

Testimony Regarding:
**Bill No. 1114: An Act Implementing the Governor's Budget Recommendations Concerning
Education, and**
**Raised Bill No. 7135: An Act Concerning the Foundation Level of the Education Cost Sharing
Grant and the Minimum Expenditure Requirement**

Testimony of Amy Kurren, Kara Rumsey and Ryan McAuliffe¹
Mary Glassman, JD
Shelley Geballe, JD MPH
Committee on Education
February 20, 2007

Senator Gaffey, Representative Fleischmann, and distinguished Members of the Committee on Education:

We testify on behalf of Advocates for Connecticut's Children and Youth (ACCY), a statewide, independent, research-based organization dedicated to speaking up for children and youth in the policy-making process that has such a great impact on their lives. ACCY is the sister lobbying organization of Connecticut Voices for Children, on whose behalf we also testify.

Bill No. 1114, An Act Implementing the Governor's Budget Recommendations Concerns Education, includes provisions amending Connecticut's Education Cost Sharing formula. These changes in some cases directly conflict with the objective of the cost sharing system by decreasing educational equity, and in other cases do not go far enough towards restoring equity-promoting provisions in the formula. For the reasons outlined below, we support an increase to the foundation but do not support freezing the foundation at the same level for five years. We also support increasing the State Guaranteed Wealth Level from 1.55 times the median town wealth, but believe it should be restored to its original level at twice the median town wealth. We do not support increasing the minimum base aid ratio, which would serve exclusively to benefit Connecticut's wealthiest towns; and we do not support amending the need student calculation to decrease the poverty weight and, instead, support *increasing* the poverty weight above current levels.

We support **Raised Bill No. 7135, An Act Concerning the Foundation Level of the Education Cost Sharing Grant and the Minimum Expenditure Requirement**. This bill would increase the foundation and provide for annual increases to the foundation based on the consumer price index. Although we would favor a proposal that would calculate the foundation yearly based on actual educational costs, it is essential that the legislature increase the foundation and provide a self-adjusting mechanism to prevent stagnation of the type that has occurred over the past decade. We support this bill in furtherance of these crucial objectives.

¹ Ms. Kurren and Ms. Rumsey are Yale Law students participating in the Yale Legislative Services program and have prepared this testimony under the supervision of Attorney Shelley Geballe (President, CT Voices for Children), Attorney Mary Glassman (Director, Advocates for Connecticut's Children and Youth) and Professor J.L. Pottenger, Jr. (Legislative Advocacy Clinic, Yale Law School). Ryan McAuliffe is a Policy Fellow at CT Voices for Children.

The Connecticut State Constitution requires the state to provide all public school children with substantially equal educational opportunity.

Article VIII, Section I of the Connecticut State Constitution provides, “There shall always be free public elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation.”² Other provisions guarantee equality, and ban discrimination regarding civil and political rights.³ The Connecticut Supreme Court consistently has read these provisions to impose on the state an affirmative constitutional obligation to provide all public school children with substantially equal educational opportunity. In Connecticut and throughout the country, school finance litigation has meant that such provisions in the state constitution require the state to help equalize school funding across districts. The result in Connecticut is the Education Cost Sharing (ECS) formula.

The ECS formula allocates ECS funds across school districts to equalize spending by targeting more money to poorer districts, and to improve educational equity by adjusting for differences among these local school districts in terms of: (a) student need (as a function of poverty, test performance, and Limited English Proficiency) and (b) district wealth (as a function of property tax wealth and per capita and median household income).⁴ The ECS formula originally was enacted in 1988 and took effect in 1989, but has been modified in every legislative session since. It was adopted as the Legislature’s response to the Connecticut Supreme Court’s *Horton v. Meskill* decision and subsequent litigation.

