

# From the Foundation Plan, to *Brigham*, to Act 60, to Weightings

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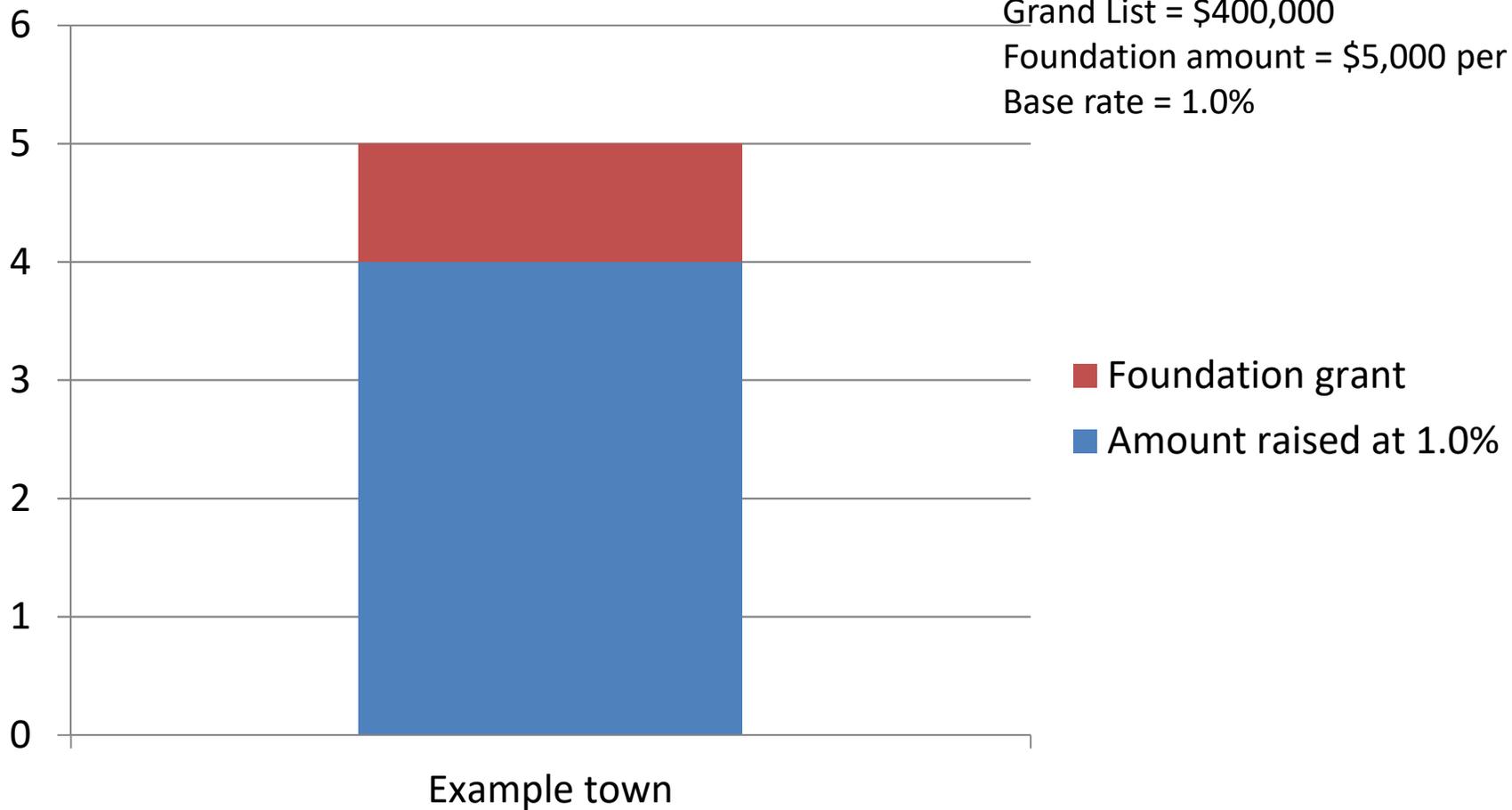
# Pre-Brigham: Foundation Plan

