

NO. 362,516

EDGEWOOD INDEPENDENT SCHOOL §
DISTRICT, SOCORRO INDEPENDENT, §
SCHOOL DISTRICT, EAGLE PASS §
INDEPENDENT SCHOOL DISTRICT, §
BROWNSVILLE INDEPENDENT SCHOOL §
DISTRICT, SAN ELIZARIO INDEPEN- §
DENT SCHOOL DISTRICT, SOUTH §
SAN ANTONIO INDEPENDENT SCHOOL §
DISTRICT, LA VEGA INDEPENDENT §
SCHOOL DISTRICT, and PHARR-SAN §
JUAN-ALAMO INDEPENDENT SCHOOL §
DISTRICT on their own behalves, §
on behalf of the residents of §
their districts, and on behalf §
of other school districts and §
residents similarly situated; §
ANICETO ALONZO on his own behalf §
and as next friend of SANTOS §
ALONZO, HERMELINDA ALONZO and §
JESUS ALONZO; SHIRLEY ANDERSON §
on her own behalf and as next §
friend of DERRICK PRICE; JUANITA §
ARREDONDO on her own behalf and §
as next friend of AUGUSTIN §
ARREDONDO, JR., NORA ARREDONDO §
and SYLVIA ARREDONDO; MARY CANTU §
on her own behalf and as next §
friend of JOSE CANTU, JESUS §
CANTU and TONATIUH CANTU; §
JOSEFINA CASTILLO on her own §
behalf and as next friend of §
MARIA CORENO; EVA W. DELGADO on §
her own behalf and as next §
friend of OMAR DELGADO; RAMONA §
DIAZ on her own behalf and as §
next friend of MANUEL DIAZ and §
NORMA DIAZ; ANITA GANDARA, JOSE §
GANDARA, JR., on their own §
behalves and as next friend of §
LORRAINE GANDARA and JOSE §
GANDARA, III; NICOLAS GARCIA on §
his own behalf and as next friend §
of NICOLAS GARCIA, JR., RODOLFO §
GARCIA, ROLANDO GARCIA, GRACIELA §
GARCIA, CRISELDA GARCIA, and §
RIGOBERTO GARCIA; RAQUEL GARCIA, §
on her own behalf and as next §
friend of FRANK GARCIA, JR., §
ROBERTO GARCIA, RICARDO GARCIA, §
ROXANNE GARCIA and RENE GARCIA; §
HERMELINDA C. GONZALEZ on her §
own behalf and as next friend §
of ANGELICA MARIA GONZALEZ; §
RICARDO MOLINA on his own behalf §
and as next friend of JOB §
FERNANDO MOLINA; OPAL NAYO, on §
her own behalf and as next §
friend of JOHN NAYO, SCOTT NAYO §
and REBECCA NAYO; HILDA ORTIZ on §
her own behalf and as next §
friend of JUAN GABRIEL ORTIZ; §
RUDY C. ORTIZ on his own §
behalf and as next friend of §
MICHELLE ORTIZ, ERIC ORTIZ and §
ELIZABETH ORTIZ; ESTELA PADILLA §
and CARLOS PADILLA on their own §
behalves and as next friend of §
GABRIEL PADILLA; ADOLFO PATINO §
on his own behalf and as next §
friend of ADOLFO PATINO, JR.; §

IN THE DISTRICT COURT

250 JUDICIAL DISTRICT

FOR THE COUNTY OF TRAVIS, TEXAS

FILED

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John D. Gibson
CLERK
John D. Gibson

3 One million children in Texas are discriminated against and deprived of rights to equal educational opportunity under the system of financing the Texas public school system. The fortuitous circumstance of the residence of their parents, rather than their individual abilities, efforts, or aspirations, controls the quality of the education these children can receive. The Texas system for financing public schools denies these children a basic right to an education equal to the education of children who grow up in property wealthy districts. In the increasingly complex and technological society of today, a less than equal educational opportunity results in a denial of fundamental rights. The present standards for accreditation of schools in Texas cannot be met without an equitable system of financing of public schools; certainly the additional demands being placed on the public school system cannot be met by property poor districts without both equitable funding and additional funding. The Texas system of funding public schools ignores the need for construction and renovation of school buildings. The system has been perpetuated by a variety of devices, techniques, formulas, and administrative determinations with the effect of perpetuating discrimination and depriving these children of equal educational opportunity rights. Apparent reforms have been diluted by manipulation of the system. The system is more inequitable now than it was ten years ago.

4 School districts with less than average wealth cannot afford to raise or to spend as much money for individual students within those districts as can the high property wealth districts. The Texas financing system institutionalizes and perpetuates the notion that children educated in low property wealth districts can be educated for less money than children in property wealthy districts.

5 The financing system of the State of Texas has been and continues to be particularly disadvantageous for the Mexican

American students within the system, a disproportionate number of whom live in low property wealth districts and who have long suffered from intentional and systemic discrimination in the public schools of Texas.

II.

JURISDICTION

6 This is an action for declaratory relief authorized by the Texas Declaratory Judgment Act Article 2524-1, TEX. STAT. ANN., to secure rights established by the Constitution and laws of the State of Texas, and for preliminary and permanent injunctive relief pursuant to Article 4642, TEX. STAT. ANN., and the Texas Rules of Civil Procedure.

III.

VENUE

7 Venue is proper in this Court since each defendant resides in or has its permanent place of business in Travis County, Texas. Further, the defendants establish and carry out the educational financing policies and practices of the State of Texas in Travis County, Texas.

IV.

PARTIES

A. School District Plaintiffs

8 Plaintiff Edgewood Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Bexar County, Texas.

9 Plaintiff Socorro Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in El Paso County, Texas.

10 Plaintiff Eagle Pass Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Maverick County, Texas.

11 Plaintiff Brownsville Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Cameron County, Texas.

12 Plaintiff San Elizario Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in El Paso County, Texas.

13 Plaintiff South San Antonio Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Bexar County, Texas.

14 Plaintiff La Vega Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in McLennan County, Texas.

15 Plaintiff Pharr-San Juan-Alamo Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Hidalgo County, Texas.

16 Each of the named school districts is below the state average in taxable wealth per student and possesses substantially less than average resources for the provision of educational services to its students. Due to the State financing system, these school districts cannot provide an efficient system of education or equal rights to their students.

17 Each of plaintiff school districts sues on its own behalf and for the benefit of its taxpayers, parents and students. The taxpayers, parents and students within each plaintiff district have had and continue to have their rights, as guaranteed by the Texas Constitution, violated by the system of financing schools in the State of Texas.

18 The plaintiff school districts also sue on behalf of all other school districts similarly situated. The school districts in the class are so numerous that joinder of all the members of the class is impracticable. There are common questions of law and fact. The plaintiff school districts' claims are typical of the claims of the class. The plaintiffs are representative of

the claims raised by the class, and they will adequately protect the interests of the class. A class action may be maintained, because the defendants have acted in a manner generally applicable to the class, thereby making appropriate final injunctive relief or corresponding relief with respect to the class as a whole.

B. Individual Plaintiffs

19 Plaintiff ANICETO ALONZO sues on his own behalf and as next friend of his children SANTOS ALONZO, HERMELINDA ALONZO and JESUS ALONZO. Plaintiff ANICETO ALONZO is a resident of Weslaco I.S.D., and SANTOS ALONZO, HERMELINDA ALONZO and JESUS ALONZO are residents of and attend the schools of the Weslaco I.S.D. Plaintiff ANICETO ALONZO pays taxes to the Weslaco I.S.D.

20 Plaintiff SHIRLEY ANDERSON sues on her own behalf and as next friend of her child DERRICK PRICE. Plaintiff SHIRLEY ANDERSON is a resident of North Forest I.S.D., and DERRICK PRICE is a resident of and attends a school of the North Forest I.S.D. Plaintiff SHIRLEY ANDERSON pays taxes to the North Forest I.S.D.

21 Plaintiff JUANITA ARREDONDO sues on her own behalf and as next friend of her children AUGUSTIN ARREDONDO, JR., NORA ARREDONDO and SYLVIA ARREDONDO. Plaintiff JUANITA ARREDONDO is a resident of Laredo I.S.D., and AUGUSTIN ARREDONDO, JR., NORA ARREDONDO and SYLVIA ARREDONDO are residents of and attend the schools of the Laredo I.S.D. Plaintiff JUANITA ARREDONDO pays taxes to the Laredo I.S.D.

22 Plaintiff MARY CANTU sues on her own behalf and as next friend of her children JOSE CANTU, JESUS CANTU and TONATIUH CANTU. Plaintiff MARY CANTU is a resident of the San Antonio I.S.D., and JOSE CANTU, JESUS CANTU and TONATIUH CANTU are residents of and attend the schools of the San Antonio I.S.D. Plaintiff MARY CANTU pays taxes to the San Antonio I.S.D.

23 Plaintiff JOSEFINA CASTILLO sues on her own behalf and as next friend of her child MARIA CORENO. Plaintiff JOSEFINA CASTILLO is a resident of the Mercedes I.S.D., and MARIA CORENO is a resident of and attends the schools of the Mercedes I.S.D. Plaintiff JOSEFINA CASTILLO pays taxes to the Mercedes I.S.D.

24 Plaintiff EVA W. DELGADO sues on her own behalf and as next friend of her child OMAR DELGADO. Plaintiff EVA W. DELGADO is a resident of Laredo I.S.D., and OMAR DELGADO is a resident of and attends a school of the LAREDO I.S.D. Plaintiff EVA W. DELGADO pays taxes to the Laredo I.S.D.

25 Plaintiff RAMONA DIAZ sues on her own behalf and as next friend of her children MANUEL DIAZ and NORMA DIAZ. Plaintiff RAMONA DIAZ is a resident of BROWNSVILLE I.S.D., and MANUEL DIAZ and NORMA DIAZ are residents of and attend the schools of Brownsville I.S.D. Plaintiff RAMONA DIAZ pays taxes to the Brownsville I.S.D.

26 Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. sue on their own behalves and as next friend of their children LORRAINE GANDARA and JOSE GANDARA, III. Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. are residents of Ysleta I.S.D., and LORRAINE GANDARA and JOSE GANDARA, III., are residents of and attend the schools of Ysleta I.S.D. Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. pay taxes to the Ysleta I.S.D.

27 Plaintiff NICOLAS GARCIA sues on his own behalf and as next friend of his children NICOLAS GARCIA, JR., RODOLFO GARCIA, ROLANDO GARCIA, GRACIELA GARCIA, CRISELDA GARCIA and RIGOBERTO GARCIA. Plaintiff NICOLAS GARCIA is a resident of Brownsville I.S.D. and NICOLAS GARCIA, JR., RODOLFO GARCIA, ROLANDO GARCIA, GRACIELA GARCIA, CRISELDA GARCIA and RIGOBERTO GARCIA are residents of and attend the schools of Brownsville I.S.D. Plaintiff NICOLAS GARCIA pays taxes to the Brownsville I.S.D.

