

New England Fiscal Facts

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Will Accountability Standards Improve Public Schools? Accountability and Education Reform

By Daniel G. Swaine

During the last decade, the goals of school finance litigation have shifted significantly. Prior to 1989, cases centered on the problem of fiscal equalization — narrowing disparities in the financial resources available to local school districts. Since 1989, the focus has changed to outcome equalization — narrowing disparities in the educational outcomes produced by local school districts. This shift has occurred as the result of a landmark decision in 1989 by the Kentucky State Supreme Court. In *Rose v. The Council for Better Education*, the Kentucky court said that both the state's system for financing schools and the state's system for educating children violated the state constitution.

The portion of the Kentucky decision that overturned the school financing system drew heavily from the pre-1989 tradition of fiscal equalization. But the part overturning the system for educating children was based on a more recent movement to reform education, a movement inspired by the 1983 publication of a report titled *A Nation at Risk*. The Kentucky court's innovative linking of the two separate strands of education reform has had a profound impact on school finance litigation in other states across the nation, including the New England states. In this issue of *Fiscal Facts*, we trace the history of the school finance reform and education reform movements that preceded the Kentucky decision. We also examine implications of the Kentucky ruling and review the changes that have taken place in the two New England states most affected by it: Massachusetts and New Hampshire.

School Finance Reform Prior to the Kentucky Decision

The three prior articles in this series concerned the fiscal equalization problem that was central to the older tradition of school finance litigation. This tradition, beginning with the 1972 case of *Serrano v. Priest* in California, focused on narrowing disparities in the financial resources available to local school districts. Litigation in this tradition was based on one of two strategies: Either the lawsuit charged the state with violating the “equal protection” clause of the state's constitution, or the lawsuit charged the state with violating the “education clause” — the clause in the state's constitution that created public education.

In many state constitutions, the education clause asserts that the state is required to provide all residents with an education that is either “adequate” or “thorough and efficient.” Prior to the Kentucky case, the term “adequate education” was left vaguely defined. In successful cases based on such education clauses, the court simply agreed with the plaintiffs without specifically defining what constituted an adequate education. Thus, these cases focused on the more readily quantifiable and more easily solved problem of narrowing disparities in financial resources. However,

Four Part Series

This article is Part 4 of a four-part series on school finance reform. See *Fiscal Facts*, Fall/Winter 1998, Spring/Summer 1998, and Fall 1999.

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State Budget Timetables

Annual Budgets

Massachusetts
Rhode Island
Vermont
FY00: July 1, 1999
to June 30, 2000

Biennial Budgets

Connecticut
Maine
New Hampshire
FY00-01: July 1, 1999
to June 30, 2001

by neglecting to define an adequate education, the courts left a gaping hole that would come to play an important role in future litigation.

Education Reform Prior to the Kentucky Decision

Efforts to reform education received a major boost in 1983, when a commission appointed by the Reagan administration issued a report titled *A Nation at Risk*. This report complained of a "rising tide of mediocrity" in the nation's schools and called for education reform to improve the performance of American students relative to students in other countries. Education reform movements have been present intermittently throughout the history of our nation's school system. What makes the 1983 reform movement different has been its gradual evolution towards setting and applying standards to hold local schools accountable for results.

The 1983 reform movement has proceeded in three separate waves.¹ The first wave, lasting from 1983 to 1986, stemmed from the publication of *A Nation at Risk*. It focused on the high school, making four assertions: (1) that expectations of what students should know and be able to do were too low, (2) that the high school curriculum had been diluted over time and no longer had a central focus, (3) that the school day was too short, and (4) that teacher qualifications were too low. Many states took steps to address these concerns.

The second wave, lasting from 1986 to 1989, corresponded to a new set of reports published in 1986. These reports argued that the professionalism of teachers needed to be enhanced and that education should be decentralized to the level of the individual school — the concept of "school-based management." States responding to the call for decentralization became pioneers in establishing the first rudimentary attempts to hold schools accountable for student performance.

The third and current wave of education reform was launched in 1989 with the convening of a national education summit in Charlottesville, Virginia. It led eventually to the formation of a set of voluntary national education goals, called *Goals 2000*, and to the design of different methods for assessing how well students were performing relative to these goals. At the state level, some states began to implement what has come to be known as "systemic reform." Systemic reform links educational goals with curriculum frameworks; it also establishes a means to assess both student and school performance in achieving the goals. If the student assessment (a standardized test) is linked to graduation requirements, then this sets a "high stake" for student performance, or educational outcomes. Systemic reform thus aims to establish a complete system to hold schools accountable for educational outcomes (that is, results).

