

History of Education Finance Reform in Vermont



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Outline

- Introduction
- Foundation Formula
- Vermont Supreme Court in *Brigham*
 - Vermont Constitution
- Legislative action
 - From Act 60 of 1997 to Act 183 of 2024

Foundation Formula

Before 1998, the property tax and school funding system in Vermont was very different from today.

Two main funding sources: (1) town property taxes; (2) State Foundation aid

- Towns voted on education spending and raised funding solely through property tax.
- State determined a foundation amount/cost to provide a minimum-quality education.
- Annually, State set a base property tax rate intended to raise the foundation amount.
- If a town was unable to raise the foundation amount from the base property tax rate, then State would grant the difference, up to the foundation amount, to the town.
- If towns voted to spend more than the foundation amount, it had to be raised through town property tax.

Foundation Formula: example

Town votes to spend foundation amount

Foundation amount: \$5,000

State base tax rate: 1%

Town grand list: \$400,000

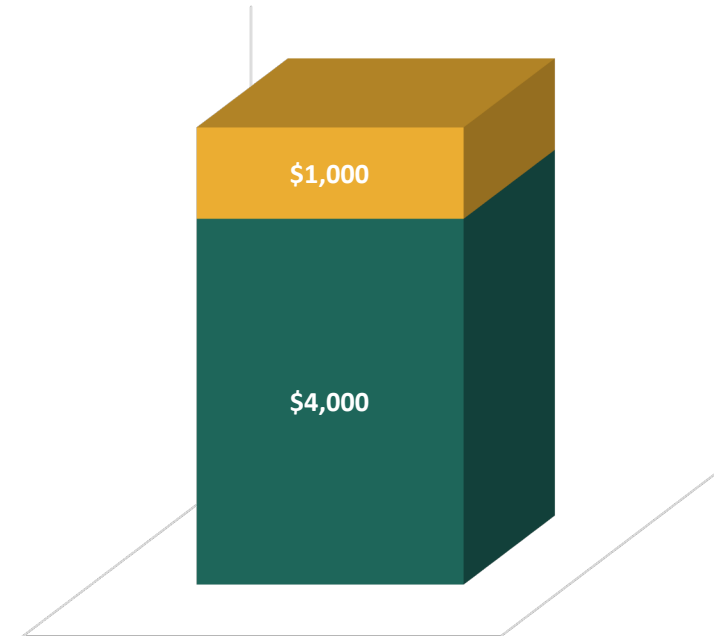
Amount raised by town: \$4,000 ($\$400,000 \times 1\%$)

State foundation grant: \$1,000 ($\$5,000 - \$4,000$)

