False claim: "Initiative 42 does not address school funding."

Initiative 42 addresses school funding in virtually the same way that school funding is addressed in the constitutions of most other states. Here are some examples:

Arkansas: "Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education."

Louisiana: "Preamble: The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just, and designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his full potential."

Section 1: "The Legislature shall provide for the education of the people of the State and shall establish and maintain a public educational system."

Florida: "The education of children is a fundamental value of the people of the State of Florida. It is therefore a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require."

Georgia: "The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be free and shall be provided for by taxation."

False Claim: "Initiative 42 takes power away from the legislature and gives it to a judge, violating the separation of powers."

An amendment to section 201 of the state constitution cannot in any way change the roles of the three branches of state government. The legislative branch will continue to make laws and appropriate state funds, the executive branch will continue to see that laws are enforced, and the judicial branch will continue to determine the constitutionality of laws and government actions.

That three-branch system of government is the foundation of our democracy, and a very important component of it is the responsibility of the judicial branch to keep a "check" on the legislative branch. It appears that this oversight is the primary objection of opponents of Initiative 42. Opponents of Initiative 42 appear to believe that the Legislature should not be accountable to the courts at all, and that their actions should not be checked by the judicial branch. Such a system, in which a branch of government has a monopoly without accountability, flies in the face of the very principles on which our country was founded and threatens the freedoms we cherish most.

In 1787, at the Constitutional Convention, our founding fathers gave us a 3-branch system of checks and balances specifically to keep a power-obsessed Legislature from running rough-

shod over the people it is intended to serve. Through that system of checks and balances, they gave the courts the ability to keep a check on the Legislature and to rule on whether or not their actions are unconstitutional or a violation of our rights. Nothing about that changes with Initiative 42.

Additionally, Initiative 42 specifically limits enforcement to the chancery courts (where questions of the constitutionality of a state law are filed) and by stating specifically that the chancery courts are to enforce it with "appropriate injunctive relief." Injunctive relief means making the Legislature follow its own existing law. That's it. If the amendment passes, and if the Legislature continued to violate its own law by refusing to phase in adequate funding when state revenue increases through normal economic growth, and if a person were to file suit because of that failure to phase in adequate funding, a judge could rule that the Legislature's failure to provide schools adequate funding was unconstitutional. If all that happened, the ruling by the courts would be, "Legislature, follow your law."

What the opponents are trying to get us to believe is that some judge will overstep his or her authority and start taking over our public education system. That has never happened anywhere at any time, and, if it did, our Supreme Court would step in and overturn it. In fact, if a lawsuit were to be filed at some point, it would go through the entire judicial process and wind up at the Supreme Court where our nine Supreme Court justices, who are elected by the entire state, would make a final decision about the outcome of the suit. That is the protection that we have through our judicial system. A judge is just as likely or unlikely to overstep his or her authority today as he or she is likely or unlikely to do so if Initiative 42 passes. There is nothing in Initiative 42 that gives the courts any authority they don't already have.

Why Initiative 42 Mentions the Chancery Courts

Initiative 42 protects the state from frivolous lawsuits by **limiting jurisdiction** to chancery courts (the court that is tasked with hearing cases questioning the constitutionality of state laws) and by **limiting awards** to injunctive relief. "Injunctive relief" means making the Legislature follow existing law. This does not include making new laws or in any way making policy decisions, neither of which is a duty assigned to a judge. The decision in virtually every school funding lawsuit filed in any state has been appealed to and heard by the State Supreme Court. In Mississippi, our nine Supreme Court justices are elected from throughout the state.

Initiative 42 gives Mississippi children the same right to education that the children in other states have had for decades

Every other state constitution in our country has a constitutional mandate regarding school funding. Other states also have some descriptor that defines a minimum level of quality regarding the schools that the state is responsible for providing. Mississippi's constitution lacks both a mandate and a minimum level of quality.

Our constitution mandates only that public schools be free. That's it, just free. So, the Legislature could abolish grades 9 through 12, they could completely decimate public schools by slashing their budgets in half, and none of it would be unconstitutional so long as the remaining schools are free. Initiative 42 seeks to change that by mandating that "adequate" support be provided. That is what parents are pushing for, and that is what opponents are fighting against – a constitutional right to an adequate education for Mississippi children.

False claim: "Initiative 42 will require cuts to other agency's budgets and/or a tax increase."

Initiative 42 calls for a phase-in of full funding using only 25% of any new growth in state revenue. This was spelled out on every petition signed by each of the nearly 200,000 parents, educators, and community leaders who worked hard to get Initiative 42 on the November ballot.

Some have questioned why this phase-in was not included in the constitutional amendment itself.

The reason is simple: It would be inappropriate to include this sort of minutia in the state constitution. A constitution is intended to lay out the rights of citizens and the scope of government. State statutes (laws made by legislators) are where details such as how, exactly, funds are collected and appropriated and where specific laws governing policies and procedures are spelled out.