School finance is a hotly debated issue in state legislatures and courtrooms across the country. The National Access Network – which carefully tracks school finance litigation across the country – reports that lawsuits challenging how states fund their schools have been decided in 45 of the 50 states; to date, plaintiffs in these suits have prevailed in 26 of the 45 cases.⁵ In several states, including Connecticut, multiple challenges have been successfully litigated. The National Access Network also reports that there are currently 23 lawsuits in process challenging the constitutionality of state K-12 education funding.⁶ Connecticut is once again one of these states. The Connecticut Coalition for Justice in Education Funding recently filed litigation challenging the constitutionality of the Connecticut school finance system. The core of their claim is that Connecticut dramatically under-funds districts serving large numbers of low-income students.⁷

The foundation must immediately be increased to a level that reflects current educational costs. To ensure that education grants do not fall behind increasing costs, the foundation should be indexed for growth in education costs, rather than frozen by statute.

² Article 8, Section 1.

³ Article I, Section 1 of the Connecticut State Constitution provides, “All men when they form a social compact, are equal in rights; and no man or set of men are entitled to exclusive public emoluments or privileges from the community.” Article I, Section 20 provides: “No person shall be denied the equal protection of the law nor be subjected to segregation or *discrimination* in the exercise or enjoyment of his civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability.” (emphasis added)

⁴ See CONNECTICUT STATE DEPARTMENT OF EDUCATION DIVISION OF FINANCE AND INTERNAL OPERATIONS, EDUCATION COST SHARING (ECS) GRANT PROGRAM, MINIMUM EXPENDITURE REQUIREMENTS (MER) 2005-06 (2005). See also CONNECTICUT GENERAL ASSEMBLY LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE, CONNECTICUT’S PUBLIC SCHOOL FINANCE SYSTEM (2002).

⁵ NATIONAL ACCESS NETWORK, “EQUITY” AND “ADEQUACY” SCHOOL FUNDING COURT DECISIONS (Sept. 18, 2006), <http://www.schoolfunding.info/litigation/equityandadequacytable.pdf>.

⁶ NATIONAL ACCESS NETWORK, LITIGATIONS CHALLENGING CONSTITUTIONALITY OF K-12 FUNDING IN THE 50 STATES (Oct. 2006), <http://www.schoolfunding.info/litigation/In-Process%20Litigations.pdf>.

⁷ CJEF complaint.

According to the Connecticut General Assembly Office of Legislative Research, “The foundation level is a key to the formula. If it is set too low, the formula will not provide enough aid to towns that cannot or will not tax themselves at a rate much above the required minimum. If it is set too high, the state will be sending aid to communities that could do more on their own.”⁸ Frozen at \$5,891 for nearly a decade, the foundation clearly is in dire need of a significant increase to keep state funding anywhere near an appropriate level commensurate with current education costs.

In PA 88-358, which established the Education Cost Sharing formula, the foundation was intended to represent the minimum cost of adequately educating the average student. Under the original ECS statute, the foundation was set by looking at data on a prior year’s regular education expenditures per need student.⁹ The foundation amount was determined by ranking all towns from lowest to highest by regular program expenditures per need student from the fiscal year three years prior; selecting the first town that fell at or above eighty percent of towns in this ranking; and setting the foundation at the regular program expenditures of this town divided by its number of total need students. This measure guaranteed that the foundation would have a built-in cost-adjustment factor.

Bill No. 1114 would set the foundation at \$9,687, bringing the foundation at the end of the 5-year phase-in to the level that the Governor’s Commission on Education Finance determined that it would have been at today had it not been frozen but instead allowed to fluctuate as the formula designed. This means that by the time the increase in the foundation is fully funded in 2012, the foundation level already will be five years out of date. The foundation increase must be fully funded now to address the needs of students currently in Connecticut public schools.

