

Fiscal Policy Section

INTRODUCTION

Funding of public education continues to be an issue for New Hampshire and the subject of many court decisions and ongoing cases. The New Hampshire Supreme Court has long held that the responsibility to provide a constitutionally adequate education rests with the General Court.

In this section, the Commission lays out key findings and recommendations related to the fiscal policy for providing a constitutionally adequate education, as well as a brief review of three potential funding models. The fiscal policy work group met seventeen times between May 7 and November 20, 2020, totaling nearly 40 hours of work group meetings.

BACKGROUND

New Hampshire's average student performance is among the best in the nation

The Granite State has much to be proud of when it comes to public education. New Hampshire is ranked 3rd in the nation by US News & World Report's K-12 education rankings, calculated across metrics of college readiness, high school graduation rate, NAEP math scores, NAEP reading scores, and preschool enrollment.

Of course, averages do not tell the whole story. While New Hampshire's state-average student outcomes are among the best in the country, it is not true for all school districts. Average performance by district falls over a wide range with some districts well above state average, and others so far below average that it calls into question whether there was an opportunity for any of those students to have an adequate education.

New Hampshire's state share of [pre-K-12 education](#) spending is the lowest of all states

~~However,~~ New Hampshire has the lowest share of state dollars going to education in the nation, according to data from the Census Bureau and analysis from Governing. While the low amount of state funds put to public schools makes it more difficult for some municipalities to raise sufficient funds through their tax grant authority (local property taxes), it is not totally responsible for the lack of student equity through the state.

Average per pupil cost is below average compared to other Northeast states yet ranks among the highest in the nation

U.S. School System Spending Per Pupil by Region

Nationwide average school spending per pupil: \$12,612

MIDWEST

| | |
|--------------|----------|
| Illinois | \$15,741 |
| North Dakota | \$13,758 |
| Ohio | \$13,027 |
| Minnesota | \$12,975 |
| Nebraska | \$12,491 |
| Michigan | \$12,345 |
| Wisconsin | \$12,285 |
| Iowa | \$11,732 |
| Kansas | \$11,653 |
| Missouri | \$10,810 |
| Indiana | \$10,262 |
| South Dakota | \$10,073 |

Average per pupil current spending: **\$12,773**

NORTHEAST

| | |
|---------------|----------|
| New York | \$24,040 |
| Connecticut | \$20,635 |
| New Jersey | \$20,021 |
| Vermont | \$19,340 |
| Massachusetts | \$17,058 |
| New Hampshire | \$16,893 |
| Pennsylvania | \$16,395 |
| Rhode Island | \$16,121 |
| Maine | \$14,145 |

Average per pupil current spending: **\$19,953**

WEST

| | |
|------------|----------|
| Alaska | \$17,726 |
| Wyoming | \$16,224 |
| Hawaii | \$15,242 |
| Washington | \$12,995 |
| California | \$12,498 |
| Oregon | \$11,920 |
| Montana | \$11,680 |
| Colorado | \$10,202 |
| New Mexico | \$9,582 |
| Nevada | \$9,417 |
| Arizona | \$8,239 |
| Idaho | \$7,771 |
| Utah | \$7,628 |

Average per pupil current spending: **\$11,582**

SOUTH

| | |
|----------------------|----------|
| District of Columbia | \$22,759 |
| Delaware | \$15,639 |
| Maryland | \$14,762 |
| Virginia | \$12,216 |
| Louisiana | \$11,452 |
| West Virginia | \$11,334 |
| Kentucky | \$11,110 |
| South Carolina | \$10,856 |
| Georgia | \$10,810 |
| Arkansas | \$10,139 |
| Alabama | \$9,696 |
| Texas | \$9,606 |
| Tennessee | \$9,544 |
| North Carolina | \$9,377 |
| Florida | \$9,346 |
| Mississippi | \$8,935 |
| Oklahoma | \$8,239 |

Average per pupil current spending: **\$10,285**

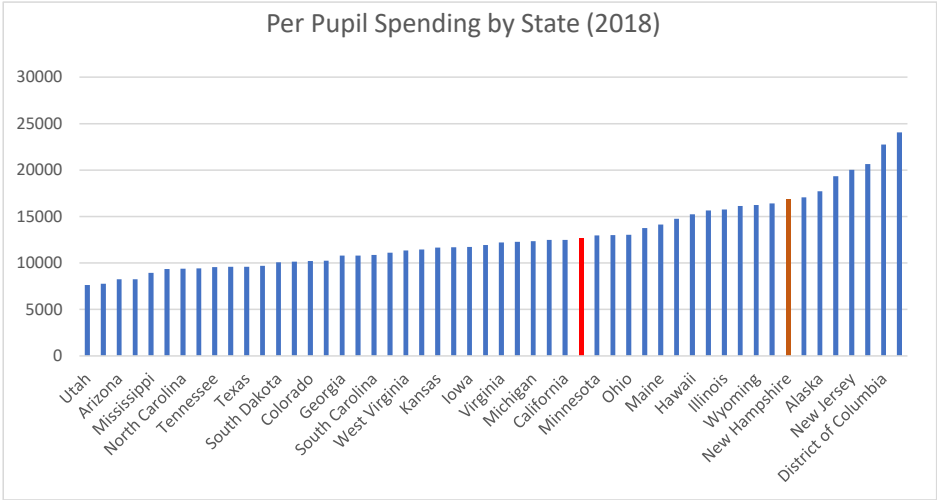
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Note: Data include public elementary-secondary pre-K through 12 school systems.

Source: 2018 Annual Survey of School System Finances

Despite having the lowest state funding share for public education in the nation, New Hampshire spends more per student than most other states, 8th most in the nation in 2018, the last year for which comparable data is available—and about average for states in the Northeast. This is an important fact, because most school budgets are set and approved by voters and taxpayers who support their public schools largely through local property taxes. The voters and taxpayers place a premium on a high-performance public education system.



| Finding: | a | a | b | c | d | d |
|----------|---|--|--|--|---|--|
| State | 2018 Census Report Spending Per Pupil ¹ | 2018 Census Report Spending PP National Rank ¹ | Education Week Overall Quality Ranking ² | 2020 Shanker/ Rutgers Report Fairness of Distribution Ranking ³ | 2018 Census Report State Budget Funding % ⁴ | 2018 Census Report SFP National Rank ⁴ |
| NH | 18,667 | 10 | 5 | 45 | 31.3% | 50 |
| CT | 23,135 | 3 | 3 | 39 | 37.8% | 46 |
| MA | 20,581 | 6 | 2 | 9 | 38.0% | 45 |
| ME | 15,996 | 17 | 13 | 46 | 38.6% | 43 |
| NJ | 22,424 | 4 | 1 | 12 | 41.6% | 34 |
| NY | 28,228 | 2 | 8 | 15 | 39.6% | 41 |
| RI | 18,628 | 12 | 12 | 29 | 40.8% | 37 |
| VT | 21,614 | 5 | 7 | 31 | 90.5% | 1 |
| National | 14,840 | | | | 46.7% | |

¹ 2018 Census Report, Table 11.

² Education Week, "2019 Quality Counts - Grading the States".

³ Shanker Institute & Rutgers University, "The Adequacy and Fairness of School Finance Systems" (2020)

⁴ 2018 Census Report, Table 5.

But despite having among the best average student outcomes in the nation, there is a problem...