Education Reform: Performance Evaluation Versus Accountability

Beyond holding schools accountable for results, the ultimate goal of education reform is to improve the performance of schools, as measured by student achievement on standardized tests. Education experts argue that, in order to accomplish this goal, systems must be established to evaluate the performance of the entire public school system, and not simply hold local schools accountable for results.² What do educators mean by performance evaluation, and how does this differ from an accountability system?

A performance evaluation has six components:³

- **Curriculum** The establishment of goals and objectives for what students should learn, and when they should learn it.
- **Standards** The establishment of a proficiency standard that students are expected to achieve.
- **Assessment** The measurement of student performance relative to the proficiency standard, using a standardized test, which is called an assessment.
- **Diagnosis** The assessment of school, district, and system-wide strengths and weaknesses

regarding student performance, along with pinpointing the reasons for any weaknesses.

- **Treatment** The choice of a proven, corrective course of action that will improve upon the diagnosed weaknesses, and an implementation of the chosen alternative.

- **Evaluation** The assessment of the effects of the treatment.

An accountability system contains the first three components of a performance evaluation, eliminates the last three, and adds a fourth: establishment of a system of rewards to induce satisfactory performance, and punishments to deter unsatisfactory performance.

While it appears that performance evaluation is broader than accountability, the true distinction between them lies in the matter of control: centralized versus decentralized control of the school system. Recall that in the second wave of education reform that began in 1986, suggestions were made to decentralize education to the level of the individual school, primarily to foster innovation in educational methods. However, before states would agree to give greater flexibility to individual schools, state governors argued that accountability systems needed to be established. The state would establish curriculum goals, set proficiency standards, assess the results, and then either reward or punish local school performance — the four components of an accountability system. But the local school district would be responsible for achieving the proficiency targets — implying that both the authority and the responsibility to conduct the three remaining steps of a performance evaluation (diagnosis, treatment, and evaluation) would be vested in the local school district.

Rose v. The Council for Better Education

The 1989 decision of the Kentucky State Supreme Court in *Rose v. The Council for Better Education* paralleled other school finance cases in important respects: The Kentucky court declared that the funding of schools was the responsibility of the state; that public school systems should be “substantially uniform” throughout the state — implying “substantially equal” funding; and that the state must

appropriate sufficient funds to provide each child with a constitutionally guaranteed “adequate education.” But the Kentucky court went beyond this in two ways: (1) It defined an adequate education as one in which students achieve sufficient proficiency in six subject areas that were explicitly detailed by the court, and (2) it asserted that the state must continuously monitor the performance of the public school system to ensure its compliance with the state constitution.

By defining an adequate education as one in which students acquire sufficient capability in six subject content areas, the Kentucky court attempted to end the ambiguity that has plagued all school finance litigation filed on the basis of an education clause.⁴ The definition provided the framework for a common statewide school curriculum. By admonishing the state to monitor the performance of the school system continuously, the court shifted both the authority and the responsibility for the diagnosis, treatment, and evaluation components of a performance evaluation from the local school district to the state. In effect, the Kentucky court ordered a greater degree of centralization for the public school system, because it is the state, not the local school district, that has the constitutionally mandated responsibility to provide an adequate education.

The major innovation of the Kentucky case was the link between school finance reform and education reform. This link was provided through the court’s definition of an “adequate education” in combination with the traditional school finance decision stating that the funds appropriated for education must be sufficient to provide an adequate education. By linking the goals of school finance reform with the broader goals of education reform, the Kentucky court effectively aimed not only to narrow the disparities in financial resources available to local schools, but also to narrow the disparity in the outcomes (as measured by standardized test scores) produced by the educational system. The goal of narrowing the disparity in educational outcomes represents a major policy change in school finance litigation.

continued

¹ This discussion draws heavily from a Congressional Budget Office report titled *The Federal Role in Improving Elementary and Secondary Education: A CBO Study*, Congressional Budget Office, 1993.

² In the field of educational evaluation, an accountability system is called a “quasi-evaluation” system. See Chapter 2 in George Madaus, Michael Scriven, and Daniel Stufflebeam, editors, *Evaluation Models: Viewpoints on Educational and Human Services Evaluation*, Kluwer Publishing Company, 1989.

