

CAPITOL REPORT
Senator Luann Ridgeway
March 24, 2005

Education and the Courts

The Missouri House, Senate, and Governor have committed to fulfilling their promise to increase funding for education without raising taxes. We are doing this and it is good news for Missouri school children and educators.

Yet, it seems that lawsuits are in the middle of more and more legislative issues. Education funding is no different. A number of school districts across the state have chosen to spend taxpayer dollars to sue the state over education funding. This doesn't seem like a wise use of tax money to me but, nonetheless, this is what various districts have chosen to do. Perhaps even more frustrating is the tenor of the talk from some lawsuit participants. For example in my home district, when asked how much money they seek in per pupil funding from the state, the response was, "I don't know." When asked what percentage of the state budget should ideally be set aside for education, the response was again, "I don't know." How can a lawsuit be resolved when the litigants themselves either don't know or won't tell you what they want in order to settle the case? I was told that school administrators "would be watching" as the legislative session progresses. Participating is more important than watching. But if the intention is merely to complain that the results of the legislative session are inadequate, then perhaps merely watching serves that purpose adequately.

A longtime before any lawsuits were filed, legislators realized that the formula by which education is funded was broken. Legislators have been working for months and continue to work to rewrite the formula. Most importantly, legislators understand that the burden to set the level of funding and the formula for distributing the funds rests solely on the elected representatives of the people.

But the school districts in the lawsuit have a different idea. They want judges to rewrite the formula and set the level of funding. This is not a proper function of the judicial branch. However, it is worth remembering that a federal district court judge, by judicial fiat, imposed a tax on the people of the Kansas City School District—without a vote of the people.

Perhaps the litigants in the state school funding case hope that a judge will force increased funding requiring a tax increase. Should this happen, Missouri would face a constitutional crisis. You see, Missouri's Constitution requires all significant tax increases to be approved by the voters. If a judge or group of judges orders a tax increase and the people of the state fail to approve the increase, Missouri would be in a constitutional crisis.

That's because judges were never meant to impose taxes. Our Constitution allows the elected representatives of the people to propose taxes. That's because they won't be a representative very long if they keep proposing taxes against the will of the people. They won't be re-elected. If a tax is ultimately approved by the Missouri Supreme Court, it could be approved by only 5 judges. These judges are appointed and only rarely face nothing more than a retention vote.

So, how much of our state budget do you believe we should spend on education? Do you know our state constitution requires us to spend 25% of our budget on education? Do you know we already currently spend 37% of our state budget on education?

Again, the decision of how much to spend should rest with those who are the most accountable to you. To ensure this happens, there is a proposal to allow the people of Missouri to clarify their constitution. This proposal is to allow the people to vote to change the Missouri Constitution to deny unelected judges the ability to raise taxes.

The proposal is SJR 18 and reads as follows:

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2006, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article IX of the Constitution of the state of Missouri:

Section A. Article IX, Constitution of Missouri, is amended and one new section adopted, to be known as section 1(c), to read as follows:

Section 1(c). The power to determine public school funding shall exclusively be the province of the people's elected representatives in the general assembly and their governor. The power to determine public school funding shall not fall within the province of the judiciary.

This Resolution is good language and I look forward to its passage.

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