

Testimony by Allen Gilbert, April 23, 2025, Senate Finance Committee

My name is Allen Gilbert. I was chair of the Worcester School Board when it joined the *Brigham* litigation in 1995. I was also chair of the Washington Central Supervisory Union School Board and president of the Vermont School Boards Association. Following the *Brigham* decision, I was active in a nonprofit organization led by former governor Phil Hoff supporting the *Brigham* decision. My last employment was as executive director of the American Civil Liberties Union of Vermont. I am now retired.

When Worcester signed on as a plaintiff in the *Brigham* case, our town was a good example of the unequal access to education opportunities because of a miniscule property tax base. (The biggest taxpayer in town was the phone company, for their poles.) Things were made worse, financially, because nearly half of the town was/is state forest land, making it exempt from property taxes. Those of us on the school board recognized all this when we tried to pass a relatively small bond to add classrooms, a library, kitchen, and space for staff to work with IEP students at our school. The state was threatening to close the school because we weren't meeting facilities standards. It took us three tries (after trimming of the plan each time) to pass the bond. I say this as an example of the importance of property tax wealth in determining children's education opportunities. It's why my town joined the lawsuit.

I have watched closely the discussions this legislative session concerning reconfiguration proposals. My prime interest has been protecting the financial equity created by the *Brigham* decision.

H. 454's financial mechanism is built around a foundation formula – the very mechanism that led to an “unconstitutional” label by the Vermont Supreme Court in 1997. But I have heard, numerous times, in the past months that *Brigham's* equity is flawed in practice. Towns can just as well spend less on students' education as they can spend more. Since the state is responsible for ensuring equitable funding for all students, and since equitable funding wasn't happening, the state needed to establish a guaranteed minimum per-pupil amount that provides a solid education. Essentially, we acknowledge that we have been blind when towns, year after year, spend low to keep school taxes down to avoid budget defeats at the polls.

All in all, if one puts aside the ever-present danger of the state not, over time, fully funding the foundation amount, the plan looks impressive. The speed bump placed in front of excess spending – a town can spend no more than 10 percent above the foundation amount and only at the state's lowest town's tax capacity -- will slow excess spending and provide funds for school maintenance and construction around the state.

Will the finance mechanism in H. 454 work? Indeed, that's the key question. It can work – if the legislature can adhere to its responsibility of keeping the foundation amount in line with inflation or other costs. If it can't, we will likely be back where we were in 1997.