

Stop the Lies

At the House Finance Committee hearing of the Governor's proposed constitutional amendment, the Governor stated "No other state is forced to pay the first and last dollar of an adequate education." That is not true.

According to the National Access Network, a national database on school funding information, a number of other states pay the total costs of an adequate education, or the cost of components of an adequate education. Some of these states do not permit "targeting aid" as part of their adequacy funds, or for components of adequacy like facilities or teachers. These states include Washington, Wyoming, Arizona, New Mexico, and Tennessee.

Moreover, no State that I am aware of has established a funding plan that determines an amount for an adequate education and then expressly pays some communities less than that amount because of "need" based on fiscal capacity or property value, which is what the Governor wants to do. I am also not aware of any court that that has sanctioned this approach.

There are a number of States that target aid for various reasons, but most of them are not good role models as they are in protracted litigation over school funding because of problems with their funding systems. Why would we want to be like them? We are such a small, wealthy state and we do not have many of the demographic and poverty variables that these states have. If any state can resolve this issue, it is New Hampshire. We should set our own standard and be the model for other states to follow, not change our constitution to try and be like other states that have not found a way to resolve the problem.

The Governor also stated that the *Claremont* and *Londonderry* court decisions do not allow targeting and "we need the flexibility to be able to send more money to the communities most in need." That also is not true.

The only type of targeting that is not allowed under the *Claremont* and *Londonderry* decisions is targeting based on "need" as determined by local property values or local fiscal capacity when those targeted funds are part of state adequacy funds. The *Claremont* and *Londonderry* decisions allow at least two forms of targeted aid. First, the State can target aid within the amounts provided to pay for adequacy if it bases the targeted funds on other types of need such as educational costs and factors that lead to different educational costs in different communities. For example, the State can provide more funds to communities with higher percentages of "at-risk" students, or students receiving special education services. It could have "weights" that provide more funds based on certain criteria like economies of scale, or location to take into account the different cost of services to rural or small communities. There are a variety of legitimate factors that the State can use to send more funds to some communities and less to others as part of its adequacy funding.

Second, the State can still target aid based on need as determined by fiscal capacity or property value if it provides that targeted aid in addition to what it provides for adequacy funds. For example, the State could develop a plan that distributes an adequacy amount to all districts and then target additional aid to districts with low property values.

The State could also combine both forms of targeting and have targeted aid based on educational costs within adequacy funds and additional targeted aid based on fiscal capacity on top of the adequacy funds.

In prior years, when proposals with these types of approaches were costed out, “property poor” school districts end up getting substantially more funding than “property rich” districts when legitimate cost figures and criteria are used. So, it accomplishes the same goal as the Governor’s form of targeting, but does so in a legitimate, constitutional manner.

The Governor also said that “New Hampshire is under a stricter court ruling than any other state, including Massachusetts, where constitutional language on education funding is all but identical.” He has also said in the past that the Massachusetts court has sanctioned the use of targeted aid. Those comments are also not true.

In the last round of litigation in Massachusetts, the Massachusetts Supreme Court reaffirmed that the State Constitution "impose[s] an enforceable duty on the magistrates and Legislatures of this Commonwealth to provide education in the public schools for the children there enrolled, whether they be rich or poor and **without regard to the fiscal capacity of the community or district in which such children live.**" *Hancock v. Commissioner of Educ.*, 822 N.E.2d 1134, 1139 (Ma. 2005)

The Governor is making a habit out of strong arming elected representatives and providing them with misinformation to gain their support of the amendment. Such tactics led Rep. Martha McLeod, D-Franconia, a co-sponsor of the bill, to say at the hearing that “the court would require the state to send the same aid to New Castle and Berlin, even though their average incomes differ four-fold and tax rates are higher by a factor of six.” That simply is not true. As noted above, the State can send more money to Berlin than it sends to New Castle without amending the constitution.

To cut through the misinformation, I renew the challenge I made to the Governor at the press conference on May 9, 2007: Let’s have an open forum where Legislators and the public can ask whatever questions they want with myself and the Governor present to respond and to address each others response.

The House and Senate should not waste its time trying to fix an amendment that we don’t need. It should instead focus on finishing the work of defining an adequate education and then begin the work of determining the cost of an adequate education.

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