

Fiscal Policy Work Group - Commission to Study School Funding

Notes 9/29/20 10AM

Attendees: Dave Luneau, Chris Dwyer, Mel Myler, John Beardmore, Bill Ardinger, Rick Ladd, Mary Heath, Dick Ames, Jay Kahn. Also in attendance: Jordan Hensley, Bruce Mallory, Carrie Portrie. 11 public attendees.

Just after 10am Dave Luneau called the meeting to order and called the roll.

Dave and Jordan briefly shared the AIR revenue section of the report and noted that this is preliminary and a jumping off point.

Chris – have a suggestion to take what was just said and to reorganize the report to make that clear. Being from a former donor town gave a presentation to city councilors, see that this report being misunderstood. Risk important modeling work being misunderstood or dismissed if people think that this second part is this commission's proposed recommendation. Second part could be treated as an appendix/example. Risk having folks not pay attention to the modeling work that sets up the problem if people too quickly assume that this report is the proposal and are concerned. Need to actively make sure that we are holding a dialogue here and not shutting it down. Maybe could treat that final chapter in a different way. Would keep it in the report and treat as an appendix, but not treat it as the concluding chapter in a final report. I was immediately contacted after our meeting who assumed that this was the proposal. Need to make sure people don't think our work has concluded. Dave – agreed and some of this distracts from the “meat” of the efforts. Don't want to make it seem that research team has recommended this option.

Dick – Agree that clarification is important and necessary. Need to work on understanding more, including use of a “mandatory minimum local contribution”. Need to understand that better, which is a reality just south of us in MA. Much less threatening to high end property value towns because it's capped. It is sort of like the current statewide property tax that doesn't require an excess revenue payment out to the rest of the state. An interesting proposal that brings to the fore a discussion on our agenda of the first/last dollar. Need to a) understand the proposal and b) look at the legalities. I happen to think it's a way of funding that relies on a local contribution that probably would meet approval with the court even though it's different than what has been considered before. Look forward to working that through. Need to dig into the options. Bill was talking about how mind boggling and complex problems he or I have encountered. We'll keep moving along but those watching need to understand that's what we are doing – our best and not jumping to conclusions.

John – I'm a little confused and a little frustrated. Have been at this for 9 months, plus or minus. We are talking about burying the headline section of our consultant report because it's distracting from the meat of what the consultant did, which I assume is the work of showing what we knew. If we are burying it, and it is an example, what are we going to do? Time is of the essence, what are the proposals in the alternative? I'm not for burying it, it's a fine example and perhaps a worthy recommendation. Anxious to take some votes and it's time for brass tacks. Chris – the

goal is not to bury the headline, I don't think the headline is a first/last dollar fully funded property tax. I think the headline is the disparities and level of need and concerned that gets buried because this is a two step problem. Share your concerns about urgency and moving ahead. I think we could easily swamp the investment if we allow people to treat this as the only recommendation, just want to share that. Dave – just having this conversation is an important thing to do because it's one thing if it's Dave or Bill talking to someone in the media and different talking as a group. I think there is general recognition that the real findings of the AIR research report stand without the property tax and mandatory minimum examples laid out. Idea is not burying but to focus the attention on what the research team has found about costs and equity, allowing the Commission to go ahead and model funding mechanisms that Commission doesn't fully agree on. May be split on first/last dollar. Ultimately this is going to come down to Governor and legislature going forward. Certainly hope they will base that legislation on the work we have done and recognize the lack of equity in NH in public education.

Bill – Hearing a possible gap that hasn't been addressed as a planning matter for the Commission. One possible outcome would be a fully integrated proposal that shows a spreadsheet that is similar to what the legislature might propose as the end of a bill. Another would be to recommend various principles but not to go so far as to produce a town by town spreadsheet. At the end of the day anything we recommend is going to go through the sausage grinder process of the legislature and governor and will be slogging work to get to a final spreadsheet captured in legislation. Leadership of the Commission has to answer for this gap – top headline is that the ECM shows relationships between spending needed to get to a target outcome and Commission recommends this be included in legislation. Could also talk about parts we don't like about existing legislation like undifferentiated funding. Could be with property tax that money should be collected by state and distributed. Are we working to create an integrated spreadsheet to inform legislation? I don't know what we are aiming towards as an output but should talk about it in concept and get there fast.

