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## Twenty-Five Years after *Rodriguez*: School Finance Litigation and the Impact of the New Judicial Federalism

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This article examines the impact of state-level school finance litigation conducted in the wake of *San Antonio Independent School District v. Rodriguez*. State supreme courts have handed down decisions in 36 states since the *Rodriguez* decision in 1973. The article looks at how these decisions have affected the distribution of educational resources in eight states—five states in which school finance activists have won and three in which they lost. The author shows that state supreme courts can have a significant impact on both the equity of school finance systems and their adequacy. This finding rebuts scholars who have recently argued that courts, acting alone, cannot achieve significant social or political change in the face of public opposition. The article also explores why some state supreme courts are more successful than others, putting forward a policy-centered model of judicial efficacy that takes into account the peculiarities of school finance as a policy issue.

**N**ineteen ninety-eight marks the 25th anniversary of a U.S. Supreme Court decision that helped spark a revolution of sorts. *San Antonio Independent School District v. Rodriguez* (1973) declared that severe financing inequalities among school districts in Texas did not violate the equal protection clause of the 14th Amendment of the U.S. Constitution. These inequalities stemmed primarily from large property value differences among school districts. The differences meant that property-rich districts could generate significant revenues for education (at relatively low tax rates), while property-poor districts could produce only very small amounts of revenue (while taxing themselves at comparatively high rates). Perhaps the key jurisprudential conclusions of the *Rodriguez* decision were that wealth was not a suspect classification for purposes of the equal protection jurisprudence and that education was not a fundamental right under the U.S. Con-

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stitution. Part of the Supreme Court's expressed rationale for the decision stemmed from its unwillingness to intrude massively on local educational policies—which would surely occur if it decided in favor of the plaintiffs.<sup>1</sup> Striving to maintain an “appropriate” balance to federalism, the Supreme Court self-consciously distanced itself in *Rodriguez* from property tax and educational funding issues—historically local concerns.

The irony of this decision is that the U.S. Supreme Court's exercise in judicial restraint at the national level has translated into an expanded judicial agenda for supreme courts at the state level. After *Rodriguez*, school financing equity activists, realizing that federal courts held little promise for their claims, began to litigate the matter under provisions of state constitutions. Relying on arguments rooted in both state equal protection provisions and on language in state education clauses,<sup>2</sup> litigators have pursued these claims to state supreme courts in 36 states.<sup>3</sup> One dimension of a broader movement commonly dubbed the “new judicial federalism,”<sup>4</sup> this constitutional litigation campaign over school financing has enjoyed mixed success in state supreme courts, winning in 20 of the 36 states where decisions have been handed down by state high courts. These legal victories often have particularly high profiles and sharply focus state legislators' attention on class disparities among school districts. In the wake of these decisions, state legislators have enacted reforms that promise greater educational resources and opportunities to poor school districts in their states.<sup>5</sup> The question remains, however, whether these reforms have actually produced the changes sought by equity activists and demanded by state supreme courts.<sup>6</sup> This article attempts to answer this question.

<sup>1</sup> The Court wrote: “It cannot be questioned that the constitutional judgment reached by the District Court and approved by our dissenting Brothers today would occasion in Texas and elsewhere an unprecedented upheaval in public education,” adding that “there is nothing simple or certain about predicting the consequences of massive change in the financing and control of public education.” 411 U.S. 1 at 56.

<sup>2</sup> For discussions of the type of legal arguments made in educational financing litigation, see Banks 1992; McUsic 1991; Thro 1989, 1990, 1994; Williams 1992.

<sup>3</sup> See the appendix for lists of state supreme court rulings regarding equity and/or adequacy of states' provision of school financing.

<sup>4</sup> For explorations of the nature, aspirations, and limitations of the new judicial federalism, see Abrahamson 1985; Brennan 1977; Gardner 1992; Glick 1991; Howard 1976; Scheiber 1980; Tarr & Porter 1988; and Tarr 1994.

<sup>5</sup> Not all observers agree, however, that state legislatures have responded in meaningful ways to these decisions. For assessments of legislative responses to school financing litigation, see Levine 1991; Harvard Law Review 1991; Reed 1994.

<sup>6</sup> The state constitutional claims that plaintiffs have made in school financing suits generally fall into two categories: equity claims and adequacy claims. Often which claim is invoked depends on the language of the state education clauses and the state equality provisions. To a certain extent, these are strategic considerations of legal activists, but there are also important policy differences among the two approaches. Equity claims seek to equalize expenditures among districts, while adequacy claims often seek to boost the resources of the worst-off districts, without requiring parity among all districts. (Indeed, some adequacy proponents would argue that parity among all districts would actually

Despite nearly 25 years of state supreme court rulings on school finance, neither scholars nor school finance activists have a fully developed understanding of the impact of these rulings. Not only is our picture of the relative changes in school finance after state supreme court rulings underdeveloped, but we also have no clear account of how state supreme courts differ in their capacity to restructure educational financing. We know only a little of the impact of these rulings and even less about how and why some courts are able to ensure significant equity or adequacy changes and others are not. In short, not only are our descriptive accounts of what happens—in financial terms—after a state supreme court rules a school finance system unconstitutional inadequate, but our explanatory accounts of the differences among the results achieved by state supreme courts are virtually nonexistent.

This article hopes to clarify the impact of this component of the “new judicial federalism” by exploring how state supreme courts have affected the distribution of educational resources. By examining financing changes among school districts in the wake of state supreme court decisions, we can assess the degree of social change achieved by this wing of the new judicial federalism movement. Second, we can then speculate about possible explanations for the differing capacity of state supreme courts to effect this kind of change—at least within the context of school financing.