³ This is a condensed version of the CIPP model for program evaluation designed by Daniel Stufflebeam. See Chapter 7 in Madaus, Scriven, and Stufflebeam, editors.

⁴ The six subject content areas specified by the court were as follows: (1) sufficient oral and written communication skills to enable citizens to function in a complex and rapidly changing world; (2) sufficient knowledge of the social sciences (i.e., economic, social, political, and governmental) so that as an adult a citizen will be able to make informed choices about public policies and issues affecting the community, state, or nation; (3) sufficient knowledge of psychology and the health sciences so that as an adult a citizen will have the capacity to assess and maintain physical and mental well-being; (4) sufficient grounding in the arts so that as an adult a citizen will appreciate his/her historical and cultural heritage; (5) sufficient training to enable a citizen to choose a vocation intelligently; and (6) sufficient academic and vocational skills to enable a citizen to compete favorably in either academic or vocational settings nationwide.

State Responses to the Kentucky Court Decision

The specification of an adequate education as one in which students acquire sufficient proficiency in six content areas has had a profound impact on other states. This section of the Kentucky court's decision has been quoted verbatim in the decisions of other school finance cases, including *McDuffy v. Secretary of Education* (Massachusetts, 1993) and *Claremont v. Governor et al.* (New Hampshire, 1997). In crafting remedies to these court rulings, both Kentucky and Massachusetts have responded to this definition of adequacy, while New Hampshire has stayed with the traditional purview of reforming school finances.

In both Kentucky and Massachusetts, the six subject content areas defined by the courts provide the basis for a "common core of learning." This common core is central to new statewide curriculum frameworks that were adopted in Kentucky and to the curriculum frameworks still being developed in Massachusetts.⁵ In response to *Claremont*, New Hampshire is focusing solely on reforming school finances. But this focus is the result of New Hampshire's having enacted an education reform bill in 1993, far in advance of the 1997 *Claremont* decision. As part of the New Hampshire Educational Improvement and Assessment Program (NHEIAP), the state has developed curriculum frameworks in English language, mathematics, science, and social studies. The frameworks are at least partially aligned with the six content areas defined by both the Kentucky and the New Hampshire courts.

The Kentucky court decision has ramifications that go beyond establishing common curriculum frameworks. Neither the Massachusetts nor the New Hampshire court repeated the Kentucky court's admonition that the state must continuously monitor the performance of the public school system. There was no need to do so because it is implicit in the constitutions of Massachusetts and New Hampshire that the state rather than the local district is responsible for providing an adequate education. All three courts explicitly referred to this constitutional mandate in their respective decisions.

How have the three states dealt with the concerns of performance evaluation and accountability? Both Kentucky and Massachusetts have established accountability systems, but neither state has implemented a system for conducting performance evaluation on a

continuing basis. New Hampshire has established a statewide assessment program along with the curriculum frameworks, but the assessment program has not been linked with rewards and punishments — the final component in an accountability system.

The Kentucky court decision linked education reform with school finances by stating that the funds appropriated by the state must be sufficient for the students in each district to achieve the definition of educational adequacy specified by the court. In reforming school finances, neither Kentucky nor Massachusetts has taken the step of linking student performance on the statewide assessment tests to the amount of funds necessary for a student to achieve proficiency. Instead, each state's respective finance reform follows the precedents set by prior school finance legislation.

In contrast, New Hampshire has tried to link finances to student performance. In its recently enacted reform, the \$825 million in state funding is based on the minimum cost of attaining an outcome such that 40 to 60 percent of a district's students perform at a "basic" level, which is the minimum level of proficiency on the statewide assessment test. Although the specific approach used by the legislature to determine minimum cost is under attack as methodologically unsound, the concept of "minimum cost" is economically appropriate for the goal of efficiently producing educational outcomes.

Educational Reform and Assessment

As discussed above, education reform has only recently evolved to the stage of developing accountability systems, and the key to all such reforms is assessment — that is, the measurement of student performance. Unfortunately, assessment technology is not well developed. Two different types of standardized tests are used for assessment. The Scholastic Aptitude Test (SAT) is the most widely known example of the first type of standardized test, a norm-referenced assessment. The Massachusetts Comprehensive Assessment System (MCAS) is an example of the second type of standardized test, a criterion-referenced assessment.