28 Plaintiff RAQUEL GARCIA sues on her own behalf and as next friend of her children FRANK GARCIA, JR., ROBERTO GARCIA, RICARDO GARCIA, ROXANNE GARCIA and RENE GARCIA. Plaintiff RAQUEL GARCIA is a resident of Laredo I.S.D., and FRANK GARCIA, JR., ROBERTO GARCIA, RICARDO GARCIA, ROXANNE GARCIA and RENE GARCIA are residents of and attend the schools of Laredo I.S.D. Plaintiff RAQUEL GARCIA pays taxes to the Laredo I.S.D.

29 Plaintiff HERMELINDA C. GONZALEZ sues on her own behalf and as next friend of her child ANGELICA MARIA GONZALEZ. Plaintiff HERMELINDA C. GONZALEZ is a resident of Laredo I.S.D., and ANGELICA MARIA GONZALEZ is a resident of and attends a school of the Laredo I.S.D. Plaintiff HERMELINDA C. GONZALEZ pays taxes to the Laredo I.S.D.

30 Plaintiff RICARDO MOLINA sues on his own behalf and as next friend of her child JOB FERNANDO MOLINA. Plaintiff RICARDO MOLINA is a resident of Brownsville I.S.D., and JOB FERNANDO MOLINA is a resident of and attends the schools of the Brownsville I.S.D. Plaintiff RICARDO MOLINA pays taxes to the Brownsville I.S.D.

31 Plaintiff OPAL NAYO sues on her own behalf and as next friend of his children JOHN NAYO, SCOTT NAYO and REBECCA NAYO. Plaintiff OPAL NAYO is a resident of Pearsall I.S.D., and JOHN NAYO, SCOTT NAYO and REBECCA NAYO are residents of and attend the schools of Pearsall I.S.D. Plaintiff OPAL NAYO pays taxes to the Pearsall I.S.D.

32 Plaintiff HILDA ORTIZ sues on her own behalf and as next friend of her child JUAN GABRIEL ORTIZ. Plaintiff HILDA ORTIZ is a resident of Mission I.S.D., and JUAN GABRIEL ORTIZ is a resident of and attends the schools of the Mission I.S.D. Plaintiff HILDA ORTIZ pays taxes to the Mission I.S.D.

33 Plaintiff RUDY C. ORTIZ sues on his own behalf and as next friend of his children MICHELLE ORTIZ, ERIC ORTIZ and ELIZABETH

ORTIZ. Plaintiff RUDY C. ORTIZ is a resident of Edgewood I.S.D., and MICHELLE ORTIZ, ERIC ORTIZ and ELIZABETH ORTIZ are residents of and attend the schools of the Edgewood I.S.D. Plaintiff RUDY C. ORTIZ pays taxes to the Edgewood I.S.D.

34 Plaintiffs ESTELA PADILLA and CARLOS PADILLA sue on their own behalves and as next friend of their child GABRIEL PADILLA. Plaintiffs ESTELA PADILLA and CARLOS PADILLA are residents of Socorro I.S.D., and GABRIEL PADILLA is a resident of and attends a school of the Socorro I.S.D. Plaintiffs ESTELA PADILLA and CARLOS PADILLA pays taxes to the Socorro I.S.D.

35 Plaintiff ADOLFO PATINO sues on his own behalf and as next friend of his child ADOLFO PATINO, JR. Plaintiff ADOLFO PATINO is a resident of San Felipe-Del Rio Consolidated I.S.D., and ADOLFO PATINO, JR., is a resident of and attends a school of the San Felipe-Del Rio Consolidated I.S.D. Plaintiff ADOLFO PATINO pays taxes to the San Felipe-Del Rio Consolidated I.S.D.

36 Plaintiff ANTONIO Y. PINA sues on his own behalf and as next friend of his children ANTONIO PINA, JR., ALMA PINA and ANNA PINA. Plaintiff ANTONIO Y. PINA is a resident of La Vega I.S.D., and ANTONIO PINA, JR., ALMA PINA and ANNA PINA are residents of and attend the schools of the La Vega I.S.D. Plaintiff ANTONIO Y. PINA pays taxes to the La Vega I.S.D.

37 Plaintiff REYMUNDO PEREZ sues on his own behalf and as next friend of his children RUBEN PEREZ, REYMUNDO PEREZ, JR., MONICA PEREZ, RAQUEL PEREZ, ROGELIO PEREZ and RICARDO PEREZ. Plaintiff REYMUNDO PEREZ is a resident of Weslaco I.S.D., and RUBEN PEREZ, REYMUNDO PEREZ, JR., MONICA PEREZ, RAQUEL PEREZ, ROGELIO PEREZ, and RICARDO PEREZ are residents of and attend the schools of the Weslaco I.S.D. Plaintiff REYMUNDO PEREZ pays taxes to the Weslaco I.S.D.

38 Plaintiff PATRICIA A. PRIEST sues on her own behalf and as next friend of her children ALVIN PRIEST, STANLEY PRIEST, CAROLYN

PRIEST and MARSHA PRIEST. Plaintiff PATRICIA A. PRIEST is a resident of SOMERSET I.S.D., and ALVIN PRIEST, STANLEY PRIEST, CAROLYN PRIEST and MARSHA PRIEST are residents of and attend the schools of the Somerset I.S.D. Plaintiff PATRICIA A. PRIEST pays taxes to the Somerset I.S.D.

39 Plaintiff DEMETRIO RODRIGUEZ sues on his own behalf and as next friend of his children PATRICIA RODRIGUEZ and JAMES RODRIGUEZ. Plaintiff DEMETRIO RODRIGUEZ is a resident of Edgewood I.S.D. and PATRICIA RODRIGUEZ and JAMES RODRIGUEZ are residents of and attend the schools of Edgewood I.S.D. Plaintiff DEMETRIO RODRIGUEZ pays taxes to the Edgewood I.S.D.

40 Plaintiff LORENZO G. SOLIS sues on his own behalf and as next friend of his children JAVIER SOLIS and CYNTHIA SOLIS. Plaintiff LORENZO G. SOLIS is a resident of Rio Grande City Consolidated I.S.D., and JAVIER SOLIS and CYNTHIA SOLIS are residents of and attend the schools of Rio Grande City Consolidated I.S.D. Plaintiff LORENZO G. SOLIS pays taxes to the Rio Grande City Consolidated I.S.D.

41 Plaintiff JOSE A. VILLALON sues on his own behalf and as next friend of his children RUBEN VILLALON, RENE VILLALON, MARIA CHRISTINA VILLALON and JAIME VILLALON. Plaintiff JOSE A. VILLALON is a resident of Rio Grande City Consolidated I.S.D., and RUBEN VILLALON, RENE VILLALON, MARIA CHRISTINA VILLALON and JAIME VILLALON are residents of and attend the schools of Rio Grande City Consolidated I.S.D. Plaintiff JOSE A. VILLALON pays taxes to the Rio Grande City Consolidated I.S.D.

42 Plaintiffs ANICETO ALONZO, JUANITA ARREDONDO, JOSEFINA CASTILLO, EVA W. DELGADO, RAMONA DIAZ, ANITA GANDARA and JOSE GANDARA, JR., NICOLAS GARCIA, RAQUEL GARCIA, HERMELINDA C. GONZALEZ, RICARDO MOLINA, OPAL NAYO, HILDA ORTIZ, RUDY C. ORTIZ, ESTELA PADILLA and CARLOS PADILLA, ADOLFO PATINO, ANTONIO Y. PINA, REYMUNDO PEREZ, DEMETRIO RODRIGUEZ, LORENZO G. SOLIS, JOSE

A. VILLALON and their children for whom they sue as next friends are of Hispanic national origin.

43 These individual plaintiffs sue on their own behalf as residents and taxpayers of the school districts, and on behalf and as next friends of their children who attend or will attend the public schools within their respective school districts. These plaintiffs reside in school districts with far below the state average property wealth per student. These individual plaintiffs bring this action on behalf of themselves and all other members of their class who are similarly situated. The persons in the class are so numerous that joinder of all its members is impracticable. There are common questions of law and fact. The plaintiffs' claims are typical of the claims of the class. The plaintiffs are representative of the claims raised by the class, and they will adequately protect the interest of the class. A class action may be maintained because the defendants have acted in a manner generally applicable to the class, thereby making appropriate final injunctive relief or corresponding relief with respect to the class as a whole. The class consists of persons who reside in property poor school districts within the State of Texas.

C. Defendants

44 Defendant RAYMON L. BYNUM is the State Commissioner of Education. He is charged by law under Article 2654, TEX. STAT. ANN., with the duty of acting as the Executive Officer of the Board of Education. He is the General Administrative Officer of the Board and is the Executive of the Texas Education Agency. He is sued in his official capacity. Defendant Bynum may be served with process at his office in the Texas Education Agency Building 201 E. 11th Street, Austin, Texas.

45 Defendant TEXAS STATE BOARD OF EDUCATION was created by Article 2654-2, TEX. STAT. ANN., and is the policy forming and

planning body for the public school system of the State of Texas. The STATE BOARD OF EDUCATION is charged by the Constitution of the State of Texas with the duty to provide a public school system which affords plaintiffs and their class the equal protection of the law and an efficient system of education. The TEXAS STATE BOARD OF EDUCATION may be served by service of process upon their Executive Officer Raymon Bynum at the Offices of the Texas Education Agency, 201 E. 11th Street, Austin, Texas.

46 Defendant MARK WHITE is the Governor and Chief Executive Officer of the State of Texas. Under the State Constitution he may convene special sessions of the State Legislature regarding matters of extraordinary public importance. He is required to present estimates of the amount required to be raised by taxation for all purposes. He has a right to approve or disapprove every bill enacted by the Legislature, and he has the duty to ensure that the Constitution and statutes of Texas are faithfully executed. He too must supervise the expenditure of all public funds, including inquiry regarding any subject relating to the duties, conditions, management and expenses undertaken by officers or managers of State institutions. He is sued in his official capacity. Governor White may be served with process at the Room 200, State Capitol Building, Austin, Texas.

47 Defendant ROBERT BULLOCK is the State Comptroller of Public Accounts. He is the Central Accounting Officer of the State and his duties include maintaining the expenditures of all State agencies including the Texas Education Agency, collecting and disbursing taxes, estimating the amount of money in the Available School Fund and reporting this estimate to the State Board of Education, State Commissioner of Education, and the State Legislature. He is sued in his official capacity. Comptroller Bullock may be served with process at the Headquarters of the Comptroller of Public Accounts at the LBJ Building, 111 E. 17th Street, Austin, Texas.

48 Defendant STATE OF TEXAS, through its branches, creates, maintains, and finances the State portion of the public school system of the State of Texas. The State of Texas may be served through its Attorney General Jim Mattox at the Office of the Texas Attorney General, Texas Supreme Court Building, Austin, Texas.

