipts. (\$88.1 million). Monies recaptured from the guaranteed yield are dedicated to the education fund.

Other Limits. All lottery revenues and certain percentages of a number of taxes and fees are dedicated to the education fund. Among these are (1) Rooms, meals, alcoholic beverages (20% of tax revenues minus \$1.56 million set aside for tourism), (2) Corporation Income - 19% of these tax revenues, (3) Bank franchise fees - 58.3%, (4) Telecommunications revenues - 100%, (5) Brokerage fees - 100%, (6) Motor Fuels - 21% (16% in FY 2000), (7) Purchase and Use - 16.7%

Non-earmarked sources in the education fund. The general fund initially contributed \$224.8 million and an additional \$32.7 million was later transferred. Local property taxes added \$120.4 million.

Revenues in the education fund exceeded education expenditures by \$11.7 million. These funds are paid to local districts and supervisory unions to provide for the General State Support Grant (block grant), each town's guaranteed yield receipts, categorical programs and other provisions. Certain property tax relief programs and property reappraisal expenditures are supported through education fund revenues. (VT. STAT. ANN. Tit. 16, § 4025)

V. BASIC SUPPORT PROGRAM

Funding in 1998–99: \$558.4 million.

Percentage of Total State Aid: 84.3%.

Nature of the Program: The basic school support program is a two tier system consisting of a block grant and a guaranteed yield with recapture ((VT. STAT. ANN. Tit. 16, §133). Together, these two tiers represent 84% of expenditures.

Allocation Units: Weighted ADM.

Local Fiscal Capacity: Assessed property valuation.

How the Formula Operates:

Tier I: Block Grant - General State Support Grant. The General State Support Grant for FY1999 was \$5,010 per equalized pupil, which represents 67% of total expenditures. In future years, the block grant amount will be indexed to the last eight quarters of the costs of government goods and services. (A mainstream special education block grant and an early education block grant are added to the general support grant for a total block grant of \$5,246. This figure increases to \$5,377 in FY2000).

Tier II: Guaranteed Yield with Recapture.

FY1999 was a transitional year with a guaranteed yield of about \$42 for each locally voted percentage point (1.1 cents) increase in the tax rate. This yield may reach \$43 in FY2000 due to a supplemental appropriation. A Guaranteed Yield is

also assured for FY2001 at least \$40 but an equalized yield is contemplated after that date.

Tax Relief Measures - The tax burden cap is considered the single most important and powerful feature to assure taxpayer equity. It is one of the most unique and defining attributes of the finance system.

A second tax relief measure, the elimination of local business taxes on machinery, equipment and inventory, is seen as a strong incentive for businesses.

State and Local Shares: The FY1999 guaranteed yield was a sliding scale adjusted by the ratio of the town's per pupil property wealth to the state's per pupil average property wealth.

Towns whose property bases cannot produce the needed level of revenues are made whole by the state. Those towns which produce more than their guaranteed yield pay the difference to the education trust fund.

Weighting Procedures: The allocation unit is equalized pupils. This is determined by counting all students and their extra weights and dividing the number of weighted students by the total number of students.

Long term average daily membership, over two years, is used.

Student Weights include:

Elementary	1.0
Secondary	1.25
Economically Deprived	0.25 (times poverty ratio of district)
Limited English	0.20

(VT. STAT. ANN. Tit. 16, § 4010)

Adult education students may be reimbursed at a fractional 0.1 ADM count but the rate is scheduled to rise to 0.3 in the future. For FY2000, schools may be allowed to count home-school students enrolled in individual courses through a small student weight provided through a state board regulatory provision.

Adjustments for Special Factors:

Small Schools Support. (\$921,000) - Schools of less than 100 students may receive up to \$50,000, not to exceed \$2,500 per pupil, for operations of small schools. The smaller the school, the higher the support grant.

This program will be expanded to \$4.1 million in FY2000 and schools with less than 20 children per grade will now be eligible. This moves the limit to 140 students for a k-6 school. A sliding scale based on diminishing size has been enacted.