## Example town

Grand List = \$400,000

Foundation amount = \$5,000 per pupil

Base rate = 1.0%



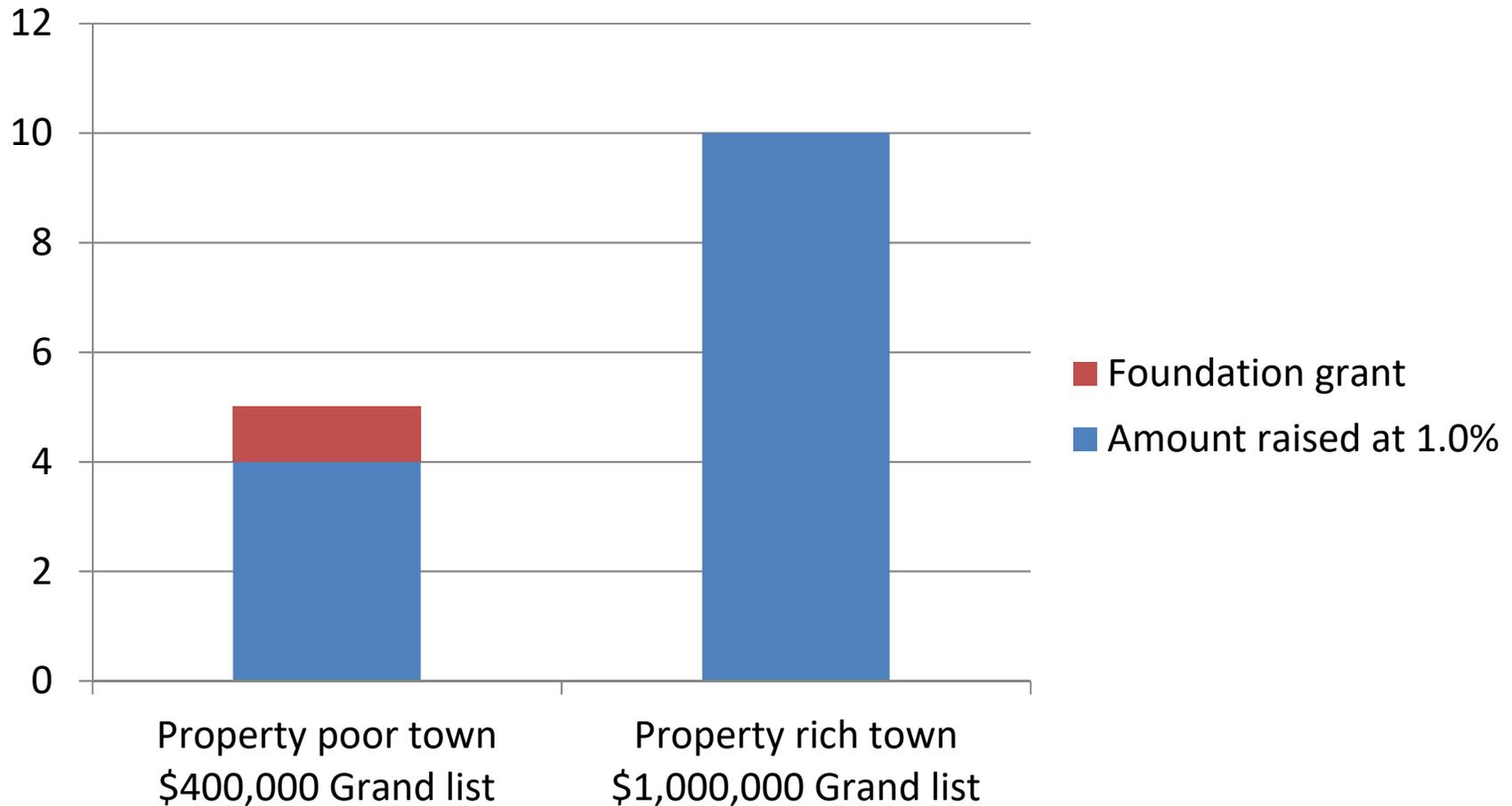
# Pre-Brigham: Foundation Plan

## Equity example

- Two towns – one with lots of property wealth, one with little property wealth.
- Both towns want to spend \$10,000 per pupil.
- Foundation amount is \$5,000 per pupil and base rate is 1.00%.