49 Service of process for each of the defendants must also be had upon Texas Attorney General Jim Mattox at the Office of the Texas Attorney General, Texas Supreme Court Building, Austin, Texas.

V. FACTS

A. Description of System

50 Monies spent on public school education in Texas come from local, state, and federal sources. Local and state funds make up almost the entire budgets of local school districts.

51 Federal funds come from general federal revenues.

52 Local funds are raised through local ad valorem taxes based upon the value of local property and the tax rate set by individual school districts.

53 State funds are paid through the Foundation School Fund which is made up of the Available School Fund, Omnibus Tax Clearance Fund, and the General Revenue Fund. Except for a small part of the Foundation School Fund, the amount of these monies is set by the State government and administered by these defendants, and allocation of these funds is set by the State government and administered by these defendants.

B. State and Local Participation In and Funding Of Public Education

54 State funds to school districts are paid through per capita funding, the Foundation School Program, State Equalization Aid,

the Textbook Fund, and the Teacher Retirement Fund.

55 Local funds are paid through the Local Fund Assignment and enrichment funds.

56 The amounts of funds paid by the local school districts and the State, respectively, are interrelated. The State and school districts share the cost of the Foundation School Program in a ratio set by the State government and administered by these defendants.

C. State Funds

57 The State pays a per capita amount of money for each student in a school district in average daily attendance (ADA). This amount, \$480 in 1983-84, is paid to the districts regardless of the property wealth of the district, or the district's ability to raise funds for its local educational program without State aid.

58 The Foundation School Program (FSP) is made up of several parts that are determined, funded, and administered by the State government through these defendants. The parts of the Foundation School Program are:

- a) Personnel Units
- b) Maintenance and Operation (Operating Cost Allotment)
- c) Special Education, Compensatory Education, and Bilingual Education
- d) Vocational Education, Drivers Education, and Gifted and Talented Programs
- e) Other Allotments
- f) Transportation
- g) Special formulas adjustments

TEX. EDUC. CODE §16.004

59 State Equalization Aid is paid to districts based on their relative property wealth and their number of students in average daily attendance. TEX. EDUC. CODE §16.301

D. The Foundation School Program

60 The major parts of the Foundation School Program are payments for personnel units and maintenance and operations (Operating Cost Allotment).

61 Personnel Units are minimum salaries for school personnel based upon the number of students in average daily attendance at the school district. The number of allotted Personnel Units varies by grade level with more personnel units going to the K through 3 and high school grades, and fewer personnel units going to the grades 4 through 9. Adjustments are made to the number of personnel units, depending on the number of students enrolled in special education and vocational education. The values of the personnel units are set on a state salary index schedule which sets different weights based upon degrees, professional certificates and number of years of experience. School districts redeem their personnel units for state dollars, using a "best buy approach" in which the most degreed and experienced personnel on their pay rosters are submitted on listings of the school districts' Foundation School Program personnel. Amounts paid to school teachers in excess of the minimum Texas State schedule, and additional teachers, administrators, and employees are paid completely out of local property wealth. TEX. EDUC. CODE §16.101 et. seq.

62 The State pays a per capita amount per student in average daily attendance as an allotment for maintenance and operation costs (Operating Cost Allotment) in the local school districts. As of 1983-84 this amount is \$139 per student in average daily attendance. The State adds to the Foundation School Program an amount for each student enrolled in compensatory (\$54), bilingual (\$50), and driver education (\$12.50) programs. TEX. EDUC. CODE §16.152 et. seq.

63 The total cost for a district's Foundation School Program is determined on the basis of the total cost for all components.

The local shares of the Foundation School Program cost are based on State-developed estimates of local taxable property wealth. The State government, through these defendants, sets the local district's share of Foundation School Program cost by multiplying the local property tax wealth (as determined by the State) by a State-determined index rate. The index rate for 1983-84 was set at .0011 or the equivalent of 11¢ per \$100 of taxable property value within the school district's boundaries. The State pays the difference between the total Foundation School Program cost and the amount which the local school district must raise through its local district share. The amount of state aid is called the State Aid Entitlement. TEXAS GENERAL APPROPRIATIONS ACT 1983.

64 The State Aid Entitlement is adjusted by two different formulas, the minimum aid clause, and the local share hold-harmless provisions.

65 The minimum aid clause guarantees that no school district shall receive less State aid per pupil than it did during a preceding school year. Under the present system, no district may receive less State aid per pupil than it did in 1980-81.

66 The local share hold-harmless provisions provide that no school district's local share of the Foundation School Program shall exceed 120 percent of its local share for the preceding school year. TEX. EDUC. CODE §16.252(b)

67 Both the minimum aid provision and the local share hold-harmless provision referred to together as hold-harmless clauses, are set by the State government and administered by these defendants.

68 The State also grants funds to districts through State Equalization Aid. State Equalization Aid is paid to all districts with up to 110 percent of the state average wealth per student. The maximum amount paid to a district is \$306 per student in average daily attendance. Districts with less

property wealth per student are paid proportionally more State Equalization Aid on a pro rata basis.

E. Local Funds

69 Each individual school district raises its Local Fund Assignment from local funds. The Local Fund Assignment is determined by multiplying the State-determined index rate by the total property wealth within the school district. The index used in this formula is set by the State government and administered by these defendants. TEX. EDUC. CODE §16.252

70 The local school district also raises and spends local enrichment funds. These monies are raised at the discretion of the local school district and are used to pay for additional teachers, supplements to teachers salaries, materials, supplies, upkeep and "enrichment programs".

71 The local school districts pay for their portion of the Local Fund Assignment and enrichment through a tax to pay for maintenance and operation expenses. These funds are raised by levying ad valorem taxes on local property wealth.

72 The local school district also pays for all of the costs of and interest on construction of school facilities. The school district sells bonds to build buildings and pay interest and finances these bonds based only on taxes on local property. TEX. EDUC. CODE §20.01 et seq.

F. The Inequities of the School Finance System

73 There is a tremendous range of wealth among the school districts in the State of Texas as reflected in the value of taxable property wealth per child going to school in the school districts. The one-half million school children in this state who live in the property wealthy districts live in districts with eight times as much taxable property wealth per student as the

districts in which the half million students in the poorest districts live. This tremendous disparity denies property poor districts the ability to raise funds to pay for a sufficient and equal educational program for its students. This disparity also encourages these wealthy districts to tax at a lower rate and raise the same revenue for support of their public schools. The Texas school financing system does not compensate for this tremendous disparity in property wealth. The one million children who live in property poor districts are denied an efficient or sufficient education and equal rights by this disparity.

74 The Texas school financing system contributes no money to funds for the building and renovation of school buildings or capital improvements. Although some effort is made by the State to make up for the property wealth differences in terms of expenses for maintenance and operations, no effort is made by the State to make up for the property wealth differences in terms of the spending of monies for buildings. This local tax effort is neither supplemented by the State nor compensated for in other forms of aid by the State.

75 Efforts to respond to the tremendous property wealth disparities have been diluted by the hold-harmless clauses. Districts which, because of rapidly increasing tax bases, are better able to finance their own school systems are protected from any loss by the hold-harmless clauses. These hold-harmless clauses add up over the years, so that some districts which should have lost state funding every year since 1980-81 do in fact each year receive an increasing undeserved supplement to their school financing. The payment of these monies to otherwise ineligible districts dilutes the total amount of money available to the Foundation School Program and reduces the amounts of money going to the property poor districts.

76 The Texas school financing system is not based upon a consideration of the actual cost or accountable cost of financing

an appropriate education for a student in the State of Texas. The funds, as allocated by the State, and in addition to the amounts which local districts are able to raise from their local tax bases, are insufficient to provide an equal or sufficient education to the children in low property wealth districts.

77 The funding which is granted to each school district solely on the basis of total Average Daily Attendance does not take into account the fact that many school districts in the State can tax at a low rate and still raise more than sufficient monies to support their local educational programs. By providing for a flat per capita amount of money, the State dilutes its total funds for public education and reduces the amount available to low property wealth districts.

78 The State bases its allotment of Foundation School Program funds upon property values which are two years old at the time of those values' use. Although this lag in assessment is statewide, it provides an advantage to districts with rapidly increasing tax bases, since these districts had a proportionately smaller percentage of the State wealth at the earlier period. By using values that are two years old, these rapidly growing, and in most cases wealthier districts, appear to be poorer than they are, giving these richer districts an unfair advantage over the low property wealth districts.

79 Property poor districts cannot provide an equal or sufficient education since they do not receive nearly enough money through State Equalization Aid to compensate for their inability to fund their educational programs adequately from local property wealth.

80 Property poor districts receive less money than property wealthy districts for personnel. Property poor districts cannot afford to supplement personnel salaries, so they cannot attract as many experienced and higher degree teachers. Since property poor districts do not have as many experienced or higher degree

teachers on their staffs, they do not receive from the State as much money through the State Salary Schedule.

81 The index rate for determining the local share of the Foundation School Program has been decreased over the last few years. This lowering of the index rate results in significantly more savings to property wealthy districts than to property poor districts. This reduction of the index rate also reduces the amount of State funds that are available for equalization aid, or other aid programs designed to help the property poor districts.

82 The per capita amounts paid for bilingual and compensatory education are too low to provide a sufficient and equal educational program for students enrolled in such programs. The large majority of such students are in low property wealth districts. These low per capita amounts, combined with a complete failure by the State to provide additional personnel units for these students, result in a denial of equal educational opportunity for students in low property wealth districts and in further dilution of the ability of poor districts to fund their students' education adequately.

83 The system of financing public schools in Texas is so complicated and easily manipulable, that many other aspects of the system have resulted in a reduction of the amount of funds available to the low property wealth districts, while maintaining the superior economic condition of the higher property wealth districts.

84 These formulas, statutes, and administrative determinations have been implemented and administered with the knowledge and understanding that they will result in continued disparity between the ability of property wealthy districts and the ability of property poor districts to provide for the education of children within those districts.

G. The Effects of the Texas School Finance System

85 The wealth of school districts in Texas is measured by the ratio of their taxable property wealth to the number of students in average daily attendance at the district. This ratio is described as the wealth per student of the district. There is a phenomenal disparity between the wealthiest and poorest districts. The wealthiest district in Texas has more than twelve million dollars of property per student (\$12,284,000.00) while the poorest district has twenty two thousand dollars of wealth per student (\$22,000.00). The wealthiest district has five hundred fifty times as much wealth per student to tax to provide an education for its students than the poorest district does. On a broader scale, the one hundred richest districts in the State have 1.5 percent of the students in the State and 11 percent of the taxable wealth in the State. On the other end of the spectrum, the one hundred poorest districts in the State have 13 percent of the students in the State and only 3.5 percent of the wealth in the State. On an even broader scale, the one million students who go to school in the poor districts of the State go to districts with 16 percent of the State's wealth. The one million children who go to school in the wealthier districts in the State go to school in districts with 64 percent of the State's wealth. This disparate and random allocation of wealth is enforced and allowed to continue by the Texas school financing system. It results in a tremendous disparity in resources available for the education of the children of this State.