### Research on Educational Finance and Courts

Numerous difficulties confront scholars who wish to explore judicial impacts on school financing. In short, “A comprehensive study of judicial efficacy in school funding reform presents substantial logistical challenges in data collection, and legal and legislative research” (Dayton 1996:20). Despite these obstacles, a few authors have explored the question of judicial impact and school finance in detail.<sup>7</sup> Most notably Evans, Murray, and Schwab (1997), Heise (1995a, 1995b), and Mintrom (1993) have ex-

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short-change needy districts because they require greater resources to overcome serious obstacles to learning.) Although the two are analytically distinct (a state could have equitable funding that is inadequate, or it could have adequate funding that is inequitable), both claims have been seen as mutually reinforcing in that they both seek to boost overall resources devoted to education. Although I treat the two claims similarly here (assessing the extent to which a legal victory in a state supreme court—whether equity or adequacy claims are invoked—produces a change in the distribution of resources), I recognize that many educational financing litigators do not regard them as being the same. In particular, many activists argue that equitable funding among school districts would not meet the needs of school children who are at risk, particularly within inner cities. From my point of view, we can argue about the adequacy of educational resources to meet the needs of students *after* we have achieved a rough parity among school districts’ capacities to provide resources.

<sup>7</sup> Dayton (1996) provides an excellent summary of research in the field. Unfortunately, his article does not present any new empirical findings on judicial impact.

explored the effects of school finance decisions on the distribution of educational resources. Although they present important findings, these works nonetheless overlook key aspects of school finance reform litigation.

In the most comprehensive review of judicial impact on school financing to date, Evans et al. (1997) analyze data from the U.S. Census Bureau's Census of Government School System Finance (F33) File. Examining data from more than 16,000 public school districts, Evans et al. found that courts can have substantial effects on educational resource equality. Their data, however, do not allow for annual tracking of equity trends.<sup>8</sup> Moreover, because of data classification problems, Evans et al. pool federal revenues with state and local revenues. Because the bulk of federal revenues are distributed disproportionately to poorer districts, this pooling of data may distort the equity changes achieved in the wake of state supreme court decisions. In addition, because they omit non-K–12 districts from their analysis, they cannot study the effects of court reforms in states like New Jersey, where the state supreme court has targeted for finance reforms primarily non-K–12 affluent suburban districts and central-city K–12 districts. The omission of non-K–12 districts from the analysis means we still do not know the effects of litigation in New Jersey—a state with a long and contentious history of court-ordered school finance reforms. Finally, Evans et al. do not address an important question in school finance litigation: the variation among judicial outcomes. No effort is made to explain why some courts achieve far greater success than others. This level of explanation is necessary if we are to understand fully the judicial opportunities and obstacles confronting school finance activists.

Other research, while well designed and executed, also fails to address important issues in court-ordered financing reforms. Heise (1995a, 1995b) and Mintrom (1993), for example, do not directly address the dual questions of changes in equity and comparative success among state supreme courts. Heise has explored thoroughly and quite capably the *aggregate* impact of court decisions on educational spending, but he has thus far not focused on equity issues. That is, he is primarily concerned with *overall* levels of spending after court decisions, but not with the equity of the distribution of that money. In contrast, Mintrom has directly addressed the New Jersey Supreme Court's capacity to achieve greater equity, but he has not engaged in the comparative work

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<sup>8</sup> The Census Bureau's school financing data is collected only in years ending in 2 and 7. Thus, Evans et al. (1997) have data for 1972, 1977, 1982, 1987, and 1992. This limits their ability to link changes in equity trends with specific legislative enactments. That is, only an annual tracking of equity trends can accurately register the impact that legislative changes in school financing formulas produce.



necessary to generalize his findings.<sup>9</sup> Only through comparison of equity trends among states can we begin to understand which courts have exhibited greater capacity to redistribute educational resources.

Some significant reasons explain these deficiencies in the literature. First, the few multistate long-term longitudinal analyses of school finance equity that have been undertaken have not focused closely on or been organized around judicial activity.<sup>10</sup> Often, policy or other political concerns dominate the analytical focus. This is understandable, given the complexity of educational financing policymaking. Many interests and groups are bound up in the development of educational financing systems: educational associations, labor unions, parents and teacher groups, taxpayer associations, city officials, and business interests, to name a few. Unfortunately, however, this lack of attention within the school finance literature to the evolution of the judicial dimension of school financing politics has obscured or minimized the important role courts play in structuring possible policy outcomes. No amount of legislative bargaining will save a school finance plan that a state supreme court has doomed. In addition, scholars have not systematically contrasted or compared judicial interventions in educational financing. The result is that most detailed longitudinal studies have not been explicitly comparative, instead focusing on individual cases.<sup>11</sup> But without careful comparative analyses, it is impossible to explore the ways that courts are effective or ineffective in their policy interventions. Variations among outcomes must be first identified and then explained if we are truly to understand whether (and how) courts matter within the realm of educational finance litigation.

This article strives to overcome these gaps in the courts and education literature by trying to answer two questions. First, how have state supreme court decisions affected the distribution of

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<sup>9</sup> Moreover, Mintrom argues that, thus far, the New Jersey Supreme Court has failed to achieve greater equity of educational resources. My evidence points to the contrary.