From AIR Report "Equity and Adequacy of New Hampshire School Funding", August 2020

New Hampshire's current system of funding is not working for large segments of New Hampshire's students and taxpayers. Specifically, communities with higher poverty rates and lower property wealth are doubly penalized under New Hampshire's current system. Students in these communities, on average, receive fewer resources in the form of funding than students in wealthier communities. Taxpayers in these communities do their best to provide for their children, often levying higher local education property taxes than residents of wealthier communities.

Inequities also manifest themselves in outcomes. The negative relationship between districts' aggregated student outcomes and student poverty (proxied by FPRL rates) is clear and strikingly linear. As district poverty rates increase, student outcomes decrease. This relationship holds even after accounting for other district factors that also may be related to poverty, such as special education rates, EL rates, and district size. Although district poverty rates appear to be the strongest predictor of district outcomes, special education rates and EL rates also have independent effects on student outcomes.

Fundamental to the findings is that the [state's](#) distribution of funds for education is extremely inequitable, which leads to inequitable student outcomes, and inequitable tax burdens for property taxpayers

Findings

New Hampshire average student performance is among the best in the nation

New Hampshire's state [share of education](#) spending is the lowest of all states

Average per pupil cost is below average compared with other Northeast states yet is among the highest in the nation

New Hampshire's current system of funding is not working for large segments of New Hampshire's students and taxpayers

Inequities manifest themselves in outcomes and property tax burden

CURRENT FISCAL POLICY

A decision by the New Hampshire Supreme Court in *Londonderry v. State of New Hampshire* (2006) finding the state had failed to define a constitutionally adequate education was the latest in a long string of court decisions, legislative responses, and subsequent court opinions that have made school funding one of the state's most contentious issues. In its opinion, the Supreme Court gave New Hampshire lawmakers until July 2007 to define a constitutionally adequate education, implying that legislative failure could lead to a court-mandated system:

"Since the inception of the education cases in 1993, we have consistently deferred to the legislature's prerogative to define a constitutionally adequate education. ... Deference, however,

has its limits. We agree with [the] concern that this court or any court not take over the legislature's role in shaping educational and fiscal policy. For almost thirteen years we have refrained from doing so and continue to refrain today. However, the judiciary has a responsibility to ensure that constitutional rights not be hollowed out and, in the absence of action by other branches, a judicial remedy is not only appropriate but essential."

In language that went beyond its core finding of a failure to define a constitutionally adequate education, the Court advised that "[w]hatever the State identifies as comprising constitutional adequacy it must pay for. None of that financial obligation can be shifted to local school districts, regardless of their relative wealth or need."

The Commission believes that this advisory language from the Court's Londonderry case, issued in the context of excessive dependence on disparate local property taxes, should not allow for a singular consideration of "who pays" to stand in the way of direct consideration of student equity and fiscal neutrality.

In current statute, the state of New Hampshire significantly underestimates the cost of an adequate education. This cost is calculated based on limited set of inputs, specifically the cost of faculty and staff, materials, technology, professional development, facility maintenance and transportation. Nearly half of the calculated cost is driven by a student/teacher ratio of 25:1 for grades K-2 and a student/teacher ratio of 30:1 for grades 3-12. Actual student/teacher ratios range from a high of 12.4 to a low of 4.1. Student/teacher ratios of 25:1 and 30:1 are not found in any public school in the state.

Ref. NHDOE student teacher ratio report, January 10, 2020.

https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/2020-04/stud_ratio19-20.xlsx (Jordan --- how should we deal with links? We can't guarantee they'll always be available at the URL unless we host the URL. Should we include refs as PDF pages in the appendix?)

The calculated cost of an adequate education also considers factors for differentiated aid, specifically for special education students, English language learners, students who do not reach a proficient reading level in third grade, and students who participate in the free and reduce price lunch program.

For FY21, the state determines the adequacy grant as \$3,708.78 per full time student, with an additional \$1,854.38 per student who participates in the free and reduced price lunch program, \$1,995.21 per special education student with an individualized education plan, \$725.63 per English Language Learner receiving English language instruction, and \$725.63 for each 3rd grade student in the district who scored below proficient on the statewide assessment for reading. On average, New Hampshire provides \$4,619 per student from state funding sources.

The state provides this "adequacy grant" to all school districts based on student enrollment. (Ref NH RSA 198:40-???) The state also provides a "stabilization grant" totaling approximately \$157M to specific school districts and designed to serve as a bridge from the prior state funding plan to the current funding plan. And from FY08-13 (??) and in FY21, the state provided additional grants to communities with lower-than-average property valuation and with incidences of poverty.

Another supplemental state grant is provided to towns with high property wealth. This grant is known as "excess SWEPT" and represents the difference between the total revenue raised in a municipality

Commented [HJ1]: How long do we have to guarantee their availability? Most websites will stay around for a few years, especially ones with state data. I am of the opinion that if we have reason to believe the website will be around for the foreseeable future it's OK just to link in the appropriate site (like DOE here). I just think including them as PDFs in an appendix makes the document very unwieldy. My \$.02

Commented [HJ2]: This is another example where the RSAs aren't going anywhere and it would be easy and helpful to readers just to link. Alternately footnoting RSAs would be pretty easy as well.

through the state property tax and the cost of an adequate education as calculated by the NHDOE. In FY21, this grant totaled approximately \$30M. The Commission heard comment from administrators and taxpayers in some towns that receive this grant. The grant is used in some cases to support higher contributions to cooperative school districts to reduce property tax assessments in other municipalities that are members of those districts. And in some towns, the grant is used to offset other education costs and reduce property taxes.

The commission heard testimony with respect to the budget of the Pittsfield School District (date of meeting – it might have been in comment). The testimony showed no way to reduce their existing budget to reach the calculated cost of an adequate education found in statute today. The state's current estimated cost for an adequate education is not reproducible by any evidence-based approach.

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State revenues used for these grants are deposited to the state's education trust fund (ETF). The ETF provides the important function of assuring that funds are available to be distributed to school districts in a timely manner. The accounting of deposits to and appropriations from the ETF are summarized in the NH Department of Administrative Services annual report (Ref: CAFR FY19 p142 – in appendix or put here?)

How the state calculates the cost of an adequate education and distributes state grants to school districts leads most school districts to fund much of their budgets through local property taxes. The Commission's research partners from the American Institutes of Research (AIR) estimate that the average statewide total cost of education is approximately \$18,861 per student, factoring in all state and local spending. This disparity between the full cost of educating a student and the state's contribution means that municipalities are currently obligated to raise substantial funds through local property taxes to pay for their students' education. These disparities are exacerbated by the differences in property wealth between communities and their relative abilities to raise the necessary funds.

Findings (we should add a couple paras above to support these – from midyear report)

Enrollment (ADMA) statewide has decreased from 202K students in FY01 to 168K students in FY19.

The statewide total collected local education property tax (does not include the SPT) has grown from \$555M in FY00 to \$2.01B in FY19. If the local education property tax share of the total costs of public education had remained the same from FY00 to FY19, the total statewide collected local education property tax would be \$1.1B.

The amount of state funds for public schools has grown from \$825M in FY00 to \$915M in FY19. If the state share of the total costs of public education remained the same from FY00 to FY19, the state grant would currently be \$1.7B.

The state's current estimated cost for an adequate education is not reproducible by any evidence-based approach.

This significant disparity between the full cost of educating a student and the state's contribution means that municipalities are currently obligated to raise substantial funds through local property taxes to pay for their students' education. These disparities are exacerbated by the differences in property wealth between communities and their relative abilities to raise the necessary funds. New Hampshire's Supreme Court has instructed the legislature to resolve these disparities.

Recommendations

The state should increase the amount of state funds for education to improve student and taxpayer equity.