Small Schools Stability. (\$58,367) - In addition, small schools which see more than a 10% decline in enrollment in one year shall not suffer more than a 10% loss in state revenues. For FY2000 and beyond, the protections have been expanded to a maximum loss of 3.5% of the weighted student count. This feature is extended to schools of all sizes. (VT. STAT. ANN. Tit. 16, § 4015)

Receiving Towns. Of the 252 towns, 151 are eligible to receive property tax revenue supplements from the education fund (or guaranteed yield pool). The 13 towns spending below the state's block grant level are not eligible to receive yield funds.

Sending Towns. There are 101 towns that pay larger or smaller amounts into the pool. Of this number, only eight reach the maximum contribution level which is limited to half the excess amount they raised from non-homestead property.

Hold Harmless. No hold harmless in FY1999. Beginning in FY2000, maximum weighted student count loss will be capped at 3.5%.

Aid Distribution Schedule: All state aids due to local districts are combined in three equal payments. For FY1999, the dates were September 1, January 2 and March 30. (VT. STAT. ANN. Tit. 16, § 4028)

Districts Off-Formula: There are no districts off the formula.

VI. TRANSPORTATION

Funding in 1998–1999: \$10.8 million.

Percentage of Total State Aid: 1.7%.

Description: School districts are not required to provide transportation. If they do, they must adopt policies governing transportation. Money spent for transportation to and from school (excluding co-curricular, technical education, special

education and non-resident transportation) is eligible for reimbursement up to 50%. For FY1999, the reimbursement rate is about 46%. For FY2000, a supplemental appropriation was passed to bring the state share back to 50%.

An additional \$250,000 was set aside for extraordinary circumstances when transportation costs exceeded 8.25% of the total school budget. However, applications for relief totaled only \$25,000. Department of Transportation revenues were transferred into the education fund for these costs.

A small technical education transportation reimbursement fund operates through technical education funding provisions and certain small special education transportation costs are within special education budgets.

Extent of Participation: Not reported.

VII. SPECIAL EDUCATION

Funding in 1998–1999: \$65.4 million.

Percentage of Total State Aid: 10.1%.

Description: While it is the policy of the state to pay 60% of the statewide costs expended by special education to children with disabilities, the state has seldom met their legislated obligations. In FY1999 state share is 57.13%. The total special education costs, excluding federal funds, was \$107.0 million.

Special education funding has three primary funding categories:

Mainstream Block Grant. (\$25.0 million) - This sum is included in the overall block grant (General State Support Grant) and is not seen in the state appropriation labeled special education. It adds \$236 to the General State Support Grant of \$5,010 for each equalized pupil and brings the total per pupil block grant to \$5,246.

This portion of the program is census based and is calculated to pay 60% of salaries of 9.75 teachers per 1,000 students plus administration. The theory is to place few strings on the local administration of this money so as to allow prevention services for needy children without the necessity of a formal bureaucratic process.

Extraordinary Reimbursements totaled \$40.4 million and are designed to reimburse districts for individual high cost children. The state pays 90% of all costs above \$50,000.

Special Education Expenditures Reimbursement Grant (known as "intensive reimbursement") - State funds remaining from the total 60% commitment, after paying mainstream, extraordinary and other obligations, are then reimbursed to districts at a set statewide percentage rate. The reimbursement share varies with available money. (VT. STAT. ANN. Tit. 16, § 2961)

Special education has been the fastest growing area of educational expenditures. Regular education expenses have been held below inflation in order to pay for these increases. As a result, the *Blue Ribbon Commission* was established to study cost controls and a *Fiscal Review Panel* was established to improve special education data collection and make recommendations on costs. Cost control caps were to be based on FY1999 but some were postponed and others eliminated. The caps are generally viewed as unworkable due to the wide fluctuations in these costs.

Other funding provisions are made for consultation services for low incidence hearing and visually impaired students. There is a modest reserve fund, and other small expenditures. These other provisions do not exceed 1% of total state expenditures.

State Placed Students - See section XII below.

Extent of Participation: Not reported.

VIII. COMPENSATORY EDUCATION

There is no state compensatory education program, *per se*. There are compensatory-like programs:

Acts 230 and 157 - Special education professional staff are authorized and encouraged to serve needy children in order to compensate and prevent later classification of children into special education. The success of this approach first waxed, then waned, as state special education appropriations were reduced and regulatory restrictions increased.