<sup>10</sup> For example, Hirth (1994) has written an excellent piece on equity trends in Indiana, Illinois, and Michigan over a 10-year period, but none of those states saw judicial intervention in school financing at the state supreme court level within the time period she examines. Two studies stand out as exceptions: Evans et al. 1997 and Hickrod et al. 1992. Evans et al. organize their study around judicial interventions, but their findings are constrained by data limitations (detailed above). Hickrod et al. have attempted to assess the impact of state-level constitutional litigation, but their study has not achieved its ambitions. The article, unfortunately, contains a number of methodological oversights that limit the authors' ability to assess the impact of court decisions. First, the authors fail to adjust for inflation—a significant problem when examining financing data over an extended period. Second, and more important, both endpoints of their time-series data (1980 and 1987) *predate* the key state supreme court decisions in Kentucky, Montana, Texas, and New Jersey. Thus, they are studying changes in equity *before* the definitive court decisions came down in those states. As a result, their findings cannot be used to evaluate the impact of state supreme court intervention in those states.

<sup>11</sup> For recent examples see Verstegen & Salmon 1991; Johnson & Pillainayagam 1991; Sites & Salmon 1992; Johnson & Lehnen 1993.

educational funds? And second, how can we begin to explain relative success of courts in their efforts to equalize educational resources? In part I of this article, I answer the first question through an analysis of changes in educational resources over time within eight states: five in which school finance activists have won cases (Connecticut, Kentucky, New Jersey, Tennessee, and Texas) and three in which they have lost (North Carolina,<sup>12</sup> Oklahoma, and Illinois). I analyze these school financing systems longitudinally to explore the impact of the state supreme courts' rulings on the distribution of educational resources.<sup>13</sup> Both equity and adequacy are examined using different measures, and the effects of district size, district type, and inflation are controlled. The resulting picture demonstrates that courts substantially influence the distribution of educational resources (but do not always do so) and that lawsuits designed to achieve greater equity and/or adequacy in school financing can, if successful, achieve their objectives.

### Research on Courts and Social Change

This finding of substantial impact runs counter to recent research reporting that courts are unable to effect significant social or policy changes in the face of intense public opposition. In particular, the findings of this article challenge the depiction of judicial capacity that Gerald Rosenberg (1991) has put forward.<sup>14</sup> Rosenberg's argument carefully specifies the constraints operating on courts and the conditions under which they can achieve meaningful social change. Rosenberg's work focuses exclusively on the federal court system, paying particularly close attention to the rulings of the U.S. Supreme Court. This article extends Rosenberg's concern with judicial efficacy to the level of state supreme courts. This shift is significant for a number of reasons.

First, Rosenberg contends that part of the U.S. Supreme Court's efficacy stems from its political, institutional, and economic independence from other political actors. Courts, in Rosenberg's view, gain strength and dynamism from their relative independence from the influence of other political actors. Fea-

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<sup>12</sup> The case that equity activists lost in the North Carolina Supreme Court came down in 1987. Since then, plaintiffs have won at the state supreme court level in a new case, *Leandro v. State*. That decision came down in 1997 and does not affect the school financing analysis I present here.

<sup>13</sup> Because of data availability, for Illinois I can track changes in financing only from the introduction of the lawsuit in 1990 through 1993, the year following the district court decision, and the most recent year for which the National Center for Educational Statistics has data for Illinois. The Illinois State Supreme Court ruling upholding the district court came down only in 1996, too recently to permit me to make any further inference concerning financing trends. For these reasons, the Illinois findings should be regarded as preliminary. See note 20 for a further discussion of data sources.

<sup>14</sup> See generally Rosenberg 1991. For criticisms of Rosenberg's book—and a reply—see McCann 1992; Feeley 1992; and Rosenberg 1992.

tures of the federal courts that contribute to this dynamism are judges' status as life-tenured, unelected officials who are immune from pay cuts. At the state level, however, many of these institutional safeguards from political influence are often missing. State supreme justices are often elected directly or confirmed by voters after a fixed term in office. Moreover, state constitutions are much more susceptible to political change than the U.S. Constitution, with a greater likelihood of a reversal through amendment of an unpopular decision (Reed 1997; see also Lutz 1996). Also, for state supreme courts the tradition of independence is not nearly as strong or as hallowed as it is for the U.S. Supreme Court. In short, state supreme courts lack many of the institutional features that make up Rosenberg's model of a dynamic federal judiciary.

As a result, one would expect that state supreme courts would be just as constrained—or even more constrained—than federal courts. If Rosenberg's account of the sources of judicial efficacy is correct, we should clearly expect far *less* dynamism at the state supreme court level. But the evidence I present here shows that state supreme courts can produce meaningful and durable changes in the distribution of educational revenues—even in the face of intense political opposition and recalcitrant state legislatures. Most strikingly, the results that state supreme courts have achieved in promoting greater equity often come in the face of intense voter opposition, an obstacle Rosenberg would deem deadly to judicial success. These findings—so strikingly different from Rosenberg's—suggest that we need to rethink the origins of judicial capacity.

The empirical results reported in this article indicate that the success of state supreme court interventions into school finance varies considerably. Not all courts achieve results, but some achieve dramatic results. This variation suggests that to capture how courts succeed and fail, we may need to look away from systemic accounts of judicial capacity and look toward examinations of courts' policy objectives within particular contexts. The success of a judicial endeavor may be more closely linked to the political logic of the particular policy arena in which a court is acting. Thus, a court may be highly effective in one arena but virtually irrelevant in another. Rather than spinning out general theories of judicial capacity, it might be more appropriate to understand how courts achieve success *within* particular policy domains. This would lead us, then, to examine the constraints operating on courts in light of the particular policies they are seeking to implement.