Dave – from a legislative standpoint too need to get LBA involved so can get spreadsheet development over to a team so members of legislature can get own scenarios modeled and propose what they want and are looking to do. Important to us to be able to model various approaches and I'm sure several of us who are excel knowledgeable are trying some different things. To bring to a discussion in FP or to full Commission have to get past some fundamental policy considerations and one of them is should every student in NH have access to equitable outcomes? If getting general consensus about that as a strong principle should move forward with that. If that is in place, what is Commission's position on first/last dollar? Want to move our discussion there. Will also weight on recommendations made not only on how we pay for public education but possible affect how we look at estimated cost model. More than a decade ago it did affect estimated costs.

Rick – I have also been contacted by a number of folks in legislature. Hearing that we are ok with creating a formula driving toward equitable outcomes for the opportunity for an adequate education. Want to see equitable outcomes funded by what is defined as adequacy. Some communities are unique and won't get all funding. Hear people want to integrate the weighting

of various needs, that is supported. Some other questions come down to basic, “how much will it cost?” ConVal for instance based on total costs of education, but there are a lot of costs in DOE25 form that are above and beyond an adequate education. Perhaps there are some things that don’t belong in adequacy and should be in categorical grants. AIR mentioned that with regards to special education catastrophic aid and transportation, expensive costs that people are convoluting with adequacy, as well as building aid. Those are some of the concerns I am hearing. One spoken the most is the question about whether DOE25 costs are adequacy. Dave – some of this will be discussed this afternoon at adequacy. Believe the AIR team had also excluded some of those items from the cost model. Want to move to looking at the first/last dollar question.

Rick – constitution says we have to provide costs for an adequate education, not the total costs which include things beyond adequacy like teacher-student ratios.

Dave – if you look at AIR report, says that every student deserves opportunity for an adequate education, which defining by average outcomes. Can’t take 70% of that, need to take the sum total.

Chris – Rick identifies what Bill is talking about regarding principles – defining adequacy by outcomes is something we all have to agree on. Was able to explain to city councilors. There are a handful of districts that are about at the average level of performance and they aren’t just tiny districts. It is particularly hard for people coming at the issue from a special education perspective because there are a lot of extra costs. Developed slides to show that this is a different way of defining adequacy.

Bill – What I hear is the way that you (Rick) as an exceptional legislature have thought about education funding is thinking about as this cost plus that costs, etc = total cost of education. The model that AIR has put on the table is completely different than that. No longer does it matter that you’re going to tally up costs of teachers with masters or a library or technology. What AIR’s report does is predict the cost it will take this district to achieve a target outcome. It doesn’t matter whether the district has a library or not, the focus is not on the components of cost, it is predicting the costs of districts who make their own decisions to achieve a different target level. Previously you might define adequacy as \$3709. That is out the door, and after years of doing great work, being asked to put that to the side and define adequacy in a new way. That is fundamental and a separate question from first/last dollar. Comparing us to MA is the best way to see what first/last dollar means.

Rick – looking at the targeted outcome, are you saying specifically that this is measured by graduation rates, attendance, and scores? How are you going to have accountability? Bill – I think you’ve already answered yourself, you look at the outcome scores. This was a fundamental part of Lynch’s plan. If you say Claremont gets more dollars, if Claremont continues to underperform the state government has a greater responsibility to examine and accountability is built in to outcomes. A huge failure of the input cost model. Rick – how are we going to control the instruction, supervision, etc? Responsibility is of the local government. Would have to change a bunch of statutory language, would lack accountability.