The state should eliminate the “excess-SWEPT” grant and apply those state funds to improve student and taxpayer equity.

TAXATION

Public engagement on the issue of taxes to pay for education did not reveal surprising results. Granite Staters have a strong distaste for broad-based taxes even if they are dedicated to paying for public education. The cost of public education is paid for through a combination of local, state, and federal revenue sources, and some private grants. State revenues, including the state property tax (SPT) and a variety of non-SPT revenue sources, account for approximately 31% of the total. Approximately 69% comes from the local property tax. Private grants account to a small fraction of the budget. (do we know how much???) The percentage of state funds used for public education is the lowest in the country.

An increase to the state share of school funding can help to improve taxpayer fairness, but not without student equity being the primary objective.

“State policy makers should not aim to provide any specific percentage of the total funding for K–12 education. Better policy goals focus on student achievement or limiting property tax burdens to some percentage of household income.” Source: “The property tax school funding dilemma”, Dr. Daphne Kenyon, Lincoln Institute, 2007.

The role of state funding in New Hampshire is not to implement a specific set of state-defined programs. State funding should be applied to assist locally raised funds to assure student equity.

An increase in the use of non-SPT revenues can put less pressure on property taxes. State funds may be directed to property tax relief through “circuit breaker” style programs designed, for example, to help people living on modest or fixed incomes, or with cash-flow challenges.

State Taxes

New Hampshire currently funds its schools through a mix of state, local, and federal dollars, with local taxes accounting for just over 62% of school district revenue during the 2018-2019 school year. These local taxes are raised almost exclusively via the property tax. State dollars are raised from a variety of sources, including a statewide property tax. In FY20, the equalized statewide property tax rate was \$1.93, but the local burden on taxpayers in a given community varies widely across the state. Local education property tax rates range from \$0.52 per mil (thousand dollars of assessed value) in Hart’s Location to \$24.02/mil in Charlestown. That means the owner of a \$300,000 home in one community (which, as of this writing, is approximately the average home price in New Hampshire) pays the same amount in property taxes as the owner of a \$3,000,000 home in another community. Nearly three quarters of New Hampshire’s state and local dollars raised for education come from property tax revenue.

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New Hampshire relies on a combination of state taxes to finance the state budget's share of the total cost of public education.

| Education Fund Revenues ¹ | FY 2020 |
|--------------------------------------|----------------------|
| Business Profits Tax | 90,200,000 |
| Business Enterprise Tax | 244,000,000 |
| Education Property Tax | 363,100,000 |
| Transfer from Lottery | 100,400,000 |
| Tobacco Tax | 87,100,000 |
| Revenue Adjustments | 73,088,000 |
| Real Estate Transfer Tax | 52,600,000 |
| Utility Property Tax | 43,400,000 |
| Tobacco Settlement | 39,700,000 |
| Meals & Rooms | 11,100,000 |
| Total | 1,104,688,000 |

¹ From LBAO, Surplus Statement for HB 3 and 4 (9/25/19)

The [New Hampshire Department of Administrative Services' \(NHDAS\)](#) consolidated annual financial report ([appendix XXX](#)) illustrates the sources of deposits to the ETF over the period FY10 through FY19. It also shows that for many years, any balance that remains in the ETF is drained into the general fund at the conclusion of the fiscal year.

In 2000, a [Commission to Analyze the Economic Impacts of Various School Funding Revenue Options](#) was created by then-Governor Shaheen. This report identified six widely accepted tax policy criteria, which are also endorsed by the Commission. These criteria are fairness (distributional equity), adequacy and stability, competitiveness, exportability, neutrality, and simplicity. The 2000 report examined five specific sources of revenue across those criteria: a personal income tax, sales tax, property tax, a value-added tax (VAT), and capital gains tax. This Commission believes the evaluation of revenue sources in the report remain mainly true today. A table summarizing each revenue source according to those principles can be found at the end of this section as well as on the [Commission website's resource page](#) under the "Previous New Hampshire School Funding Reports" tab.

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According to their report, the 2000 Commission found the performance of the most significant non-SPT state revenues are highly subject to economic volatility.

Property Tax

The rapid historical average growth of taxable property largely reflects the speculative real estate boom of the late 1980s and early 1990s (see graph in property tax worksheet). Given tighter financial regulation and lessons learned from the boom experience, such volatility is unlikely to be repeated in the foreseeable future.

In some respects, traditional indicators of adequacy and volatility do not apply to the property tax, since it is the one tax whose base is measured by governments in advance through the appraisal process. To achieve a given revenue goal, policymakers then set the rate. But since raising property tax rates is politically difficult, the relative volatility of taxable property is a potential concern.

New Hampshire is required by the state constitution to enact taxation that is both reasonable and proportional, and any system created by the legislature to fund education must follow those requirements. This means that any tax must be implemented at a uniform rate within the tax jurisdiction. A state tax must be uniform in rate across the state for all taxpayers subject to the tax. A tax by a political subdivision, such as a municipality, village precinct or a school district, must also be uniform in rate across the political subdivision for all taxpayers subject to the tax.

One takeaway from the 2000 Commission report was that “given [the complexity of administering the property tax across hundreds of municipalities], New Hampshire would have to devote considerably more resources to administering the state property tax than it does currently so that the fairness of the tax does not continue to be called into question or challenged in court.” Subsequently the constitutionality of the statewide education property tax was called into question, forming the basis of the complaint in *Evelyn Sirrell, et al. v. State of New Hampshire, et al. 99-E-0692 (1999)*. The court ruled the state property tax unconstitutional because the state did not have systems in place to provide equalized statewide property valuations outside of the local property tax jurisdictions.

Following the decision, the General Court made changes to how the SPT was collected and used. Currently, the SPT is collected locally and applied to the municipality’s total cost of an adequate education as determined by statute. If the amount of the SPT collected exceeds this cost, the state issues an additional grant to the municipality in the amount of the excess with the stipulation that it be used for public education.

By 2014, the New Hampshire Department of Revenue Administration (NHDRA) had implemented a comprehensive system called MOSAIC to evaluate property sales and develop equalization ratios for all municipalities. Substantial testimony heard by the commission attested to the efficacy of the system and fairness of equalized valuations. This effort addresses the court’s concern in the Sirrell case.

The Commission heard testimony from the NHDRA director of the property division with respect to timely receipts of property tax payments made to municipalities. The on-time collection rate is XX% (refer to minutes) and has been reliable even during periods of economic volatility. Testimony from the NHDRA indicated that a state-based system for collecting SPT directly from taxpayers would be very labor intensive and difficult to implement and administer. But the Commission learned that it would be

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very possible for the NHDRA to administer a process where the SPT is collected locally (as it is today) and then sent in full to the state by the municipal tax collector.

The Commission also heard testimony from [the State Treasurer](#) and from the NH Municipal Association with respect to challenges or problems that could develop should the state change from current policy and require municipalities to collect and remit the SPT in full to the NHDRA to be deposited to the ETF. No [major](#) challenges were identified.

The Commission has noted repeatedly in its deliberations that while the impact of taxation is often discussed at the municipal level, it is individual taxpayers and property owners who fund the costs of education in New Hampshire. Any changes in the methods of raising revenues for education, particularly those related to the property tax, should be designed with the knowledge that changes in either rates or property value can burden taxpayers with limited capacity to pay. Tax relief should be directed to specific taxpayers based on need and program eligibility, and sufficiently funded by the state.

Findings

An increase to the state share of school funding can help to improve taxpayer fairness, but not without student equity being the primary objective.

An increase in the application of non-SPT revenues [toward education](#) can put less pressure on property taxes.

