

# ETPI

Education Tax Policy Institute

Reforming Education Funding in Ohio:  
Analysis of Proposed Responses to *DeRolph*

November 2000

Prepared by  
Levin & Driscoll  
60 East Broad Street Suite 350  
Columbus, Ohio 43215

Education Tax Policy Institute  
8050 North High Street Suite 100  
Columbus, OH 43235  
614-540-4000

## EXECUTIVE SUMMARY

The Education Tax Policy Institute reviewed six plans for restructuring Ohio school finances. All of the plans attempt to address the overreliance in the current system on local property taxes. Some of the plans also address other problems in the current system as identified by the Ohio Supreme Court in *DeRolph v. State*. However, improvement of some aspect of overreliance on local property taxes clearly appeared as a common goal among the plans.

The proponents of the six plans deserve praise for making an effort to transform vague ideas about school funding reform into concrete proposals. Only the development of such specific proposals can drive the debate over school funding forward in a constructive way. However, the choice of specific changes in the current system also invites specific criticisms.

The review of each plan contains such specific criticisms. None of the plans appear to address all of the Court's concerns about the current system's overreliance on local property taxes. Most of the plans make very little effort to address the effect of differences in local wealth on the resources available to fund education. In fact, some of them may even worsen existing inequities among school districts.

The most difficult problem posed by the *DeRolph* decision requires a solution in which the continued opportunity for local option tax levies gets balanced against the need for greater equity among school districts. None of the plans face this challenge directly. None of them offer creative solutions to this central problem.

While four of the plans would require a constitutional amendment to implement structural changes in the property tax, only one of the proposals actually acknowledges the need for constitutional change. The others either ignore the constitution altogether, or rely upon the questionable notion that the State has a reserve of unvoted tax mills upon which it can draw because current tax statutes make taxable only a portion of the true value of property.

This review of six school funding plans does not offer a specific alternative plan. However, it does make suggestions for improvements in the plans covered by the review.

# Table of Contents

Executive Summary

Preface.....	1
Overview.....	2
Sub. H.B. 718 (Rep. Krebs).....	3
H.B. 754 (Rep. Netzley).....	7
Ohio Federation of Teachers.....	12
H.B. 781 (Rep. Flannery).....	14
Initiatives in Urban Education.....	19
Rep. Mottley.....	21
Summary and Table.....	25

## **Preface**

The Ohio Supreme Court issued its decision in *DeRolph II* in May, 2000. Since that time, much discussion has occurred about how the State can restructure the Ohio school funding system to respond appropriately to the Court's findings. Because the Court faulted the existing system on a number of different points, any attempt to improve the system to the Court's satisfaction must address multiple issues. The task of keeping all of these issues in focus simultaneously makes the design of a new school funding system especially difficult.

The problem of addressing all of the Court's concerns simultaneously in a single proposal is so difficult that it seems unreasonable to expect that any one proposal could incorporate all of the necessary improvements on the first try. For this reason, readers should view each proposal as a step in an iterative process in which ideas get proposed, modified, partially or even wholly rejected, until a satisfactory synthesis evolves from the debate.

A necessary step in this process requires that some participants move beyond the discussion of vague notions or general concepts to the development of specific proposals. The participants who present such specific proposals undertake a task filled with risks. As proposals proceed from general ideas to detailed plans, the opportunity to criticize them increases at least in proportion to the increase in the number of details described in each proposal.

The proposals evaluated in this paper represent the first efforts of a few brave participants to accept the risks involved in the presentation of specific plans for addressing the *DeRolph* requirements. The paper takes a critical view of these proposed plans. Such criticism is a necessary ingredient in the process of developing a successful response to the Court. However, no one should perceive any of these criticisms as directed at the sponsor or proponent of the proposals under consideration. In fact, the sponsors or proponents of these proposals deserve special recognition for undertaking the thankless task of presenting the initial specific plans for school funding reform.

## Overview

This paper provides an overview of six proposals for restructuring the Ohio school funding system. The proposals differ in the subjects that they emphasize and in the extent to which they would change the existing school finance system. The proposals are not equally comprehensive. They do not include comparable levels of detail from one proposal to the next.

For example, H.B. 718 (Rep. Krebs) focuses mostly on reforming the method by which school districts pay for the local share of the cost of education. Rep. Flannery's proposal (H.B. 781) addresses several aspects of school funding to some extent, but it does not propose substantive changes in the method for determining adequate funding levels. The Ohio Federation of Teachers (OFT) proposal covers more ground than the other proposals but it does so in less detail.

The common feature of the six proposals is that all of them attempt to address some aspects of the current system's overreliance on the local property tax as identified by the Ohio Supreme Court in the *DeRolph* decision. A reduction in reliance on the local property tax must include provisions that address four different aspects of the problem: total funding in school districts in which property taxes account for too high a percentage, phantom revenue, success in local levy campaigns as a condition for maintaining existing services, and inequitable distribution of school funding resources. These aspects of overreliance on the property tax form the background for the evaluation of the six proposals.

The discussion of each proposal contains the following parts. A brief summary of the proposal outlines its major features. Specific attention in each discussion focuses on important aspects of the school funding system identified as unconstitutional by the Ohio Supreme Court in the *DeRolph* case. These aspects of the system include a consideration of how each proposal approaches Adequacy, Overreliance on the Property Tax, and School Facilities. In discussing the Overreliance issue, the paper also attempts to highlight each proposal's attempts to reduce property taxes, eliminate phantom revenue, reduce the frequency of school tax ballot issues, and improve equity among school districts.

The discussion of each proposal also contains an analysis of the proposal's merits. These discussions attempt to evaluate how effectively the proposal would work. They measure the extent to which the proposals would improve the existing system.

Finally, to the extent that the analysis finds a proposal deficient, the discussion adds a section with suggestions for improving the proposal. These suggestions often result in significant changes in the original proposal. They represent the authors' assessment of what changes each proposal would need to satisfy the requirements set forth in the *DeRolph* opinions.

**Sub. H.B. 718 – Substitute Version – LSC 123-1025– 4 (Rep. Krebs)**

The bill would divide the Formula Amount into two parts beginning in FY02:

Classroom Base Cost - \$2,829

Non-Classroom Base Cost - \$1,585

These cost amounts would increase by approximately 2.8% per year through FY09. The bill would require the General Assembly to adjust the formula amount in a manner that reflects a rational basis for determining the cost of and funding for instructional services for an adequate educational program at least once every 8 years beginning in 2006.