In part II, I pursue just this course. That is, I identify and discuss three variables that, taken together, suggest an explanation of the differing results state supreme courts have achieved in their efforts to equalize public school finance in light of its polit-

ical and economic frameworks. This localized theorizing, by necessity, must turn away from courts and judicial opinions and toward the politics of educational resource inequality. This article then has two goals: (1) to isolate the differing impacts state supreme courts have had on equity in school finance and (2) to hypothesize—on a localized scale—about the reasons for those differences.

## I. State Supreme Court Impacts on School Finance

### **Adequacy and Equity Measurement, State Selection, and Methodology**

At this juncture, it is necessary to provide a quick word about school finance data and the notion of expressing “equality” or “adequacy” through quantitative data. There are a number of ways to measure the adequacy and equity within a school finance system, and they all embody certain value choices about what is worthy of measurement.<sup>15</sup> I rely here on two basic measures: the range and the Gini coefficient. The range is perhaps the most intuitive—measuring the spending levels at the low and high ends of the resource distribution.<sup>16</sup> The bottommost districts provide a window on the relative adequacy of a school financing system, and changes in the bottom end of the distribution reveal changes in that adequacy. As a measure of equity, however, the range is severely limited. A key problem with the range is that it does not capture—over time—any changes that may take place within those two extremes. As a result, I rely on the Gini coefficient to provide a view of equity changes. A measure used widely to describe income inequality, the Gini coefficient is also employed to measure the inequality in school district revenues within a state.<sup>17</sup> My aim here is to provide some quantitative representation of what Berne and Stiefel (1978:7–43) call “horizontal equality,” the provision of all similarly situated students with equal amounts of educational resources, measured here by dollars.<sup>18</sup>

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<sup>15</sup> Put simply, different measures reflect different normative commitments. One cannot provide an “objective” notion of equality, because there are different types of equality. For a discussion of the types of equality see Rae 1981. For a discussion of how measuring the different types of equality necessarily requires the exercise of value judgments, see Berne & Stiefel 1984.

<sup>16</sup> I have also calculated the median figure for each state, which is reported as well.

<sup>17</sup> The calculation of the Gini coefficient was done according to the formula expressed in equation 8 in Pyatt, Chen, & Fei (1980:456).

<sup>18</sup> I have also performed equity analyses on these eight states using the coefficient of variation (the standard deviation of per pupil school revenues divided by the mean revenue). The equity trends as measured by the coefficient of variation are virtually identical to the equity trends measured by the Gini coefficient.

I selected eight states—five in which reform activists won at the state supreme court level and three in which they lost.<sup>19</sup> These states were chosen to ensure variation in key dimensions: the type of poverty evident within those states, the racial composition of the states, the degree of urban/suburban political tensions, the prominence of the state supreme court, and the attention paid to the school finance ruling within the legal community. These states represent “leading cases” within the school finance community and exhibit meaningful variation in these important socioeconomic and political variables. Moreover, I tried to select states in which region and/or local economic base could be held constant against different judicial outcomes. Thus, Texas can be compared with Oklahoma, and North Carolina can be compared with Tennessee and Kentucky. Likewise, Illinois can provide a useful comparison to New Jersey and Connecticut. And among those five states in which school finance litigants have prevailed, we can compare relative judicial success within similar regions and forms of poverty. Thus, we can usefully compare outcomes in Connecticut and New Jersey (two relatively affluent northeastern states with high levels of racially identified urban poverty) with outcomes in Kentucky and Tennessee (two states with significant rural white Appalachian poverty). Table 1 lists the states for which data were analyzed and the years of the relevant court decisions.

I obtained school financing data for each school district within each state<sup>20</sup> and calculated the per pupil combined state and local revenues.<sup>21</sup> I weighted each district for the number of

<sup>19</sup> See the appendix for a list of state supreme court cases ruling in favor of greater equity and those ruling against greater equity. Because of data availability, I am able to track school finance trends in Illinois for only four years—from 1990 (the year plaintiffs filed the lawsuit) to 1993 (a year after the district court’s ruling denying the plaintiffs’ claims).

<sup>20</sup> These data generally came from the state departments of education, although Connecticut data were obtained from the Connecticut Public Expenditure Council, a well-regarded fiscal watchdog group; the Illinois data came from the National Center for Educational Statistics, a division of the U.S. Department of Education. Also, because the New Jersey decision was restricted to only particular socioeconomic classes of school districts, I have applied my analysis only to those districts that are the focus of the court’s ruling: the 30 so-called special needs districts (largely inner-city districts) and the roughly 110 affluent districts that fall into the New Jersey Department of Education’s “I” and “J” categories of district wealth (the two most affluent categories). New Jersey presents particular methodological difficulties because many of the I & J districts are non-K–12 districts. These districts cannot be fairly compared with K–12 districts because of different revenue needs for elementary and secondary education. As a result, I constructed hypothetical K–12 I & J districts by pooling the revenues of the I and J K–6 and K–8 districts that fed into I and J 9–12 regional high schools. The resulting hypothetical districts are thus directly comparable to the K–12 special needs districts. See Berne & Stiefel 1984 for a discussion of this methodology.