The education trust fund (ETF) is an essential vehicle to collect deposits from a variety of revenue sources and to have the funds available for the state treasurer to make timely payments to school districts.

The ETF helps to insulate the availability of state funds used for public schools from economic volatility.

Property taxes have been shown over time to be resilient to economic volatility.

Land use is a statewide policy. Local tax credit policies do not change equalized property valuation or the total SPT assessed to each municipality.

A tax must be implemented at a uniform rate within the tax jurisdiction. A state tax must be uniform in rate across the state for all taxpayers subject to the tax.

The methods used by the NHDRA to develop equalization ratios for property valuations [are](#) fair and accurate.

The SPT is a state tax.

Property taxes have a strong record of on-time payment.

The NHDRA can implement a process to receive SPT from municipal tax collectors

Recommendations

The state should enhance taxpayer equity through property tax relief targeted to homeowners and renters through a low- and moderate-income property tax relief program. This program should include updated limits to income, home value, and net worth, and be satisfactorily funded by the state.

The state should introduce a property tax deferral program administered by the state for eligible residents and under certain qualified conditions.

The NHDRA should collect and organize data appropriate to determine taxpayers' capacity to pay property taxes and to improve the state's ability to evaluate equitable funding mechanisms.

The state should end the practice of draining the ETF into the general fund at the conclusion of the fiscal year.

The SPT should be collected by the municipal tax collector and remitted in full to the DRA for subsequent deposit to the ETF by the state treasurer.

There should be no blanket rebates, abatements, refunds or grants of SPT back to municipalities.

The legislature should consider non-SPT revenue sources to reduce pressure on the property tax, evaluate state revenue sources using the criteria defined in the 2000 Shaheen Commission Report, and hold public hearings and solicit public input if new revenue sources are to be considered.

FISCAL POLICY MODELS

The principle of student equity needs to be central to the framing of fiscal policy. Student equity means every student has the opportunity for an adequate education regardless of exigent circumstances, such as the financial resources of the family or the community where they live. Fiscal policy, that is how state funds are applied to support public education, should be developed to assure student equity throughout New Hampshire.

The costs of education vary by district, depending on student needs and exigent conditions that exist in the communities served by the school district. Likewise, the funding of local schools may also vary based on the financial resources available in the communities served by the district. Some districts are well funded by the communities they serve, while others are not. To compensate for this, state funds can be applied in a similar way based on district needs and exigent conditions that exist in the communities served by the school district to improve student equity, as laid out in the report prepared by AIR.

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That is not to say that student equity cannot be achieved by 100% state funding of the cost for an adequate education. But by itself, no specific share of state funding assures student equity without student equity being the objective. For example, the fiscal policy model used by the state today does not result in student equity and fiscal neutrality.

Within the research from the Commission's partners at AIR, two fiscal policy models of funding were examined. These models are fairly simple, and it is possible that funding policy created by the legislature would be more complex. However, as a conceptual framework, they are provided as examples of how very different approaches to fiscal policy, with very different demands on state and local revenue, can improve equity for both students and property taxpayers. A third example based on

Massachusetts' Chapter 70 education funding design, with considerations based on the New Hampshire context, is also provided.

Example #1: Full Funding from the State

This method would involve the state raising 100% of what is currently the state and local shares of education dollars in the state. In FY19, non-statewide education property tax appropriations raised \$601,909,000 of an estimated proposed state obligation for education of \$2,947,379,635. If there were zero reliance on local property tax revenue to fund education in New Hampshire, and no new revenue from other sources, the state would need to raise \$2,345,470,635 via a statewide property tax rate of \$12.05. That rate could be lower if revenue were raised from non-property tax sources, or higher with a redesigned circuit breaker program for low- and moderate-income property owners.

This would result in a state share of 100% of the cost of an adequate education – and cost to the state would equal the total cost of providing an adequate education. If the state's target outcome goal were set to less than state average performance, the cost of adequacy would be reduced.

Commented [HJ9]: Further examples?

Example #2: Combination of a Statewide Property Tax and Mandatory Local Minimums

AIR also briefly examined what revenues might be necessary if, holding non-property tax revenue at current levels, there were to be a mandatory minimum local contribution required of \$5 per \$1,000. This kind of mandatory local minimum would in many ways resemble the current statewide property tax. If localities were permitted, as under the current statewide education property tax, to keep any amount raised above the amount estimated in the education cost model to achieve adequacy, a statewide property tax of \$7.24 per \$1,000 of equalized valuation would then be required to raise the remainder of the state's obligation.

In their report, AIR noted that:

"If we use as an example a \$5.00 per \$1,000 tax rate to define the minimum local contribution, the revenue raised from the minimum local contribution would decrease the state's funding obligations by \$937 million, leaving approximately \$2 billion in remaining state obligation. If we assume that \$602 million of state revenue comes from non-property tax state revenues, that leaves \$1.4 billion that would need to be funded through a statewide property tax. A statewide property tax of \$7.24 per \$1,000 of equalized valuation would then be required to raise the remainder of the state's obligation. Adding together the minimum local contribution tax rate and the statewide property tax rate results in an overall education tax of \$12.24 per \$1,000. Using the 2018–19 actual town tax rates as a comparison, under this scenario 70% of towns would see a reduction in property tax rates under the proposed revenue structure." p.47

AIR also found that under this scenario, 24 towns would raise more than their adequacy target with a local contribution of \$5.00.

Example #3: Massachusetts' Chapter 70 Model in the New Hampshire context

The Commission also heard testimony from Representative Alice Peisch of Massachusetts, who described for the Commission the state's Chapter 70 program. The Chapter 70 program provides state support on a sliding scale based on community characteristics and student needs in a similar way to the methodology outlined in the AIR report. There is a minimum floor of state support towards an identified

education target cost (also known as a foundation amount), with the state providing more or less funding based on each community's ability to raise the rest of the required amount locally. Municipalities are able to raise funds in excess of the foundation cost of education if they wish. While Massachusetts's Chapter 70 program is complex and relies on data, such as income, that is not currently readily available in New Hampshire, our neighbors to the south have identified a more equitable method of raising the distributing funds for education that merits consideration of which aspects may be appropriate for New Hampshire as it looks toward a more equitable approach to its own financing of public education. [The case study presented below provides further detail on the program's potential implications for the Granite State.](#)

[Massachusetts Chapter 70 Program: Case Study and Possible Options for New Hampshire](#)

[During its deliberations, the Commission reviewed public school funding approaches used in other states to provide context for how to address New Hampshire's school funding issues. One state in particular – neighboring Massachusetts – provides an interesting case study as it too has implemented reformed education funding laws in response to judicial decisions over the last two decades.](#)

[On October 13, 2020, the Commission received excellent testimony regarding the Massachusetts experience with its Chapter 70 Program from Representative Alice Peisch, Chair of the Massachusetts Joint Committee on Education & Research Director Aiden Church. Further, the Fiscal Policy Workgroup followed this presentation with several discussions of the Chapter 70 Program, including reviewing a summary prepared by member Representative Richard Ames which is set forth in the materials for the October 29, 2020 meeting.](#)

[The following sections provide a brief summary of the history and structure of the Chapter 70 Program. The first section addresses the similarities, and differences, between the Massachusetts and New Hampshire litigation that challenged each state's respective public school funding systems in the 1990s. The second section provides an overview of how the Chapter 70 Program works. The third section addresses some specific aspects of how the Chapter 70 Program computes its "Foundation Budget," the minimum "Local Contribution," and the amount of "Chapter 70 State Aid." Finally, section four provides some concluding comments about how the Massachusetts experience may be used in crafting a better, more progressive, answer for New Hampshire's public school finance system.](#)

