

Adequacy Group Meeting Notes 7/23/20

Attendance taken; Present – Jay Kahn, Bill Ardinger, Val Zanchuk, Rick Ladd, Dick Ames, Iris Estabrook, Mel Myler, Dave Luneau, Bruce Mallory, Drew Atchison, Matt Gerding

Bruce Mallory – Primary means for communication from the public will be the Q+A function on zoom

Jay Kahn – Laid out the agenda. Adequacy conversation from last meeting. Also added that Matt Gerding prepared a summary of the statutes from the state, a part of which are the mandates that the local school districts have from the state in terms of funding and spending. Also want to discuss the adequacy and cost discussion paper that Bruce sent out. Rick Ladd has also put together something that begins to work on 193-E:2-a statutory language. Will also examine actual statutes, as sent by Bill Ardinger. Will try to arrive at a discussion piece for our July 27th meeting. Second part to the conversation is to talk about cost, and review that section of the discussion paper, and have Drew Atkinson to talk about the methodology used by AIR to determine outcome to cost factors, in both revenue generating capacity, and spending. What does that regression line look like, and will we be able to identify the school district outliers that have great success compared to revenue and spending. Could help to identify more successful models.

Iris Estabrook – Wanted to mention that she has an issue with the recollection by the presentation with Anne Edwards. Wanted to clarify, and see where this clarification fits. Explained that it was Anne Edwards stated that the state was obligated to pay for everything as outlined in statutes. Iris explained that her understanding was that the state was obligated whatever the legislature defines as cost of an adequate education.

Bruce Mallory – My explanation may not have been as detailed, thank you for the insight.

Dick Ames – Iris's clarification seems too broad. Need a credible reflection of what the legislature takes from the statute as sufficient. Statutory language, then a good judgement by the legislature.

Iris – Agree

Dave Luneau – Distinguished adequacy as opposed to targeted aid

Bill Ardinger – Believes the point is that Anne Edwards summary seemed to reflect the position that if the legislature defines adequacy and determines a cost to adequacy, that the state budget, funded with state taxes, has to pay 100% of that cost wherever it is identified. Don't believe she said anything unique about targeted aid, but the issue is does it mean that a court rule say that the state must distribute funds to all districts, and not target funds to specific districts. Iris' statement seems clear.

Dave – Anne Edwards did specifically apply to targeted as opposed to adequacy. If costs of adequacy as defined by the legislature is different for different districts, they must adhere to funding these different amounts – but cannot underfund.

Iris – weighting is included within adequacy

Jay – Defined capacity for adequacy as base cost for adequacy + targeted amount for aid

Iris – maps we saw in last meeting will help with discussing/determining targeting aid

Jay – Terminology of “adequate” is challenging. The challenge becomes how to communicate something other than what has been done in the past. No one wants to say “just give them something adequate”

Barbara Tremblay – Also continue to get hung up on this word. Is that what is holding us up, instead of thinking of something bigger, better? Should we throw it out and come up with what we actually want? How we pay for this may also be different. Whatever we propose needs to be dynamic. New word needs to be nimble and flexible.

Dave – I’ve always taken the word adequate to be flexible, though previously I was understanding it in a more literal, “Websters Dictionary” way. “Adequate” seems to be a legal term of art.

Dick Ames – Agree, it’s something that has been changed and massaged over the years. Better to keep it instead of getting hung up on what a better term would be.

Jay – Education about the word is important. This is an opportunity. Maybe the courts don’t have all the answers because they only occasionally look at this issue. We can make changes as needed. We can say specific things about costs without getting caught up in this single term.

Bill – The legislature must define what it thinks this adequacy standard is. The purpose for this standard is for judicial review. If in the future, a family were to not feel that their child was provided an adequate education, they would have a standard to judge with. Adequacy standard/definition can be used to test in the courts whether the state is meeting its requirements.

Bruce – We will engage this idea as we move forward. Great discussion however!

Iris – I don’t think anyone who values public education can stomach the term “adequacy” without feeling nauseous. However, it is a minimum standard.

Jay – What is surprising is how it has gotten separated from the constitutional obligation. The “opportunity” is the challenge for the state. This cannot be just defined by curriculum standards, and the limited purpose statements.

Matt Gerding – Shared out sheets within the distributed document “NH Ed Funding Research Doc”. Discussed each of the sheets included in the document, so that group members could utilize this document for their own investigations.

Jay – How do we move from the master document with all details to a summary of the costly items required by school districts. Some of these things that we’ve listed as “optional” services are no longer just option – such as nurses and psychologists that now have testing requirements, these are no longer optional

Val Zanchuk – the definition is somewhat dated, and the legislature has made adjustments overtime that aren’t reflected in the adequacy definition. For example, work-based learning – there is now language that includes the state’s responsibility of doing this. But this is not added within the definition of adequacy. Do we need to update the definition with all given required expenses?