Student Weights - There is an additional student weight of 0.25 provided for "economically deprived" students which is further multiplied by the poverty ratio of the district. Economically deprived is defined through families receiving food stamps. Funds generated through this provision are to be used for pre-school and early education programs although categorical program applications and reports are not required (VT. STAT. ANN. Tit. 16, § 4010).

Success Beyond Six - (\$6.4 million) Special education funds, matching Medicaid and other federal funds may be used "to expand local partnerships to enhance the educational opportunities of students that are at risk of failure in school."

IX. GIFTED AND TALENTED EDUCATION

There is no state funded categorical program or other requirement for local school districts to provide gifted and talented programs although districts make a plethora of local provisions. The legislature adopted a definition in 1995 in order to allow grant applications but expressly noted that an entitlement was not thereby provided (VT. STAT. ANN. Tit. 16, § 13).

X. BILINGUAL EDUCATION

In 1997, the legislature increased the equalized student count by a factor of 0.2% per student for those whose primary language was other than English. The state board was directed to adopt rules for "clear and consistent" identification (VT. STAT. ANN. Tit. 16, § 4010).

XI. EARLY CHILDHOOD EDUCATION

Funding in 1998–1999: \$5.1million.

Percentage of Total State Aid: less than 1%.

Description: The \$5.1 million appropriation from the state can be broken out as follows:

State Appropriation (Essential Early Education)	\$3.8 million
State Appropriation (Early Education Initiative)	\$1.3 million
Success by Six	\$96,000

There are 12 different early education programs that operate out of education, social services, and human services. These programs are funded by federal, state,

community and family resources. The above programs represent those funded by state education funds only.

The largest program is the Early Essential Education program which serves special education eligible 3, 4, and 5 year olds. Early Education Initiative serves at risk children. A number of early education programs are operated through Human Services but are not included in the above (VT. STAT. ANN. Tit. 16, § 4014).

Extent of Participation: Not reported.

XII. OTHER CATEGORICAL PROGRAMS

Technical Education

Funding in 1998–1999: \$7.8 million.

Percentage of Total State Aid: 1.2%

Description: The state appropriation was \$7.8 million (1.2% of state appropriations) which was complemented by \$4,856,534 in federal funds. Of the total appropriation of \$13.6 million, \$12.3 million was distributed in grants to the network of 16 regional technical centers and seven comprehensive high schools. Services are available to all secondary school students who elect technical education.

Fundamental changes to the technical education funding system are moving into place for FY2000. Towns within a technical center catchment area will be billed according to their technical education enrollments for the previous six semesters. The General State Support Grant associated with this pupil count is subtracted from the town's state aid and goes directly from the state to the technical center. This measure is supposed to encourage technical education enrollments from towns.

Costs above the block grant amount of \$5,100 per equalized pupil are also assessed on a pro-rated share based on the previous six semester average. These sums are included in local town budgets and are considered expenditures in the guaranteed yield formula (VT. STAT. ANN. Tit. 16, § 1552).

Adult students may also enroll in technical education on a space-available basis and are allowed funds up to 40% of the announced tuition rate (Vt. Stat. Ann. Tit. 16, § 1553).

Extent of Participation: Not reported.

Adult Basic Education

Funding in 1998–1999: \$2.3 million.

Percentage of Total State Aid: Less than 1%.

Description: There are three programs. (1) Adult Diploma, (2) GED, and (3) Technical Education (see preceding section).

The appropriation has remained relatively stable since 1991. All citizens have an entitlement to a high school education regardless of age. Adult students can be counted as fractional students (0.1 weight) to pay for adult education programs.

For FY2000 and beyond, the individual fee for students in the Adult Diploma Program, is repealed. Instead, the agencies providing these services are eligible for a 0.3 per student weight in the formula (Vt. Stat. Ann. Tit. 16, § 1049).

Extent of participation: Not reported.

State Placed Students

Funding in 1998–1999: \$7.0 million.

Percentage of Total State Aid: 1.0%.

Description: Funding for excess costs associated with the educational placement of wards of the state. The receiving town derives tuition through the block grant and guaranteed yield. However, any excess special education costs associated with the student are reimbursed at 100% by the state (\$4.4 million). Education costs for residentially placed students are funded through education (\$2.6 million) while treatment and room and board are paid by the placing human services.

Extent of Participation: Not reported.

XIII. TEACHER RETIREMENT AND BENEFITS

Funding in 1998–99: \$18.1 million.