86 There is also a great difference in the amount that wealthy districts and poor districts can spend for each student in their district per year. One very wealthy school district in the State of Texas spends \$10,600 dollars per year on each student in the district. On the other end of the spectrum a very poor district spends only \$1,725 dollars per year for each student in its district. The wealthy district, with a tax effort

comparable to that of the poor district, spends 6 times as much for each of its students. On a broader scale, in 1982-83 the one hundred wealthiest districts spent approximately fifty five hundred dollars (\$5,500.00) on each student going to school in their districts, and the poorest one hundred districts spent approximately eighteen hundred dollars (\$1,800.00) per student on each student in their districts. In general, there are major disparities between the amounts to property wealthy districts spend per student and the amount property poor districts spend per student, with negative effects on the education of children in property poor districts.

87 At equal effective tax rates, a wealthy district can afford to provide several times as much money per student in its district as can a poor district. The poor districts cannot afford to provide a basic minimum educational program, while the wealthier districts, with less effort, can afford for their children an enriched and appropriate education.

88 The differences in wealth and expenditures result in differences in the training and experience of teaching and administrative personnel, support services, scope and content of program offerings, extra-curricular activities, and the other indicators of quality educational programs. The tremendous variations in wealth per student also result in tremendous differences in the quality of buildings, major improvements, and classroom equipment. These differences deny students in property poor districts equal educational opportunity and restrict the students' range of future educational and personal opportunities.

89 There is a concentration of low income and Mexican American persons within the property poor school districts in the State of Texas. The school finance system discriminates against these groups of persons and deprives them of equal educational opportunity, and this discrimination and deprivation is known by and allowed to continue by the State through its financing system.

90 Children enrolled in property poor school districts bear the heaviest burden of the consequences of defendants' school finance system and yet are unable to compensate for its effects. These property school districts with a higher proportionate population of low income children also tend to have a higher proportionate number of children identified as in need of more expensive special educational programming. These children have no wealth or taxpaying ability and no power to choose or exert control over their place of residency or school of attendance.

91 These inequities result in a denial of both a sufficient and equal education for the children who attend school in the property poor districts, and a denial of equal rights to plaintiffs and the classes they represent.

VII.

FIRST CAUSE OF ACTION

92 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 91. Both individual and school district plaintiffs allege that the defendants have, in the past, violated and continue to violate Article VII, Section 1, of the State Constitution which states:

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

as well as the TEX. EDUC. CODE, §§16.001 and 16.004.

The present and past school finance system has constituted and continues to constitute a breach of the State's constitutional and statutory duty to provide plaintiffs an "efficient system of public free schools", a denial of equal educational opportunity, and a denial of equal rights.

VIII.

SECOND CAUSE OF ACTION

93 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 91 above. Plaintiffs allege that

defendants have violated and continue to violate Article I, Section 3, of the Texas Constitution which provides:

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services,

as well as the TEX. EDUC. CODE §§16.001 and 16.004.

Defendants' school finance system violates Article I, Section 3, by discriminating between plaintiff taxpayers, parents, and school children in property poor school districts and their counterparts in property wealthy districts on the basis of property wealth. This discrimination violates the individual plaintiffs' entitlements to equal rights under Article I, Section 3, and denies equal educational opportunity to students.

IX.

THIRD CAUSE OF ACTION

94 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 91 above. Defendants have violated and continue to violate Article I, Section 3, of the Texas Constitution set forth above, and TEX. EDUC. CODE §§16.001 and 16.004 by denying plaintiff property poor school districts the same rights, privileges, and benefits accorded to property wealthy districts pursuant to defendants' school finance system. This denial results in a denial of equal rights to the students within these school districts.

X.

FOURTH CAUSE OF ACTION

95 Plaintiffs incorporate reference each of the allegations in paragraphs 1 through 91 above. Defendants have violated Article I, Sections 3 and 3A, of the Texas Constitution in that the State public school finance system deprives Mexican American and poor students of equal rights or equality under the law. Defendant's system discriminates against those plaintiff parents, taxpayers, and school children of Mexican American national origin and/or poor students residing in property poor school districts, on the basis of national origin and poverty in violation of their rights to equal treatment pursuant to Article I, Sections 3 and 3A, of

the Texas Constitution. The system denies these Mexican Americans and poor students equal educational opportunity.

XI.

FIFTH CAUSE OF ACTION

95 Plaintiffs incorporate by reference each of the allegations made in paragraphs 1 through 91 above. Defendants have violated and continue to violate plaintiff school childrens' educational rights under Article I, Sections 3 and 3A, and Article VII, Section 1, of the Texas Constitution. Defendants' school finance system violates these rights by creating and reinforcing unreasonable, discriminatory obstacles to children's opportunities for academic achievement and social advancement on the basis of their residency in property poor districts, a matter over which they have no choice or control. Defendants' acts and omissions have presented a barrier to the advancement of plaintiff children and violated their educational rights under Article I, Sections 3 and 3A, and Article VII, Section 1, of the Texas Constitution.

XII.

PRAYER

Wherefore, for the reasons stated above, the plaintiffs respectfully pray the Court to grant full and adequate relief, including but not limited to the following:

1. A declaratory judgment that the Texas school financing system violates Article I, Sections 3 and 3A and Article VII, Section I of the State Constitution, Section 16.001 and 16.004 of the Texas Education Code and public policy.

2. A preliminary and permanent injunction enjoining defendants from maintaining any school finance system which violates the provisions of the State Constitution and Education Code cited in the preceding paragraph and which eliminates funding inequalities caused by past violations of the State Constitution and laws.

3. A permanent injunction to require defendants to design, implement, and maintain a constitutional system of public school finance which assures equal financial and educational opportunities in school districts without regard to their wealth

as required by the Constitution and Education Code provisions cited in paragraph above.

4. Attorneys' fees and costs for this litigation as provided for under Article 6252-26 Section 1(a), Article 2524-1, Section 10, TEX. STAT. ANN.

5. A retention of jurisdiction until defendants have designed and permanently implemented a school financing system which assures equal, educational opportunities to all students without regard to the wealth of the school district in which they reside.

6. Any other relief that the court may find appropriate and necessary to remedy the effects of defendants' present or past school finance systems.

DATED: May 23, 1984

Respectfully submitted,

JOAQUIN G. AVILA
MORRIS J. BALLER
NORMA V. CANTU
JOSE GARZA
JUDITH A. SANDERS-CASTRO
JOSE ROBERTO JUAREZ, JR.
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IN THE DISTRICT COURT

EDGEWOOD INDEPENDENT SCHOOL §
DISTRICT, SOCORRO INDEPENDENT, §
SCHOOL DISTRICT, EAGLE PASS §
INDEPENDENT SCHOOL DISTRICT, §
BROWNSVILLE INDEPENDENT SCHOOL §
DISTRICT, SAN ELIZARIO INDEPEN- §
DENT SCHOOL DISTRICT, SOUTH §
SAN ANTONIO INDEPENDENT SCHOOL §
DISTRICT, LA VEGA INDEPENDENT §
SCHOOL DISTRICT, and PHARR-SAN §
JUAN-ALAMO INDEPENDENT SCHOOL §
DISTRICT on their own behalves, §
on behalf of the residents of §
their districts, and on behalf §
of other school districts and §
residents similarly situated; §
ANICETO ALONZO on his own behalf §
and as next friend of SANTOS §
ALONZO, HERMELINDA ALONZO and §
JESUS ALONZO; SHIRLEY ANDERSON §
on her own behalf and as next §
friend of DERRICK PRICE; JUANITA §
ARREDONDO on her own behalf and §
as next friend of AUGUSTIN §
ARREDONDO, JR., NORA ARREDONDO §
and SYLVIA ARREDONDO; MARY CANTU §
on her own behalf and as next §
friend of JOSE CANTU, JESUS §
CANTU and TONATIUH CANTU; §
JOSEFINA CASTILLO on her own §
behalf and as next friend of §
MARIA CORENO; EVA W. DELGADO on §
her own behalf and as next §
friend of OMAR DELGADO; RAMONA §
DIAZ on her own behalf and as §
next friend of MANUEL DIAZ and §
NORMA DIAZ; ANITA GANDARA, JOSE §
GANDARA, JR., on their own §
behalves and as next friend of §
LORRAINE GANDARA and JOSE §
GANDARA, III; NICOLAS GARCIA on §
his own behalf and as next friend §
of NICOLAS GARCIA, JR., RODOLFO §
GARCIA, ROLANDO GARCIA, GRACIELA §
GARCIA, CRISELDA GARCIA, and §
RIGOBERTO GARCIA; RAQUEL GARCIA, §
on her own behalf and as next §
friend of FRANK GARCIA, JR., §
ROBERTO GARCIA, RICARDO GARCIA, §
ROXANNE GARCIA and RENE GARCIA; §
HERMELINDA C. GONZALEZ on her §
own behalf and as next friend §
of ANGELICA MARIA GONZALEZ; §
RICARDO J. MOLINA on his own §
behalf and as next friend of JOB §
FERNANDO MOLINA; OPAL MAYO, on §
her own behalf and as next §
friend of JOHN MAYO, SCOTT MAYO §
and REBECCA MAYO; HILDA S. ORTIZ §
on her own behalf and as next §
friend of JUAN GABRIEL ORTIZ; §
RUDY C. ORTIZ on his own §
behalf and as next friend of §
MICHELLE ORTIZ, ERIC ORTIZ and §
ELIZABETH ORTIZ; ESTELA PADILLA §
and CARLOS PADILLA on their own §
behalves and as next friend of §
GABRIEL PADILLA; ADOLFO PATINO §
on his own behalf and as next §
friend of ADOLFO PATINO, JR.; §

250th JUDICIAL DISTRICT

FOR THE COUNTY OF TRAVIS, TEXAS

FILED

1985 MAR -5 PM 3:08

John Dickson
TRAVIS COUNTY CLERK

NOTICE TAKEN

3 One million children in Texas are discriminated against and deprived of rights to equal educational opportunity under the system of financing the Texas public school system. The fortuitous circumstance of the residence of their parents, rather than their individual abilities, efforts, or aspirations, controls the quality of the education these children can receive. The Texas system for financing public schools denies these children a basic right to an education equal to the education of children who grow up in property wealthy districts. In the increasingly complex and technological society of today, a less than equal educational opportunity results in a denial of fundamental rights. The present standards for accreditation of schools in Texas cannot be met without an equitable system of financing of public schools; certainly the additional demands being placed on the public school system cannot be met by property poor districts without both equitable funding and additional funding. The Texas system of funding public schools ignores the need for construction and renovation of school buildings. The system has been perpetuated by a variety of devices, techniques, formulas, and administrative determinations with the effect of perpetuating discrimination and depriving these children of equal educational opportunity rights. Apparent reforms have been diluted by manipulation of the system.