The State would pay every district 100% of the Classroom Base Cost multiplied by the cost of doing business adjustment (CODB) and by the sum of average daily membership (ADM) plus special and vocational education weights. The method for determining the weights would not change from current law. The State would pay a portion of the Non-Classroom Base Cost as follows:

- 1) Lowest 25% of districts in per pupil value – State pays 100% of the Non-Classroom Base Cost;
- 2) Districts ranked in the middle between the 25<sup>th</sup> and 75<sup>th</sup> percent in per pupil value – State pays a percentage that declines as per pupil value increases (In FY02, a district ranked in this range would receive about 3 cents per pupil less in State aid for each additional dollar of taxable value per pupil);
- 3) Highest 25% of districts in per pupil value – State pays 0% of the Non-Classroom Base Cost.

School districts would pay any amount not included as part of the State's obligation. These same percentages would determine the percentage of transportation costs that the State would pay. The computation of transportation costs would follow current law.

Since the computation of special education and vocational education amounts would occur as part of the computation of the Classroom and Non-Classroom Bases, the separate chargeoff for these aspects of adequacy under current law would not apply under the new system.

The bill would phase in the new system described above over the period from FY02 through FY09. Each year, the State would compute State aid two ways – under the old method and under the new method. In the first year (FY02), 12 \_ % of each district's aid would be computed under the new method and 87 \_ % under the old method. Each subsequent year, the new method share would increase by 12 \_ % and the old method share would decrease by the same percentage. By FY09, the new method would account for all State aid.

The bill would phase out the minimum number of mills required to be levied by a school district by 2 \_ mills per year beginning with a reduction from 20 mills to 17 \_ mills in tax year 2001. After tax year 2007, the law would no longer require a school district to levy any minimum number of mills. A similar phase out would reduce the floor of the tax reduction factor from 2% to zero over the same period.

**Adequacy** – The bill uses the current amount for funding an adequate education already held by the Supreme Court in *DeRolph II* to be too low. The bill may anticipate that the legislative process will address the adequacy issue at a later time. Under such an assumption the per pupil amounts used in the bill would represent place-holders until the General Assembly revises its computation of the cost of an adequate education.

**Overreliance** – The bill would reduce relative reliance on real property taxes in that the elimination of the chargeoff would reduce local funding requirements to some extent. No chargeoff also would mean no more phantom revenue. Also, the bill would eliminate over several years the minimum floor or guarantee for school districts (20 mills). The bill appears to increase the share of State aid paid to wealthy school districts because it would require the State to pay 100% of the Classroom Base Cost for all school districts. As a result, the bill would use a considerable amount of State resources in a manner that would not increase equity in the funding system. Only simulations of the new system could determine whether the appearance of increased inequity actually would occur.

**Facilities** – Sub. H.B. 718 would not address the facilities issue in any way.

### **Analysis of Sub. H.B. 718**

Sub. H.B. 718 focuses on reducing property taxes. It attempts to reduce property taxes in three ways by:

- 1) Eliminating the mandatory 20 mill tax required for participation in State funding with annual decreases of 2 \_ mills;
- 2) Eliminating the 2% guarantee through which school districts with effective tax rates at 20 mills now receive increases in tax revenue during reappraisals and updates;
- 3) Subsidizing the basic classroom cost for all school districts of \$2,829 per pupil with the intention that this additional State aid will discourage new tax levies for operating purposes.

According to the sponsor, an LBO analysis of property tax increases estimates that a \$25 million savings can result from eliminating increases caused by new levies, by replacement levies, and by the 20 mill guarantee. This estimate implies a total increase in taxes of a little over \$200 million. (\$25 million divided by 12 \_% = \$200 million.) In fact, real property taxes for operations grew by \$237 million from FY00 to FY01, but of this amount growth in taxes from unvoted mills accounted for \$62 million and growth in

taxes from new construction accounted for about \$77 million. This means that the growth attributable to new levies, replacement levies, and the 20 mill guarantee equaled about \$98 million or less than one-half of the LBO estimate. A corresponding reduction in the rollback reimbursement estimate would reduce the savings to about \$12 million instead of \$25 million.

The focus of Sub. H.B. 718 on property tax reduction also creates the possibility of a conflict with the Ohio Supreme Court. The Court's decision in *DeRolph II* emphasized that changes to the existing system must improve equity. The method used to lower property taxes in H.B. 718 conflicts with the achievement of greater equity. For example, in Northern Local School District (Perry County), a plaintiff district in the *DeRolph* case, the elimination of the 20 mill guarantee means that the school district would receive about \$322,000 less in Class 1 real property taxes under the proposal. This reduction occurs because the district currently will charge 20 mills against Class 1 property, but under the proposal it would charge only 17.5 mills.

LBO estimates project that Northern LSD will receive \$231.30 per pupil in additional State funds. These projections do not adjust for the loss in local funds. Assuming enrollment of 2,215.8, the reduction in local taxes of \$322,000 would equal a loss of about \$145 per pupil. Therefore, the district's net gain would equal \$231 in State aid minus \$145 in reduced taxes equals \$86 per pupil net increase.

The \$86 per pupil net gain for Northern LSD accounts for one year's worth of the change proposed in Sub. H.B. 718. LBO estimates that the full impact of the proposal would mean about \$1,659 per pupil for Northern LSD. In contrast, Upper Arlington CSD, a district with nearly \$200,000 in per pupil taxable value, would receive \$318.70 per pupil in additional State aid in FY01 with no automatic reduction in taxes. The full impact for Upper Arlington would equal a gain of \$2,549.60 per pupil ( $8 \times \$318.70 = \$2,549.60$ ).

Sub. H.B. 718 uses State resources to subsidize a reduction in property taxes. It subsidizes that reduction without regard for whether the school districts in which reductions occur can afford less property tax revenues and without regard for the size of the tax burden in each school district. By using State resources to lower property taxes rather than to promote more equitable funding, the proposal would not comply with the Court's mandate in the *DeRolph* case. The contrast between the impact of the proposal on Northern LSD and Upper Arlington CSD shows that the funding disparity between the two districts would increase if the proposal were enacted in its current form.

The effect of this proposal is to use State dollars to buy down property taxes. The formula used to accomplish such a reduction generally spends more State dollars per pupil in wealthy districts than it does in less wealthy districts. Thus, while the proposal reduces total property taxes, those reductions tend to occur in school districts with relatively high valuation per pupil. This result worsens the equitable distribution of the Ohio's total state and local resources available to fund education rather than improving that distribution.

## **Suggestions for Improving Sub. H.B. 718**

In its enthusiasm for reducing property taxes, this proposal expends large amounts of State revenue in ways that do not improve the equitable distribution of resources. After the proposal reaches maturity in 8 years, its total additional cost (exclusive of annual adjustments for inflation) would equal approximately 8 times the first year additional cost. Therefore, the real cost of this proposal equals about \$1.6 billion ( $\$200 \text{ million} \times 8 = \$1.6 \text{ billion}$ ).