Further, the Governor does not propose to amend the statute to assure that the foundation level is adjusted upward automatically in subsequent years. A frozen foundation, even if at a higher level, will undoubtedly become outdated and inadequate due to both inflation and increased costs in education. Our own experience in Connecticut with a frozen foundation for nearly a decade shows us that writing the foundation in statute without automatic increases virtually guarantees that the most important component of the formula will not move significantly over time and that Connecticut will find itself in a similar situation 15 years from now. It is important to learn from our experiences today and realize that a frozen foundation will eventually prove highly problematic for adequate education funding. A forward-looking foundation proposal would allow the foundation to be indexed for growth in education costs, and not be stagnantly frozen in statute.

Raised Bill No. 7135 would address some of these concerns. This bill would increase the foundation and provide for annual increases to the foundation based on the consumer price index. This proposal is not ideal; although it would help prevent immediate obsolescence due to inflation, it does not tie the foundation level to educational costs, which may rise at a higher rate than other goods and services. A return to a formula based on actual educational expenditures would better ensure adequate education funding. However, it is essential that the legislature provide a self-adjusting mechanism to prevent stagnation, and providing for annual increases based on the consumer price index will help achieve this objective.

⁸ Judith Lohman, “ECS Funding and Formula,” OLR Research Report 2000-R-0967 (October 5, 2000).

⁹ “Need student” does not refer to a category of high-risk students but to a weighted student count defined by the statute. The current calculation for total need students, which includes added weights for poverty, low performance, and limited English proficiency, is discussed in detail in the next section.

Amending the student need calculation to decrease the weight for poverty works against the Education Cost Sharing system's objective of increasing educational equity.

Bill No. 1114 includes significant changes to the calculation of need students. The weights in determining need student counts are currently at 25 percent for students in poverty as defined by the 1996-1997 Temporary Family Assistance counts, 25 percent for remedial students as measured by the Connecticut Mastery Test, and 10 percent for English language learners. The Governor has proposed lowering the weight given for poverty to 21.89 percent¹⁰, but using current participation counts in the free and reduced price lunch program as the indicator. In addition, her proposal calls for the elimination of the weight for remedial students and an increase from 10 to 20 percent in the weighting for English language learners. These decisions have a significant impact on the need student count for districts.

Given Connecticut's high cost of living, the more inclusive free and reduced price lunch count is a more accurate indicator and realistic depiction of poverty in Connecticut and will appropriately increase the number of students identified as "need" students. However, reducing the weight given for poverty is a large step in the wrong direction. There is indeed evidence to suggest that the costs of educating a student in poverty are significantly more than the current 25 percent over regular costs, and certainly more than the proposed reduction to 21.89 percent. In fact, in Connecticut, the Guaranteed Tax Base formula, which preceded the ECS formula, added a 50 percent weight for each student considered eligible for antipoverty assistance (though it did not include performance or limited English proficiency weights.)¹¹ Moreover, in allocating Title I funds, the federal government uses a 40-percent upward adjustment "to determine whether state funding policies are fair to low-income students," and analyses of school funding equity often employ this 40-percent adjustment.¹² Maryland currently uses a 100-percent upward adjustment, based on evidence that it costs twice as much to educate a low-income student.¹³

In a proposal that eliminates additional weighting for low performing students, it is particularly important to appropriately weight poverty, as poverty is a leading indicator of low performance. The Governor's own Commission recommended that the poverty weight be set at a level that "ensures a funding impact that is greater than the current poverty and remedial weighting combined."¹⁴ A formula that decreases the weight for poverty fails in this important respect, and neglects the high costs necessary for educating low-income students.

The State Guaranteed Wealth Level should be restored to twice the median town wealth.

The base aid ratio is the proportion of the foundation that each town should receive from the state per student. The ratio is based on the relative wealth of the town, taking into account both property wealth and income in determining the capacity of the town's population to pay taxes. The base aid ratio currently is determined by the following formula (as discussed below, the Governor's proposal would increase the minimum ratio from .06 to .1):

$$\text{BASE AID RATIO} = \text{GREATER OF } .06 \text{ OR } [1 - (\text{TOWN WEALTH})/(\text{SGWL})]$$

¹⁰ The text of the bill reads "twenty-one and eight-nine hundredths per cent"; we have assumed that this is a typographical error and that the text was meant to read "twenty-one and eighty-nine hundredths per cent."