Bill – Relates back to issue mentioned by Iris. Running into a fundamental policy disconnect. The conundrum of adequacy is that the statutes require a number of things that go into providing an education. However, essentially, our system of education is to delegate powers to local districts the power to do things and tax to do them. By changing adequacy, you fundamentally change the nature of how we set up our locally governed school system. The more defined/costly that adequacy is, the less power to tax and do there will be for the local districts. How do we navigate this?

Jay – this is a good framing of the difficulty we face. Its maybe a difference in the literal and the conceptual?

Iris – Under the definition of adequacy are we muddling the definition and the cost? What are the functions – the definition may be more conceptual also, what are the elements required?

Jay – Let move to Rick’s changes to Statute 193-E

Rick Ladd – No problem with policy and purpose. When looking at the constitution, the most important word is “opportunity”. So this may be our focus. Took from the state of Vermont the language “provide the opportunity for a quality education.” There is little language as of right now that pertains to the “whole child”, currently it just pertains to test scores. By adjusting and making changes, and by thinking about the “opportunity for a quality education” we begin to address the whole child. Currently optional services are things that we do in all schools! But there are things that are being funded, such as text books, that are included in the adequacy definition, even though there are other statutes saying it is the responsibility of the municipality. There are conflicting statutes, and that needs to be cleaned up. Changed language

to include more whole-child-specific language, such as “leadership”, “personalized learning”, etc. less specifics about curriculum requirements. So both what services are needed, infrastructure, transportation, whole-child services. Also feels that we need to be funding pre-k through grade 12. Pre-K is something being asked by businesses, workers, and families. Change the definition to say that opportunities need to meet or exceed the criteria listed. Should also make sure to include food services. Not an advocate of the laundry list – let’s keep it broad and general, and make sure to have “quality.” Certainly, however, we would need to define any adjective we use. Changing things such as “engineering and technologies” because this is too specific – especially when we have a whole statute specific to this.

Jay – In our last conversation, we discussed how the “policy and purpose” section of 193-E:1-a worked together to produce a broad umbrella, and then the statutes get more and more granular as they go down.

Bill – Some of this language is pulled from the court decision, specifically 193-E:2-a. This definition was added because the court determined that the definitions were too broad. This provided the standard to follow to prevent lawsuit. So the more specific sections are the response to the decisions. 193-E:3-a has not been reviewed in a court decision.

Iris – I agree that this was developed in response to the courts. Hesitant to change this or add words like “quality”. Some of these things should be added in the costing section. Happy about the addition of pre-k. Need to be careful about mixing up costing and definition.

Bruce – Universal cost of adequacy by DOE. Arrives at a p \$4300+, included in this are the salaries of teachers, instructional material, PD, maintenance costs, transportation, etc. Interesting that this is the basis for including those specific line items. Suggests the costs.

Bill – This is the costing, not the definition. The cost issue is defining the aspects that the state believe is the min adequate education.

Dave – If we are trying to completely reinvent these statutes and try to come up with a costing and distribution model and try to figure out how to raise the revenue, then we will never get there. We change the statutes, but not the standard, not the definition. Public schools are meeting the requirements, and we can discern a few things from these budgets – being that taxpayers have a high expectation for performance in public schools, also a high differentiation and tax burden. With the existing statutes in place, we can look at what we’ve been spending and break that down into what we consider the cost of an adequate education. If we’re going to change the statutory underpinning of all the compliance elements, then we may not be able to rely on the method to change cost.

Jay – if we just get stuck in 193-E:2-a and not the whole picture of what is public education, and if this brings some alignment of what the costs of public education is, then this may help center the changes. We have all the curricular items in proceeding statutes. If this should be something conceptual and independent form the costing, then we need a line that outlines all

the components of what makes up public education. There are a bunch of overlapping pieces of what makes public education in this state, and thank goodness this is captured by a funding formula.

Drew Atchison – What would be most helpful for you all?

Jay – Perhaps if you could build on the past discussion on the adequacy definition

Drew – No strong opinions. Important thing is that it is a little bit vague, don't want to be pinned in a corner and then have to update the adequacy definition every time something is added in other statute. Good to not tie the definition too close to the costing parts. AIR is coming from a more conceptual standpoint on costing. NH is performing well in education, and the adequacy of NH funding from a national perspective is not concerning, but the question of difficulty is the responsibility of the state and the local districts. States have tackled this differently. AIR is looking at what their definition of adequacy, finding it to be what is the state's existing current level of outcome. NH doesn't need to increase outcomes much beyond where they are. It becomes a distributional issue – aiming to close gaps in outcomes amongst the many districts. By accounting for differences in student needs – remembering that is more costly for students with greater needs. One possible solution, is saying that we already are performing well, thus our state definition on adequacy should be about student performance. On average we have good outcomes, but on a district to district level we are not. It seems to be more of a distributional issue than a definition issue.

Jay – so we can tweak and get more comfortable with the definition, other side is seeing that the issue is how we distribute funds to districts. Could be a summary statement to arrive at this place.