<sup>21</sup> Because state supreme courts sought to alter the distribution of resources provided by state and local sources, I have omitted federal revenues from these district-level per pupil calculations. This gives a more accurate assessment of the educational resources actually controlled by a state legislature as it grapples with the court decision. In two states, I had to rely on expenditure data rather than revenue figures. For Texas, I was forced to use total operating expenditure minus federal revenue because of significant

**Table 1.** States Studied Regarding School Finance Systems, by Region and Predominant Form of Poverty

School Finance System Overturned		School Finance System Upheld	
Characteristic/State	Year of Court Ruling	Characteristic/State	Year of Court Ruling
<b>Relatively Affluent State with High Levels of Racially Identified Urban Poverty</b>			
Northeast:		Midwest:	
Connecticut	1977	Illinois	1992 (district court ruling later upheld by state supreme court)
New Jersey	1990		
<b>Southern Mountain State with Significant Rural Poverty</b>			
Kentucky	1989	North Carolina	1987
Tennessee	1993		
<b>Southwestern State with Rural Poverty</b>			
Texas	1989	Oklahoma	1987

students within that district in order to obtain a per pupil rather than a per district analysis. After adjusting the figure for inflation, I then calculated the median and range of expenditures for each state over a period of years, as well as the Gini coefficient.

### Findings from Five States Where School Finance Reform Litigants Won

Turning to the changes in per pupil revenues in five states that saw plaintiffs prevail before the state supreme courts, I want to first examine changes in the revenues of the median and worst-off districts—a useful measure of the adequacy of a school financing formula. The range can also provide us with a readily grasped understanding of the dimensions of the equity gaps within a state. That is, the range can give us a good snapshot of the magnitude of inequality of resources within a state, but it is not terribly good at showing changes in equality over time.<sup>22</sup> Nonetheless, the range is useful for seeing the dimensions of resource inequalities within a state. Clearly, reducing a wide range is a much larger political (and judicial) task than reducing a narrow one. Thus, despite its methodological shortcomings, the range can illustrate, in graphic terms, the dimensions of an egalitarian distribution. Figures 1–5 are designed to do just that.

data errors in the reporting of local revenues. In North Carolina, only state and local expenditure data were readily available in electronic form from the North Carolina Department of Education.

<sup>22</sup> This is because, as I mentioned above, the range compares the spending levels of only two districts—the most well-off and the least well-off. If, over time, these two data points remain the same, the range will remain the same—even if all other districts have achieved full equality. Thus, the range does not capture changes in the relative position of districts between the two extremes. See Berne & Stiefel 1984 for further comment on the relative strengths and weaknesses of various equity measures.



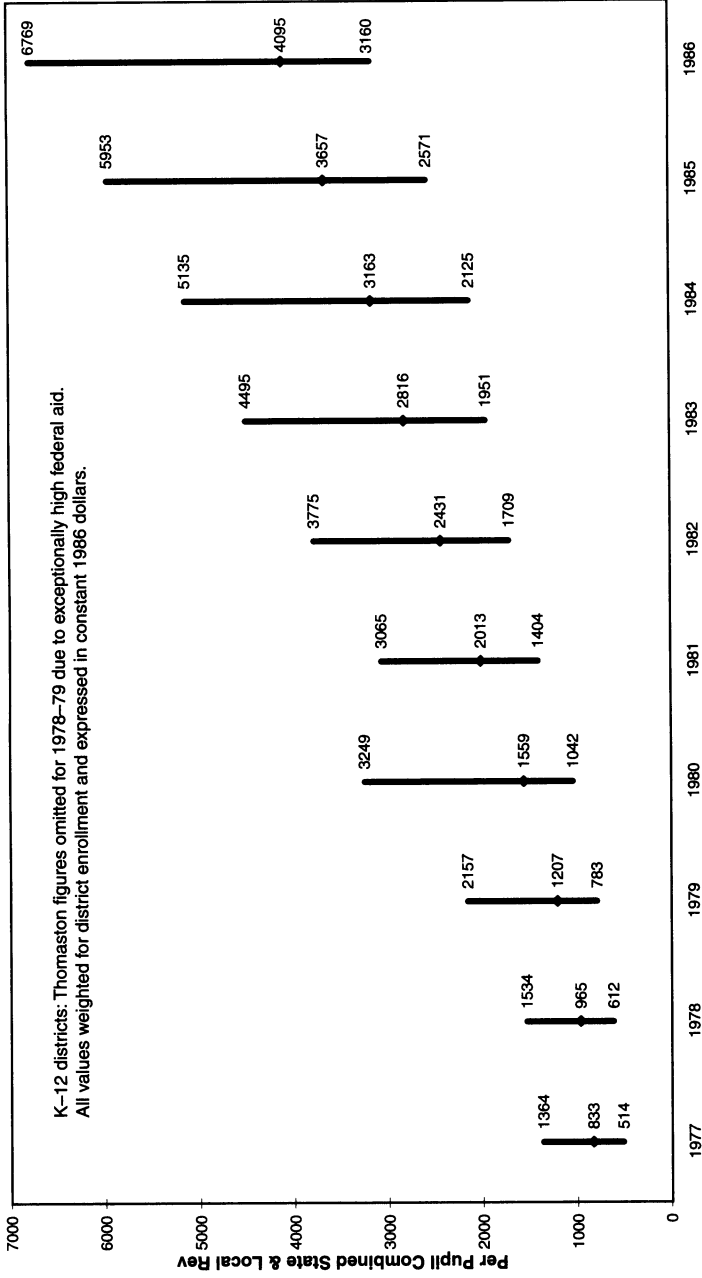


Fig. 1. Connecticut school finance revenue ranges and medians, 1977-1986: high, low, and median per pupil combined state and local revenues. Data source: Connecticut Public Expenditure Council Annual Reports, 1977-86.