A norm-referenced assessment compares the performance of students taking the exam to the performance of a nationally representative sample of students, called the norm group. The purpose of this type of assessment is to rank students on the basis of "native" ability, with the

⁵ In Massachusetts, curriculum frameworks for English language, history, and social sciences were adopted in 1997; curriculum frameworks for health, the arts, and foreign languages were adopted in 1999. Curriculum frameworks are in the process of being developed for math, and science and technology.

questions designed to discriminate among students at different levels of ability. But, for any given student, this type of test cannot ascertain the competency of that student to perform a given task, or group of tasks (such as writing an essay). As such, a norm-referenced test cannot be used to measure the performance of students against a competency standard, as is necessary for both accountability and performance evaluation. Thus, one of the recommendations that came out of the national education summit in 1989 was to develop a different method for assessing student performance, a method designed to assess competency, rather than native ability or aptitude.

This “new” type of test is currently in use in states that have accountability systems, including Kentucky and Massachusetts (MCAS), as well as in the assessment program in New Hampshire. These “new” tests measure student performance against a competency standard, called the criterion. Questions are designed to discriminate among different levels of competency for a given student. If general agreement can be reached on a well-defined standard, and if a valid and reliable test can be designed to assess competency, then a criterion-referenced assessment overcomes the shortcomings of a norm-referenced assessment and can be used for both accountability and performance evaluation.

Educational measurement experts disagree on whether these requirements can be met. The experts argue that in order to have a well-defined standard as well as a generally agreed-upon standard, a criterion-referenced test must be narrowly designed. It should assess a very specific task, where competency in performing the task can be clearly determined — such as the operation of a machine. The student would actually perform the specific task, and it should be possible to assess his/her competency to perform it in a well-defined and generally agreed-upon manner. However, in order to assess a student’s performance in general education, competency in many different skills (some of which may be intangible) must be determined. This requires developing many narrowly designed tests, one for each particular skill. Furthermore, the experts argue, with this approach to criterion-referenced assessment, it is difficult to find a statistic that can adequately summarize general competency over a multidimensional skill set.

For these reasons, the technology for designing criterion-referenced tests and interpreting their results is not very well developed. As yet, there is no consensus among the measurement experts concerning this type of assessment procedure.⁶ Because the new technology is so

underdeveloped, the assessment of student performance is likely to be problematic in implementing education reform. In fact, the state of Kentucky, which has had the most experience using criterion-referenced assessments (since 1991), enacted legislation in 1998 to redesign its criterion-referenced assessment test comprehensively, suggesting that the measurement of student performance is indeed a problem. At least partly because of inadequate assessment technology, states have been inclined to take an incremental approach in implementing these reforms.

Policy Implications

The goal of narrowing the disparities in educational outcomes represents a major policy shift in school finance litigation. It corresponds to a definition of equal opportunity that has a long tradition in American society. Thus, the shift from narrowing the disparities in finances to narrowing the disparities in outcomes would seem appropriate for litigation that is brought under the equal protection clause of the state constitution. A major impediment is that the technology used to measure educational outcomes is inadequate. Until the technology catches up with the concept, the goal of achieving more equal educational outcomes will remain an elusive one.

Policymakers forced to comply with the court rulings seem to have intuitively understood the measurement problem. They may appear to have dodged their constitutional responsibility for educational reform by setting up a system to hold schools accountable for measured performance, rather than systems of continuous assessment (that is, including diagnosis, treatment, and evaluation). However, performance evaluation depends on assessment technology, and, without proper measurement, the ability to improve the performance and effectiveness of the public schools is severely impeded.

Finally, as in all previously successful litigation, the Kentucky decision declared that that funds appropriated for schooling should be sufficient to provide for an adequate education. But Kentucky went further. By defining adequacy, the court linked educational outcomes to the resources that are used to produce them. However, the ability to determine the level of resources needed to achieve an “adequate” educational outcome also depends upon assessment technology, and until this technology improves, the goal of linking outcomes to financial resources will prove to be elusive. **FF**

⁶ See: Chapter 8 in Robert Hashway, *Assessment and Evaluation of Developmental Learning*, Praeger Publishing Co., 1998.

Six-State Review

Connecticut

The state of Connecticut collected total tax revenues of \$1.3 billion through the first three months of FY00, up 2.0 percent over the same period in FY99. Sales tax collections grew at a 4.6 percent rate, while income tax collections grew by 3.4 percent. However, business tax collections declined 29.3 percent from FY99 — the principal brake on the overall rate of revenue growth. This steep decline is attributable primarily to the continued phase-in of previously enacted tax cuts combined with the lagged impact of last year's Asian economic flu.