4 School districts with less than average wealth cannot afford to raise or to spend as much money for individual students within those districts as can the high property wealth districts. The Texas financing system institutionalizes and perpetuates the misconception that children educated in low property wealth districts can receive quality educational opportunity for less money than the children in property wealthy districts.

5 The financing system of the State of Texas has been and continues to be particularly disadvantageous for the Mexican American students within the system, a disproportionate number of whom live in low property wealth districts and who have long suffered from intentional and systemic discrimination in the

public schools of Texas.

6 The Texas school finance system was extensively revised in 1984. These revisions were supposed to sufficiently compensate for the insidious and comprehensive inequity and unconstitutionality of the system. They do not.

II.

JURISDICTION

7 This is an action for declaratory relief authorized by the Texas Declaratory Judgment Act Article 2524-1, TEX. REV. CIV. STAT. ANN., to secure rights established by the Constitution and laws of the State of Texas, and for preliminary and permanent injunctive relief pursuant to Article 4642, TEX. REV. CIV. STAT. ANN., and the Texas Rules of Civil Procedure.

III.

VENUE

8 Venue is proper in this Court since each defendant resides in or has its permanent place of business in Travis County, Texas. Further, the defendants establish and carry out the educational financing policies and practices of the State of Texas in Travis County, Texas.

IV.

PARTIES

A. School District Plaintiffs

9 Plaintiff Edgewood Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Bexar County, Texas.

10 Plaintiff Socorro Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in El Paso County, Texas.

11 Plaintiff Eagle Pass Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Maverick County, Texas.

12 Plaintiff Brownsville Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Cameron County, Texas.

13 Plaintiff San Elizario Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in El Paso County, Texas.

14 Plaintiff South San Antonio Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Bexar County, Texas.

15 Plaintiff La Vega Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in McClennan County, Texas.

16 Plaintiff Pharr-San Juan-Alamo Independent School District is a lawfully established school district pursuant to the laws of the State of Texas. It is located in Hidalgo County, Texas.

17 Each of the named school districts is below the state average in taxable wealth per student and possesses substantially less than average resources for the provision of educational services to its students. Due to the State financing system, these school districts cannot provide an efficient or sufficient system of education or equal rights to their students.

18 Each of the plaintiff school districts sues on its own behalf and for the benefit of its taxpayers, parents and students. The taxpayers, parents and students within each plaintiff district have had and continue to have their rights, as guaranteed by the Texas Constitution, violated by the system of

financing schools in the State of Texas.

19 The plaintiff school districts also sue on behalf of all other school districts similarly situated pursuant to Rule 42, TEX. R. CIV. P.. The school districts in the class are so numerous that joinder of all the members of the class is impracticable. There are common questions of law and fact common to the claims of all members of the class. The plaintiff school districts' claims are typical of the claims of the class. The plaintiffs are representative of the claims raised by the class, and they will fairly and adequately protect the interests of the class. A class action may be maintained because the defendants have acted, are acting, and will continue to act in a manner generally applicable to the members of the class, thereby making final injunctive relief and declaratory relief appropriate with respect to the class as a whole.

B. Individual Plaintiffs

20 Plaintiff ANICETO ALONZO sues on his own behalf and as next friend of his children SANTOS ALONZO, HERMELINDA ALONZO and JESUS ALONZO. Plaintiff ANICETO ALONZO is a resident of Weslaco I.S.D., and SANTOS ALONZO, HERMELINDA ALONZO and JESUS ALONZO are residents of and attend the schools of the Weslaco I.S.D. Plaintiff ANICETO ALONZO pays taxes to the Weslaco I.S.D.

21 Plaintiff SHIRLEY ANDERSON sues on her own behalf and as next friend of her child DERRICK PRICE. Plaintiff SHIRLEY ANDERSON is a resident of North Forest I.S.D., and DERRICK PRICE is a resident of and attends a school of the North Forest I.S.D. Plaintiff SHIRLEY ANDERSON pays taxes to the North Forest I.S.D.

22 Plaintiff JUANITA ARREDONDO sues on her own behalf and as next friend of her children AUGUSTIN ARREDONDO, JR., NORA ARREDONDO and SYLVIA ARREDONDO. Plaintiff JUANITA ARREDONDO is a resident of Laredo I.S.D., and AUGUSTIN ARREDONDO, JR., NORA ARREDONDO and SYLVIA ARREDONDO are residents of and attend the

schools of the Laredo I.S.D. Plaintiff JUANITA ARREDONDO pays taxes to the Laredo I.S.D.

23 Plaintiff MARY CANTU sues on her own behalf and as next friend of her children JOSE CANTU, JESUS CANTU and TONATIUH CANTU. Plaintiff MARY CANTU is a resident of the San Antonio I.S.D., and JOSE CANTU, JESUS CANTU and TONATIUH CANTU are residents of and attend the schools of the San Antonio I.S.D. Plaintiff MARY CANTU pays taxes to the San Antonio I.S.D.

24 Plaintiff JOSEFINA CASTILLO sues on her own behalf and as next friend of her child MARIA CORENO. Plaintiff JOSEFINA CASTILLO is a resident of the Mercedes I.S.D., and MARIA CORENO is a resident of and attends the schools of the Mercedes I.S.D. Plaintiff JOSEFINA CASTILLO pays taxes to the Mercedes I.S.D.

25 Plaintiff EVA W. DELGADO sues on her own behalf and as next friend of her child OMAR DELGADO. Plaintiff EVA W. DELGADO is a resident of Laredo I.S.D., and OMAR DELGADO is a resident of and attends a school of the LAREDO I.S.D. Plaintiff EVA W. DELGADO pays taxes to the Laredo I.S.D.

26 Plaintiff RAMONA DIAZ sues on her own behalf and as next friend of her children MANUEL DIAZ and NORMA DIAZ. Plaintiff RAMONA DIAZ is a resident of BROWNSVILLE I.S.D., and MANUEL DIAZ and NORMA DIAZ are residents of and attend the schools of Brownsville I.S.D. Plaintiff RAMONA DIAZ pays taxes to the Brownsville I.S.D.

27 Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. sue on their own behalves and as next friends of their children LORRAINE GANDARA and JOSE GANDARA, III. Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. are residents of Ysleta I.S.D., and LORRAINE GANDARA and JOSE GANDARA, III., are residents of and attend the schools of Ysleta I.S.D. Plaintiffs ANITA GANDARA and JOSE GANDARA, JR. pay taxes to the Ysleta I.S.D.

28 Plaintiff NICOLAS GARCIA sues on his own behalf and as next friend of his children NICOLAS GARCIA, JR., RODOLFO GARCIA, ROLANDO GARCIA, GRACIELA GARCIA, CRISELDA GARCIA and RIGOBERTO GARCIA. Plaintiff NICOLAS GARCIA is a resident of Brownsville I.S.D. and NICOLAS GARCIA, JR., RODOLFO GARCIA, ROLANDO GARCIA, GRACIELA GARCIA, CRISELDA GARCIA and RIGOBERTO GARCIA are residents of and attend the schools of Brownsville I.S.D. Plaintiff NICOLAS GARCIA pays taxes to the Brownsville I.S.D.

29 Plaintiff RAQUEL GARCIA sues on her own behalf and as next friend of her children FRANK GARCIA, JR., ROBERTO GARCIA, RICARDO GARCIA, ROXANNE GARCIA and RENE GARCIA. Plaintiff RAQUEL GARCIA is a resident of Laredo I.S.D., and FRANK GARCIA, JR., ROBERTO GARCIA, RICARDO GARCIA, ROXANNE GARCIA and RENE GARCIA are residents of and attend the schools of Laredo I.S.D. Plaintiff RAQUEL GARCIA pays taxes to the Laredo I.S.D.

30 Plaintiff HERMELINDA C. GONZALEZ sues on her own behalf and as next friend of her child ANGELICA MARIA GONZALEZ. Plaintiff HERMELINDA C. GONZALEZ is a resident of Laredo I.S.D., and ANGELICA MARIA GONZALEZ is a resident of and attends a school of the Laredo I.S.D. Plaintiff HERMELINDA C. GONZALEZ pays taxes to the Laredo I.S.D.

31 Plaintiff RICARDO MOLINA sues on his own behalf and as next friend of his child JOB FERNANDO MOLINA. Plaintiff RICARDO MOLINA is a resident of Brownsville I.S.D., and JOB FERNANDO MOLINA is a resident of and attends the schools of the Brownsville I.S.D. Plaintiff RICARDO MOLINA pays taxes to the Brownsville I.S.D.

32 Plaintiff OPAL MAYO sues on her own behalf and as next friend of her children JOHN MAYO, SCOTT MAYO and REBECCA MAYO. Plaintiff OPAL MAYO is a resident of Pearsall I.S.D., and JOHN MAYO, SCOTT MAYO and REBECCA MAYO are residents of and attend the schools of Pearsall I.S.D. Plaintiff OPAL MAYO pays taxes to the

Pearsall I.S.D.

33 Plaintiff HILDA ORTIZ sues on her own behalf and as next friend of her child JUAN GABRIEL ORTIZ. Plaintiff HILDA ORTIZ is a resident of Mission I.S.D., and JUAN GABRIEL ORTIZ is a resident of and attends the schools of the Mission I.S.D. Plaintiff HILDA ORTIZ pays taxes to the Mission I.S.D.

34 Plaintiff RUDY C. ORTIZ sues on his own behalf and as next friend of his children MICHELLE ORTIZ, ERIC ORTIZ and ELIZABETH ORTIZ. Plaintiff RUDY C. ORTIZ is a resident of Edgewood I.S.D., and MICHELLE ORTIZ, ERIC ORTIZ and ELIZABETH ORTIZ are residents of and attend the schools of the Edgewood I.S.D. Plaintiff RUDY C. ORTIZ pays taxes to the Edgewood I.S.D.

35 Plaintiffs ESTELA PADILLA and CARLOS PADILLA sue on their own behalves and as next friends of their child GABRIEL PADILLA. Plaintiffs ESTELA PADILLA and CARLOS PADILLA are residents of Socorro I.S.D., and GABRIEL PADILLA is a resident of and attends a school of the Socorro I.S.D. Plaintiffs ESTELA PADILLA and CARLOS PADILLA pays taxes to the Socorro I.S.D.

36 Plaintiff ADOLFO PATINO sues on his own behalf and as next friend of his child ADOLFO PATINO, JR. Plaintiff ADOLFO PATINO is a resident of San Felipe-Del Rio Consolidated I.S.D., and ADOLFO PATINO, JR., is a resident of and attends a school of the San Felipe-Del Rio Consolidated I.S.D. Plaintiff ADOLFO PATINO pays taxes to the San Felipe-Del Rio Consolidated I.S.D.