Dave – local districts are led by a superintendent, teachers, others; can see a direct relationship between cost per student and the outcome. That is where the correlation lies. It's not based on who is superintendent. A lot of us have probably been on school boards. I know how hard our administrators and teachers work and what they do for students and I am not suggesting we take away that level of organization and administration of things. Agree with what Bill has just suggested, integrated accountability measured every year by the department. Whether it is the best measure of performance I don't know, what it's what we have. Something that has come up frequently is more data collection from DOE and have a data review 5 or 10 years out and need to be able to recalibrate. Outcomes from DOE determined costs in the cost model. Now is the time to make sure that we are providing DOE with guidance they need. Chris – I think this model sets the table for accountability but Rick is right in that the accountability mechanisms aren't available in NH that exist elsewhere. In some places it is accumulation of failure that triggers support and hope that we could get past that. Can't give a low performing district money and just expect better outcomes, have to support. Hope we would think of it in a more positive way. Legislature will need to work on some ancillary expectations from DOE, review of plans and direction rather than telling everyone how to do everything.

Dick – AIR model works off of an average outcome level and develops numbers based on that. Shows average performance level as a plausible choice from point of view of AIR because of New Hampshire's high standing on performance on average for its education system. The consequence is a set of costs that add up to close to \$3B, about what the state spends right now. Want to raise the question whether that standard used by AIR translates to constitutional adequacy. A little hard for fiscal resource to go too far if they don't know how much it will be. Would like to see some conversation about that.

Jay – you are questioning the \$2.947B? Dick – yes. Jay – our current model is getting us to these outcomes which are adequate and it is our distribution that is causing the differences from that average? Dick – might consider a leadership or aspirational level of funding, which means that state spending will go up since some districts will want to go above. That average, however, is what we aspire to. Want everyone to go there. Could require something less than that is concluded to be sufficient. One justice concurring in Londonderry said that "A constitutionally adequate public education gives our children a safety net, that at a minimum they will receive an adequate education." Adequacy isn't what we aspire to but it is a minimum. If you go down that road that leads you to a number lower than the number that leads to \$3B. Asking how others feel about that and how others feel about it. Jay – we are expecting a target, setting a target. It's likely that total spending will go up and that will be a local option. With money we are currently spending we can achieve those outcomes or the opportunity for those outcomes in every district. If we start to take it apart, that is cascading down the hill and not be able to establish funding principles. By choosing a current spending figure it is possible to arrive at the conclusions they have. Also, responding to question about what we are trying to finalize is that this is a Weberian option – have to work with this first/last dollar model and what would it take to implement a topping off principle just funding differential needs of districts.

Dave – Want to summarize Bill. You put NH in the top 20% in education spending and top 10% in performance. That is an indicator we are getting strong outcomes based on what we put into education. So suggesting that be the cost to get that performance level would be a good value particularly if we could get more of our districts to basically share state average outcomes that so many of our districts get to and exceed. We wouldn't be having this conversation if most students were performing within one standard deviation of each other, but we have schools performing two standard deviations or more below the average. A workforce issue that we have to resolve, and something to do right by students.

Bill – we are all familiar with the Chinese finger trap toy. I think we are there. The integration we are running into between adequacy and fiscal policy we are reaching, we are there. If we think the total costs of public education should be about \$3B and that is the legislature's definition of adequacy AND then first/last dollar is enacted, this all breaks. In MA are 38% of their total spend. I think first/last dollar is bad policy and not actually what the court has said. If we have to have 100% of our total spend be state dollars, we are broken. Trying to put this on the table. Zero chance you could get that passed, rating agencies would hate it, it is a totally different model. Massachusetts has a great distribution model with a mandatory minimum. If that exists, can look at \$3B as total spend but not gutting the tradition of localities as important for education funding. Moving from a locally funded and totally state funded would crush schools and has happened elsewhere. This one member believes that first/last dollar is horrible policy.