Percentage of Total State Aid: 2.7%.

Description: The State Teachers' Retirement Fund is operated out of the Office of the State Treasurer rather than the Department of Education. Fund assets were \$1.06 billion as of June 30, 1998. Prior to 1990, the system was completely supported through state appropriations.

The primary plan (Group C) consists of approximately 10,300 practicing and 3,200 retired educators. All practicing teachers and administrators must be enrolled in the program.

Group C members contribute 3.7% of their compensation to the fund. Thirty years full service is required to achieve maximum benefits although vesting occurs after 10 years service. The maximum retirement allowance is 50% of average final compensation.

Earlier plans (Groups A and B) are closed to new members and currently represent a membership of less than 1,000 people, combined.

The plan is supported through state appropriations and employee contributions. No local district funds are involved. The state appropriation is determined by actuarial estimates of financial needs. At different times, the perceived adequacy of the state appropriation has generated controversy (VT. STAT. ANN. Tit. 16, § 55).

The state does not contribute to Social Security payments. Local districts pay the employer share in accord with federal laws.

Extent of Participation: Not reported.

XIV. TECHNOLOGY

The law (VT. STAT. ANN. Tit. 16, § 165) requires "access to current technology" and funding is subsumed in the general state support grant and in the guaranteed yield. There was no state categorical appropriation in FY1999.

Technology expenditures are carried in local district budgets in a wide variety of accounts and expenditure codes. Funding is likewise through a polyglot of sources and programs. All districts participate but the level of participation varies greatly.

Vermont Interactive Television sites allow for statewide teleconferencing for business, education, and other general purposes. The appropriation for this freestanding agency was \$763,933.

Most all high-schools are equipped for satellite reception of lessons with telephone feedback loops. These facilities were funded in an earlier fiscal year with one-time grants.

While the Governor and others have consistently advocated for distance learning technology, such desires have not been translated into sustained budget requests or appropriations.

XV. CAPITAL OUTLAY AND DEBT SERVICE

Funding in 1998–1999: \$17 million.

Percentage of Total State Aid: 2.6%.

Capital Outlay

Due to construction needs in excess of appropriations, a moratorium was imposed on state funding of capital projects until January 1, 1999. When approved, the state pays 30% of costs. In August 1998, new rules were imposed which require that projects be rank-ordered by the state board first based on emergency needs and then relative need. The legislature reviews the prioritized needs and decides on what amount they wish to appropriate. As of July 1, 1998, \$34 million worth of projects were approved but only \$17 million was appropriated. The 1999 surplus resulted in the legislature paying-off the state's share of the backlog.

Debt Service

For FY99, school districts entitled to debt service aid under the previous law were held-harmless at a cost of \$3.9 million. For FY2000, debt service costs are part of a school's general expenses and are reimbursed under the guaranteed yield provisions of Act 60. For towns that contribute to the guaranteed yield (recapture), a tax-rate hold-harmless is provided.

The Commissioner of Education was asked to study the system in light of the planned transition from a guaranteed yield to an equalized yield system. Towns which had been accustomed to a separate categorical state reimbursement for bonded indebtedness now see these funds as "buried" which appears as a lost revenue to some citizens. Although held harmless, local controversy has been generated.

Capital construction and bonded indebtedness must be authorized by the electorate. Sinking funds may also be authorized by the electorate for any specified purpose such as maintenance, transportation, etc (VT. STAT. ANN. Tit. 16, § 3447).

Extent of Participation: Not reported.

XVI. STANDARDS/ ACCOUNTABILITY MEASURES

Funding in 1998–1999: \$2.5 million.

Percentage of Total State Aid: less than 1%.

Description: The Equal Education Opportunity Act also included statewide educational standards and accountability features. Most of these measures had pre-Act 60 antecedents which were voluntary yet had high statewide participation. The new law requires local districts to participate in a comprehensive assessment program as established by the state board. The \$2.5 million in state funds was supplemented with \$148,005 in federal funds for FY1999 ((VT. STAT. ANN. Tit. 16, § 164 (9)).