[A. Historical Context: Judicial Intervention and Legislative Response.](#)

[i. The Massachusetts Background. In June 1993, after years of litigation, the Massachusetts Supreme Judicial Court in the McDuffy case¹ invalidated the Commonwealth's school funding system. The Court made two distinct holdings: \(1\) that the state constitution's Education clause imposes on the Commonwealth an enforceable duty to provide a public education for all its children, rich and poor, in every city and town; and \(2\) that the Commonwealth had failed to satisfy that duty in the case of the students from property-poor communities who were plaintiffs in the case.](#)

[Just days after the McDuffy decision was issued, the Education Reform Act was signed into law in June 1993. Among other things, this law enacted the "Chapter 70" framework through which state and local governments shall work together "to assure fair and adequate minimum per student funding for public](#)

¹ [McDuffy v. Secretary of the Executive Office of Education, 415 Mass. 545, 615 N.E.2d 516 \(1993\).](#)

*schools in the commonwealth by defining a foundation budget and a standard of local funding effort applicable to every city and town in the commonwealth.*²

In 2005, the Massachusetts Supreme Judicial Court reviewed the efforts of the legislature to remedy the McDuffy deficiencies for poorer communities in the Hancock case.³ The Court rejected the challenge, finding that the Commonwealth was in fact meeting its duty under the education clause of the Massachusetts Constitution. The Court found:

The legislative and executive branches have shown that they have embarked on a long-term, measurable, orderly, and comprehensive process of reform to provide a high quality public education to every child. ... They have committed resources to carry out their plan, have done so in fiscally troubled times, and show every indication that they will continue to increase such resources as the Commonwealth's finances improve. ...

ii. **Comparison to New Hampshire Judicial Decisions.** The June 1993 McDuffy case was cited several times by the December 1993 New Hampshire Supreme Court case, Claremont I. Like the McDuffy case, the Claremont I Court found that the Education Clause imposes a duty on the Legislative and Executive Branches of state government: “We hold that part II, article 83 imposes a duty on the State to provide a constitutionally adequate education to every educable child in the public schools in New Hampshire and to guarantee adequate funding.” (“giving weight” to McDuffy because NH modeled its Constitution on Massachusetts and included a “nearly identical provision regarding education.”) Unlike the McDuffy case, the Claremont I Court did not hold that the state had violated this constitutional duty with respect to the property poor plaintiff towns. Instead, the Court simply remanded the case back to the trial court for further proceedings.

Another important difference between the McDuffy case and the Claremont I case is the use of the term “adequacy.” As quoted above, the New Hampshire Supreme Court held that the State has a constitutional duty to provide a “constitutionally adequate education” to every educable child. In contrast, the McDuffy Court declined to adopt the term “adequacy.”

We note that both parties engage in a clash of views that focuses on whether the constitutional language requires an “adequate” education, whether the State provides an education that is “adequate,” and if not, who is to blame. We decline to enter this aspect of the debate. To us the words “adequate” and “education” can be viewed as redundant as well as contradictory. ... The word “adequate” does not appear in the constitutional language and the struggle of the parties reveals, with good faith on all sides, necessary biases as to meaning. Thus, we strive to ascertain, as we should, the intention of the drafters of the constitutional language and to provide a frame of reference for the implementation of that intent in a modern society. ... We use the word “adequate” only to state the parties’ arguments.⁴

Subsequent to Claremont I, the trial court held a six-week trial.⁵ The plaintiffs pursued four counts – three “education” counts that claimed that the State had failed to satisfy its duty to provide the

² Massachusetts General Laws, Chapter 70, Section 1.

³ Hancock v. Commissioner of Education, 443 Mass. 428, 822 N.E. 2d 1134 (2005)

⁴ McDuffy, 415 Mass. at 550, note 8.

⁵ The details of the trial court proceeding are recounted in J. Lewis and S. Borofsky, “Claremont I and II – Were They Rightly Decided, and Where Have They Left Us?,” 14 U.N.H. Law Rev. 1, pp. 24-43 (February 2016).

plaintiffs themselves with an adequate public education, and one “tax” count that claimed that that “the New Hampshire school finance system results in unreasonable, disproportionate and burdensome taxation.” The trial court rejected all counts, finding that the plaintiffs had failed to prove their case on the adequate education counts and that the school funding system did not result in unreasonable and disproportionate taxation.

The plaintiffs appealed, resulting in the New Hampshire Supreme Court’s 1997 Claremont II decision. The Court did not address any of the lower court’s decisions rejecting the education counts, but did overturn the court’s decision on the “tax” count, holding that the local property tax as used to fund the cost of a constitutionally adequate education is a state tax, and that the tax as applied during the years at issue violated the constitution because it had disproportionate rates across the state and resulted in unreasonable burdens on taxpayers residing within property poor communities.

In summary, the judicial education funding cases in Massachusetts and New Hampshire had similarities, and important differences. As noted above, the Massachusetts McDuffy decision affirmatively held that the Commonwealth had failed to satisfy its constitutional “education” duty with respect to the plaintiffs, while the Claremont decisions did not so hold. Further, the Massachusetts decisions did not make any “taxation” holding, while the Claremont II rested solely on the proportional and reasonable requirements of the taxation provisions of the New Hampshire Constitution. Finally, the legislative response to the McDuffy litigation, which focused state aid through the Chapter 70 Program on districts with the greatest student needs, effectively settled the judicial review when the Massachusetts Supreme Judicial Court accepted the Chapter 70 Program in the 2005 Hancock decision, while legislative responses to the Claremont decisions remain the subject of continuing litigation.

B. The Massachusetts Education Funding System: Chapter 70 Program.

The Commission examined the Massachusetts response to the McDuffy litigation, which is referred to as the “Chapter 70 Program.” In Massachusetts, the Chapter 70 program is the major program of state aid to public elementary and secondary schools. In addition to providing state aid to support school operations, it also establishes minimum spending requirements for each school district and minimum requirements for each municipality’s share of school costs.

i. **Purpose.** The purpose of the Chapter 70 Program is to ensure that every district has sufficient resources to meet its foundation budget spending level, through an equitable combination of local property taxes (subject to an equalizing wealth factor) and state aid.

ii. **Overview of State Aid Formula.** A district’s Chapter 70 state budget aid is determined in three basic steps:

- First, the law defines and calculates a Foundation Budget, which is set as target funding level that varies for each district, based on the specific grades, programs, and demographic characteristics of its students.
- Second, the law determines a minimum required local district contribution to the total Foundation Budget for each district, which establishes how much of the district’s variable Foundation Budget must be paid for by the district’s property tax. This minimum required Local Contribution is determined by state law requirements, and is based upon the relative income and property wealth of the district.

- Third, the remainder of each district's Foundation Budget (not covered by the minimum required Local Contribution) is funded by Chapter 70 State Aid.

Accordingly, a district's Foundation Budget (net state law total school spending requirement) is the sum of its Local Contribution plus its State Aid. This net school spending requirement is the minimum amount that a district must spend to comply with state law, and this required spending level is enforced by the state.

iii. **Numerical Overview of the Massachusetts Funding System.** The Commission discussed several financial aspects of the Chapter 70 Program. The following paragraphs summarize certain key financial comparisons between Massachusetts and New Hampshire.