37 Plaintiff ANTONIO Y. PINA sues on his own behalf and as next friend of his children ANTONIO PINA, JR., ALMA PINA and ANNA PINA. Plaintiff ANTONIO Y. PINA is a resident of La Vega I.S.D., and ANTONIO PINA, JR., ALMA PINA and ANNA PINA are residents of and attend the schools of the La Vega I.S.D. Plaintiff ANTONIO Y. PINA pays taxes to the La Vega I.S.D.

38 Plaintiff REYMUNDO PEREZ sues on his own behalf and as next friend of his children RUBEN PEREZ, REYMUNDO PEREZ, JR., MONICA PEREZ, RAQUEL PEREZ, ROGELIO PEREZ and RICARDO PEREZ. Plaintiff REYMUNDO PEREZ is a resident of Weslaco I.S.D., and RUBEN PEREZ, REYMUNDO PEREZ, JR., MONICA PEREZ, RAQUEL PEREZ, ROGELIO PEREZ, and RICARDO PEREZ are residents of and attend the schools of the Weslaco I.S.D. Plaintiff REYMUNDO PEREZ pays taxes to the Weslaco I.S.D.

39 Plaintiff PATRICIA A. PRIEST sues on her own behalf and as next friend of her children ALVIN PRIEST, STANLEY PRIEST, CAROLYN PRIEST and MARSHA PRIEST. Plaintiff PATRICIA A. PRIEST is a resident of SOMERSET I.S.D., and ALVIN PRIEST, STANLEY PRIEST, CAROLYN PRIEST and MARSHA PRIEST are residents of and attend the schools of the Somerset I.S.D. Plaintiff PATRICIA A. PRIEST pays taxes to the Somerset I.S.D.

40 Plaintiff DEMETRIO RODRIGUEZ sues on his own behalf and as next friend of his children PATRICIA RODRIGUEZ and JAMES RODRIGUEZ. Plaintiff DEMETRIO RODRIGUEZ is a resident of Edgewood I.S.D. and PATRICIA RODRIGUEZ and JAMES RODRIGUEZ are residents of and attend the schools of Edgewood I.S.D. Plaintiff DEMETRIO RODRIGUEZ pays taxes to the Edgewood I.S.D.

41 Plaintiff LORENZO G. SOLIS sues on his own behalf and as next friend of his children JAVIER SOLIS and CYNTHIA SOLIS. Plaintiff LORENZO G. SOLIS is a resident of Rio Grande City Consolidated I.S.D., and JAVIER SOLIS and CYNTHIA SOLIS are residents of and attend the schools of Rio Grande City Consolidated I.S.D. Plaintiff LORENZO G. SOLIS pays taxes to the Rio Grande City Consolidated I.S.D.

42 Plaintiff JOSE A. VILLALON sues on his own behalf and as next friend of his children RUBEN VILLALON, RENE VILLALON, MARIA CHRISTINA VILLALON and JAIME VILLALON. Plaintiff JOSE A. VILLALON is a resident of Rio Grande City Consolidated I.S.D., and RUBEN VILLALON, RENE VILLALON, MARIA CHRISTINA VILLALON and

JAIME VILLALON are residents of and attend the schools of Rio Grande City Consolidated I.S.D. Plaintiff JOSE A. VILLALON pays taxes to the Rio Grande City Consolidated I.S.D.

43 These individual named plaintiffs sue on their own behalves as residents and taxpayers of the school districts, and on behalf of and as next friends of their children who attend or will attend the public schools within their respective school districts. These plaintiffs reside in school districts with far below the state average property wealth per student. These individual plaintiffs bring this action on behalf of themselves and all other members of their class who are similarly situated. The class consists of persons who reside in property poor school districts within the State of Texas. The persons in the class are so numerous that joinder of all its members is impracticable. There are common questions of law and fact. The plaintiffs' claims are typical of the claims of the class. The plaintiffs are representative of the claims raised by the class, and they will fairly and adequately protect the interests of the class. A class action may be maintained because the defendants have acted, are acting and will continue to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

C. Defendants

44 Defendant WILLIAM N. KIRBY is the Interim State Commissioner of Education. The State Commissioner of Education is charged by law under TEX. EDUC. CODE § 11.25, with the duty of acting as the Executive Officer of the Board of Education, and with additional powers and duties in implementing education policies and practices of the state under TEX. EDUC. CODE § 11.51 et. seq. He is the General Administrative Officer of the Board and is the Executive of the Texas Education Agency. He is sued in his official capacity. Defendant Kirby may be served with process at his office in the Texas Education Agency Building, 201 E. 11th

Street, Austin, Texas.

45 Defendant TEXAS STATE BOARD OF EDUCATION was created by TEX. EDUC. CODE § 11.21 et. seq., and is the policy forming and planning body for the public school system of the State of Texas. The STATE BOARD OF EDUCATION is charged by the Constitution of the State of Texas with the duty to provide a public school system which affords plaintiffs and their class equal protection of the law and an efficient system of education. The TEXAS STATE BOARD OF EDUCATION may be served by service of process upon its Executive Officer William Kirby at the Offices of the Texas Education Agency, 201 E. 11th Street, Austin, Texas.

46 Defendant MARK WHITE is the Governor and Chief Executive Officer of the State of Texas. Under the State Constitution he may convene special sessions of the State Legislature regarding matters of extraordinary public importance. He is required to present estimates of the amount required to be raised by taxation for all purposes. He has a right to approve or disapprove every bill enacted by the Legislature, and he has the duty to ensure that the Constitution and statutes of Texas are faithfully executed. He too must supervise the expenditure of all public funds, including inquiry regarding any subject relating to the duties, conditions, management and expenses undertaken by officers or managers of State institutions. He is sued in his official capacity. Governor White may be served with process at Room 200, State Capitol Building, Austin, Texas.

47 Defendant ROBERT BULLOCK is the State Comptroller of Public Accounts. He is the Central Accounting Officer of the State and his duties include maintaining the expenditures of all State agencies including the Texas Education Agency, collecting and disbursing taxes, estimating the amount of money in the Available School Fund and reporting this estimate to the State Board of Education, State Commissioner of Education, and the State Legislature. He is sued in his official capacity. Comptroller

Bullock may be served with process at the Headquarters of the Comptroller of Public Accounts at the LBJ Building, 111 E. 17th Street, Austin, Texas.

48 Defendant STATE OF TEXAS, through its branches, creates, maintains, and finances the State portion of the public school system of the State of Texas. The State of Texas may be served through its Attorney General Jim Mattox at the Office of the Texas Attorney General, Texas Supreme Court Building, Austin, Texas.

49 Defendant JIM MATTOX, as Attorney General of Texas, is made a party pursuant to § 11 of the Uniform Declaratory Judgements Act, art. 2524-1, TEX. REV. CIV. STAT. ANN. (1967), because plaintiffs seek to have a certain, specific section of a statute declared unconstitutional. He may be served with process at his offices in the Supreme Court Building in Austin.

V.

FACTS

A. Description of the System

Source of Funds in Texas

50 The school finance system in Texas is funded by local, state, and federal sources. Local and state funds make up almost the entire budgets of local school districts.

51 In fact and as used in this petition, local property tax funds or monies are locally administered state taxes that are levied and expended based on the portion of the taxable property in the state that is located within the local school district's boundaries.

52 Substantially all of the local funds are raised through local ad valorem tax revenues based upon the value of local property and the tax rate set by individual school districts.

53 State funds come from the Foundation School Fund. Funds are transferred to the Foundation School Fund from the Available School Fund, the Omnibus Tax Clearance Fund, and the general revenue funds. Except for a small part of the Foundation School Fund, the amount of these monies is set and allocated by the State government and administered by these defendants.

54 Federal funds come from general federal revenues.

B. Description of the System - Disbursement of Funds

55 State funds to school districts are paid through per capita funding, the state's share of the Foundation School Program and minor special programs. The State also expends funds on behalf of school districts through the Textbook Fund and the Teacher Retirement Fund.

56 Local funds are used to pay for the local share of the Foundation School Program, construction and renovation of buildings and enrichment funds to supplement the entire local program.

57 The amounts of funds paid by the local school districts and the State, respectively, are interrelated. The State and school districts share the cost of the Foundation School Program in a ratio set by the State government and administered by these defendants.

C. State Funds

58 From the Available School Fund, the State pays a per capita amount of money for each student in a school district in average daily attendance. This amount, \$225.00 in 1984-85, is paid to a school district regardless of the property wealth of the district or the district's ability to raise funds for its local educational program without State aid.

59 The State also pays to each school district the state share of the Foundation School Program. The state's share of the Foundation School Program is determined by subtracting the local share (the Local Fund Assignment) from the district's total Foundation School Program costs. If the state share exceeds the per capita monies (Available School Fund), the State pays the remainder of its share from other revenues of the Foundation School Fund.

60 Most of the state monies for local school districts are paid through the Foundation School Program. These monies are allocated for payment of personnel salaries, operating expenses, transportation and special services for children.

61 In addition to the state share of the Foundation School Program, the State pays most of individual school districts' personnel retirement funds. These funds are paid by the State directly to each employee's account on behalf of the local school district. The State also pays for the basic minimum textbooks for children in each district throughout the State.

62 The total Foundation School Program is not allocated to, intended to or sufficient to pay for construction or renovation of school district buildings.

D. Foundation School Program

63 The total cost of a Foundation School Program for a school district is composed of:

- a) A Basic Allotment per students in average daily attendance, TEX. EDUC. CODE §16.101;
- b) Special Allotments ("Weighted Pupil Funding") for each student in the program for:
 - i) Special Education, TEX. EDUC. CODE §16.151;
 - ii) Compensatory Education, TEX. EDUC. CODE §16.152;
 - iii) Bilingual Education, TEX. EDUC. CODE §16.153;

- iv) Vocational Education, TEX. EDUC. CODE §16.155;
- c) An Experienced Teacher Allotment where appropriate, TEX. EDUC. CODE §16.154;
- d) A Transportation Allotment, TEX EDUC. CODE §16.156;
- e) An Enrichment Equalization Allotment, where appropriate, TEX EDUC. CODE §16.157;
- f) An Equalization Transition Entitlement, where appropriate, Acts 1984, 68th Leg., 2nd C.S., Chapter 28, Art. II, § 21; and
- g) An Education Improvement and Career Ladder Allotment, TEX EDUC. CODE §16.158.

64 The basic allotment is \$1,290 per student in Average Daily Attendance in 1984-85 and \$1,350 per student in Average Daily Attendance in succeeding years.

65 The basic allotment is adjusted up by a price differential index. The price differential index is supposed to account for geographic variation in resource costs due to factors beyond the control of local school districts. The State assigns each district a price differential index. In 1984-85, this adjustment varied from an additional 0% to 22% of the basic allotment. The 1984-85 price differential index was based on the salaries paid in surrounding school districts in the district's county in the previous school year, and the percentage of compensatory education students in the district. The 1985-86 price differential index will vary from 0% to 19%. It is based on a complicated equation which results in an index which increases with larger numbers of students, higher density of students, more compensatory education students and higher county wage rates for all non-education employees. TEX. EDUC. CODE §16.102

66 The basic allotment for districts with very small average daily attendance or very sparse populations is adjusted up by the small and sparse adjustments. These adjustments are supposed to compensate for extra costs in small population and sparsely

populated districts. TEX. EDUC. CODE §§ 16.103, 16.104.

