

Column from Sen. Matt Bartle for
week of June 13, 2005

THE "POWER OF THE PURSE" – KEEPING EDUCATION FUNDING IN THE HANDS OF THE LEGISLATURE

Every child in America is taught the basics of American government sometime before they graduate. Among the many lessons that were drilled into our heads as students about our republican form of government, perhaps the most fundamental is that our government is divided into three distinct branches.

As our founding fathers recognized two centuries ago, in order to ensure protection of our individual liberties, our government had to be structured to prevent excesses. Any branch of government that became too powerful would ultimately threaten individual liberties. Only if every citizen, regardless of how powerful, were subject to the rule of law would freedom truly prosper. As John Adams (our nation's second president and one of the most influential drafters of our Constitution) put it, our nation was to be a nation of "laws and not of men."

The reason that American political philosophy is relevant to our discussion today is that I fear we are facing a potential "imbalance" of power in Jefferson City. One of the most cherished and fundamental powers of the legislative branch (the branch that is closest to the voters and most directly expresses their voice in government) is its power to appropriate money. This "power of the purse" is entrusted to the legislature, not to the executive and not to the judiciary. However, we are quickly approaching a day when a trial court judge, elected by the people of only one county, may well issue an order telling the 197 members of the Missouri House and Senate and the governor to spend millions of dollars that we simply do not have.

A bit of background is in order here. In the early 1990's Missouri faced a situation very similar to the one we faced earlier this year concerning education funding. Back then, certain school districts brought a lawsuit alleging that the legislature's spending on education was not equitable. A single judge sided with the plaintiffs and Governor Carnahan and legislative leaders willingly acquiesced, did not appeal the trial court judge's ruling to the conservative Missouri Supreme Court, and pushed through the largest tax increase in Missouri history.

Now, in 2005 some school districts are back in court, suing the state on the grounds that education funding is not adequate or fair. All this in spite of the fact that this past session the legislature rewrote Missouri's aging education spending formula, with Governor Blunt committing to phase in an \$800 million school funding increase over the next seven years.

I do not expect all the readers of this column to agree with every spending decision the legislature makes. In fact, I disagree with many of them myself but I strongly believe it is better to allow the 197 men and women duly elected from every corner of Missouri to make spending decisions for our state than a solitary judge sitting in Cole County. I fear that a judge in Cole County may issue an opinion that actually harms schools in Eastern Jackson County.

Not only is this a matter of common sense, it is a matter of constitutional importance. We need only look west across the state line into Kansas to see a vision of what may happen in Missouri in the next few months. There, in a lawsuit very similar to the one filed here, a panel of judges has in essence told the legislature to cough up more money (I expect shortly to see the citizens of Kansas taxed to comply with this court order). This is an example of the judiciary acting as an appropriator, a power not assigned to it in the constitution.

I do not want to see a similar court mandated tax increase in Missouri. Last week, I joined with two of my colleagues in the Missouri Senate (the Majority Floor Leader and the chairman of the Senate Education Committee) to announce that we will be filing legislation to take away from potential litigants the ability to file lawsuits asking a court to second guess difficult funding decisions made by the legislature as to how to spend the state budget. Unelected judges and judges that are only elected in one county are ill-equipped to evaluate all of the weighing of priorities that goes on in putting together the state's budget. Courts should not assume the power of the purse or the power to tax the people.

If you have comments or questions about this week's column or any other matter involving state government, please do not hesitate to contact me. You can reach my office by e-mail at matt_bartle@senate.state.mo.us.

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