(1) Total System Overview. The neighboring tables present an overview comparison of the two total systems, using FY2020 data compiled from several Massachusetts, New Hampshire and federal sources. The Commission learned that Massachusetts recently adopted enhancements to its Chapter 70 Program and state budget support that is intended to increase the state budget share over the next several years. Some key points:

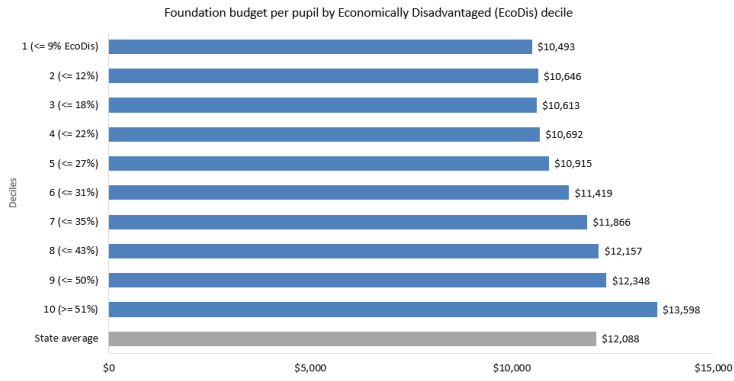
- NH and MA are among the top ten states with highest per pupil spending in the nation. (MA \$19,197; NH \$19,101)
- NH and MA both rely substantially on local property tax revenues to support total public education spending. (MA 57.0%; NH \$62.5%)
- NH and MA have similar shares of total spending funded by state budget aid. (MA 38.7%; NH 32.1%)
- MA's Foundation Budget is funded by both the Local Contribution and State Budget Aid, while NH's significantly lower Adequacy amount is funded entirely with State Budget Revenues.

(2) Foundation Budgets Vary Substantially by District. According to a July 19, 2020 presentation of the Massachusetts Department of Elementary and Secondary Education ("MA DOE Presentation"), Foundation Budgets vary by district based on student need. The MA DOE Presentation includes the following graph to demonstrate that districts with greater student need (in terms of economic disadvantages) have higher Foundation Budgets:

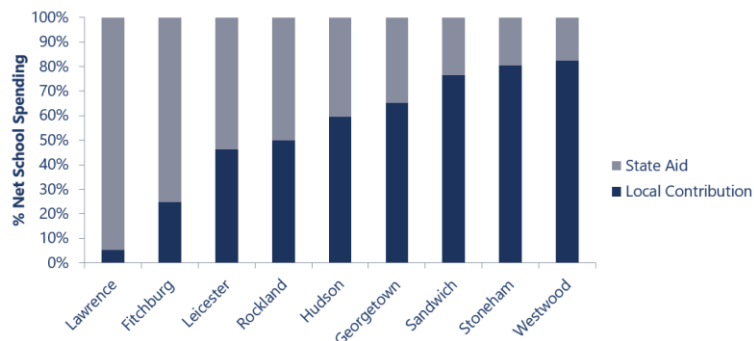
| Total Numbers | FY20 | FY20 |
|------------------------------|-----------|------------|
| Dollars in \$000 | NH | MA |
| Total Enrollment | 163,583 | 939,683 |
| Total Revenues - All Sources | 3,124,636 | 18,039,476 |
| Total Revenues - Local | 1,951,914 | 10,279,037 |
| Total Revenues - State | 1,004,048 | 6,987,507 |
| Total Revenues - Federal | 168,674 | 772,932 |
| Local Property Tax | 1,951,914 | 10,279,037 |
| State Property Tax | 363,246 | - |
| Other State Taxes | 640,802 | 6,987,507 |
| Federal | 168,674 | 772,932 |
| Adequacy/Foundation | 779,390 | 11,359,049 |
| Required Local Contribution | 363,246 | 6,513,607 |
| State Budget Aid | 441,990 | 5,175,694 |

| Per Pupil Numbers | FY20 | FY20 |
|------------------------------|--------|--------|
| \$ Per Pupil | NH | MA |
| Total Revenues - All Sources | 19,101 | 19,197 |
| Total Revenues - Local | 11,932 | 10,939 |
| Total Revenues - State | 6,138 | 7,436 |
| Total Revenues - Federal | 1,031 | 823 |
| Local Property Tax | 11,932 | 10,939 |
| State Property Tax | 2,221 | - |
| Other State Taxes | 3,917 | 7,436 |
| Federal | 1,031 | 823 |
| Adequacy/Foundation | 4,764 | 12,088 |
| Required Local Contribution | 2,221 | 6,932 |
| State Budget Aid | 2,702 | 5,508 |

| Percentages | FY20 | FY20 |
|------------------------------|--------|--------|
| % of Totals | NH | MA |
| Total Revenues - All Sources | 100.0% | 100.0% |
| Total Revenues - Local | 62.5% | 57.0% |
| Total Revenues - State | 32.1% | 38.7% |
| Total Revenues - Federal | 5.4% | 4.3% |
| Local Property Tax | 62.5% | 57.0% |
| State Property Tax | 11.6% | 0.0% |
| Other State Taxes | 20.5% | 38.7% |
| Federal | 5.4% | 4.3% |
| Adequacy/Foundation | 24.9% | 63.0% |
| Required Local Contribution | 11.6% | 36.1% |
| State Budget Aid | 14.1% | 28.7% |



(3) Chapter 70 State Aid Varies Substantially by District. According to the MA DOE Presentation, “districts receive different levels of Chapter 70 aid, because their community’s ability to pay differs.” The MA DOE Presentation includes the following graph of selected districts to demonstrate this important point:



C. Summary of Foundation Budget, Minimum Local Contribution and Chapter 70 State Aid Determinations.

i. **The Chapter 70 Foundation Budget is determined using an input cost approach.** A district’s Foundation Budget is derived by multiplying the number of pupils (Foundation Enrollment) in 13 enrollment categories (for example, kindergarten, elementary, vocational, special education, ELL, and economically disadvantaged) by input cost estimates in 11 functional areas (for example, administration, instructional leadership, classroom and specialist teachers, special education tuition). The resulting Foundation Budget varies by district in accordance with different enrollment needs.

ii. **The Minimum Local Contribution is based on a community’s ability to pay.** Under the Chapter 70 Program, the Foundation Budget is a shared municipal-state responsibility. Each community has a different target local share (ability to pay) based on its unique property values and resident income characteristics. The calculation of each community’s Local Contribution amount is complex, but once

determined, each community must generate the amount through local property taxes. The target Local Contribution is capped (may not exceed) 82.5% of the community's Foundation Budget, which ensures that every community will receive some amount of Chapter 70 State Aid. According to the MA DOE Presentation, in FY2020, 145 of 351 communities are subject to this cap. Because the Local Contribution is determined based on both equalized valuation and income characteristics, and further is subject to the cap, the local property tax rates necessary for each community to satisfy the minimum requirement vary.

iii. **Chapter 70 State Aid is funded from the State budget.** A community's Foundation Budget minus its minimum Local Contribution equals its Chapter 70 State Aid amount. Districts are held harmless to the previous year's level of State Aid. In addition, for FY2020, each district received at least \$30 per pupil in additional aid over the FY2019 amount. According to the MA DOE Presentation, 182 districts received this additional aid enhancement for FY2020.

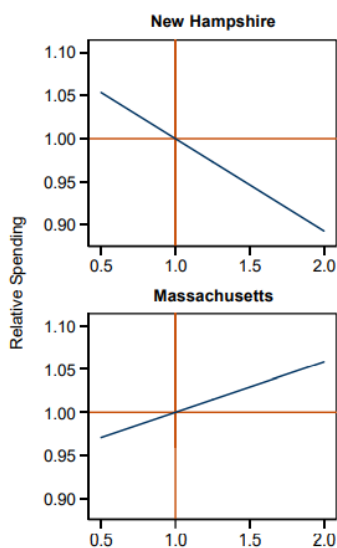
D. Concluding Comments.

