

M. M. Chambers
Education Building, Indiana University
Bloomington, Indiana
47405

SINCE EIGHTH
1958 YEAR
Number 89 AUGUST 1966 Page 579

GRAPEVINE

* * * * *

A newsletter on state tax legislation; state appropriations for universities, colleges, and junior colleges; legislation affecting education at any level. There is no charge for GRAPEVINE, but recipients are asked to send timely newsnotes regarding pertinent events in their respective states.

IN THIS ISSUE

<u>California</u> appellate court holds constitutional prohibition of Civil Service encroachment on State Colleges continues effective.....	580
\$489 million for fiscal year 1966-67.....	581
<u>Maryland</u> Court of Appeals declares state appropriation for capital outlay to Hood College is lawful; but similar appropriations to one Methodist and two Catholic colleges are invalid as offending the "establishment of religion" clause of the First Amendment to the U. S. Constitution.....	582
<u>Mississippi</u> appropriates \$73½ million for operating expenses of higher education for biennium 1966-68.....	583
<u>New York City</u> University launches \$584 million capital expansion program.....	584
<u>West Virginia</u> CORRECTION for Table 74, page 577.....	584

Statement of ownership and circulation of GRAPEVINE is on Page 580 (reverse hereof).

CALIFORNIA. A constitutional amendment of 1934 (Art. XXIV, Sec. 4, subd. a) exempts employees of the "state teachers colleges" from civil service.

At that time these colleges were governed by the State Board of Education through its division of state colleges and teacher education. Employees in that division were under civil service.

In 1960 the Donahoe Act abolished that division and transferred its functions to the new Board of Trustees of State Colleges. Some of the employees were transferred from the old central office to the new, but gave up their civil service status. As to the campus employees of the colleges themselves, they have consistently been ruled exempt from civil service in a series of at least five opinions of the Attorney-General, spread over a quarter of a century from 1938 to 1961.

Now comes an effort to impugn the transaction of 1960 by maintaining that it is unlawful to reduce the coverage of the civil service system by abolishing jobs and transferring their functions; and that even the campus employees of the state colleges should be under civil service because in 1934, when the amendment was adopted, they were actually employees of the division (central office) and not of the "state teachers colleges" in the language of the amendment. (They were at that time appointed by the State Director of Education, but only on the recommendation of their respective college presidents).

The pleading was dismissed in

superior court, and this disposition was affirmed in the District Court of Appeal, in an opinion by Justice Devine in which his two colleagues concurred.

To sustain the plea would be in effect to say the amendment of 1934 was meaningless and useless from the moment of its adoption, the court pointed out. Said the forthright Justice Devine: "A person generally is considered employed by the institution for which he works."

Showing a keen understanding of public higher education, he then quickly refuted the contention that the size and offerings of the state colleges have expanded so greatly that they are no longer the institutions meant by the words "state teachers colleges":

"It cannot be gainsaid that the institutions have grown enormously, as what has not? Their curricula are vastly expanded, and their organization is much more centralized. But they do educate teachers, together with aspirants to other vocations. But more than this, the colleges are part of the prized system of higher education. The exemption from civil service, it would appear, is not made because teachers were and are educated in these institutions of advanced learning, but because people were and are provided with higher education in these colleges, and because it has been thought that the whole system should be in control of persons responsible for proficiency in education.

"The exemption has to do with the function of education, rather than with any particular profession for which the students may be trained. This appears

GRAPEVINE is owned and circulated by M. M. Chambers. It is not a publication of any institution or association. Responsibility for any errors in the data, or for opinions expressed, is not to be attributed to any organization or person other than M. M. Chambers. GRAPEVINE is circulated chiefly to persons in position to reciprocate by furnishing prompt and accurate reports from their respective states regarding tax legislation, appropriations for higher education, and legislation affecting education at any level.

Address communications to M. M. Chambers, Education Building, Indiana University, Bloomington, Indiana, 47405

----- M. M. Chambers, Education Building, Indiana University, Bloomington -----

CALIFORNIA (Continued from page 580)

from the cognate exemption, contained in the next preceding subdivision of the article in the Constitution, of all employees of the University of California.

"The exception, constitutionally granted, should not be deemed lost merely because the functions of the teachers colleges have been greatly enlarged and the colleges' title has been changed."

-- California State Employees' Association v. Board of Trustees of California State Colleges, (Cal. App.), 47 Cal. Rptr. 73 (1965).

The foregoing decision is a rebuke to more than one all-too-prevalent fuzzy thought, such as the idea that educational institutions should be run by remote control from central non-educational state offices, and the equally misguided notion that the larger and more complex a system becomes, the more tightly centralized its management must be.

A companion case, decided at the same time, challenged the right of the state colleges to employ architects other than those who are civil service employees. The Court of Appeal held that architects employed by the state colleges are within the same constitutional exemption as other non-academic employees.

Moreover, said the court explicitly, it is not necessary, prior to such employment, to make any factual finding that the work could not adequately be performed by the State Architect.

-- California State Employees' Association v. Board of Trustees of California State Colleges, (Cal. App.), 47 Cal. Rptr. 81 (1965).