67 The resulting figure--after the basic allotment is adjusted by the price differential index, the small district adjustment and the sparsity adjustment--is referred to as the district adjusted basic allotment.

68 Special Allotments are also included in the total Foundation School Program for a district for each student in:

a) Special Education (an average additional 215% of the adjusted basic allotment);

b) Compensatory Education (an additional 20% of the adjusted basic allotment);

c) Bilingual Education (an additional 10% of the adjusted basic allotment); and

d) Vocational Education (an additional 45% of the adjusted basic allotment).

69 School districts with above state average minimum classroom teachers salaries have an Experienced Teacher Allotment as part of the Foundation School Program. This allotment is supposed to enable school districts to attract and retain more experienced classroom teachers. The average minimum classroom teacher salary of a district is determined by the years of experience of the teachers in the district, based on a state minimum salary schedule. Districts with higher average years of experience get proportionately more money under this allotment.

70 The Education Improvement and Career Ladder Allotment adds to the Foundation School Program an amount for each student of \$100 (1984-85), \$120 (1985-86) and \$140 (1986-87 and succeeding years). This is supposed to supplement the payment of personnel salaries and payment of additional salaries to teachers obtaining higher levels of performance.

71 The Enrichment Equalization Allotment is added to the Foundation School Program of each district with less than 110% of

the state average property wealth per student in average daily attendance. This allotment is supposed to supplement the educational program of districts with low property wealth per student in average daily attendance. The allotment increases proportionately as the district's average daily attendance, the other parts of the district's Foundation School Program, and the tax rate of the district (to limits set by the state) increase. Qualified school districts will receive 35% of the product of these other factors in 1984-85 and 30% of the product of these other factors in 1985-86 and succeeding years.

72 An Equalization Transition Allotment is added to the Foundation School Program of districts that receive less state aid per student in average daily attendance than they had in the past year. Most of the districts that receive this allotment are districts with very high property wealth per student in average daily attendance. This allotment is supposed to protect districts from losses in state aid they might otherwise undergo from year to year if the school finance system were equally applied to them. In 1984-85 these districts will receive at least 60% of the amount they would have otherwise lost, in 1985-86 at least 40% and in 1986-87 at least 20%. A district receiving this allotment will receive proportionately more money if its average effective tax rate is higher than the average state effective tax rate. The Equalization Transition Allotment will be reduced if the district's taxes for maintenance and operations do not increase by the amount of the district's share of the losses.

E. Other State Funds

73 The State contributes to the Teacher Retirement Fund an amount for each participant in the plan, regardless of the per student property wealth of the district in which the employee works. In addition the State requires the local district, regardless of its wealth, to reimburse the State for amounts paid

into the system for salaries above the State minimum salaries. However, a district whose tax rate for maintenance and operations is equal to or more than 125% of the average state maintenance and operations tax rate does not have to reimburse the State.

74 The State allocates textbooks to local school districts on a per capita basis, regardless of the per student property wealth of the district.

F. Local Funds

75 Local school districts pay the local share of the Foundation School Program (the Local Fund Assignment), additional amounts for maintenance and operations, and all the costs of constructing and renovating facilities.

76 The Local Fund Assignment for a district is based on the ratio of a school district's property wealth to statewide property wealth. The ratio is then multiplied by a factor of 30% of the total statewide Foundation School Program costs for 1984-85 and 33.3% for each school year thereafter. However, Experienced Teacher Allotments, Enrichment Equalization Allotments, and Equalization Transition Allotments are not part of the Foundation School Program in the calculation. All school districts, regardless of wealth, will have to pay a higher percentage of their respective Foundation School Programs in 1985-86 and succeeding years than in 1984-85 because of the increase from 30% to 33.3%.

77 The local school district also raises and spends local enrichment funds. These monies are raised at the discretion of the local school district and are used to pay for additional teachers, supplements to teachers' salaries, materials, supplies, upkeep and "enrichment programs."

78 The local school districts pay for their Local Fund Assignment and enrichment funds through a tax levied to pay for

maintenance and operation expenses, called the maintenance and operations tax. These funds are raised by levying ad valorem taxes on local property wealth.

79 The local school districts are responsible for all of the costs of and interest on the construction and renovation of school facilities. The school districts sell bonds to build new buildings and then finance the bonds from revenue from their ad valorem taxes on their property wealth. The taxes to pay for these bonds are called interest and sinking fund taxes.

VI.

UNCONSTITUTIONALITY OF STATUTORY SYSTEM OF SCHOOL FINANCE IN TEXAS

A. General Effects

80 The wealth of school districts in Texas is measured by the ratio of their taxable property wealth to the number of students in average daily attendance in the district. This ratio is described as the wealth per student of the district. There is a phenomenal disparity between the wealthiest and poorest districts. The wealthiest district in Texas has almost thirteen million dollars of property per student (\$12,975,200.00) while the poorest district has less than twenty thousand dollars of wealth per student (\$19,532.00). The wealthiest district has about six hundred fifty times as much wealth per student to tax to provide an education for its students as the poorest district does.

81 The one hundred richest districts in the State have 1.4% of the students in the State and 8.7% of the taxable wealth in the State. At the other end of the spectrum, the one hundred poorest districts in the State have 12.3% of the students in the State and only 3.6 % of the wealth in the State.

82 There are almost three million students attending the public schools in Texas. The one-half million students who go to school in the property richest school districts in the State go to

school in districts with 37.1 % of the State's property wealth. The one-half million students in the State who go to school in the property poorest districts in the State go to school in districts with 5.4 % of the State's wealth.

83 The one million students who go to school in the property richest districts of the State go to districts with 59.5 % of the State's wealth. The one million children who go to school in the property poorest districts in the State go to school in districts with 16.1% of the State's wealth.

84 This disparate and random allocation of wealth is enforced and allowed to continue by the Texas school financing system. It results in a tremendous disparity in resources available for the education of the children of this State.

85 At equal effective tax rates, a wealthy district can afford to provide several times as much money per student in its district as can a poor district. The poor districts cannot afford to provide a basic minimum educational program, while the wealthier districts, with less effort, can afford for their children an enriched and appropriate education.

86 By raising its ad valorem taxes \$.01 per \$100.00 valuation, the richest district can raise about \$1,300.00 per student; the poorest district can raise about \$2.00 per student.

87 On average the one-half million students who go to school in the property wealthiest districts will obtain \$475.00 per student for every \$.01 per \$100.00 increase in ad valorem taxes; the one-half million students who go to school in the property poorest districts obtain \$7.00 per student for every \$.01 per \$100.00 increase in ad valorem taxes.

88 After all adjustments, allotments and indices are applied, the Texas school finance system promotes and allows a gross difference between the ability of property wealthy and property

poor districts and the families within those districts to provide for the education of their children. In order to fund a minimally adequate and appropriate (at least \$3,500 per student per year) education for their children, the residents of a very low property wealth district must pay a tax rate more than three times as high as the residents of a very high property wealth district must pay; residents of a moderately low property wealth district must pay a tax rate almost twice as high as residents of a moderately high property wealth district must pay for a minimally adequate and appropriate education for their children.

89 There is a concentration of low income and Mexican American persons within the property poor school districts in the State of Texas. The school finance system discriminates against these groups of persons and deprives them of equal educational opportunity, and this discrimination and deprivation is known by and allowed to continue by the State through its financing system.

90 Children enrolled in property poor school districts bear the heaviest burden of the consequences of defendants' school finance system and yet are unable to compensate for its effects. These property poor school districts with a higher proportionate population of low income children also tend to have a higher proportionate number of children identified as in need of more expensive special educational programming. These children have no wealth or tax paying ability and no power to choose or exert control over their place of residency or school of attendance.

91 The school financing system contributes no money to funds for the building and renovation of school buildings or capital improvements. Although some effort is made by the State to make up for the property wealth differences in terms of expenses for maintenance and operations and through equalization aid, the State makes no further effort to make up for the property wealth differences in terms of the spending of monies for buildings. The low property wealth districts in the State have facilities

inferior to those in high property wealth districts. This difference causes a denial of equal educational opportunity to students attending those inferior schools and unnecessarily high property taxes for residents of low property wealth districts.

92 Facility shortages are exacerbated for low-wealth school systems in Texas because of the state-mandated reductions in pupil-teacher ratios in grades kindergarten through grade four. Beginning with the 1985-86 school year, a school district may not enroll more than 22 students in a kindergarten, first or second grade class. Beginning with the 1988-89 school year, a school may not enroll more than 22 students in a third or fourth grade class. School districts will have to build new facilities to provide enough classrooms for students under the lower pupil-teacher ratios. Since school districts receive no state aid to offset construction costs, property poor school districts must again depend solely on their ability to raise tax revenue. Thus, low-wealth school districts are taxing themselves at significantly higher levels than high-wealth school districts for funds for construction.

93 Denial of educational opportunity by waiver occurs relative to class size requirements. The smaller class size requirements also authorize the Commissioner of Education to exempt districts from certain requirements regarding the provisions of prekindergarten programs and the reduction of class sizes. Requirements for prekindergarten programs may be waived for indefinite periods; requirements for class-size reductions may be waived one semester at a time for an unlimited number of semesters. The exemptions are based primarily on criteria which reflect financial difficulties in meeting the requirements. Because low property wealth districts have more financial difficulties than high property wealth districts, they will tend to request and be granted more and longer exemptions. The effect will be to deny the benefits of prekindergarten and of smaller classes to the students of certain low property wealth districts.

94 Several other changes in state requirements for local educational programs have been implemented for 1984-85 and later years. They will cause local districts to expend more of their state and local funds on these specific programs.

95 Significant numbers of property poor districts in the state cannot meet the state's own minimum standards for maintenance and operation of schools and provision of an adequate educational program. A significant difference exists between the quality of physical facilities in property poor districts and the facilities in property wealthy districts and these differences have been noted by the Texas Education Agency.

96 The differences in wealth and expenditures result in differences in the training and experience of teaching and administrative personnel, support services, scope and content of program offerings, lower pupil-teacher ratios, computer utilization, extra-curricular activities, and the other indicators of quality educational programs. The tremendous variations in wealth per student also result in tremendous differences in the quality of buildings, major improvements, and classroom equipment. These differences deny students in property poor districts equal educational opportunity and restrict the students' range of future educational and personal opportunities.

97 The current school finance system is applied to and superimposed on a system which has historically discriminated against property poor districts in those districts' efforts to build buildings, buy equipment, hire personnel, establish programs and build their communities. Only additional and redirected funding of the system can compensate for such historical inequities.