Assessments

The state requires New Standards Reference Examinations in grades 4, 8 and 10 for language arts and mathematics. Science tests, developed with the Vermont Institute for Science, Mathematics and Technology, are scheduled for grades 6, 9 and 11. Developmental Reading Assessment tests are administered in the second grade. The proposed social studies test has been postponed due to controversy over test content. Local districts generally supplement state measures with commercial norm referenced tests aligned with state standards. The state appropriation and staff complement is generally considered insufficient for the scope of work.

Local Action Planning

Based on local and state assessment results, local districts must establish an Action Plan with community input. Annually, the district must report to the public on progress on their Action Plan. The state must also issue a companion report on the condition of education in the state.

Each school must develop a needs based professional development plan while the state board is asked to report to the legislature on the statewide system of professional preparation and development. Likewise, personnel evaluation systems must be linked to school improvement plans (VT. STAT. ANN. Tit. 16, § 165).

Extent of Participation: Not reported.

XVII. REWARDS/ SANCTIONS

Every two years, the Commissioner must determine if schools are making adequate progress toward meeting their goals. If deficient, the Commissioner must describe in writing the nature of the needs and provide technical assistance. If at the end of the following two-year cycle the school still is not meeting standards, the Commissioner must recommend to the state board whether to continue technical assistance, adjust school boundaries or authorities, assume control of the district to the degree needed to rectify the problems, or close the school. There are no fiscal rewards/ sanctions related to performance.

XVIII. FUNDING FOR NON-TRADITIONAL PUBLIC SCHOOLS

Tuition to Public Schools

Beginning in 1869, Vermont has the oldest tuitioning (choice) system in the nation. Arising from late nineteenth century desires to assure the availability of schooling to all children, towns which did not operate schools or were not affiliated with specific schools were required to tuition their students to other schools.

At the elementary level, 16 districts tuition students to other towns and parents/students may choose the public school of their liking. There are no

specific provisions on transportation and local practices vary. By public vote, towns may tuition to private schools at capped rates.

At the secondary level, 90 of the 251 towns are not affiliated with a union (regional), city or town high school. In these schools, students may choose the public school of their liking and the home town must pay the full tuition up to the "maximum allowable tuition" as determined by the state after end of year financial statements are filed. Students may also chose private schools but the tuition is capped at the average public high school rate. Parents must make up any differences and, in most cases, provide transportation.

Many of these tuitioning towns have historical and contractual arrangements with receiving public and "quasi-public academies." (see Section XIX below). These arrangements, along with geography and transportation limit the number of effective alternatives.

Open Enrollment (Public High School Choice

The legislature asked the state board to develop and present them with a public school open enrollment implementation plan for grades 9–12 by January 1999. Legislative action is not yet completed. An experimental program has operated for two years. A second voluntary regional plan is anticipated in fall 1999.

Alternative and Magnet Schools

There is no state program but most regional high schools have developed a variety of alternative programs. These school-within-a-school plans typically center around behaviorally disturbed students and school-to-work transition programs. A legislative study committee will be examining alternative schools in summer, 1999.

Charter Schools

Although introduced in every recent legislative session, charter schools have, to date, failed passage.

XIX. AID TO PRIVATE SCHOOLS

There are several combinations that have nineteenth century antecedents:

Quasi-Privates

There are five quasi-private "Academies," enrolling about 3,000 students; all of which pre-date current political privatization initiatives. These have historically served as the high schools for their regions and typically were founded as religious schools. These schools chose to secularize their curriculum and continue to receive public monies after a 1961 state supreme court case. They have chosen to meet state standards but do not have publicly elected governing boards.

One of these schools has recently announced that it intends to become truly private and thus, can choose which students to accept as well as deviate from state and federal requirements such as special education.

Public Tuition to Private Schools

Towns that do not operate schools may tuition to private schools but the amount paid is limited to the average announced tuition of public schools. Costs in excess of the cap are the responsibility of the parents. While the private schools have to be nominally approved by the state, there are no requirements on private schools regarding special education or admissions. Parents have taken this voucher out of state and out of the country.

For elementary tuition, this provision requires a positive vote of the electorate. Secondary tuition does not require electorate authorization in non-operating towns.

Tuition to Religious Schools

The non-operating town of Chittenden is currently before the state supreme court asking to be allowed to pay tuition to religious schools while the town of Mendon is in the same court for refusing to pay religious tuition. The court has heard arguments but has not rendered a decision. The case is being litigated on both federal and state constitutional grounds. The Chittenden school board composition changed in March 1999, and they directed the Washington-based *Institute for Justice* attorneys to cease speaking or advocating for religious based tuition.