By reducing the minimum required tax levy for participation in the State aid program from 20 mills to zero mills, the proposal implies that reducing school property taxes entirely would improve the current system. In contrast, good tax policy would suggest that the State should preserve a balance of funding sources. According to this argument, the school funding system should not abandon the property tax entirely as a source of revenue for school operations.

Some minimum effective rate of property tax is justifiable. As an alternative to Sub. H.B. 718, the State could phase-in a 10 mill statewide tax with a constant effective rate. The 10 mill tax would yield about \$1.9 billion (including the rollback reimbursements) based on tax year 1999 values. The proposal could mandate a 10 mill reduction in local taxes to offset the new State tax. Revenue from the State tax would help to pay for the basic classroom cost. Local contributions for the non-instructional base costs could range from 1 mill to 15 mills depending on a school district's wealth measured in terms of taxable property or personal income. The additional revenue otherwise committed to funding Sub. H.B. 718 (\$1.6 billion?) instead could fund an equalization effort by the State. Equalization could take the form of per pupil subsidies distributed in inverse proportion to district wealth or as matching dollars for property or income taxes levied by a school district in addition to its required amount. The proportion of State matching dollars to local taxes also would vary inversely with school district wealth.

This suggestion is not offered as a fully developed and fully simulated plan. However, it does emphasize two aspects of school funding that Sub. H.B. 718 does not address adequately. First, the statewide property tax preserves some role for property taxes in school funding throughout the State. Second, the redistribution of revenues with a greater emphasis on school district wealth responds to the DeRolph II decision's mandate for more equitable funding.

## **H.B. 754 – (Rep. Netzley)**

The bill would repeal school district operating taxes to the extent that they apply to real property (both classes). The State would compute a school district income tax (SDIT) rate for each district sufficient to replace the amount by which the bill reduced real property taxes.

The bill would change the charge-off amount. The new chargeoff would equal the lesser of the following two amounts:

(1) 23 mills times the district's adjusted total taxable value; or

(2) The district's SDIT revenue plus its voted taxes charged for current expenses against general and public utility tangible personal property.

The first alternative would not differ from the current chargeoff. The second alternative would equal the district's total operating taxes other than taxes levied on property with inside mills. The computation of the State share percentage would not change other than to the extent that the change in the chargeoff changes the amount of the local share in any given school district. The bill would continue the apportionment of special education and vocational education aid as under current law using the State share percentage as the basis of the apportionment.

**Adequacy** – The bill would not change the existing laws for determining the adequate funding level.

**Overreliance** – The bill would reduce overreliance on the property tax in several ways. It would eliminate entirely property taxes on real property for school operating purposes. The elimination of real property taxes for school operations would reduce the need for school levy proposals. The elimination of real property tax operating levies and the adoption of a new method for computing the chargeoff would end the phantom revenue problem. The bill would not address the equity problem under current law. First, it would not change existing inequalities based on the location of general and public utility business property. Second, it would trade one form of inequity – the unequal distribution of real property wealth among school districts – for another inequity – the unequal distribution of income.

**Facilities** – The bill would not change the existing facilities funding programs.

## **Analysis**

By replacing real property taxes with income taxes, the proposal would shift some taxes from business (Class 2 real property taxes) to individuals because businesses do not

pay the SDIT. The bill does offer an alternative by which school districts could shift the reduction in Class 2 real property (business real estate) taxes to personal property by raising the tax rate on such property with voter approval. Voters would have every incentive to approve this tax shift. As a result personal property would bear an additional burden depending on how much Class 2 real property exists in a school district. Also, some tax shifts would occur from homeowners to renters to the extent that landlords do not pass on the savings from real property tax reductions to tenants.

H.B. 754 also does not address inequities in the distribution of school resources in a way that the Ohio Supreme Court will accept. For example, the following table shows the percentage of federal adjusted gross income (FAGI) for each school district in Franklin and Cuyahoga Counties required to raise the same dollars as real property taxes raise in the same school districts. These estimates assume that the school districts do *not* shift Class 2 taxes to personal property.

**Table 1: 1999 Real Property Taxes as a Percentage of 1998 FAGI in Franklin County School Districts**

	<b>Real Property Taxes</b>	<b>Real Property Taxes/Pupil</b>	<b>Percentage of FAGI</b>
Bexley City SD	14,700,058	6,433	1.90%
Canal Winchester Local SD	4,305,552	2,265	1.70%
Columbus City SD	216,945,531	3,473	2.90%
Dublin City SD	63,751,783	5,895	2.86%
Gahanna-Jefferson City SD	28,644,585	4,357	2.50%
Grandview Heights City SD	6,353,661	5,060	2.80%
Groveport Madison Local SD	17,852,712	3,293	3.51%
Hamilton Local SD	3,944,128	1,489	2.35%
Hilliard City SD	39,116,476	3,284	2.56%
Plain Local SD	10,255,321	6,804	1.71%
Reynoldsburg City SD	14,315,135	2,684	1.98%
South-Western City SD	47,745,006	2,718	2.70%
Upper Arlington City SD	39,625,304	7,230	2.40%
Westerville City SD	46,469,343	3,560	2.36%
Whitehall City SD	9,088,527	3,112	3.54%
Worthington City SD	49,202,459	4,837	2.85%

**Table 2: 1999 Real Property Taxes as a Percentage of 1998 FAGI in Cuyahoga County School Districts**

	<b>Real Property Taxes</b>	<b>Real Property Taxes/Pupil</b>	<b>Percentage of FAGI</b>
Bay Village City SD	13,685,879	5,743	2.16%
Beachwood City SD	15,488,944	10,619	2.16%
Bedford City SD	18,738,675	4,857	3.56%
Berea City SD	35,705,730	4,678	3.52%
Brecksville-Broadview Hts	19,300,421	4,915	2.04%
Brooklyn City SD	6,812,856	5,252	3.18%
Chagrin Falls Ex Vill SD	12,079,175	6,597	1.73%
Cleveland City SD	158,481,976	2,175	3.25%
Cleveland Hts-Univ Hts CSD	42,972,789	6,419	2.90%
Cuyahoga Heights Local SD	5,315,249	7,187	3.98%
East Cleveland City SD	9,222,829	1,560	4.32%
Euclid City SD	26,209,137	4,634	3.21%
Fairview Park City SD	11,966,868	6,078	2.69%
Garfield Heights City SD	11,232,373	3,391	2.58%
Independence Local SD	7,092,548	7,318	3.10%
Lakewood City SD	30,676,049	4,533	2.60%
Maple Heights City SD	9,976,824	2,659	2.46%
Mayfield City SD	23,666,800	6,310	2.27%
North Olmsted City SD	23,122,828	4,853	3.03%
North Royalton City SD	19,130,233	4,660	2.61%
Olmsted Falls City SD	13,406,118	4,633	3.44%
Orange City SD	22,002,911	10,724	1.86%
Parma City SD	60,953,148	4,842	2.77%
Richmond Heights Local SD	6,724,057	6,834	2.49%
Rocky River City SD	16,151,607	6,894	2.06%
Shaker Heights City SD	41,168,045	7,535	2.40%
Solon City SD	24,922,055	5,183	2.99%
South Euclid-Lyndhurst CSD	28,695,043	6,831	3.15%
Strongsville City SD	31,015,667	4,734	2.45%
Warrensville Heights City SD	12,368,982	4,348	6.04%
Westlake City SD	22,836,622	6,391	1.89%

The two tables show how real property taxes equal very different percentages of FAGI from school district to school district. Actual tax rates would tend to equal even higher percentages because the tax base defined as Ohio Taxable Income (OTI) tends to be less than FAGI.