Maine

by Pei Zhu

For the first quarter of FY00, Maine enjoyed strong revenue growth — total collections were up 9 percent over the same period last year. Personal income tax collections led the way, registering a year-over-year growth rate of 17.2 percent. Because of the 0.5 percentage-point sales tax cut that took effect on October 1, 1998, sales tax collections were down 3.7 percent from last year. Since the tax base grew by 5.1 percent, the decline in collections was due entirely to the tax rate cut. Another 0.5 percentage-point cut in the sales tax rate, from 5.5 percent to 5.0 percent, is scheduled to take effect on January 1, 2000.

On November 2, Maine voters approved a \$154 million bond issue, which includes \$56 million for highways and bridges, \$50 million for public land purchases, \$26.4

million for the Maine Technical College System, and \$9.4 million for the federally mandated digital upgrades for Maine Public Broadcasting Corporation.

Massachusetts

The Commonwealth collected a total of \$4.5 billion in taxes during the first four months of FY00, up 1.9 percent over the same period in FY99 but 2.0 percentage points less than forecast by the Cellucci administration. Income tax collections grew 4.1 percent, 0.7 percentage points below predictions. However, withholdings from workers' wages grew 6.8 percent, more than 3 percentage points above predictions. Corporate tax collections declined by 17.1 percent, while business excise taxes fell by 32.8 percent. The large reductions in business taxes enacted over the past few years, combined with the lagged effects of the fallout from overseas economic slowdowns, are slowing revenue growth. The bright spot in the revenue picture is sales tax revenues, which grew 7.4 percent during the first four months of FY00.

The Commonwealth finally enacted a \$17.4 billion own-source spending budget for FY00, up 7.9 percent (\$1.3 billion) over enacted spending for FY99. Highlights from the budget bill include:

- A \$245 million increase in state aid to education to fund the last transition year of the 1993 Massachusetts Education Reform Act.
- \$430 million in tax cuts when fully phased in:
 - A \$274 million income tax cut. The income tax

Across the Region

Revenue growth across the region was less robust in the first quarter of FY00 than at any time during the past three years. The slower growth reflects previously enacted tax cuts that are being phased in and the lagged effects of slower business tax collections due to overseas economic turmoil in 1998 and the first half of 1999. Except for the slower growth, all has been generally quiet on the region's fiscal front. The sole exceptions are New Hampshire, which continues to struggle with the effects of the *Claremont* case, and Massachusetts, where a budget for FY00 was enacted more than four months into the fiscal year.

rate will be lowered from 5.95 percent to 5.75 percent over three years — to 5.85 percent on January 1, 2000, to 5.80 percent on January 1, 2001, and to 5.75 percent on January 1, 2002.

- Continuation of the 3 percent investment tax credit for businesses.
- Elimination of the remaining phase-out of the capital gains tax, freezing the tax rate at 2 percent.
- Expansion of the earned income tax cut for low-income families.
- An overhaul of MBTA finances. The budget dedicates 20 percent of sales tax revenues annually to fund MBTA activities and guarantees the agency a minimum funding level of \$645 million.
- A long-run plan for the \$7.7 billion in tobacco settlement funds that the Commonwealth will receive over the next 25 years. Some 70 percent of the settlement is dedicated to a trust fund, with 30 percent allocated for health care program spending.

New Hampshire

New Hampshire collected \$349.4 million in tax revenues during the first four months of FY00, up 23.6 percent over the same period in FY99. However, this growth rate is skewed because of the tax increases contained in recently enacted education finance reforms.¹ Revenues from business taxes (the business profits tax and business enterprise tax) and from the meals and rooms tax, the two largest sources of state revenue, grew by 5.2 percent and 10.1 percent, respectively.

Despite the enactment of school finance reform at the end of April, reverberations from the *Claremont* case are still being felt. As the legislature reconvened in early October to address the \$100 million deficit in the Reform Act, a court action quickly altered the lawmakers' purpose. Earlier, the property-rich towns, which had been threatening to file a separate suit against the Reform Act, reversed course and joined the suit filed by property-poor towns during the summer. This suit challenged the constitutionality of the school finance reform act on several grounds (see *Fiscal Facts*, Fall 1999). On October 15, the state Supreme Court returned a quick decision, striking down the property tax

component of the Reform Act on the basis that the five-year phase-in period allowed education tax rates to continue to vary across districts for too long a period. The court declined to rule on the remainder of the plaintiffs' charges, calling any such action premature.