CALIFORNIA. Appropriations of state tax funds for operating expenses of higher education, fiscal year 1966-67:

Table 89. State tax-fund appropriations for operating expenses of higher education in California, fiscal year 1966-67, in thousands of dollars.

Institutions (1)	Sums Appropriated (2)
U of California (10 campuses)*	\$229,905
Salary increases	9,948
Special research	535
<hr/>	
Subtotal, U Cal -	\$240,388
<hr/>	
California State Colleges	
San Jose	18,916
Long Beach	15,767
San Diego	15,747
Los Angeles	15,099
San Francisco	14,937
San Fernando	11,874
Fresno	9,966
Sacramento	9,247
Chico	7,498
Fullerton	6,218
Cal Poly (San Luis Obispo)	9,325
Cal Poly (Kellogg-Voorhis)	6,569
Hayward	6,656
Humboldt	5,081
Sonoma	2,492
San Bernardino	1,799
Stanislaus	1,527
Dominguez Hills**	1,309
Kern County***	68
International program	301
Salary increases	9,577
Unallocated items	3,908
Systemwide administration	2,137
<hr/>	
Subtotal, St Colls -	\$176,019
Hastings College of Law	630
Maritime Academy	562
Coord Council for Higher Edn	458
Scholarship & Loan Comm	5,031
WICHE	15
<hr/>	
Total, excl jr colls	423,102
State aid to jr colls (est)	66,000
<hr/>	
Total	489,102

*Includes the California College of Medicine, former private college of osteopathy recently acquired by the state, and previously listed separately for 1965-66.

**Formerly Palos Verdes State College.

***A projected new institution.

MARYLAND. It will be recalled that in a suit brought by taxpayers for a declaration that Maryland appropriations of public funds to four private and allegedly denominational colleges were in violation of the First Amendment to the United States Constitution, the judgment of the circuit court for Anne Arundel County was against the plaintiffs (as had been expected) but was appealed to the Maryland Court of Appeals.

The decision was reversed by the Court of Appeals June 2, 1966, holding that the appropriations to Western Maryland College (Methodist) and to the College of Notre Dame of Maryland and St. Joseph College (both Roman Catholic) were in contravention of the First Amendment prohibition of "establishment of religion"; but the appropriation to Hood College was not. (The language of the First Amendment applies only to Congress, but it has long been held applicable also to the states through the Fourteenth Amendment).

The distinction among the colleges in favor of Hood College was on the basis that although Hood College is loosely affiliated with the United Christian Church, the connection is comparatively attenuated and is not sufficient to bring the institution within the constitutional proscription.

The court thought best not to lay down any cut-and-dried across-the-board rule that would apply to all church-related colleges, but believed that in each instance the circumstances should be weighed and decided independently.

The opinion of the court was written by Chief Justice Prescott, with three Justices concurring, and with Justice Hammond writing a dissent in part, in which Justices Horney and Marbury concurred.

The dissenters did not agree that any of the appropriations to any of the colleges were in violation of the Constitution. Dissenting Justice Hammond wrote:

"I think that the four grants under consideration were made pursuant to long-established practice to further a secular public purpose and that any aid or benefit flowing from them to religion would be slight, vague and purely incidental."

Thus the whole court upheld the appropriation to Hood College, but a majority of four of the seven Justices struck down the appropriations to the other three colleges.

It is not at present known whether the state of Maryland will perfect an appeal to the United State Supreme Court, and if so, whether the high tribunal will consent to receive and review such an appeal. In the event that this takes place, there is a possibility of further clarification of the relations between church and state. Depending on the nature of the decision, it might perhaps seriously affect the current policy of making federal grants and loans to denominational institutions under the Higher Educational Facilities Act of 1963 and other federal acts of similar tenor.

Even if the state does not appeal it is possible that the plaintiffs might appeal the Hood College segment of the case. The prime mover in the litigation thus far has been the Horace Mann League, an organization of educators who oppose tax support of denominational schools.

The Court of Appeals decided that the Horace Mann League does not have standing to sue in its own name and in its own behalf; but this was of not much consequence because the League had taken the precaution of having some individual taxpayers sue with it as joint plaintiffs.

Not at issue in the case is the question of direct state appropriations to private nonsectarian universities and colleges, as practiced in Pennsylvania.

M. M. Chambers, Education Building, Indiana University, Bloomington

MISSISSIPPI. Appropriations of state tax funds for operating expenses of higher education, biennium 1966-68:

Table 90. State tax-fund appropriations for operating expenses of higher education in Mississippi, biennium 1966-68, in thousands of dollars.

Institutions (1)	Sums appropriated (2)
General support *	\$42,161
U Miss Schl of Medicine	4,000
U Miss Teaching Hospital	4,410
Coop Ag Exten Service **	3,400
Ag Experiment Station **	2,700
Research & Devlpmt Ctr **@	2,230
U Ctr & Organized Research **	1,000
U Miss Schl of Nursing	515
Nursing Education Aid Fund	425
Chemical Regulatory	400
Central Office	350
Technical Institutes	200
U of So Miss Schl of Nursing	200
Educational television @	66
Pharmaceutical Research **	180
Forest Products **	168
Gulf Coast Research Lab **	75
Foundation Herds **	35
So Regional Edn Fund	400
State Scholarship Fund	525
Subtotal	63,440
State aid to jr colls	10,000
Total	73,440

* "General support" is a lump-sum appropriation, not to any institution, but to be allocated to the ten institutions by the Board of Trustees of State Institutions of Higher Learning (See Table 91).