¹¹ CONNECTICUT GENERAL ASSEMBLY LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE, CONNECTICUT'S PUBLIC SCHOOL FINANCE SYSTEM 36 (2002).

¹² See Education Trust, "The Funding Gap 2005: Low-Income and Minority Students Shortchanged by Most States" (2005), p.2.

¹³ http://www.schoolfunding.info/resource_center/MDbrief.php3

¹⁴ Report of Governor Rell's Commission on Education Finance, <http://www.opm.state.ct.us/budget/EducationFinance/EduFinanceFinalReport.pdf> p.9.

In this formula, the State Guaranteed Wealth Level is the key factor in determining how much local tax effort is required to meet the foundation. The higher the State Guaranteed Wealth Level, the greater the state's required share will be of the foundation amount.

Under the original ECS legislation, the State Guaranteed Wealth Level was calculated to be twice the median town wealth.¹⁵ That is, the median town would receive from the state exactly one-half of the foundation amount. However, the State Guaranteed Wealth Level has been reduced several times since 1990, and now stands at 1.55 times the median town wealth. The result is that a greater number of towns are entitled only to the minimum of .06 of the foundation per student, and that those towns entitled to greater than .06 of the foundation receive a lower percentage of the foundation than they previously did. A low SGWL can lead to demands for hold harmless provisions and other distortions of the formula by towns that are not receiving adequate state funding. All towns benefit when the SGWL rises. Those that benefit the most are in the upper-middle wealth levels; their wealth is above 1.55 times the median but below 2.0 times the median.

Increasing the minimum base aid ratio serves exclusively to benefit the wealthiest towns in Connecticut, working directly in opposition to the goal of the Education Cost Sharing system.

Unlike an increase to the State Guaranteed Wealth Level, which benefits all towns, an increase to the minimum base aid ratio is exclusively of benefit to the wealthiest towns in Connecticut. While it is true that all cities and towns across the state see an increase in their ECS funding in the Governor's proposal, the percentage increase is greatest to the wealthiest towns. This increase is a result of the minimum base aid ratio increase from six percent to ten percent. When a limited amount of money is being distributed for education, it is important that the funds be distributed to the towns where the need is the greatest as the ECS formula originally intended.

Prior to 2000 the minimum base aid ratio was zero. With no minimum base aid ratio, towns above the State Guaranteed Wealth Level (originally set at 2.0 times the median wealth level) would not receive aid through the ECS formula (although in practice hold-harmless provisions have always ensured that all towns receive some portion of the grant money). As the State Guaranteed Wealth Level was reduced to 1.55, more towns failed to qualify for funding through the base aid calculation. The creation of a minimum base aid ratio allowed more towns to qualify for funding through the formula, but it did not do so in a way that increased equity; with a set minimum, a town with an income of 1.6 times the median town wealth would qualify for the same ratio as a town with well more than twice the median town wealth. Increasing the minimum base aid ratio only compounds this inequity.

The reimbursement threshold for the Special Education Excess Cost grant should be reduced from 4.5x to 3.5x, as recommended by the Governor's Commission on Education Finance.

Because funding for special education is included in the foundation amount, the ECS formula does not include extra weighting for special education students. This can create significant burdens for districts with an over-representation of students with very significant special education needs. To prevent districts from being overwhelmed by these costs, the state currently takes responsibility for costs in excess of four and one-half times the average per pupil educational costs of that district. The Governor's Commission

¹⁵ The "median town wealth" is the wealth of whatever town is at the midpoint when all cities and towns are arrayed from lowest to highest based on town wealth.

has recommended that in order to reduce districts' exposure to significant and unexpected education costs, the reimbursement threshold should be reduced to three and one-half times the average per pupil education cost. We support this recommendation to ensure that districts receive funding sufficient to educate all enrolled students.