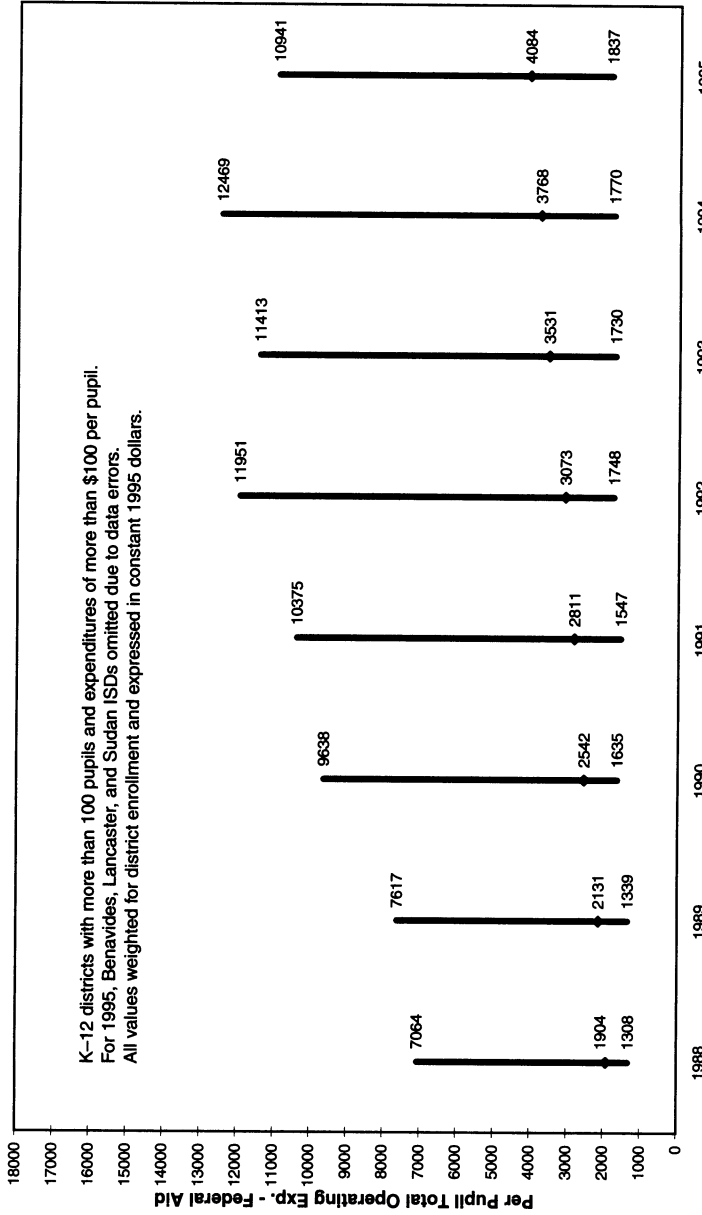


Fig. 2. Texas school finance expenditure ranges and medians, 1988-1995: high, low, and median per pupil total operating expenditures minus federal aid. Data source: Texas Education Agency, March 1994 & July 1996.

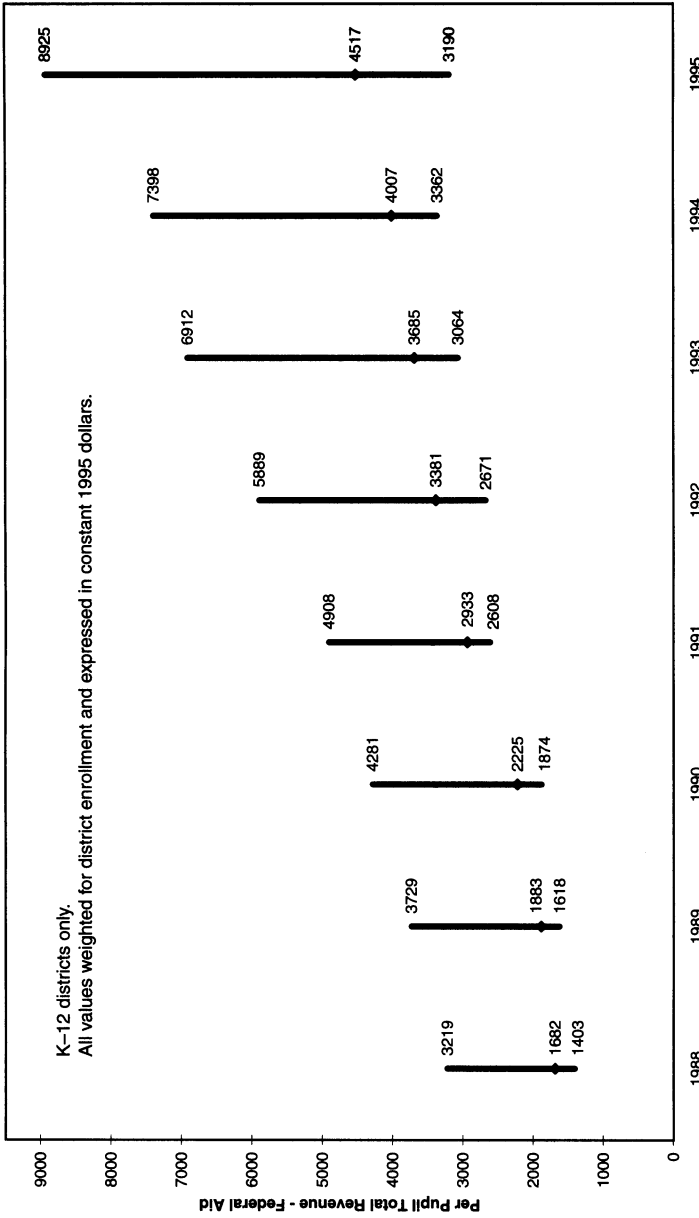


Fig. 3. Kentucky school finance revenue ranges and medians, 1988-1995: high, low, and median per pupil total revenues minus federal aid. Data source: Kentucky Department of Education, March 1994 & December 1996.