More importantly, the tables provide ample illustrations to show the unfairness associated with converting directly from local real property taxes to local income taxes.

For example, Richmond Heights (\$6,834) and South Euclid (\$6,831) charge almost exactly the same amount of per pupil real property taxes. The conversion of those taxes into percentages of FAGI implies significantly different income tax rates of 2.49% for Richmond Heights and 3.15% for South Euclid. In other words, South Euclid would levy a \_ % greater tax rate to obtain three dollars less per pupil than Richmond Heights.

In another comparison, real property taxes in Upper Arlington and Westerville school district would convert into almost the same percentage of FAGI – 2.40% and 2.36%, respectively. However, Upper Arlington would replace almost exactly twice as much real property tax revenue per pupil - \$7,230 and \$3,560, respectively. It is not difficult to find many similar inequalities by reviewing Tables 1 and 2 carefully.

Generally, income taxes match more closely with ability-to-pay than property taxes. If ability-to-pay were the only consideration in determining whether to convert from property taxes to income taxes, then H.B. 754 would accomplish an appropriate goal. However, the proposal does not only change the basis for determining tax liability among the same group of taxpayers. It also changes identity of the taxpayer who will pay the tax. For example, in the Columbus CSD, Class 2 real property currently accounts for about 53% of all real property taxes for school operations. Businesses pay these Class 2 taxes. Under H.B. 754, more than one-half of the real property taxes now charged by the district would shift from businesses to individuals. (If the district exercised the option to shift Class 2 taxes on to personal property instead of on to the income tax base, general and public utility personal property would pay taxes based on a tax rate of about 139 mills.) In contrast, business real estate accounts for only about 8% of the property taxes charged by Bexley CSD. Thus, the magnitude of tax shifts will differ greatly from one tax district to the next.

The shift from local real property taxes to local income taxes would not necessarily improve the equity in the school funding system. Per pupil FAGI amounts for all school districts show slightly more inequality than per pupil real property values if the unusually high per pupil valuation in the Kelley’s Island school district is removed from the comparison. By dividing the income tax base among 611 school districts, the differences in the ability of districts to raise funds locally do not become smaller compared to differences in the distribution of the real property tax base.

Finally, H.B. 754 contains a provision that undermines the major advantage of an income tax. In future years, if the amount of income taxes charged by the new local income tax rate exceeds the amount of taxes charged at the outset by more than 10%, the school district must lower the tax rate. In other words, the bill contains a revenue cap on the income tax. After a district gets 10% growth, it cannot get any more....ever. The primary benefit of an income tax is its capacity for growth as the economy grows. This growth potential offsets the disadvantage associated with an income tax’s greater volatility in times of economic recession. Thus, H.B. 754 would offer the worst of both worlds. It would expose school districts to the additional instability associated with taxes based on income, and, at the same time, it foregoes the growth feature of income taxes that compensates for their greater volatility.

## **Suggestions for Improving H.B. 754**

Ohio Taxable Income (OTI) for tax year 1998 equaled \$228.4 billion. Assuming a 6 % increase from 1998 to 1999, OTI would exceed \$240 billion by 1999. A 2% tax levied on that base would yield more than \$4.8 billion in revenue. In comparison, real property taxes charged against Class 1 real property equaled about \$3.3 billion in Tax Year 1999 of which taxpayers paid \$2.9 billion directly and the State paid about \$400 million from its GRF in rollback reimbursements.

If the State levied a 2% school district income tax (SDIT) on all Ohio Taxable Income, it could repeal taxes for school operations charged against Class 1 real property entirely. The State would have a net increase of \$1.9 billion (\$4.8 billion SDIT + \$400 million rollback reimbursement - \$3.3 billion Class 1 revenue = \$1.9 billion). The same assumptions mean that a 1.2 % SDIT would be approximately revenue neutral.

By maintaining existing taxes on Class 2 real property, this suggestion for improving H.B. 754 offers the advantage of avoiding tax shifts from Class 2 property owners to personal income taxpayers. Unfortunately, taxing Class 2 property and not taxing Class 1 property would create a possible unconstitutional classification under the Uniform Rule. Therefore, this suggested change in H.B. 754 may require a constitutional amendment. Another advantage offered by the suggestion results if the higher SDIT rate is employed. The net increase in revenue yield obtained from a 2% SDIT would permit the enactment of a renters' credit or circuit breaker in the State income tax designed to offset some of the shift in taxes from homeowners to renters that otherwise occurs when the SDIT replaces Class 1 property taxes. A final advantage offered by the suggested alternative would result to the extent that the higher SDIT tax rate yielded additional revenue beyond a revenue neutral amount. Under such circumstances, the proposal could earmark a portion of the new SDIT for the district from which the tax originates. The disequalizing potential of such a provision would do less harm if the other sources of property tax were used along with other State revenues to fund the cost of adequacy.

Regardless of the initial rate of the SDIT, no reason exists to limit revenue growth caused by the expansion of the income tax base. The tax cap associated with real property taxes depends on the justification that ability to pay does not increase at the same pace as increases in valuation. This justification does not apply in the case of the income tax. Thus, a revenue cap on the SDIT does not make sense, and the proposal should discard it.

The conversion of school funding from local real property taxes to State/local income taxes would raise many issues that these brief suggestions do not address. No attempt appears here to set forth a comprehensive restructuring based on the use of the SDIT. However, the suggestions are intended to show that remedies exist for the flaws in H.B. 754 as described in the preceding sections of this paper.

## **Ohio Federation of Teachers Proposal**

Since this proposal takes the form of a series of recommendations rather than an actual draft of legislation, it lacks the degree of detail provided by other plans.

**Adequacy** – The proposal would require the appointment of an independent commission or expert to determine the cost of an adequate education. A system of weights would fund special and vocational education aid. The cost of doing business adjustment would be fully implemented immediately.