Dave – I was going to put it on the table, glad you did. What we also want to accomplish on this Commission is challenge ideas, don't have to avoid challenging ideas even if we believe something different. Londonderry referenced – line about not shifting money to localities.

Rick – you're talking about first and last dollar for an adequate education. What is adequate? If you're talking about everything in DOE25 not everything is adequacy. Some things offered, like sports, are not in an adequate education. Are we going to cover the cost of everything? Or just the costs of what are necessary what is defined as an adequate education?

Dave – to be fair we are covering the costs statewide, \$1B from the state and \$2B from localities. Why wouldn't everything that is contained that be considered to be adequacy? Rick – would be glad to go that direction if legislature defines all that as adequacy. Legislature needs to define, and so far has not.

Further discussion had about legislature's efforts to define adequacy and criteria. Agreement that work needs to be done.

Dick – Need to get to this question about what is the first/last dollar and what it means. Can get to that by saying, there is an adequacy amount and part but not all of that is going to come from traditional state taxes and some is statewide property tax. Courts have looked at the current picture. Monies raised at the local level, in some cases a high rate and others a low rate which has led to court cases. A mandatory minimum would be an even uniform contribution applied against the resources of each town and say that towns are taxed at that rate. Same way that SWEPT currently works. That system is one that MA courts have embraced. Hancock decision in 2005 language is interesting. Court embraced the mandatory minimum and said "where before

1993 the legislature ceded to municipalities virtually unlimited control over school budgets, the act now requires municipalities to provide a standardized contribution...Commonwealth provides the difference..." That is a picture that our court has not looked out at. Our court has looked at state money and the rest being raised locally given what they've got. Replacing that with a mandatory minimum would create a uniform rate and state's dollars would provide the rest. While the court has led many to conclude that it all has to be traditional state money, I suspect court will not see it that way if they see a proposal to use the contribution as part of an effort that makes sense overall and moves the whole system to a better place. We do need to tease out how a local mandatory minimum contribution works.

Dave – noted some other parts of the Londonderry case around first/last dollar and needing to define adequacy.

Chris – I think what Dick said was important and maybe that can be written up in some way for the Commission to use. We need to do a better job of creating a crosswalk of how AIR has defined adequacy and how it has been traditionally used in a way that people can understand. AIR's three outcome components were chosen because those outcomes are considered related to success. I may not want to pay for sports but see that the literature shows at a high level that those outcomes are standing at a high level for the inputs, ex: attendance = motivation. About engagement and about costs that go into keeping students in school. That isn't spelled out anywhere but while there are those two ways of looking at this they are not totally divorced. Should go in this bucket of ancillary materials to make sense of all this.

Bill – the most aggressive language about first/last dollar is the Londonderry lines mentioned, but court has mentioned again and again local taxes being used to finance public education. That language in Londonderry is declarative but inconsistent with other language celebrating local control and financing. If this were presented as an integrated school finance system a la MA, if the court were to strike that down they would be in conflict with repeated statements that the legislature needs to set policy. I think how the Commission addresses this is very important. The Commission can send a signal that the Commission is not trying to skimp on the state's constitutional duty or amend it, they are celebrating it but the system of finance is a mix of state and local that brings the community together to create one of the highest performing and spending school systems in the country. Should take the rigid construction on, because if held rigidly then there are only two options – a huge state financed portion or a cartoonishly small definition of adequacy. I'm not signing off on what the proper balance is, but key is can't say that it has to be 100% state financing.

John – in what decision does it say that the supreme court has celebrated the local property tax as part of funding education? Bill – in Claremont decision, after declaring unconstitutional say that they do not reject local contributions to public education. In other cases talk about local control and public property tax. John – didn't connect property tax to adequacy. There is a difference between saying that property tax should be paid in general and state's requirement to provide an adequate education. Doesn't say with the specificity that exists in Londonderry. Bill – I will concede the point you are asserting. But if we look at what it takes to fund a high quality integrated school system in the state and say that it takes \$19k and that means you have to pay

\$3B from the state that is a ridiculous, bad policy result. I hear you, but I am trying to focus on language that celebrates local control. Other states have similar ratios of state/local funding. Goal is to spend to achieve quality in every community, not a particular percentage.