Additional amount town has to raise: \$0

Tax rate: 1%

■ Amount raised at 1% ■ Foundation grant



Foundation Formula: (in)equity example

Towns A and B vote to spend \$10,000

Foundation amount: \$5,000

State base tax rate: 1%

Town A grand list: \$400,000

Amount raised by town: \$4,000

State foundation grant: \$1,000

Additional amount town has to raise: \$5,000

Tax rate: 2.25%

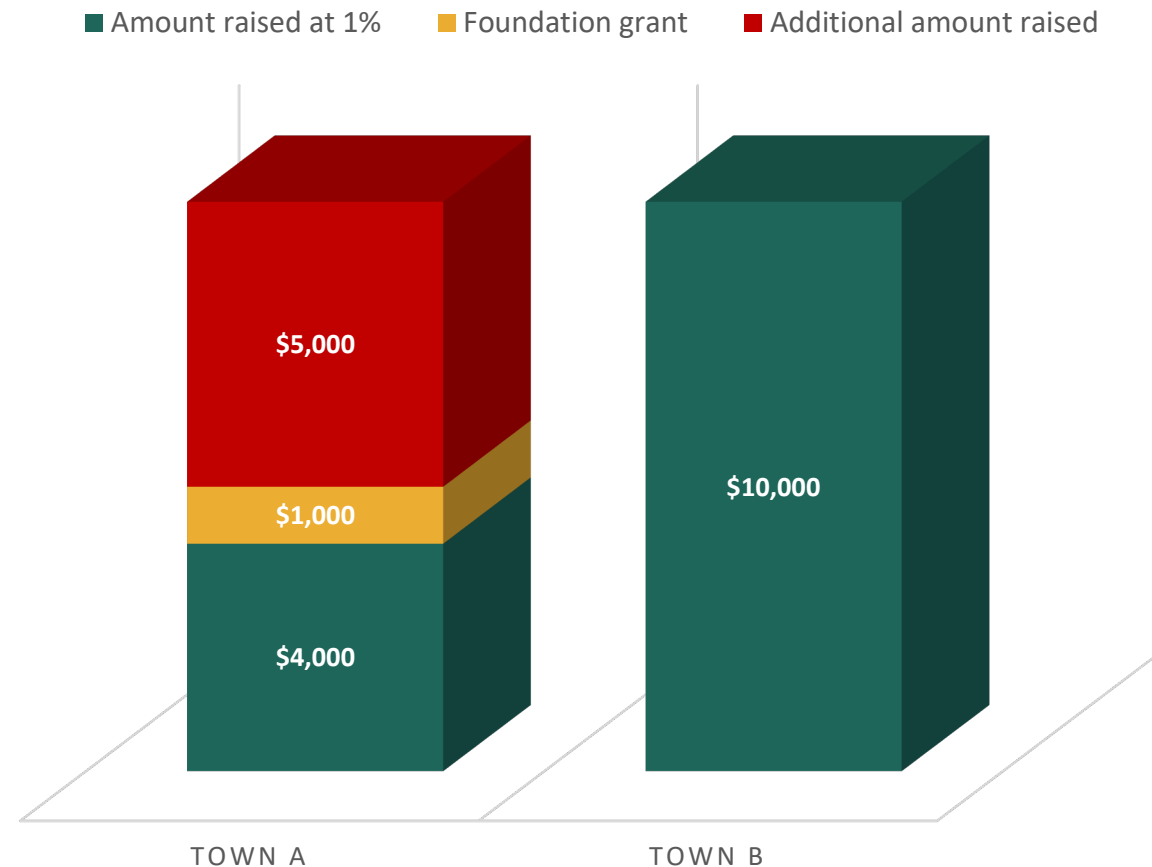
Town B grand list: \$1,000,000

Amount raised by town: \$10,000

State foundation grant: \$0

Additional amount town has to raise: \$0

Tax rate: 1%



Vermont Supreme Court in *Brigham*

Brigham v. State of Vermont, 166 Vt. 246 (1997)

- Narrow decision about constitutionality of education financing mechanism
- 3 sets of plaintiffs: students, property owners, school districts
 - Claim that Vermont's education finance system violated Vermont Constitution
- No case has since overruled *Brigham* or provided a new interpretation



Vermont Supreme Court in *Brigham*

Holdings

Vermont's education financing system at the time "with its substantial dependence on local property taxes and resultant wide disparities in revenues available to local school districts, deprives children of an equal educational opportunity in violation of the Vermont Constitution." *Brigham*, 249.

- Education Clause and Common Benefits Clause

"[T]o fulfill its constitutional obligation the [S]tate must ensure substantial equality of educational opportunity throughout Vermont." *Brigham*, 268.

- No requirement for absolute equality

"Although the Legislature should act under the Vermont Constitution to make educational opportunity available on substantially equal terms, the specific means of discharging this broadly defined duty is properly left to its discretion." *Brigham*, 268.

- No requirement for an education funding system based on property taxes or local control

Vermont Constitution

Education Clause, Chapter II, Section 68

- “a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.”

Common Benefits Clause, Chapter I, Article 7

- “[...] government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community [...].”

Brigham and Vermont Constitution

Education Clause

- “Only one governmental service—public education—has ever been accorded constitutional status in Vermont.” *Brigham*, 259.
- “Although it [Vermont Constitution, Education Clause] requires that a school be maintained in each town unless the Legislature permits otherwise, it is silent on the means of their support and funding.” *Brigham*, 259.
 - “[...] our Constitution *nowhere* states that the revenue for education must be raised locally, that the source of the revenue must be property taxes, or that such revenues must be distributed unequally in conformity with local wealth. To be sure, these are longstanding and traditional components of the educational financing system in Vermont, but none of these represents a constitutional imperative. They are choices made by the government of the State of Vermont, and choices for which it bears ultimate responsibility.” *Brigham*, 264 (emphasis in original).
 - “Chapter II, § 68 [Vermont Constitution, Education Clause] states in general terms the state's responsibility to provide for education, but is silent on the means to carry it out.” *Id.*

Brigham and Vermont Constitution

Common Benefits Clause

- Generally coextensive with the U.S. Equal Protection Clause. State must:
 - “demonstrate that any discrimination occasioned by the law serves a compelling governmental interest, and is narrowly tailored to serve that objective.” *Brigham*, 264.
- Court was “simply unable to fathom a legitimate governmental purpose to justify the gross inequities in educational opportunities evident from the record. The distribution of a resource as precious as educational opportunity may not have as its determining force the mere *fortuity* of a child's residence. It requires no particular constitutional expertise to recognize the capriciousness of such a system.” *Id.* (emphasis in original).

Legislative action

1997 Act 60: Equal Educational Opportunity Act

- Created statewide education property tax and State Education Fund
 - Uniform tax rate for minimum block grant; spending above grant = higher town tax rate
 - Property tax revenues pooled in Education Fund and redistributed based on local spending
 - Same tax rate for the same per pupil spending
- Repealed property tax rebate and created property tax adjustment
- Retained local control to vote on education spending
- 1998 Act 71: amendments to Act 60 and property tax system in following legislative session (and misc. changes every year since)

Legislative action

2003 Act 68

- Split grand list and tax rates into homestead and nonresidential (now nonhomestead)
 - Homestead tax rate based on education spending, not amount spent above block grant
 - Nonresidential tax rate uniform statewide
- Repealed local share property tax and local education spending
- Created excess spending threshold
- Property tax adjustment (now Property Tax Credit) and homestead declaration amended
- Required December 1st letter projecting property tax rates
- Created General Fund transfer to Education Fund; amended revenues deposited in Education Fund

Legislative action

Excess spending amendments

- See, [Beth St. James, Legislative Counsel, excess spending threshold legislative history \(April 4, 2024\)](#), pp. 9-20.

[2015 Act 46](#): school district mergers, tax rate discount

Pupil weighting

- [2018 Act 173](#); [AOE Report](#); [2021 Act 59](#); [Task Force Final Report](#); [2022 Act 127](#)

[2018 \(Spec. Sess.\) Act 11](#)

- Property tax credit changes; repealed General Fund transfer to Education Fund; changed revenues deposited in Education Fund (e.g., 100% sales tax)

[2024 Act 183](#): Commission on the Future of Public Education in Vermont

Thank you!