**Overreliance** – The proposal would pool all property other than Class 1 real property at the State level. A uniform rate would apply in each school district on Class 1 property. Additional local option taxes on Class 1 property for operations would be prohibited or strictly limited. Real property tax rollbacks would be eliminated in favor of a circuit breaker program at the State level. Districts that raise more revenue than adequacy requires would be frozen at the current level until other school districts catch up. The proposal would reduce reliance on property taxes by capping local levy options. Phantom revenue would be eliminated because every district's local share would equal 20 mills which the district could levy without limitation. The proposal emphasizes equity by limiting the amount of school operating funds that districts could raise locally.

**Facilities** – The proposal would cap the local contribution for facilities as 50%. It would use the rainy day fund for capital projects. School districts could levy up to 3 mills for facilities purposes without voter approval. The proposal would earmark the lottery for debt service for school facilities while still requiring contributions from current appropriations of general revenues for those facilities as well.

**Other Issues** – The proposal would cap the number of charter schools at the current level. Charter schools would receive separate funds such that the appropriation of funds for charter schools would not diminish State aid for “regular” public schools.

The proposal specifies that any additional revenue needed to fund schools should come from an expansion of the sales tax base to include more services, higher income and franchise tax rates, or from a higher State tax rate on business property.

### **Analysis**

The OFT proposal suffers from internal inconsistencies. In some ways, the proposal looks like the product of a committee process in which no editorial supervisor reconciled different proposals from different members. The major inconsistency involves the determination of the local share of the cost of adequacy.

The proposal requires an independent commission or expert to devise a system for establishing the cost of an adequate education with all of its component parts. The State would compute the total cost associated with this system. A policy decision would

determine the percentage of the total cost apportioned to the State and, in the aggregate to school districts. For example, if the cost of an adequate education under the new system equaled \$10 billion, the General Assembly might decide that school districts should pay 50% of that cost and the State should pay the other 50%.

The next step in the proposal would require the State to compute a uniform property tax rate sufficient to raise the local share. In the example, this rate would raise \$5 billion. The tax rate required to raise that amount would equal about 25.8 mills in FY01 based on Tax Year 1999 data. Thus, every school district would levy 25.8 mills on its total taxable valuation. The resulting revenue would pay for the aggregate local share.

Now here is the contradiction. The proposal also states that each school district would retain the taxes on Class 1 property. If each district retains its Class 1 taxes separate from its contribution to the local share of the cost of an adequate education, then the concept of computing the local share in the aggregate and assigning a uniform statewide tax rate for all property makes no sense. It makes no sense because the mathematical result will not pay for adequacy. Alternatively, if Class 1 taxes apply toward each district's local share of the cost of an adequate education, then the statement that Class 1 taxes remain local has no meaning. In other words, if the law allows a district to levy only 20 mills, and if the school district must spend all of that 20 mills to pay for the State-mandated cost of an adequate education, then the school district has no more control over the 20 mills of revenue yield from Class 1 property than it would have over a State tax levied on the same property at the same rate.

Additional evidence suggests that the proponents of this proposal do not understand their own recommendations. Specifically, the proposal would require school district approval for property tax abatements, although such local approval makes no sense in the context of the statewide tax on business property that appears elsewhere in the proposal. Once the only school taxes on business property apply at the State level, the ratification of a tax abatement does not impose any cost on the school district in which the abated property exists. The abatement would reduce the total pool of property taxes available to the State, but it would not reduce the resources of any school district. Under such circumstances, the State bears the cost of any abatement. The Director of OBM is the logical authority to receive veto power over abatements under the proposed system rather than local school boards.

The enactment of a uniform statewide tax on business property would cause significant shifts in tax burden depending on the location of such property. The OFT plan remains vague in its details. This vagueness makes it difficult to project the plan's actual tax effects. Currently, the average effective rate on all property equals about 33 mills, and this tax rate yields about \$6.3 billion. If the same amount of revenue were obtained from a uniform 33 mill tax rather than the current tax rates, some property would experience a 13 mill increase from 20 mills. At the same time, the reduction for personal property would average about 16 mills. All of these projections are very speculative, but their speculative nature shows that the OFT plan at best appears as a half-finished product.

## **H.B. 781 (Rep. Flannery)**

The bill would use the current definition of adequacy and the current weights for special and vocational education. It would change both the amount of taxes charged for current expenses by each school district and the method by which the school funding formula charges each school district with responsibility for some portion of the cost of adequacy. Under current law, the local chargeoff applies at the rate of 23 mills of adjusted valuation as a deduction from the basic aid amount (Basic aid = per pupil subsidy X cost-of-doing-business adjustment X enrollment). The percentage relationship between the State and local responsibility for this basic amount defines the State and local responsibility for special education and vocational education also. In a sense, current law provides a chargeoff for basic aid and then two other chargeoffs in the same proportion for special and vocational aid. A separate computation assigns to school districts a share of transportation costs.

The bill would create the concept of “principal education funding.” This term would include the following elements: 1) Basic aid amount 2) Special education, 3) Speech services, 4) Vocational education, 5) Grads program funding, 6) Gifted education aid, 7) Disadvantaged pupil aid (DPIA), and 8) Transportation cost. The computation of these elements would not differ significantly from current law. However, as a chargeoff against the sum of these amounts, each school district would be charged only 20 mills times the district’s adjusted value. This chargeoff would be the one and only local chargeoff. The State’s share of the cost of an adequate education would equal the sum of the eight items listed above minus the 20 mill chargeoff.

The bill also would create a concept called a “reducible tax.” This term appears to equate to taxes levied in each school district for operating purposes on real property in excess of 20 effective mills. The formula for computing reducible taxes is difficult to understand. However, the final object appears to attempt to reduce the real estate tax in every school district for operations in tax year 2001 to 20 mills. Districts could not vote new taxes until tax year 2003. Any additional taxes on real property approved after January 1, 2003, would be subject to reduction under the provisions of H.B. 920, but such reductions would not apply to the 20 mills that remain after the subtraction of reducible taxes. The bill does not change any taxes currently charged against personal property.

A guarantee would insure that every district’s fundamental State aid would equal the sum of the FY01 fundamental State aid plus the amount of revenue loss attributable to reducible taxes based on tax year 2000. An inflation factor would adjust the guarantee each year by 1% in the top 10% of school districts as measured by per pupil valuation and by the actual inflation rate in the rest of the districts.

The bill also would add a program of enhancement grants available to school districts which show a useful purpose and a need for additional State funds. An initial amount of \$500 million would fund the enhancement grants. These grants are intended

as a source of money outside of the foundation formula with which school districts could pursue innovative programs. Some districts would not qualify for grants from the program. Specifically, if a district spends more than 130% of the statewide average in per pupil principal education funds, it could not receive an enhancement grant.

Finally, the bill would repeal property tax rollbacks. The State money saved through the repeal of the rollbacks would provide additional funds to finance the bill's restructuring of school finances.