Chris – don't know why this is an argument. Anything the state defines as state funding is state funding, according to lawyers we heard earlier. Question before was how can local property taxes be state funding? Seems to me the definition can be applied to anything. Bill – key thing is the legal liability on the state tax is taxpayer to the state. The mandatory minimum in MA is not treated as a state tax because it's locally administered and if you fail to pay locals come after you. Legally if you fail to pay a state tax, state goes after taxpayer. Chris – If for example we had 100 taxpayers in Portsmouth who refused to pay statewide portion, it would be the state's obligation to collect that money? Bill – I saw no power on the state to direct and mandate the local community to enforce the collection, it's vague. But if Portsmouth said 'state, it's not our problem' it isn't clear to me if state could compel city. John – state property tax functions similarly to county and local school property tax. If you mail in a check that only is for the amount of one part of that tax, it is city's responsibility to fork over county and state portions of the taxes. Super interesting legal idea but may not be relevant to where we land.

Dave – Lets say MA requires this mandatory minimum of \$5, so New Bedford's pay that \$5/\$1000 and others do as well. Leaves a balance to be raised, and based on the property wealth of each of those districts state kicks in a certain amount of funds – in New Bedford considerable state dollars and Wellesley considerably less. Up to towns to raise difference to get to their budget. What if New Bedford doesn't want to pay \$5/\$1000 – does state have a stick to hold back a portion of grant from the state? Bill – it's a mandatory local contribution that town must hit. Importantly, the way MA computes the mandatory minimum it is not just based on EVPP, it is also based on income capacity of community so that mandatory minimum target is not just a flat rate. In order to use in NH have to understand. It turns out that mandatory minimum is not flat.

Some further conversation about MA Chapter 70 and how that might work in NH.

Dave – Taking into consideration some comments at the beginning about lack of time, would people like to see models that would include structure that departs from first/last dollar? Don't have to embrace them, but would like to bring some models to the work group to examine but want to bring forward things that people would agree to look at/talk about.

Rick – earlier spoke about needing to get agreement about certain principles. Would like us to move forward and narrow this thing down a bit. Do we all agree for example on weighted formulas for students?

Dave – can model fiscal policy and plug in costs. Rick – not concerned about that, but principles. Think we can work in parallel. I think what I'm seeing from the discussion this morning is let's not consider only policies that adhere to an extremely rigid first/last dollar constrain. May want to look at some of those too but if something like that was later adopted by legislature, they may look at things differently given a different context. Going into the part of this work that will be

messy. First to admit I catch bugs in my spreadsheets all the time. But that's why we challenge these things and have people look at them.

Mary – want to make sure that we include minimum contributions in models. I think it's critically important, like what AIR has done. Agree that courts haven't addressed this kind of a holistic system before.

Dave – spreadsheet I have put together draws directly on the AIR estimated costs model (not revenues), DRA data. Described how spreadsheet works.

John – Question about Commission not going down revenue options? Dave – may include some principles and recommendations. John – seems inconsistent with what we have been doing with property taxes and asking polling questions about income taxes, etc. Dave – Think it is consistent, property taxes a large section but can do a model that shows a state share and understand what it would require from state property taxes, local property taxes, and other state tax options. Dave – want to put that out there, is that a fair way to do modeling where we look at state and local shares but not hashing out particular taxes? Rick – think that specific tax aspects of the job are best left later to the legislature. Think we're driving on the road. Not infatuated with some of the numbers but heading there. Bill – do think that some recommendations like property tax considerations are on the table? Dave – yes, and asking about previous work or bills filed on that issue. Chris – and might there not be principles related to fiscal policy that we push toward and get on the table to take a step toward what the legislature might look at? Dave – yes, want to weave in more meetings and extended deliberations.