The state law that defines the citizen initiative process requires that, when citizens want to amend our constitution, they must provide information about how they intend for the state to pay for any increase in funding that might be required by the amendment. State law says that this to be provided in official filing documents – not in the amendment itself. These documents are used by the courts, along with the text of the amendment language, to determine whether or not an action by the Legislature is constitutional when such a question arises. The exact wording included in these official filings by the proponents of Initiative 42 says…

Amount and Source of Revenue Required to Implement the Initiative:
For the purposes of the initiative, a minimum standard of contemporary adequate education is described by the funding formula of the current version of the Mississippi Adequate Education Program and an efficient education is one that will, among other things, enable Mississippi's public school graduates to compete favorably with their counterparts in surrounding states.

Funding the initiative will not require a reduction in, elimination of, or reallocation of funding from any currently funded programs. The initiative will be funded by maintaining current funding levels for public education through the 12th grade adjusted for inflation, and **then devoting to public education not less than 25% of future increases in general fund and other tax collections in order to achieve the constitutionally required level of adequacy and efficiency in the public educational system** by a target date of Fiscal Year 2022 and maintain it in the future. For example, the state's general fund revenues are projected to increase over Fiscal Year 2014 levels by approximately 3% annually, which will produce an additional $150 million in Fiscal Year 2015. Twenty-five percent of that would be $37.5 million. A similar amount for seven years could reach the additional $265 million a year in current dollars which will be needed to provide Mississippi's public school students with an education that is adequate and efficient by contemporary standards. This initiative is not intended to restrict or meaningfully reduce the overall percentage of general fund revenues devoted to public schools, which at present is approximately 40%. If enforcement is necessary, injunctive relief will be the preferred remedy.

You can see these official filings on the Mississippi Secretary of State's web site here:
http://www.sos.ms.gov/elections/initiatives/InitiativeInfo.aspx?IId=42

Therefore, **no budget cuts or tax increases are required to implement Initiative 42.**

On the other hand, state leaders who oppose Initiative 42 called for cutting $1.7-billion from state revenue by eliminating the state income tax. They did not warn state agencies that budget cuts would result from that dramatic loss of revenue. Someone has suggested that, if they were to trim that tax cut back just a little and push for only a $1.4-billion cut, that would leave an extra $300-million – enough to fully fund public schools AND universities and community colleges.

The intent of 42 A – Outcomes versus funding

The intent of the alternative (as articulated in the author's presentation to the full House prior to its vote on House Concurrent Resolution 9, which placed the alternative on the ballot) is to hold teachers and schools more accountable for outcomes, **with no corresponding commitment from legislators to adequately fund public schools (**the work required to achieve those outcomes).

Following are a few direct quotes from Speaker Pro Tempore Greg Snowden of Meridian, in presenting HCR 9 to the House on January 13, 2015, on the intent behind inclusion of the word "effective" in the legislative alternative and the fiscal impact of the alternative:

- “The ultimate question is what are our results? What are we achieving? How effective are our schools? How are we and what are we teaching our children? Those are the fundamental questions and to the extent that we’re doing anything with the constitution to change what our current language is, our focus, our vision, must be on that, completely consistent with all that we’ve done as a Legislature with respect to performance-based budgeting.”

- “This (alternative) is giving a bright line choice of being focused on inputs or being focused on outputs and results. That’s what this does, gentleman. It’s not confusing at all…”

- “'Effective' means what it says. It means we have results for what we’re doing. It means what we’re getting for our money, gentleman. That’s what our focus should be.”

- “The alternative will have no fiscal impact.” (See attached fiscal note.)

Information about the “Kids First” organization that is opposing Initiative 42

There is a good deal of misinformation circulating, and almost all of it originates from a group called Kids First MS which was formed by Russ Latino a couple of months ago for the sole purpose of fighting Initiative 42. Russ Latino’s real job is state director for Americans for Prosperity. This is a national organization out of Washington, D.C. that pushes for privatization of public education through vouchers and for-profit charter schools and that advocates against better funding for public schools.

False claim: "Changing "legislature" to "state" in the constitution removes the legislature from the process of providing for public education."

Some allege that amending the constitution to make the state responsible for providing an "adequate and efficient" system of public schools removes the Legislature from the process. This is blatantly false.

While some state constitutions name only the Legislature or the General Assembly as having the obligation to provide a quality education for the state's children, many place this responsibility on the whole state, which includes the Legislature, the Executive Branch, the State Department of Education, local school districts, etc. Each has a role to play. The Legislature's role is to appropriate state funds and make laws that govern the system. The role of the Executive Branch is to see that the laws are enforced. The role of the Judicial Branch is to interpret laws and determine their constitutionality and to provide oversight of the Legislative and Executive Branches per our system of checks and balances. The role of the State Department of Education is to make and enforce policy. The role of local school districts is implementation.

Here are examples from the constitutions of some of our neighboring states that use similar language:

Florida: "The education of children is a fundamental value of the people of the State of Florida. It is therefore a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require."

Georgia: "The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be free and shall be provided for by taxation."