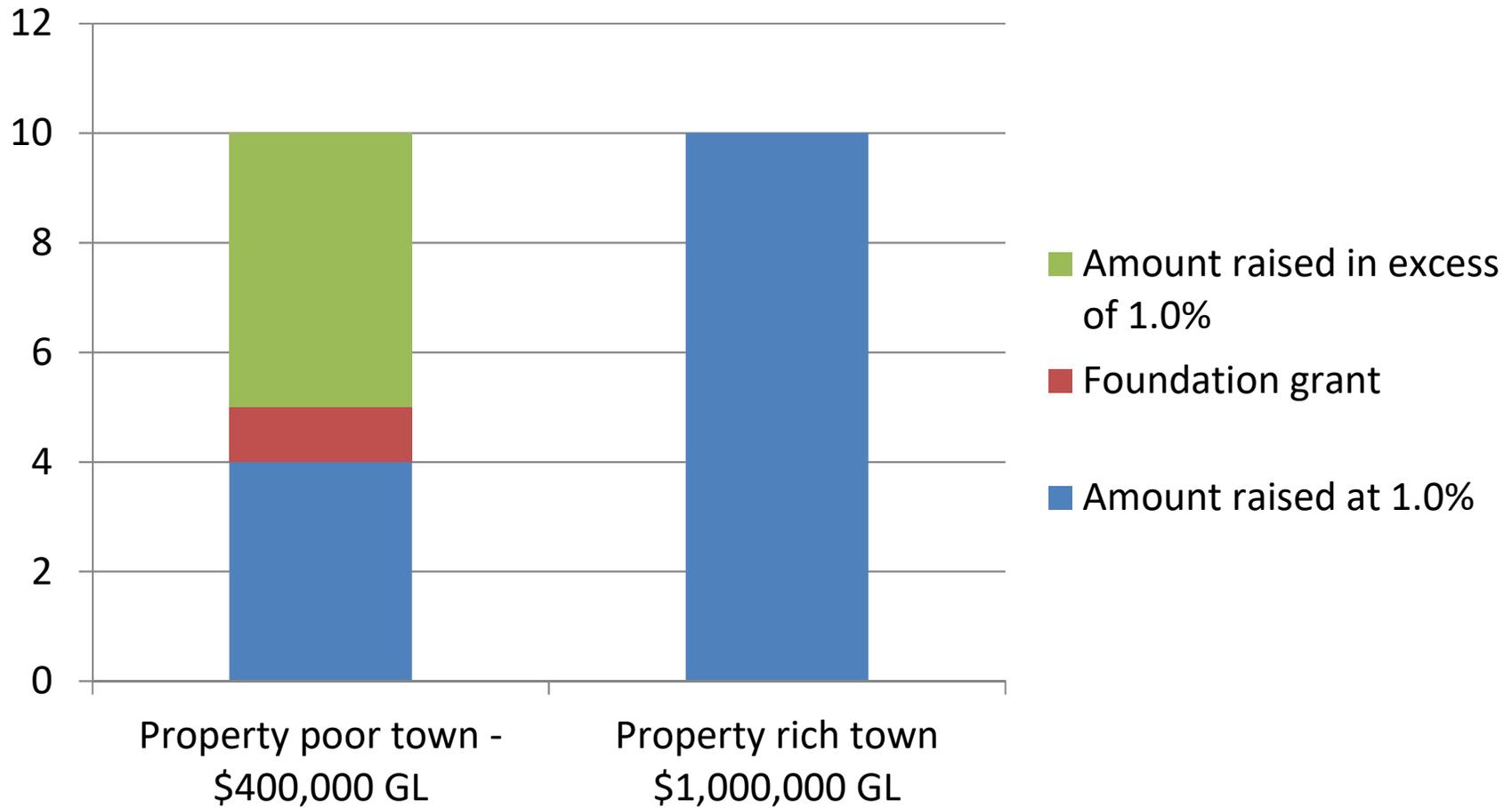
# Pre-Brigham: Foundation Plan

## Foundation formula



# Pre-Brigham: Foundation Plan

## Equity problem



# Pre-Brigham: Foundation Plan

## Equity problem



# Vermont Constitution

- Education Clause: A right to education--“a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions to the convenient instruction of youth.” Vt. Const. Ch. II, § 68
- Common Benefits Clause: A right to equal opportunity—“government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community...” Vt. Const. Ch. I, Art.7
- Creating a right to *substantial* equality of educational opportunity