**Adequacy** – The bill would not change the determination of adequate funding under current law.

**Overreliance** – The bill would reduce local property taxes in the short run, but it would allow for reliance on such taxes to grow again. It would not change unequal distributions of local taxes to the extent that they result from the location of personal property. The bill would eliminate phantom revenue by excluding the chargeoff rate of 20 mills from the effects of H.B. 920. The ability of school districts to raise the chargeoff amount without reduction should lessen the frequency of local tax levy proposals. The bill would not address the inequitable distribution of taxable wealth among school districts.

**Facilities** – The bill would retain the existing facilities program, except it would expand the current criteria by which school districts qualify for emergency school building repair funds.

### **Analysis of H.B. 781**

Three features of the bill raise serious concerns:

1) An important aspect of the proposal depends on a false assumption. Its system of local school taxes assumes that the law could authorize 20 mills of taxes on real property exclusive of H.B. 920 reductions, *and* that school districts could levy additional taxes without affecting the tax rate of the original 20 mills. The current Constitution does not permit such an arrangement. Section 2a of Article XII, Ohio Constitution, provides that, if the law classifies Class 1 and Class 2 real property for different effective tax rates, then the tax reduction factor must apply to *all* voted taxes (other than debt mills and emergency mills). An exception exists in the Constitution by which the law can establish a minimum percentage applicable to all school districts below which reductions cannot force the effective tax rate.

For example, under current law, a 2% minimum percentage prevents H.B. 920 tax reduction factors from reducing a school district's effective tax rate for operations below 20 mills on either class of real property. When a school district reaches this minimum effective rate, it receives revenue increases in proportion to each increase in valuation from a reappraisal or update. In conversational terms, the district "gets growth" from the first 20 mills. The proposal would reduce every district to this "floor" or "guarantee." If

every district were situated at the guarantee level, every district would receive revenue increases from reappraisals or updates.

However, the proposal eventually would permit school districts to propose new property taxes in addition to the 20 mill floor. It appears to assume that growth would continue to occur with respect to those first 20 mills and that tax reduction factors would apply only to the excess taxes levied above those initial mills. For example, assume that a school district added 5 mills in addition to the mandatory 20 mills. At reappraisal time, a 10% increase in valuation occurs. The proposal appears to assume that H.B. 920 would reduce the additional 5 mills by 10%. The district's effective tax rate would equal 24 \_ mills (20 mills + 5 mills - (10% x 5 mills) = 24.5 mills). In fact, the Constitution would compel a reduction to about 22 \_ mills because the 10% reduction would apply to the full amount of 25 mills. (This example slightly oversimplifies the actual computations, but in principle it accurately shows the difference between the proposal's apparent assumptions and its actual impact.)

The proposal attempts to eliminate Phantom Revenue by allowing the chargeoff mills (20 mills) to grow as property valuations increase. This attempt runs afoul of the Constitution. Only a constitutional amendment could accomplish what the proposal attempts to achieve through legislation.

2) Another difficulty with the proposal results from the cost of the guarantee provisions. The bill would reduce property taxes everywhere, and the State would pick up the cost of this reduction. This across-the-board reduction in real property taxes means that reductions would occur in school districts like Bexley or Upper Arlington as well as in school districts in Ohio's poor Appalachian counties. The use of State funds to replace property taxes in school districts with high valuation probably does not qualify as the most efficient possible expenditure. It seems reasonable to predict that of the additional State dollars spent under this program a disproportionate amount would go to relatively wealthy school districts. The reason is that the replacement of reducible property taxes under the guarantee program would mean the substitution of State dollars for local dollars in school districts with the highest property taxes.

3) Another questionable feature of the proposal is the role of discretionary grants envisioned for the enhancement grant program. The goal of this program has merit. It attempts to make available discretionary funds so that all school districts can undertake innovative programs and experiments. Under the current system, such opportunities tend to occur only in relatively few wealthy districts. The downside of such a program results from the emphasis that it would place on the grant application process. As school districts compete for \$500 million of grant money annually, innovation for the sake of obtaining additional funds would become institutionalized in the school funding system. The concept of the program is that successful programs would become an integral part of a school district's fundamental aid. Difficulties would exist in the objective measurement of success in such programs and in the process by which funding for a successful program would convert from an enhancement grant to fundamental aid. The

accumulation of such conversions over time would undermine the concept of the cost of an adequate education as a common standard for school funding.

At best, the enhancement grant program would increase the complications and the red tape in the school funding system. As it became institutionalized over time, it would exacerbate the problem of insuring equitable funding. In future years, two districts with similar student populations could have different funding profiles based on the success or failure of different enhancement grant funds. Without constant monitoring, it would be impossible to know whether the programs, originally funded with an enhancement grant, continued to justify differential funding. The whole process of assessing equity within the system would become much more difficult.

In the worst case scenario, this aspect of the proposal would inject into K-12 education one of the very worst features of higher education in the United States. Under such a grant system, school superintendents would not spend as much of their time supervising tax levy campaigns. Instead, they would spend their time supervising grant applications. As is frequently the case in higher education, a faculty member's teaching ability could take second place to the teacher's grantsmanship. The stewardship of local school boards could degenerate into a process of choosing priorities among grant applications.

In evaluating the benefits of the enhancement grant proposal, it is important to consider the long term effects of such a system for education funding as well as the more obvious short-term advantages.

H.B. 781 contains one especially positive improvement in the current system. It abandons the existing system for apportioning State and local shares in which separate "chargeoffs" apply against basic aid, special education aid, vocational education aid, and transportation aid. Instead, it substitutes one chargeoff of 20 mills multiplied by adjusted taxable valuation. Thus, the new formula establishes each district's local share with one simple computation. As a result, a school district can explain its local share in a straightforward manner to the voters. Under the current system, the explanation of the local share requires the school district to describe three different formulas.

Some policymakers may dispute the level at which the proposal sets the local share. Perhaps 20 mills is too low. Or perhaps the local share should not be based on a uniform number of mills. The proposal has this important feature: by reducing the chargeoff to one computation, it performs a major and much needed simplification of the existing system.

### **Suggestions for Improving H.B. 781**

Any reform or restructuring of school taxes on property must address the role of the personal property tax in the new system. This aspect of the property tax contributes most to inequalities among school districts. If these inequalities persist under the new system, then other adjustments should compensate for them. Examples would include a

higher chargeoff based on actual revenues from personal property, the use of a statewide tax on personal property, or a recapture provision by which some of the business property wealth in the State gets redistributed. The latter two of these three suggestions would require a constitutional amendment.