XX. RECENT/PENDING LITIGATION

A seminal decision was *Brigham v. State*, 692 A.2d 384 (Vt. 1997) which found the state funding system unconstitutional on the basis of not providing equal educational opportunities. Amanda Brigham, a student in Whiting, along with other students, parents, citizens and town school districts brought suit alleging that they were being deprived by an inequitable finance system.

The unanimous decision by the supreme court of Vermont was handed down on February 5, 1997, and the court directed the legislature to reform the finance system. The legislature responded by passing the Equal Educational Opportunities Act, Act 60, which is the financial system described in this paper.

Following the legislative response to the court decision, residents in some property-wealthy towns, who now faced taxes at the same rates as those in property-poor towns, brought a number of actions claiming that the legislation was flawed and worked against them. A key case, *Anderson v. State*, 723 A.2d 1147 (Vt. 1998), contested that the recapture provisions of the guaranteed yield depressed educational spending in affluent towns and was thus, unconstitutional. The Vermont supreme court found the recapture provision passed constitutional muster. Two other cases have reached the Supreme Court and have been denied or dismissed. Four other cases are winding their way through state and federal courts.

Treasurers in three towns (Searsburg, Whitingham and Dover) refused to remit statewide property tax and guaranteed yield revenues to the state. The state has now sought a court order to have the funds paid to the state.

One affluent town, Killington (previously named Sherburne), is contesting the technical definitions on the maximum amount that property taxes could be raised under the transition provisions. The lower court ruled in favor of the town and the state is now considering whether to appeal to the state supreme court (*Town of Sherburne v. State of Vermont, et. al.* Superior Court Docket No. 395-6-98 Wncv).

XXI. SPECIAL TOPICS

Act 60 has generated considerable controversy which has often spilled into national publications. Many actions are being taken to circumvent or repeal aspects of Act 60.

Circumventing the Recapture Provisions

Wealthy towns, seeking to escape paying taxes at the same rates as poorer towns, have established local funds and turned to major foundations to establish large parts of their education revenues "off the books." The Freeman Foundation, in particular, has sufficient resources that it may fund all above block spending in some wealthy communities and thereby deny recapture by the state. By early 1999, the Foundation had committed \$5.5 million in first-round grants. With the foundation's requirement for local matching, these funds could exponentially harm the effectiveness of the recapture provisions.

Tax Cuts

With the currently robust economy, the education fund and the general fund have excess revenues. The Governor wanted to cut the income tax while legislators wished to further reduce property taxes and/or exempt clothing and other necessities from the sales tax. All got a piece of what they wanted. The spring 1999 session resulted in a 4% reduction in income taxes, expanded exemptions to the sales tax, and a property tax reduction through a higher state share contribution.

Medicaid Reimbursements

Medicaid funds are an increasing revenue stream. The Agency of Human Services, which controls the record-keeping system, has appropriated 60% of Medicaid reimbursements generated by schools. This was a contentious issue. Schools that generated the funds felt that Human Services were raiding their funds. The legislature resolved this issue by sending 50% of the money back to the generating towns and putting an additional 39% in the education fund. After a total state collection threshold of \$25 million is reached, the district share will increase to 75% of the revenues. The Department of Education will keep 11% for administrative costs but will see most of this money transferred to Human Services.

Expanding the Tax Burden Cap

Homestead property tax burden was capped at 2% of household income, up to \$75,000, for the statewide property tax. The cap was expanded to protect

households above \$75,000 income but below a homestead property value of \$160,000. The issue will likely be revisited in future years.

Privatization Issues

This politically charged topic will be back on legislative agendas. While the Senate passed a high-school public school choice bill, the House has not yet addressed the issue—to the publicly expressed dissatisfaction of pro-voucher forces. Other controversy was generated when existing private schools were asked to play by the same rules as public schools. The state board initially passed such a provision but reversed itself under pressure from private school forces. The plethora of privatization issues will likely continue to generate controversy.

Special Services

The 84% increase in special education from FY1990 to FY1997 will continue to attract the attention of policy-makers. Little sign of abatement has been seen. It is anticipated that the areas of compensatory education and cost-controls will continue to be contentious.