

## REPORT ON RESOLUTION TO REVISE STATE EDUCATIONAL FUNDING

Since the founding of this country, education has been promoted in every state as vital to the successful functioning of a republic based on self government.<sup>1</sup> In addition to citizens' role as voters, citizen participation on juries is at the center of our system of justice. The ability of persons called as jurors to understand and determine the often complex issues presented there is critical to the working of the legal system.

Many state courts have recognized that the reason all 50 states have constitutional provisions requiring education is because of the close inter-relationship between an informed citizenry, effective self-government, and the functioning of the legal system. Thus New York's highest court held that a necessary education is one which " 'enable[s] children to eventually function productively as civic participants capable of voting and serving on a jury'. . . . [A] sound basic education conveys not merely skills, but skills fashioned to achieve a goal: meaningful civic participation in contemporary society." Campaign for Fiscal Equity v. State of New York, 100 NY 2d 895, 905 (2003).<sup>2</sup>

Adequate education for its citizens, moreover, is vital not only to the working of its public sphere, but also to Pennsylvania's economy, enhancing its ability to attract and retain businesses by creating a well- educated work force.<sup>3</sup>

Education moreover decreases the social and economic costs imposed upon the legal community by children and adults unable to obtain jobs in an increasingly complex society where there are fewer jobs available to persons without a high school degree and it is difficult for persons without a degree to support themselves or a family.

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<sup>1</sup> See "Education in the 50 States: A deskbook of the history of state constitutions and laws about education" to be published by the Institute for Educational Equity and Opportunity, June 2008.

<sup>2</sup> See also Leandro v. State of North Carolina, 488 S.E.2d 249, 255 ( N.C. 1997) ("A "sound basic education" is one that will provide the student with at least: (1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state, and nation; (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and (4) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society."); Rose v. Council for Better Education, 790 S.W.2d 186, 212 ( Ky. 1989); Pauley v. Kelly, 255 S.E.2d 859, 877 (W.Va. 1979).

<sup>3</sup> Surveys of location decisions always show work force education and skills among the five highest criteria.

Numerous studies show that persons without high school degrees, unable to read and write at grade level, are disproportionately involved in our criminal justice and juvenile systems.<sup>4</sup>

Juvenile judges are increasingly calling for expanded educational services to be made available although many districts are strained to provide them within their limited financial resources.

Although Article III, Section 14 of the Pennsylvania Constitution declares it the obligation of the General Assembly to provide for the “maintenance and support of a thorough and efficient system of public education” many school districts across the Commonwealth are unable to afford quality public education, leaving thousands of their students handicapped by the lack of skills necessary to compete successfully in the job market and leaving business without the workforce able to participate in the national and global economy. The facts in Pennsylvania are stark:

- In 2006 only 41 districts out of 501 met the state’s 2011 standard of having 68% of their students score proficient or above on state math tests and 72% on state English tests in every grade and demographic group.
- Pennsylvania provides a smaller share of education funding (below 36 percent) than any other state except six, relying instead on local taxes to pay for the majority of school costs. The local tax burden ranges from the equivalent of 10.5 mills to 42 mills, with the poorer communities shouldering a higher tax burden but raising less revenue per student for their schools. As a result, Pennsylvania ranks as the state with the 8th greatest disparities in funding between its highest and lowest spending school districts in the nation according to Education Week.
- In every county with more than two school districts, the disparity in spending between districts exceeds \$1,000 per student, or \$25,000 per room of 25 children. Per student expenditures range from \$7,000 to \$17,000.
- Pennsylvania has not taken into account the changing number of students in a district, nor the number of students in poverty, special education or English language learners since 1991 despite the wide changes in district demographics since then.

In response to these problems, the General Assembly directed the State Board of Education to conduct a Cost of Adequate Education Study to determine the cost for each school district to adequately educate its students to meet the state’s performance standards and to comply with the federal No Child Left Behind requirements. That Report, as revised December, 2007, demonstrated that most Pennsylvania districts need significantly greater funding in order

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<sup>4</sup> The average reading grade level of the Pennsylvania state prison population is 7.9 and the math grade level is 7.7. Pa. Dept. of Corrections, Office of Planning, Research, Statistics, and Grants.

to adequately educate their students to meet state and federal standards.<sup>5</sup> Every county in the state except five (Clinton, Forest, Sullivan, Wayne and Warren) had districts with gaps over \$2,000 per student, equal to \$50,000 for each classroom of 25 students. For the state as a whole the increase in necessary funding is \$4.3 billion or 26 percent, assuming as set forth in the Report, that there would not be any reduction in spending by districts above the adequate level. For the first time Pennsylvania citizens know how much an adequate education costs in each district, so that all districts can have the small class sizes, sufficient books, materials and up to date science equipment, well trained teachers, advanced placement classes, and support services necessary for academic success.

The need to overhaul the state allocation to districts revealed by the Adequacy Gap Study reinforces the conclusions set forth in a report by Professor Gary Ritter based on 2004 data and an earlier report by Wharton Professor Emeritus Anita Summers concerning the discriminatory impact of Pennsylvania's allocation formulas. Those studies showed that Pennsylvania's distribution of state education funds to school districts discriminates against the 17 school districts with predominately minority students, so that on average a district receives \$40 less per student for each percentage of minority enrollment it has, once poverty is controlled for.<sup>6</sup> Furthermore, this discrimination penalty has been increasing in importance from a reduction of 21 percent of a district's expected state funding in 1995 to 39 percent in 2004.