B. Effects of Specific Parts
of School Finance System

98 The Available School Fund allotment granted to each school district is based solely on the total Average Daily Attendance of

the school district. It does not take into account the fact that many high wealth school districts in the State can tax at a low rate and still raise more than sufficient monies to support their local educational programs. By providing for a flat per capita amount of money based on the Average Daily Attendance, the State dilutes its total funds for public education and reduces the amount available to low wealth districts.

99 The basic allotment per student, even as increased by all the special allotments and adjustments in the school finance system, is simply too low to provide a sufficient or efficient system of education in Texas. At least \$3,500 per child per year is necessary to provide a minimally adequate and appropriate education in Texas. Property poor districts are especially hard hit by the low allotment since they must try to make up the difference out of their local and clearly insufficient funds.

100 The Texas school financing system is not based upon a consideration of the actual cost or accountable cost of financing an appropriate education for a student in the State of Texas. The sum of State funds, as allocated, and revenue raised by local districts from their local tax bases, is insufficient to provide an equal or sufficient education to the children in low property wealth districts. Less than half of the revenues required to operate an accredited program is provided by State aid; more than half of the revenues must be supplied by local taxes.

101 The Price Differential Index created by the education reform bill uses the salary levels paid in 1983-84. Salaries are strongly related to local school district property wealth. The use of the Price Differential Index perpetuates the inequalities in the school finance system.

102 The amounts paid for bilingual and compensatory education are too low to provide a sufficient and equal educational program for students in low property wealth districts. Bilingual and

Compensatory education allotments should be at least an additional 40% of regular program costs. The school finance system provides for add-on weights of only 10% for bilingual education and 20% for compensatory education. As with the basic allotment, inadequate funding from the State for these special programs places a heavy burden on the property poor school districts to raise local tax revenues from their local property wealth to operate such programs.

103 The school finance system's "experienced teacher factor" reinforces the gap between low and high property wealth districts. The Experienced Teacher Allotment provides funds to a school district only if the district's average teacher's minimum salary exceeds the State average teacher's minimum salary. The districts' ability to pay above the State minimum has long been dictated by the local districts' ability to raise supplemental salary revenue through taxes. Property poor districts have not been as able to afford to supplement personnel salaries, so they cannot attract as many experienced and higher degreed teachers. Since property poor districts do not have as many experienced or higher degreed teachers on their staffs, they receive relatively little money from the State through the Experienced Teacher Allotment. Since low property wealth districts have more children from low-income families and the districts have long suffered from the comparative lack of funding under the personnel unit system of the past, these districts need more funds--not less funds--to attract and maintain experienced teachers. The ability of low wealth districts to catch up with wealthier districts is impeded by the structure of the Experienced Teacher Allotment.

104 The Enrichment Equalization Allotment for low property wealth districts will go down between 1984-85 and 1985-86, from 35 percent to 30 percent of Foundation School Program Costs. This will cost low wealth districts significant funds during the same year that they must increase their local share and meet the other new legal requirements for class-size and curriculum. Only

low property wealth districts will suffer such losses of state aid between 1984-85 and 1985-86.

105 The school finance system provides for adjustments based on tax effort in the determination of Enrichment Equalization Allotments (for poor districts) and Equalization Transition Entitlements (for wealthy districts)

106 To obtain its maximum Enrichment Equalization Allotment, a low wealth district must impose either an effective maintenance tax rate or a total effective tax rate at least as high as the corresponding statewide average rates. The poor district's Enrichment Equalization Allotment is reduced in proportion to the amount by which its applicable rate is less than the specified amount. There is no "bonus" if the district's rate is above that amount. To obtain its maximum Equalization Transition Entitlement, a high wealth district is only required to increase its maintenance tax levy (amount, not tax rate) by the amount of its matching share, even if that can be accomplished without a tax rate increase. There is no reduction in the property wealthy district's Equalization Transition Entitlement for failure to meet a specified minimum tax rate. Also, the high wealth district receives a "bonus" proportional to the amount by which its total effective tax rate exceeds the statewide average tax rate.

107 There is no justification for imposing more stringent tax effort criteria on low wealth districts than on high wealth districts, nor for paying an extra-effort bonus to the latter and not to the former.

108 The bulk of state funds allocated for programs for Gifted and Talented students go to property wealthy districts. Of the poorest districts, which serve one-million students, only one-eighth offer Gifted and Talented programs; a majority of those are small districts which would not have such programs if they were not members of Gifted and Talented co-ops. Of the

remaining districts with about 1.9 million students, one-half offer Gifted and Talented Programs. The states' Gifted and Talented program funding system discriminates against property poor districts in two ways. The State finances less than one-fourth of the average cost of Gifted and Talented programs, and poor districts cannot raise the balance as readily as can rich districts.

109 The school finance system provides that a school district must reimburse the State for the full amount of retirement contributions paid on the portion of the employee's salary that exceeds the statutory minimum for that employee. The competition for well-qualified teachers is such that they are generally paid more than the statutory minimum. Because of the significant disparities in taxable wealth between rich and poor districts, the added local cost of the retirement contributions exacerbates the already substantial disadvantage that property poor districts have in the competition for well-qualified teachers. The students in low wealth districts are denied both the benefits of having access to those teachers and an equal educational opportunity.

110 The school finance system's provisions for the State expenditures for retirement benefits are even more unfair to poor districts. Wealthy districts tend to have more employees per student and employees with higher minimum salaries than do poor districts. The State's expenditures per student for retirement benefits are therefore substantially higher for high property wealth districts than for low property wealth districts.

111 The education reform bill fails to provide for the equalization of the costs of textbooks for students. The expenditures for textbooks are essentially per capita allocations and have the same unfair characteristics as other Available School Fund per capita payments.

112 In all instances where the State allocates money to, or

expends money on behalf of school districts without requiring that the districts share the corresponding costs in proportion to their taxable property wealth, the state money that would otherwise be available for enhancing the fiscal resources of property poor districts is being consumed by property rich districts.

113 If the State's share of the allotment for special education, compensatory education, bilingual education and enrichment equalization exceeds the sums certain appropriated for those purposes, each district's corresponding state aid is reduced by the same amount per student. Each district then has the option of curtailing the affected program(s) or recovering the state aid reduction through increased local tax revenues. Because of the magnitude of the disparities in taxable wealth between rich and poor districts, the tax effort required to recover the loss is far greater in property poor districts than in property rich districts. These reductions are currently occurring and are denying the children in property poor districts the advantage of these programs.

114 The school finance system of Texas contains numerous other examples of formulas, statutes, policies and practices that deny equal rights to students, parents and taxpayers in property poor school districts and deny all plaintiffs a fair and efficient public school education.

VII.

FIRST CAUSE OF ACTION

115 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 114. Both individual and school district plaintiffs allege that the defendants have violated in the past and continue to violate Article VII, Section 1, of the State Constitution which states:

A general diffusion of knowledge being essential to the preservation of the liberties and rights of

the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools,

as well as the TEX. EDUC. CODE, §§16.001 et. seq.

The present and past school finance system has constituted and continues to constitute a breach of the State's constitutional and statutory duty to provide plaintiffs an "efficient system of public free schools", a denial of equal educational opportunity and a denial of equal rights..

VIII.

SECOND CAUSE OF ACTION

116 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 114 above. Plaintiffs allege that defendants have violated, are violating, and continue to violate Article I, Section 3, of the Texas Constitution which provides:

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services,

as well as the TEX. EDUC. CODE §§ 16.001 et seq.

Defendants' school finance system violates Article I, Section 3, by discriminating between plaintiff taxpayers, parents, and school children in property poor school districts and their counterparts in property wealthy districts on the basis of property wealth. This discrimination violates the individual plaintiffs' entitlements to equal rights under Article I, Section 3, and denies equal educational opportunity to school children in

property poor districts.

IX.

THIRD CAUSE OF ACTION

117 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 114 above. Defendants have violated, are violating, and continue to violate Article I, Section 3 of the Texas Constitution set forth above, and TEX. EDUC. CODE §§16.001 et seq. by denying plaintiff property poor school districts the same rights, privileges, and benefits accorded to property wealthy districts pursuant to defendants' school finance system. This denial results in a denial of equal rights to the students within these property poor school districts, the parents and taxpayers in the districts, and the districts themselves.

X.

FOURTH CAUSE OF ACTION

118 Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 114 above. Defendants have violated Article I, Sections 3 and 3A, of the Texas Constitution in that the State public school finance system deprives Mexican American students and students in low property wealth districts of equal rights or equality under the law. Defendant's system discriminates against those plaintiff parents, taxpayers, and school children of Mexican American national origin and/or below-poverty level status who reside in property poor school districts, on the basis of national origin and poverty in violation of their rights to equal treatment pursuant to Article I, Sections 3 and 3A, of the Texas Constitution. The system denies these Mexican American and below-poverty level students equal educational opportunity.

XI.

FIFTH CAUSE OF ACTION

119 Plaintiffs incorporated by reference each of the allegations made in paragraphs 1 through 114 above. Defendants have violated and continue to violate plaintiff property poor school district childrens' educational rights under Article I, Sections 3 and 3A, and Article VII, Section 1, of the Texas Constitution. Defendants' school finance system violates these rights by creating and reinforcing unreasonable, discriminatory obstacles to these children's opportunities for academic achievement and social advancement on the basis of their residency in property poor districts, a matter over which they have no choice or control. Defendants' acts and omissions have presented a barrier to the advancement of plaintiff children and violated their educational rights under Article I, Sections 3 and 3A, and Article VII, Section I, of the Texas Constitution.

XII.

PRAYER

Wherefore, for the reasons stated above, the plaintiffs respectfully pray the Court to grant full and adequate relief, including but not limited to the following:

1. A declaratory judgment that the Texas school financing system (TEX. EDUC. CODE §§ 16.01 et. seq., et. al.) violates the State Constitution, other State laws, and public policy.

2. A preliminary and permanent injunction enjoining defendants from maintaining any school finance system which violates the State Constitution and requiring the State to compensate for the violations of the Texas State Constitution in the past.

3. A permanent injunction to require defendants to design, implement, and maintain a constitutional system of public school finance.

4. Certifying each class described herein.

5. Attorneys' fees and costs for this litigation as provided for under Article 6252-26 Section 1(a), Article 2524-1, Section 10, TEX. REV. CIV. STAT. ANN., or other applicable statutes.

6. A retention of jurisdiction until this Honorable Court's Order is properly implemented.

7. Any other relief that the Court may find appropriate and necessary to remedy the effects of defendants' present or past school finance system.

DATED: March 5, 1985

Respectfully submitted,

JOAQUIN G. AVILA
MORRIS J. BALLER
NORMA V. CANTU
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CERTIFICATE OF SERVICE

This amended petition was served on attorneys for Defendants by depositing a copy in the United States mail, postage prepaid, on this 5th day of March 1985.


ALBERT H. KAUFFMAN
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