Drew – the distributional issue and the cost issue go hand-in-hand. We will be building the distributional issue into how we address the cost issue. One of the potential benefits to taking a more outcome related approach, because we don't get into arguments of teacher salary, whether we include nurses in the formula, etc. To pin point and pick apart the existing spreadsheet is the pattern for previous lawsuits. If we take the spreadsheet route again, it means there will likely again be a lawsuit. Outcome-oriented approach will provide less of an opportunity for this. We can say that if districts aren't meeting the outcomes, then they need additional funding to get there.

Jay – We could be focusing and reprioritizing – maybe we do this July 27th. Reprioritizing objectives and tasks that we laid out. Recognizing that there is one large issue of distribution, and then some other smaller issues to be tweaked by local control or state mandate. So the distribution issue is our biggest concern.

Iris – interested in this outcome-based approach. If we go towards this outcome-based approach, and one of the three factors is test scores, this is outlined 193-E:2-a, which makes this line perhaps even more appropriate.

Bill – the definition of adequacy can include in it an emphasize of standards of outcomes. Provide what students need to achieve for outcomes. Governor Lynch outlined this in his proposal in 2005, and identified districts above, at, and below the standard. Then additional funding was provided to those below. May need a statement of emphasis on outcomes. Then for costs and distribution, we definitely know that this is the problem.

Iris – Need to be careful how we word the new outcome-based definition. Need to make sure we don't include or exclude a standard in this.

Jay - AIR is proposing to us an outcome based distribution model that helps districts that lag.

Barbara – Interested in the explanation by Drew in working on outcomes. Agree with Bill and Iris, and need to be careful with how we place it and how we define it.

Drew – not sure if the legislature needs to specifically define outcome targets. You already have accountability standards that define where schools should be, set by the DOE and/or state board of ed. Not sure if you all need to reinvent the wheel.

Jay – we should all look at 193. The sections are there, and it's great to wrestle with what isn't optimal, but it's also good to determine whether we have the basics to be able to tackle the larger issue of distribution.

Dick – It's a costing and distribution issue. We need to look at outcomes in the NH context, which is a spending context. At the heart of this work group is the determination of the cost of adequacy. There is a distributional aspect, but also a core.

Jay – what information are we lacking relative to cost?

Drew – No, we're working from the assumption that the overall levels of spending in NH are attributed to the outcomes. Then can peel back different layers of spending and see what their impacts are. Once costs targets are defined, with whatever pots of money taken off the top, then the question is how do we get to the amounts needed with the revenues we have.

Jay – If we've got \$3.2 billion being spent, minus the unique parts – what is the criteria for removing these pieces?

Drew – look at federal spending, this is something not controlled by the state, but is a piece. Perhaps catastrophic aid – also out of the districts control, and may be worth accounting for through a separate mechanism. Transportation may be another one that is pulled off the top and distributed separately, because it may not be related directly to outcomes. Any costs that are related to the outcomes we're describing should fall within the main funding formula.

Iris – Would the higher achieving districts under this concept get any aid?

Drew – this still falls within how you choose to fund. Should the state fund everything? Should there be a minimum responsibility for districts?

Dick – I think that we do need to have this separate conversation regarding the extent to which the state must fund the determined cost, and how the distribution of funding will come out. We need to work through the language from the courts as well. I think the cost is the first thing, then who pays for it is the second thing. When thinking about the distribution, we need to get together with the fiscal policy group and see how these plans weave together. If we begin to model a local contribution outside the state tax, I wonder what extent that could factor into the equalized valuation per pupil.

Drew – the idea could be to say the minimum local effort is a rate, and the low capacity district pay that and the state fills in the rest.

Dave – if the state requires a local tax burden, then it's the same as the statewide property tax. It needs to be equitable.

Rick – Still seeing a disconnect between the definition of an adequate education and the connection to the school approval standards. There doesn't seem to be any parallel between how we cost. We add things to the statutes and raise our statutory expectation, but we never add things to the adequacy formula. I'd like to make sure that our school approval standards are aligned with the costing formula.

Bill – We have to report on the 27th, and we covered a lot of ground. One unified principle seems to be the idea that we need a fair and equitable distribution system.

Jay – The key is to focus on the differentiation of the distribution. If the state has an average cost – however this is defined – the weight below that average is what needs to be equalized. To try to bring that group, in both outcomes and distribution, to the average. There is an overall refocusing, and I think that's what we were aiming for.

Dave – Definitely don't want to create an impossible standard, but if there's a line that needs to be addressed to tie funding to comparable outcomes, then that is something to consider.

Bruce – Need to determine how to report out. The refocusing we've landed on is where we needed to get. Perhaps then the public input we get is on equity, distribution, and potential revenue.

Dave – It's an evolution – and even my own personal ideas have changed since January. The public and stakeholders hopefully are following what we are doing as well. This can't be quick if we want to reach a successful outcome.