**Appropriations thus marked are classified as "Research and Development Funds", aggregating \$9,788,000 for the biennium.

@The Mississippi Research and Development Center is not a degree-granting institution, but its program is intimately related to those of the universities.

@@This appropriation is for fiscal year 1966-67 only.

To provide a picture of the annual tax financing of the operations of

Mississippi's ten state institutions of higher education for fiscal year 1966-67, in a manner comparable to the exhibits for other states, the allocations for that fiscal year appear in Table 91.

Table 91. Allocations of state tax funds for operating expenses of higher education in Mississippi for fiscal year 1966-67 to ten institutions, in thousands of dollars.

Institutions (1)	Sums allocated (2)
U of Mississippi	\$9,145
Mississippi State U	8,844
U of Southern Mississippi	3,714
Miss St Coll for Women	1,661
Jackson State College	1,636
Alcorn A & M College	1,327
Delta State College	1,326
Miss Valley State Coll	1,284
Research & Development Ctr	1,181
Gulf Coast Research Lab	287
Total	30,405

* It will be noticed that this total is less than half of the total appropriated for the biennium (excluding the \$10 million appropriated for state aid to junior colleges). This is because the Board of Trustees of Institutions of Higher Learning has a sphere of discretion as to the timing and amount of its allocations.

For approximate comparability with other states in the 50-state summary table, one-half of the total appropriations for the biennium 1966-68 (including the appropriation for state aid to junior colleges) is used therein as Mississippi's figure for fiscal year 1966-67.

The total for fiscal year 1966-67 seems to represent a gain of 41½% over the comparable figure for fiscal year 1964-65, two years earlier.

The 6-year gain since fiscal year 1960-61 seems to be almost exactly 100%.

(To obviate confusion, it is well to remember that Mississippi is one of only three states which make appropriations biennially in even-numbered years; Kentucky and Virginia are the other two).

NEW YORK CITY. A highly significant program for large expansion of the facilities and enrollments in the City University of New York is now in its initial stages.

(1) The 4 five-year colleges (City College, Hunter, Brooklyn, and Queens) now have 43,000 full-time undergraduate students. They will be enlarged to accommodate 10,000 additional full-time students.

(2) A new senior college (upper division, to receive transfers from community colleges and other institutions) named Richmond College, will be opened on Staten Island in the fall of 1967 with 2,000 students.

(3) Another new senior college for 5,000 students will be established in Brooklyn or Queens probably in 1969 or 1970.

(4) Additional facilities, either new institutions or expansions of established ones, will be provided for 9,000 students.

(5) The existing community colleges (Bronx, Queensborough, New York City, Kingsborough, Borough of Manhattan, and Staten Island) will be enlarged to double their present full-time enrollment of 13,000 students.

The total capital cost is estimated at approximately \$584 million. Most of it will come from bonds issued by the new City University Construction Fund created by an act of the legislature early in July 1966, to be financed jointly by the state and the city.

Governor Rockefeller, under heavy pressure from influential upstate Republicans, at first opposed this measure, but later supported it in common with Mayor Lindsay of New York City and the Democratic majority in the Assembly.

The City Board of Higher Education was ready with plans, in view of the fact that the City University is now operating at 125% of capacity with 56,000 full-time students, and an additional 39,000 full-time students are expected by 1972.

Moreover, 2,300 fully qualified applicants for the fall of 1966 had been rejected because of lack of space and funds. These students will now be admitted and accommodated in emergency centers for one or more semesters until expanded permanent facilities can be made available. The expectation is that about \$23½ million will be spent to provide temporary facilities.

Plans for the main "crash program" of permanent construction envision about \$267 million of building during the first two years (1967 and 1968), tentatively allocated as in Table 92.

Table 92. Tentative allocations (July 1966) of capital improvement funds to units of the City University of New York for fiscal years 1967 and 1968, in millions of dollars.

Institutions	Expected allocations	
	1967	1968
(1)	(2)	(3)
City College	\$49.7	\$34.0
Hunter College	18.5	31.4
Brooklyn College	36.4	17.7
Queens College	16.7	37.7
Richmond College	-	25.0
Totals	121.3	145.8

The new City University Construction Fund will not finance buildings for the two-year community colleges. These, under an older statute, are dependent on the state for 50% of their capital outlay funds, and 50% on the local taxing subdivision.

WEST VIRGINIA. -- CORRECTION --

In Table 74 (GRAPEVINE, page 557) the figure \$9,991 should read \$4,500 and the subtotal for West Virginia University becomes \$21,393. The figures for the nine state colleges are an estimated 12% too high on account of inclusion of student fees; and the estimated total for the statewide system thus becomes \$32,294.