For some districts, a chargeoff of 20 mills would require a local contribution that is too high. Other districts could afford a chargeoff higher than 20 mills without difficulty. The proposal's single chargeoff would have even more merit if it varied somewhat with each school district's ability to pay. Such a variable chargeoff might range from 15 mills in poor districts to 25 mills in wealthy districts. Such a variable charge could allow the State to take greater collective advantage of the property tax base.

The proposal should eliminate the \$500 million fund for education grants. The investment of a comparable amount in an equalization program for taxes voted above the amount required to fund an adequate education would provide a much more efficient use of that amount of revenue. An equalization program would reward local effort rather than grantsmanship.

## **Initiatives in Urban Education Foundation Proposal (Hugh Calkins)**

This proposal does not yet exist in the form of a legislative draft. Therefore, all of the details of the proposal are not specified. The concept of the proposal involves a gradual transition from local taxation of business property for school operations to a State tax on business property for that purpose. Over a 10 year period, both a State tax and a local tax would apply to Class 2 real property and general and public utility personal property. The State tax would consist of two rates applied separately to Class 2 real property and personal property. These rates would equal the average tax rate levied on Class 2 property in a base year, such as 1999, and the average tax rate levied on personal property in the same base year. Average rates would be computed by dividing total taxes in the base year by total valuation in the base year. The local tax rate would be computed as under current law. Each year the percentage of the taxable value subjected to each tax would increase for the State tax and decrease for the local tax by 10%. For example, in the first year, the State tax would apply to 10% of the business property base and the local tax would apply to 90% of that base. In the second year, the State base would equal 20% and the local base 80%, and so on. By the tenth year, the local tax base would disappear, and all business property taxation would occur at the State level.

**Adequacy** – The proposal would not address the methods for computing the adequate cost of an education, except it would require annual 6.1% increases in the basic per pupil amount over the 10 year transition period.

**Overreliance** – The proposal would not reduce property taxes, but it would reduce *local* property taxes because all business property taxes would be paid to the State for redistribution among school districts according to need. The proposal would not address phantom revenue issues. It would not necessarily reduce the number of local tax levies. It would improve equity among school districts by redistributing the taxes that result from concentrations of business property.

**Facilities** – The proposal would not address facility issues.

**Other Issues** – The proposal would require a constitutional amendment. The change from different local tax rates to one State rate for Class 2 property and another State rate for personal property would shift tax burdens among business taxpayers. Businesses currently located in low tax rate school districts would pay higher taxes. Businesses currently located in high tax rate school districts would receive a tax reduction.

## **Analysis**

The Education Tax Policy Institute separately prepared a detailed analysis of this proposal (*Simulation of a Statewide Property Tax System with a 10 Year Phase-in Period*, William Driscoll and Howard Fleeter, Education Tax Policy Institute, July 2000). It is not necessary to reproduce that analysis here. In general, the proposal shows the feasibility of a ten year phasein of a major restructuring of property taxes with the focus on a statewide tax. While the phasein implements the changes in the proposal efficiently over the transition period, it ultimately does make significant changes in the distribution of taxes among business taxpayers. At the same time, the standardization of school tax rates included in the proposal would eliminate many incentives for intrastate competition for business investment. With all businesses required to pay the same tax rate for school operations, location within the State would become a decision based on other economic factors.

## Representative Mottley's Proposal

Rep. Mottley has proposed a comprehensive change in the structure of school funding. At the present, the proposal takes the form of a detailed memorandum. While the memorandum describes many details, it still lacks the precision of an actual legislative draft. (Note: After this analysis was prepared, Rep. Mottley submitted a school funding plan designated as H.B. 797.) The proposal describes a sophisticated mechanism for implementing a transition from the current school funding system to a new system. Much of the complication which characterizes the proposal results from these transition provisions. The description and analysis here ignores most of the transition provisions on the theory that any judgment about school funding reform should determine the value of the finished product first. If a proposal works as fully implemented, then the adaptation of specific transition provisions should present more technical problems than policy issues. The discussion emphasizes the policy issues and assumes that merely technical problems can be overcome if the ultimate proposal offers a sufficiently compelling reason.

Rep. Mottley's proposal offers the following permanent features:

- 1) A statewide tax of 40 mills on general and public utility personal property;
- 2) A statewide tax of 5 "inside" mills on real property *not* subject to H.B. 920 reductions;
- 3) A statewide tax of 13 "voted" mills on real property subject to H.B. 920 reductions;
- 4) Funding of special education services through a one-half mill unvoted tax levied at the county level;
- 5) Repeal of 20 mills of local taxes on real property, including taxes currently levied within the 10 mill limitation for schools;
- 6) Repeal of 30 mills plus inside school mills of local taxes on personal property;
- 7) Reduce the combined State and local taxes on personal property to a maximum of 60 mills over a period of up to 10 years;
- 8) Funding for 100% of the transportation cost formula phased in by FY04.

**Adequacy** – The proposal does not include changes to the computation of the cost of an adequate education. It would eliminate the 10% funding caps on additional State aid. The proposal also would create a \$100 million mandate relief fund for FY01 to pay school districts for unreimbursed costs of H.B. 412 and S.B. 55. After that year, the cost

of the mandates imposed by that legislation would become part of the computation of the cost of an adequate education.

**Facilities** – If a district fails three times to obtain voter approval for the local share of the State facilities program, the proposal would allow a district to levy up to 2 “inside” mills for that purpose.

### **Analysis**

Since the proposal analyzed here took the form of a memorandum requesting the preparation of legislation, some of the details were unclear. Therefore, the analysis may not correctly identify or account for all of the nuances of this proposal.

Other plans for imposing a statewide property tax usually employ a uniform statewide tax rate. In contrast, this proposal uses an 18 mill rate for real property and a 40 mill rate for personal property.

On the real property side, the statewide tax would equal 18 mills for schools plus an unvoted one-half mill for special education. Together, these taxes would consist of 5\_ inside mills plus 13 voted mills. The proposal would add inside mills for school operations to some school districts and one-half inside mill everywhere for special education. These additions depend on an interpretation of the current language in Article XII, Section 2, Ohio Constitution, which imposes a limit on unvoted taxes of one per cent of true value. Since most property is taxed on only a percentage of its value, the additional inside mills in the proposal depend on the fact that the statutory 10 mill limitation restricts unvoted taxes more than the Constitution requires in a mathematical sense.

Two problems flow from the restructuring of real property taxes proposed here. First, while an argument for the constitutionality of assigning new inside mills certainly exists, counter-arguments exist as well. The courts, the General Assembly, and the people have treated the constitutional one per cent limitation and the statutory ten mill limitation as identical since 1933. The enactment of the current version of the one per cent limitation contained an apportionment of inside mills based on a proportional distribution of an earlier 15 mill or 1\_% limitation. The constitutional history supports the argument that the General Assembly can neither create new inside mills nor remove inside mills from purposes assigned at the time that the voters approved the current version of the limitation on unvoted taxes. The proposal is not conclusively unconstitutional, but it contains features that invite litigation. It seems imprudent to base a reform of the school funding system on property tax changes with an obvious opportunity for a lawsuit. Under such circumstances, a period of uncertainty would follow the enactment of the new system until these constitutional challenges were resolved.