The only thing that changes with Initiative 42 is that our children will be given a constitutional right to an adequate and efficient public education. The words "adequate" and/or "efficient" are used in the constitutions of 14 other states. Our current constitution is the weakest in the United States when it comes to the protection given our children regarding their education. Every other state has a mandate, and most assign a level of quality to what the state must provide.

We should all be worried about elected officials who intentionally mislead the people of Mississippi to avoid giving our children the same right that children in every other state already have.

False claim: "Initiative 42 creates a confusing standard for our schools (adequate and efficient)"

There is nothing at all confusing about Initiative 42. It simply brings our constitution in line with the constitutions of virtually every other state and gives Mississippi children the same constitutional right to a quality education that is provided the children in other states. The words

“adequate” and “efficient” are used in numerous states’ constitutions to describe the quality of education the state is obligated to provide, including:

Adequate – Florida, Georgia

Efficient – Arkansas, Delaware, Florida, Illinois, Kentucky, Maryland, Minnesota, New Jersey, Ohio, Pennsylvania, Texas, West Virginia

Why are a handful of politicians fighting so hard to defeat the people's amendment?

That's a good question. Because the only real change that will take place with this amendment is that Mississippi children will finally be given a constitutional right to an adequate education. That's what the opponents are fighting. An adequate education for Mississippi children.

And that's what the parents of Mississippi children are fighting FOR. We believe it is past time for our children to have the same constitutional right as the children in every other state. It's time for our Legislature to be held accountable for the promise they made 18 years ago - a promise to provide our children adequate education funding. It is a promise they have broken repeatedly, knowing that the weakest constitution in the country prevents us from holding them accountable. It's time for that to change.

It's telling that the same people who repeatedly break their promise to our children are the very ones who are spreading false information about Initiative 42, threatening state workers, tampering with the ballot language, coercing state budget officials to produce a false fiscal analysis, using state tax dollars to campaign against the people's amendment, and conspiring with corporate lobbyists - all in an effort to deny our children the right to an adequate education. Is it any wonder that Mississippi is ranked #1 in government corruption and #50 in just about everything else?

False claim: “The outcome of the amendment is impossible to predict. This judge could take this new found constitutional power and impose his or her will on the entire education system.”

Anyone who believes that the power to rule on the constitutionality of a law is “new found” either has not passed high school civics or is deliberately misleading people. That power was given to the judiciary at the Constitutional Convention in 1787 and is one of the foundational principles of our democracy. Alleging that our Judiciary with “impose its will” on our education system without regard to law or reason is an irresponsible and offensive indictment of our judicial system. In fact, it is our Legislature, not our Judiciary, that has acted with a willful disregard for the law and the people they have sworn to represent.

False claim: “Initiative 42 could affect parental rights.”

Initiative 42 does not alter parental rights. Typically suits to enforce the rights of children are brought by the child’s parent or legal guardian as the child’s “next friend.” Nothing in Initiative 42 changes that. It is the child who is owed the education but it is the parent or guardian who protects the child’s rights.

False claim: “Initiative 42 deprives us of local control”

This is false. Local control will remain intact, and local school boards will continue to make curriculum, budgetary, and other decisions for their school districts. The intent of Initiative 42 is clearly stated as improving education funding. The judiciary always relies on intent when determining the constitutionality of an action. The intent of the legislative alternative, 42 A, is to

hold teachers accountable and **not** to increase funding. That intent to hold teachers accountable for "outcomes" clearly stated during floor debate by the author of HCR 9, the resolution that put the alternative, 42-A, on the ballot.

False claim: "It also does not limit lawsuits to the State. Teachers, administrators, superintendents, schools and school boards are all potentially susceptible to legal challenge under 42. Yes, you read that right, teachers could face legal action through 42."

Initiative 42 simply gives children a constitutional right to an adequate education. Teachers would not incur any liability that they don't already have. Further, the initiative limits the jurisdiction of the courts to determining whether or not legislative actions are constitutional and limits judgements to "injunctive relief," making the Legislature follow its own laws.

False claim: "In exercising his or her power to determine what is "adequate and efficient" for our schools, a judge in Jackson could find that our schools should be consolidated. Parents and educators who have invested heavily in building a successful school district could find themselves being forcibly consolidated with surrounding failing districts."

Legislators are the ones voting to consolidate schools, not the courts.

False claim: "In exercising his or her power to determine what is "adequate and efficient" for our schools, a judge in Jackson could potentially create a new funding formula for our schools that increases redistribution of tax revenue over and above the current MAEP formula—taking money out of successful districts and sending it to failing districts."

A judge cannot create law. The Legislature could change the formula, but they would have to be able to defend it as adequate.

False claim: "Without knowing what a judge might order and how that might impact the State's economy and its education system, it will be increasingly difficult to encourage people to start and expand businesses in Mississippi and to invest money in our state. That translates into fewer jobs."

Forbes' magazine ranked Mississippi dead last on its list of "best states in which to do business" because of our refusal to invest in education. Initiative 42 will help economic development, not hurt it.