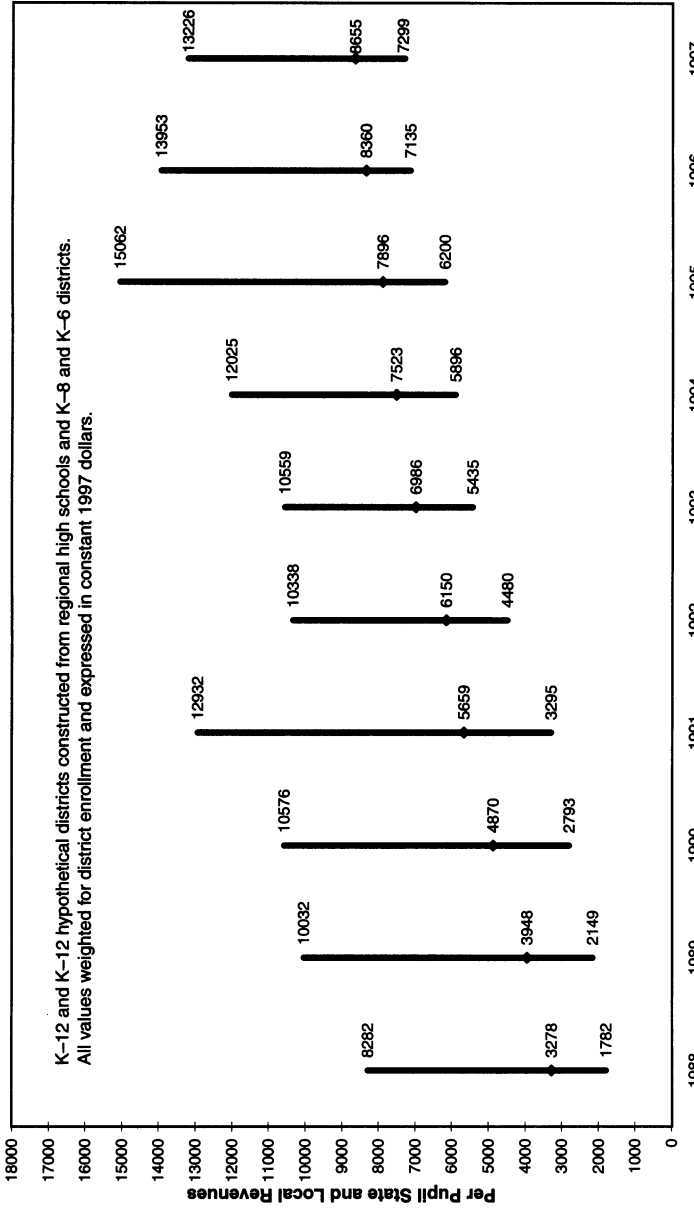


Fig. 4. New Jersey school finance revenue ranges and medians, Special Needs and I & J districts only, 1988-1997: high, low, and median per pupil combined state and local revenues. Data source: New Jersey Department of Education, January 1994 & January 1997.