A second issue that arises from the statewide tax involves the application of H.B. 920 reductions to the 13 voted mills in the statewide tax. The existing tax reduction

factor depends both on a statutory provision (R.C. 319.301) and a constitutional provision (Article XII, Section 2a) on which the reduction factor statute bases its separate reductions for different classes of real property. Neither the statute nor the Constitution contains exceptions for voted mills levied on a statewide basis. Therefore, in the absence of the abandonment of the classified tax reduction factors, the H.B. 920 tax reduction factors *must* apply to statewide voted taxes. The application of tax reduction factors to a statewide tax would create a new situation for the State and for Ohio taxpayers.

Specifically, the State reappraises real property on a six year cycle with a valuation update in the third year after reappraisal. These changes in valuation take place on a county-by-county basis. The combination of a statewide tax and county revaluations means that the tax reduction for the whole state in each year will depend on changes in valuation in only part of the state. As a result, the percentage reduction will occur in some counties where no valuation increase occurred in a given year, and the averaging of the reduction over the whole state will mean that the reduction in reappraisal/update counties will not offset the increase in taxes in any given year.

A simplified example will illustrate the problem. For the sake of this illustration, assume that each year about one-third of the State goes through a reappraisal/update. Also, assume that each reappraisal results in a 9% increase in values. In the first year, reappraisal counties would experience a 9% increase in taxes, but the distribution of the reduction in taxes associated with that increase throughout the State would offset only 3% of the increase in those counties. Taxpayers in non-reappraisal counties would receive a 3% reduction and no increase in the first year. Some counties always would be behind in this process by receiving the cumulative effect of the reductions two years after the increase, while other counties would get reductions for two years before an increase occurred.

Of course, values do not increase at a uniform rate and the reappraisal and update system does not divide counties equally into three groups for revaluation purposes. As a result, the consequences of a statewide reduction factor are much more complicated than the simplified example. Tax increases in rapidly appreciating parts of Ohio would “subsidize” reductions in slower growing areas. The principle at work here is quite simple: as the area over which a tax reduction applies under H.B. 920 increases in size and geographical variety, the precision of the factor decreases. In some ways, the new statewide tax reduction factor would offer the worst of both worlds. On one hand, it would limit growth in revenue from the statewide tax and thereby place more pressure on other sources of revenue. On the other hand, it would not offset taxes in rapidly appreciating areas, especially given the effects of the three year cycle. Every year taxpayers in some part of the state would experience tax increases because the averaging effect of a statewide reduction percentage would distribute a uniform reduction to offset non-uniform increases.

Creative measures probably could address some of these problems. However, the necessary adjustments would come at the price of increasing the complications in an already complicated system.

In addition, the use of the H.B. 920 tax reduction in the context of the statewide tax levy raises an issue about the balance in the tax system. In the beginning, the new system would impose 18 mills on the real property tax base to fund part of the cost of an adequate education. If the tax reduction factor (or its equivalent) applies to this tax, the statewide effective rate will fall over time. It would approach 5 mills as the effective rate of the 13 voted mills approaches zero, although it would never reach zero. As a result, the need for revenue to fund the cost of an adequate education would draw more upon other sources of State revenue over time. The State would face the prospect of allowing property taxes to fund less and less of the cost of adequacy over time. While in one sense this result would respond to the Court's concern about overreliance on the property tax, in another sense it would represent a decision to forego a legitimate source of school funding. The reduction in the effective rate of the State tax would occur in all school districts, including both the poor and the wealthy. The result would not necessarily maximize the use of the State's fiscal resources.

The disadvantages of the application of a tax reduction factor to the statewide tax in this proposal would exist in any proposal that applies H.B. 920 to a statewide levy.

### **Suggestions for Improving Rep. Mottley's Proposal**

The General Assembly cannot allow constitutional limitations to inhibit all legislative creativity. In some cases, the Legislature should ignore the possibility that a discrete legislative proposal *may* violate a constitutional provision because the consequences of a violation are limited. In other cases, the risk of an unconstitutional enactment may become prohibitive. The current proposal presents such a case. The entire school funding reform package would rest upon the foundation for State and local funding responsibility defined by the proposal. Under such circumstances, a constitutional challenge would not affect some detail of tax policy. Rather, it would threaten the entire structure of school funding reform. Such a situation requires more than a positive assessment of the risk. It requires absolute constitutional sanction. This proposal and similar proposals that restructure real property taxes amid a thicket of constitutional prohibitions and requirements should occur only with the explicit sanction of a constitutional amendment. The stakes are too great to risk property tax restructuring on a lesser foundation.

The proposal should embrace an alternative approach to a statewide property tax under which the State tax applies at a uniform and unvarying rate on each class of real property. (The use of different rates for real and personal property does *not* create a problem. In fact, this feature may be one of the best innovations of the proposal.) Growth in such a tax would occur automatically with reappraisals and updates.

While the use of multi-school district funding districts for special education may achieve some efficiencies, it also may complicate administration of these programs. Rather than adding a new level of funding to a system with two levels already, the new system might offer incentives for the establishment of multi-district programs.

## Summary

The following table summarizes the changes included in the proposals. To some extent the treatment in the table oversimplifies some of the changes proposed. Also, some of the criteria on the table involve a subjective evaluation of each proposal. Given these limitations, the table does provide a quick overview of the proposals.

<b>Criteria</b>	<b>H.B. 718 Rep. Krebs</b>	<b>H.B. 754 Rep. Netzley</b>	<b>Ohio Federation of Teachers</b>	<b>H.B. 781 Rep. Flannery</b>	<b>Urban Education Initiatives</b>	<b>Rep. Mottley</b>
Equity	Worse	Worse	Better	Worse	Likely Better	Better
Eliminate Phantom Revenue	No	Yes	Yes	Yes	Yes	Yes
Levy Frequency	Less	Maybe Less	Less	Less	Same	Same
Lower Reliance on Local Property Taxes	Yes	Yes	No	Maybe	?	?
Shift Tax Burden	No	Yes	No	No	Yes	Yes
Local Tax Option	Yes	?	Capped	Yes	Yes	Yes
Stability for School District	Better	Worse	Better	Better	Better	Better
State Revenue Stability	Same	Same	Same	Same	Same	Worse
Simplify Current System	Yes	Yes	Yes	No	Yes	No
Require Constitutional Amendment	No	No	Yes	Yes	Yes	Yes
Long Term State Cost - More or Less Predictable	More	Same	Same	More	Same	Less