## *Brigham v. State*, 166 Vt. 246 (1997)

- *Brigham* held that the then-current education financing system, “with its substantial dependence on local property taxes and resultant wide disparities in revenues available to local school districts, deprive[d] children of an equal educational opportunity in violation” of the Vermont Constitution.
- Two levels of inequity—taxpayer inequity leading to unequal educational opportunities for students.

# *Brigham*

- “The distribution of a resource as precious as educational opportunity may not have as its determining force the mere *fortuity* of a child's residence.”
- The parties conceded that the Foundation Plan resulted in unequal opportunities for students, but the State argued that this was justified by the State’s interest in promoting local control.

# *Brigham*

- The *Brigham* Court rejected this argument, holding that the constitutional right to *substantial* equality of educational opportunity is, essentially, a State mandate that cannot be overridden by local control.
- Therefore, the Court held that “to fulfill its constitutional obligation the state must ensure *substantial* equality of educational opportunity throughout Vermont.”

# *Brigham*

- Vermont's education funding system was substantially changed by Acts 60/68 to comply with *Brigham*.
- The Vermont Supreme Court has not, in a meaningful way, analyzed the Common Benefits Clause in connection with education since it issued the *Brigham* decision.

# Act 60/68

- Retained local control over spending decisions, but created a system of tax rate equity.
- Two towns with the same per pupil spending have the same spending adjusted tax rate.
- Two homes, one in each town, would pay the same in property taxes, if they had the same fair market value.

# Weighting Factors

- The property tax rate and the income sensitized rate are based on a school district's per pupil spending.
- Per pupil spending is determined by dividing education spending from the school budget, e.g. \$20M, by the number of equalized pupils, e.g. 1,500, which would result in per pupil spending of \$13,333. If there were 1,200 equalized pupils, per pupil spending would be \$16,666; if there were 1,800 equalized pupils, per pupil spending would be \$11,111.
- Therefore: higher equalized pupils = lower tax rates;  
lower equalized pupils = higher tax rates.

# Weighting Factors

- In order to determine equalized pupils, a number of weighting factors are applied to a school district's student count.
- The policy behind applying weighting factors is to provide more resources for school districts that have a relatively higher number of students that need those extra resources.
- PreK students are weighted at .46; elementary and kindergarten students at 1.0%; secondary students at 1.13%; and students who are from low income homes or are English language learners receive an additional weighting.

# Weighting Factors

- Weightings are a zero sum game, for example:
  - a higher weighting for one school district with more students who are from low income homes receives a higher weighting
  - resulting in another school district with fewer of this type of student receiving a lower weighting.
- Note that the weighting system does not directly provide further resources for school districts that have a relatively higher number of students that need those extra resources (as would be the case with grant funding); it results in relatively lower educational tax rates and the ability of a school district to more cheaply increase education spending to provide additional resources (i.e., it creates more taxing capacity).
- School districts may choose not to provide additional resources, but instead benefit from lower educational tax rates

# Weighting Factors

- Act 173 (2018) commissioned a review of the weighting factors
- The Weighting Report found that the weighting formula does not reflect contemporary educational circumstances and costs and that the existing weights have weak ties, if any, with the resources needed.
- The Weighting Report recommends adjusting the weights and adding new weights

# Back to *Brigham*

- *Brigham* found two levels of inequity—taxpayer inequity leading to unequal educational opportunities for students.
- *Brigham* found “The distribution of a resource as precious as educational opportunity may not have as its determining force the mere *fortuity* of a child's residence.”
- The current weighting factors:
  - May result in taxpayer inequity because school districts receive a relative tax advantage/disadvantage from the weights.
  - May result lead to unequal educational opportunities for students because school districts which are most in need of additional resources are not getting the taxing capacity to afford those resources.
  - This may result unequal educational opportunities based on the mere *fortuity* of a child's residence.