The Massachusetts Chapter 70 Program has been a successful response to the 1993 McDuffy litigation, which held that the prior system failed to satisfy the state's constitutional duty to provide a quality public education to children in property poor towns. The AIR Report in Exhibit 7 on page 17 included the following two graphs, which highlight that the Massachusetts system has produced a more progressive distribution of total public education resources (higher relative spending in districts with higher poverty) than New Hampshire's regressive system (lower relative spending in districts with higher poverty).

Massachusetts' success in achieving a more progressive distribution can be attributed to the effectiveness of its Chapter 70 Program, and therefore the experience and the details of the law should provide a relevant case study for future New Hampshire legislative consideration.

Massachusetts' progressivity is achieved by several features of the Chapter 70 Program. These include: district Foundation Budgets that vary across districts based on student needs (there is no uniform per pupil requirement); an integrated minimum Local Contribution requirement that varies across districts based on relative property and income wealth (so that poorer districts are not required to raise as great a share of local property tax as wealthier districts); and Chapter 70 State Aid that is highly focused on poorer districts (and much less for wealthier districts, which are able to fund most of their Foundation Budgets with their property tax-funded Local Contribution).

During the Commission deliberations, some members of the public expressed concern that perhaps the Chapter 70 Program would not pass muster under the Claremont II or Londonderry cases, because it still relies quite heavily on local property tax to fund the Foundation Budget. These commenters pointed to a statement in the Londonderry case (in dicta): "Whatever the State identifies as comprising constitutional adequacy it must pay for. None of that financial obligation can be shifted to local school



districts, regardless of their relative wealth or need.” According to the commenters, this statement would prohibit the use of a minimum Local Contribution requirement such as that set forth in the Chapter 70 Program.

Some Commission members challenged this interpretation of the Claremont II and Londonderry cases. In those cases, the Court examined the use in the state’s school funding system of a pure and unrestricted delegation to municipalities of the power to tax local property values in the context of litigation claiming that children in low wealth communities were receiving inferior education. The Court has never examined a system like the Chapter 70 Program, which requires communities to exercise their local property tax power to raise a strict minimum Local Contribution that is designed by the state to vary inversely with local community wealth and that must be devoted to meeting the Foundation Budget spending requirement, all of which operate together in a highly integrated manner with state aid to achieve the much more progressive result shown in the two graphs above. There is a substantial difference between a public school system that does not substantially focus aid on the most needy districts and relies heavily on an unrestrained and unguided exercise of local property tax power (as faced the Claremont II Court) and a public school system whose guiding principle is to provide greater state budget resources to districts with greater need, and requires wealthier districts to have a greater Local Contribution as part of achieving that progressive distribution goal.

As New Hampshire policy-makers consider reforms to the current education funding system, the Commission recommends that consideration be given to the Massachusetts experience with its Chapter 70 Program.

Property tax “Circuit breakers”

The state should enhance taxpayer equity through property tax relief targeted to homeowners and renters through a low- and moderate-income property tax relief program. This program should include updated limits to income, home value, and net worth, and be satisfactorily funded by the state. A property tax deferral program managed by the state for residents with limited ability to pay should also be introduced.

A state-administered property tax deferral program should also be considered. Such a program operates much like that of a commercially available reverse-mortgage. Certain conditions would have to apply for a resident to be eligible for such a program. However, it is beyond the scope of this Commission to develop the specific parameters behind such a program.

Data Collection and Analysis

Towns report to NHDRA the value of property in different categories, e.g., residential land, commercial buildings, utilities, current use, etc. Other categories are not collected such as owner-occupied, seasonal, rental residences, lake frontage, etc. The DRA can do some calculations regarding the effect of possible different tax rates for different types of property as anticipated in the “A, B, and C” part of the charge to this Commission. Differing tax rates are allowed for different uses of property by the amendment to the NH Constitution that was passed in 1968. In the past, proposals have been for changes to the property tax itself. DRA has made estimates of the effect of proposed homestead exemptions and “circuit breakers”.

Commented [HJ10]: Do we need a line or two that the Commission has heard testimony to the effect that there should be a deeper examination of potential issues related to the valuation of commercial property?

The NHDRA MOSAIC data contains information about every individual piece of taxable property in the state. The NHDRA can use this data to evaluate how possible changes to tax policy could impact taxpayers. For example, the data could be used to evaluate how a change to state and local property tax rates could manifest as a change in the tax burden on residential property taxpayers. The data could also be used to examine the effects changes to tax policy could have on the number of units valued in a specific price range statewide, owner-occupied property, rental property, and property owned by out of state entities. Information like this would be useful in tax policy analysis consistent with the policy criteria presented in the 2000 Commission Report.

Findings

Improved data collection as part of the assessment standards and NHDRA MOSAIC data can improve the state's ability to evaluate the fiscal impact of changes in tax policy, and can help inform the General Court in state funding matters, including the funding of schools and tax relief programs.

Implementation

Changes should be phased-in over a period of five years, with an emphasis on student equity (the opportunity for statewide average outcome). A transition plan should be developed that begins with existing funding levels (state and local sources) reduced over five years by 20% each year, and introduces the new funding plan at a rate of 20% each year over five years.

Required state revenue sources should be implemented ONE YEAR before the start of a transition and deposited into the Education Trust Fund. The ETF provides a valuable mechanism to safeguard funds raised so they are available when needed.

Findings

It is the state's responsibility to guarantee that all students to have an opportunity for an adequate education

The cost of the opportunity for an adequate education varies by student needs and community characteristics

Student equity is the most important principle for good fiscal policy in school funding.

Recommendations

The state should enhance taxpayer equity through property tax relief targeted to homeowners and renters through a low- and moderate-income property tax relief program.

Fiscal Policy for education funding should place a priority on student equity.

Implementation should be done over a five-year period with the emphasis on improved student equity.

Revenue should be collected in advance of the transition to a new funding plan and deposited to the ETF.

QUALITY ASSESSMENT OF A SCHOOL FUNDING PLAN

Once the state has developed and implemented a funding design that supports the principles of student equity, fiscal neutrality and taxpayer equity, the performance of the funding design can be evaluated. It will take years for the performance effects to begin to materialize after implementation of the funding plan. And it may take longer than that for the performance measures to reach a steady state. However, annual assessment and evaluation of these performance measures can show whether the funding plan is working as expected.

Student Equity

Student equity can be measured and evaluated based on the average performance of students in each school district. Currently, the average student performance score in each school district is based on equal parts of performance on the eleventh-grade standardized test, attendance rate, and graduation rate. The average student performance scores for every school district in FY19 is referenced in this report.

Fiscal Neutrality

The cost of education for each school district is collected annually by the [NHDOE on the Form DOE25](#). To demonstrate fiscal neutrality, there should not be a strong correlation between the relative wealth of a community and the ability of the community to generate local revenues necessary to support their public schools. For example, if a community cannot raise sufficient revenue through local taxation to meet the predicted costs of operating their schools, after all other state and federal revenues have been applied, then fiscal neutrality has not been achieved. The fiscal gap can be calculated for each school district.

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Taxpayer Equity

Tax policy is made through the political process, but equity in tax policy can be measured. When considering the property tax, equity is when the tax burden on property taxpayers across the state is relatively the same. Therefore, property taxpayers in one community should not have to work harder than those in another community to raise the local revenues necessary to operate their schools. In addition, the tax burden on taxpayers within the same community should also be similar.