Act 114 of 2006 provided upon receipt of the final report the Education Committees of the Senate and House of Representatives "...shall promptly review and consider the recommendations of the study and develop legislation as deemed appropriate."

Because the Adequacy Study tells how much money is needed but not where it is to come from, it is up to the Governor and General Assembly to create a state funding formula, which has not existed since 1991, and to decide how much shall be raised locally and how much come from state sources, so that local taxpayers are not unfairly burdened, and over what period of time the new funding should be phased in.

On February 5, 2008 the Governor and Department of Education proposed a six year program to meet the Adequacy Gap Study goals, which he calculated as \$4 billion excluding special education.<sup>7</sup> The Governor's bill adopts the exact factors and weights used by the legislatively commissioned Study to measure increased spending needs of the districts. The bill sets the state share based on the state aide ratio historically used by the legislature to measure a district's financial capacity, but adjusts it for those districts not making the highest property tax effort by the proportion the district's tax effort is to the 75<sup>th</sup> percentile level. This figure is the six year state share goal, totaling \$2 billion, which adjusted for inflation over the six years will be

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<sup>5</sup>See attached Executive Summary of Costing-Out Student. The full report is available at: [http://www.pde.state.pa.us/stateboard\\_ed/lib/stateboard\\_ed/PA\\_Costing\\_Out\\_Study\\_rev\\_12-07.pdf](http://www.pde.state.pa.us/stateboard_ed/lib/stateboard_ed/PA_Costing_Out_Study_rev_12-07.pdf).

<sup>6</sup> For Philadelphia this amounted to a shortfall of more than \$300 million that year.

<sup>7</sup> See: [http://www.pdenewsroom.state.pa.us/newsroom/lib/newsroom/08-09budget/final\\_basic\\_education\\_fact\\_sheet\\_2-2-08\\_.pdf](http://www.pdenewsroom.state.pa.us/newsroom/lib/newsroom/08-09budget/final_basic_education_fact_sheet_2-2-08_.pdf)

\$2.6 billion. The proposed first year funding is \$291 million or 11 percent. The administration states that no new tax revenues will be necessary to fund this amount this year, and that the amounts in the future years can also be funded without new taxes based on expected revenue growth.<sup>8</sup>

The administration bill provides accountability restrictions on how funds in excess of the inflation rate set in Act 1 (4.4 percent this year) can be spent. Eighty percent must be spent on establishing or expanding eight proven school improvement strategies, 10 percent on maintenance of existing programs, and 10 percent on other programs of proven effectiveness. Districts receiving such funds in excess of inflation must provide reports on how they will be used, and districts not meeting federal No Child Left Behind Adequate Yearly Progress levels must obtain PDE approval of those spending plans.

The Governor's proposal does not reduce funding for any district and it does not interfere with the ability of existing high performing districts to meet their students' needs.

Because of the Administration's reduction of the state share because of tax effort, the number of districts receiving a minimum hold harmless share the first year is 101. The state share the first year is set with all districts getting a minimum increase of 1.5%. Most districts when they set their budgets in December assumed the minimum would be 2%, which would require an increase of \$3.2 million in the first year appropriation. This part of the proposal is widely expected to be amended.

The proposed funding formula is embodied in House Bill 2449 and Senate Bill 1338.<sup>9</sup>

More than 25 educational advocacy groups and professional associations, including the Pennsylvania School Boards Association, Pennsylvania State Education Association, Pennsylvania Association of School Administrators, Pennsylvania PTA, and the Pennsylvania Council of Churches, have joined together in the Pennsylvania School Funding Campaign to support the administration proposal with four recommended changes.<sup>10</sup>

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<sup>8</sup> Attached is the chart of six year increases proposed by the Administration arranged in rank order on the basis of their percentage increase in state funding. The highest increases go to a cross section of inner suburban, rural and small city districts.

<sup>9</sup> See, Senate Bill 1338:  
<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=S&billTyp=B&billNbr=1338&pn=1891>.

See House Bill 2449:  
<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=H&billTyp=B&billNbr=2449&pn=3613>.

<sup>10</sup> Those changes would increase the first year minimum to 2 percent, increase the amount going to low wealth districts by basing the state share solely on district financial capacity without the tax effort reduction, establish a study for the inclusion of Special Education funding, and limit accountability provisions to those districts not meeting state proficiency requirements.

[http://www.paschoolfunding.org/about\\_the\\_campaign.shtml](http://www.paschoolfunding.org/about_the_campaign.shtml)

Because of the State Supreme Court's 1999 decision in Marrero v. Commonwealth, 559 Pa 14, 739 A.2d 110 (1999), holding that the Educational Clause of the State Constitution is not judicially enforceable, legislative advocacy is the only route to securing the Constitutional rights of Pennsylvania students and taxpayers to a "thorough and efficient system of public education"—one which provides sufficient resources for all districts to adequately educate all of their students to Pennsylvania's proficiency standards.

The Adequacy Gap Study reveals the striking deficiencies of the current funding system and how far the Commonwealth has to go to provide an adequate education for all students. The Administration proposals are a significant first step towards achieving that goal and bringing the Commonwealth into compliance with the Constitutional mandate. The PBA has a strong interest in seeking governmental compliance with constitutional provisions to promote adherence to the rule of law, to end distribution of governmental resources on a basis inconsistent with principles of fairness and equality, and to promote access to educational opportunity adequate to enable effective participation in court service, voting, and to meet civic responsibilities.