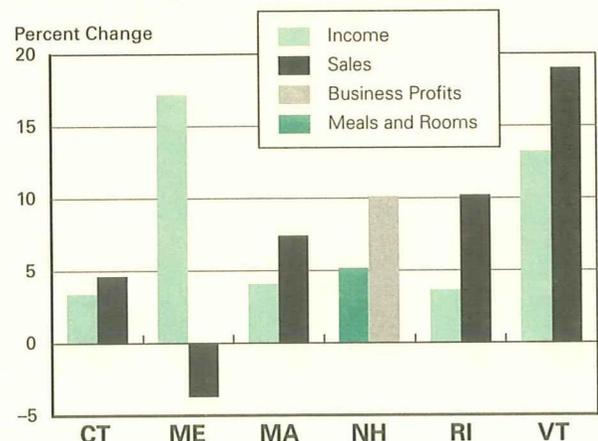
The legislature had to act quickly. It again passed a \$6.60 per \$1,000 valuation state property tax. It also provided tax relief for the poor residents of property-rich towns (those with incomes of less than \$40,000) by abating a fixed portion of any property tax increases for these residents. Concerned that the court might strike down this provision as unconstitutional, the legislature specifically inserted a clause into the new legislation to sever this provision from the enactment of the state property tax. A sunset clause, repealing the property tax on January 1, 2003, was inserted to give the legislature a three-year period within which to find a permanent funding solution. Thus, school funding will continue to be a top legislative priority for the foreseeable future.

Rhode Island

The state of Rhode Island collected \$512.0 million in tax revenues during the first four months of FY00, up 2.3 percent over the same four-month period in FY99. This performance was below the 3.1 percent growth forecast by the administration. Income tax collections and sales tax collections both outperformed predictions, growing by 3.7 percent and 10.2 percent, respectively. However, other tax components underperformed across the

Revenues from the Two Largest Taxes in Each New England State

First Four Months of FY00 Compared with First Four Months of FY99



Source: Official budget documents, state financial statements, conversations with state budget officials.

¹ The education finance reform act established two new taxes: (1) a statewide property tax of \$6.60 per \$1,000 in property valuation; and (2) a new auto rental tax of 8 percent. This act also increased a slew of tax rates, including the business profits tax rate from 7 to 8 percent; the business enterprise tax rate from 0.25 to 0.5 percent; and the real estate transfer tax rate from \$5.00 to \$7.50 per \$1,000 in valuation. See *Fiscal Facts*, Spring/Summer 1999 for additional information.

board, holding down total revenue growth.

Two separate fiscal actions were attempted by the state's wealthier citizens. During the spring, many of the state's most influential business leaders proposed an income tax cut for taxpayers with incomes in excess of \$200,000. This proposal would have replaced the state's piggyback income tax (26.5 percent of federal tax liability) with a flat state income tax rate of 5.75 percent. After many months of public hearings, the state's Senate majority leader stated he was not inclined to support the proposal, although he said he was open to a compromise involving some tax relief for high-income taxpayers. The second action occurred in late October, when several of the state's affluent suburban communities filed suit in Superior Court challenging the state aid formula for financing local schools as being inherently unfair to the suburbs.

Vermont

by Pei Zhu

Vermont's general fund tax revenues for the first four months of FY00 increased 4.0 percent from the same period in FY99. This revenue performance exceeds the flat growth that was projected by the administration. Per-

sonal income tax revenues were up 13.3 percent for the period, while the two major consumption taxes, sales tax collections and meals and rooms tax collections, were up 19.0 percent and 20.9 percent, respectively. Receipts from the corporate income tax declined by 55.3 percent from one year earlier, a far greater decline than expected. The lagged effects from last year's international economic problems are partly responsible for the poor corporate performance. Also explaining some of the falloff is the "economic development tax credit," recently enacted by the state to encourage business employment.

Vermont's favorable fiscal health prompted two major rating agencies to upgrade Vermont's bond and credit ratings. In late September, Fitch IBCA upgraded Vermont's credit rating from AA to AA+. In early October, Moody's Investors Service upgraded Vermont's bond rating from Aa2 to Aa1, the highest level since 1972. Both agencies remarked on the state's stable economy with moderate growth, full budget stabilization reserves, and declining total debt load as the main reasons for the upgrade. **FF**

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