Taxpayer equity is improved on a community basis when funds raised from outside the community, such as state and federal funds, are applied to fully fund the school district or are applied to supplement local tax revenue based on the community's fiscal capacity. And within a community, taxpayer equity can be improved through local tax credits and state tax relief and deferral programs based on meeting eligibility requirements and with sufficient local and state funding.

When a school funding design results in a narrower range of property tax rates across the state, taxpayer equity is improved. This can be measured by a smaller standard deviation or variance in property tax rates from each municipality and reported annually by the NHDRA. Similarly, when there are sufficient state funds and realistic eligibility requirements for property tax relief programs, taxpayer equity is improved.

Findings

The performance of a school funding plan can be assessed for student equity using data collected annually by the NHDOE, specifically scores on the eleventh-grade standardized tests, attendance rates and graduation rates.

The performance of a school funding plan can be assessed for taxpayer equity using data collected by the NHDRA, specifically the variation in local education property tax rates among municipalities

The performance of property tax relief and deferral programs can be assessed using data collected by the NHDRA, specifically the number of grants approved, the total amount of the grants, the budget for the programs, and the net tax paid as a percentage of income

Recommendations

The NHDOE conduct an annual assessment of student equity, and issue a report to the General Court with the results and comparison to the results from the last ten (or as available) years of such assessments.

The NHDRA conduct an annual assessment of taxpayer equity and property tax relief and deferral programs, and issue a report to the General Court with the results and comparison to the results from the last ten (or as available) years of such assessments.

Fiscal Policy Work Group Meetings/Topics

Please note that video recordings of every Commission meeting and documents from those meetings are available on the Commission's website.

May 7, 2020:

Determine/review fiscal policy work group task list

Becoming more familiar with revenue outlook and DRA's role in education funding

May 18, 2020:

Presentation prepared by Charlie Toulmin, Liz Canada, Christina Pretorius, and Dr. Adam Gilbert of Reaching Higher NH: The Whole Picture of Public Education in New Hampshire

May 21, 2020:

Working with engagement work group to finalize stakeholder focus group questions

Revisions to scope of work for research vendor

June 1, 2020:

Review of New Hampshire Supreme Court past education funding rulings

Presentations by John Tobin and Michael Tierney regarding ongoing ConVal litigation

June 5, 2020:

Identifying current revenue sources for PK-12 education

Identifying changes in levels and mix of revenue sources from 1999-2020

Discussions regarding equity and fiscal neutrality

June 15, 2020:

Continued deliberations of fiscal policy principles

Review of Governor Shaheen's 2000 Commission to Analyze the Economic Impacts of Various School Funding Revenue Options Report

July 16, 2020:

Review of the property tax

Continued discussion of how to weigh tax options against criteria outlined in 2000 report

Review of AIR brief “Providing Adequate funding Through Equitable Taxation”

August 3, 2020:

Review of Sirrell (2001)

Discussion of pros and cons of various revenue sources

Considerations around modeling tax options

August 17, 2020:

AIR Presentation by Drew Atchison and Jesse Levin: Considerations and discussion for use of state property tax/mandatory minimum local effort; revenue simulation

DRA Presentation: Low- and moderate-income homeowner property tax relief; the statewide property tax and phase-in considerations

August 31, 2020:

Presentation by Jane Ferrini, Assistant City Attorney, City of Portsmouth: Impact of Property Taxes on the City of Portsmouth

Conversation with Paul Grenier, Mayor of Berlin, around the impact of property taxes on schools and municipal services

Reflections from AIR presentation and simulator

September 14, 2020:

Presentation by NH State Treasurer Monica Mezzapelle and Chief Deputy Treasurer Rachel Miller: State’s Perspective on Possible Changes to the Statewide Property Tax

Presentation by Becky Benvenuti, Government Finance Advisor at the NH Municipal Association: Municipal Perspective on Possible Changes to the Statewide Property Tax

Continued reflections on AIR presentations and fiscal policy implications

September 29, 2020:

Mandatory minimum local contribution and first/last dollar considerations

Discussion of court rulings and their impact on education funding

October 13, 2020:

Conversation with Alice Peisch, Massachusetts House Education Chair, and Aiden Church, Research Director, on Massachusetts' Chapter 70 education funding plan and the implications for New Hampshire

October 22, 2020:

Continued discussion of Massachusetts' Chapter 70 program

Review of property tax relief programs

October 29, 2020:

Consolidating fiscal policy work group principles, drafting recommendations

November 9, 2020:

Features of the Massachusetts Chapter 70 program and their relevance to school funding reform in New Hampshire

November 19, 2020:

Reviewing recommendations, finalizing for report

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| | Fairness/ Distributional Equity | Adequacy/Stability | Competitiveness | Exportability | Neutrality | Simplicity |
|------------------------------|--|--|--|--|---|--|
| Personal Income Tax | Fairly progressive - more so if using federal AGI, less so if based on federal taxable income. Shaheen 2000 Commission found that "a comprehensive income tax based on AGI used for federal tax purposes would be less progressive than the pre-Claremont...system" | Historically stable, but if tied to federal tax law is impacted by any federal changes. Potential impacts on BPT | Depends on how much tax is passed on to higher labor costs | Non-residents would bear ~11% of burden. Higher income taxpayers would benefit most if itemizing | Most neutral | Additional compliance costs for individuals are low since federal taxes are already required, but would impact businesses. Deductions/exclusions become very salient |
| Sales Tax | Regressive, though less so with some exemptions | Questions of stability as e-commerce grows, but consumption of services over goods will increase taxable sales. | for most firms, a sales tax would have less overall negative impact on investment in New Hampshire than any tax other than consumption, VAT or state property tax. Major impacts on border cities and towns and to businesses that have to push up wages | 27-38% of burden borne by non-residents (as of 2000 report, was 19-22%). A comprehensive rate of 3.1% would reduce statewide sales 11% (much larger in border areas) | Most distortive | Vendors would have to register, collect, and remit tax receipts. DRA would need to audit. |
| Property Tax | Progressive for low-to-middle class households, though generally not for households with incomes >\$70k (as of 2000). This is mostly due to renters. Property tax regressive over the top part of the income spectrum. Outside the Shaheen report, much comes down to implementation | Relatively volatile, although in many respects traditional indicators do not apply to property tax | Exerts the least depressing effects on returns on investments in NH. Empirical evidence suggesting property taxes stifle growth in employment as much as other taxes. May slow employment growth | 74% borne by homeowners, about 12% shifted to nonresidents. 5.5% borne by nonresident vacation homeowners. Industrial and commercial property account for 10 and 8 percent of the tax base, which shift costs to owners of capital/non-resident consumers from outside state as well as within | Behavior is currently distorted due to reliance on property tax | Equalized valuation across properties with a statewide tax could be difficult if imprecise. |
| Value Added Tax (VAT) | Progressive (more progressive if income-style, less so if consumption-based). | Less volatile than income because businesses can deduct a volatile item - net investment | Would function like the BET with a broader base and higher rate. Would depress returns on investment. | Businesses could export some of the burden of VAT to non-resident customers by raising prices and to non-resident workers by lowering wages and salaries. Non-residents owning shares in New Hampshire firms would also bear some of the burden of a VAT to extent that the tax was reflected in lower profits | Fairly neutral | Would be relatively simple, functioning like the current BET. |
| Capital Gains Tax | By far the most progressive option | Can be volatile, depends on structure | Depends on rate | Similar applicability to income tax | Fairly neutral | Extension of interest/dividends tax |

Cite 2000 report

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