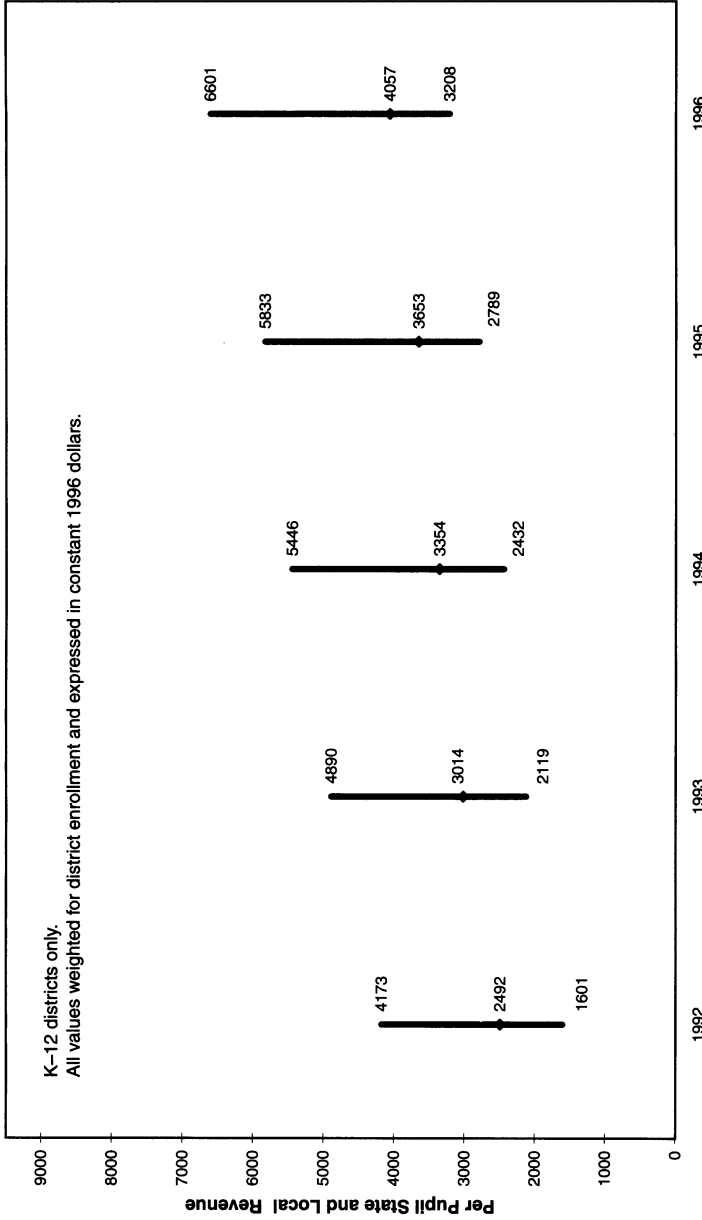


Fig. 5. Tennessee school finance revenue ranges and medians, 1992-1996: high, low, and median per pupil combined state and local revenues. Data source: Tennessee Department of Education, April 1997.

Figures 1–5 show the high per pupil revenue, low per pupil revenue, and median revenue in all five states for the relevant years.<sup>23</sup> The story these figures tell is somewhat surprising. First, when we examine the absolute range of revenues<sup>24</sup> (in inflation-adjusted dollars) between the topmost and the bottommost districts in these states, we see that the range has actually increased over the relevant time periods. That is, the gap between these two points is, in general, larger in the later years than it is immediately prior to the court decisions. Simultaneously, however, we see that the level of resources for all districts—top, median, and bottom—has generally increased quite dramatically. In Connecticut, the real median per pupil combined state and local revenues more than quadrupled over a 10-year period, increasing from \$833 to \$4,095; in Texas and Kentucky, the real median figures more than doubled over 8 years; in New Jersey, it doubled within 6 years, nearly tripling within 9. Tennessee’s median state and local revenues did not climb as dramatically, but nonetheless the figure grew 63%—in real dollars—over 5 years.

Also interesting is the level of revenues at the low end of the scale. In Connecticut, Kentucky, New Jersey, and Tennessee, we see significant increases in revenues among the lowest-spending districts during the relevant years. In contrast, Texas low-spending districts remain relatively constant, but the highest districts show a noticeable decline in constant dollars since 1992. The other four states seem to have emphasized increased revenues among low-end districts in their school finance reforms, while Texas has, it appears, sought to cap the high-end district expenditures. In all these states, however, it is clear that the median districts have significantly more resources at their disposal after the court decisions than they did before the decisions. Moreover, in most states the lowest-spending districts have also seen their revenue levels increase dramatically. Whether the goals of the school finance litigation suits in these states were greater adequacy or equity, they appear in meaningful ways to have produced, on the whole, more resources for most districts. This finding endorses the conclusions drawn by Michael Heise in his recent study of Connecticut and Wyoming (Heise 1995a, 1995b).

The distribution of these resources, however, still remains at issue. The increasing ranges between the top and bottom districts suggests that these new funds were not distributed with a concern for equity, but that apparent disparity may be misleading. As I have indicated above, other measures besides the range

<sup>23</sup> In each state, I sought data, whenever possible, for two years prior to the state supreme court decision and up to the most recent data available. (Fiscal years are used, meaning that the 1989–90 academic year, for example, is listed in the tables as 1990.) Generally, this selection of data years produced a spread of at least five years (Tennessee) and as many as ten years (Connecticut). For Connecticut, I began the data analysis with the year of the decision (1977) and carried it forward for 10 years.

<sup>24</sup> Or expenditure figures for Texas.



can give us a more accurate picture of changes within the top and bottom extremes. Figures 6–10 begin to show us this.

The Gini coefficient provides a measure of equality that takes into account transfers from all districts in the revenue distribution, not just those at the top and the bottom ends of the scale. The Gini coefficient ranges between 1 and 0, with 0 indicating perfect equality. Thus, the lower the Gini coefficient, the more equal the revenue distribution. Looking at Figures 6–10 as a whole, we see that all states indicate increasing equity (whether modest or great) after the state supreme court invalidated the existing school finance system. In one case—Connecticut—that trend toward increased equity was small and eventually reversed (see Fig. 6), but on the whole we can see that inequality decreased significantly in most states in the wake of these decisions. For example, New Jersey's Gini score dropped from 0.100 to 0.062 over a three-year period, a 38.0% improvement in the equity between affluent, suburban districts and 30 special needs districts.<sup>25</sup> Over a seven-year period, that figure dropped further, for a 48% reduction in the level of resource inequality. Over seven years, Texas saw its inequality drop from the 0.080 range down to 0.054 in 1995, an improvement of 32.5%. Dramatically, Kentucky's level of inequality dropped from 0.105 to 0.058 over a five-year period, a remarkable 44.8% drop in inequality. Even in Connecticut, where the change in equity was comparatively small, the level of inequality dropped by nearly 16%, although the trend proved erratic. Tennessee's level of inequality dropped a more modest but significant 15.1%.

Together, these changes—with the possible exception of the changes in Connecticut and Tennessee—represent sizable and enduring changes in the level of inequality among the relevant school districts. These changes are not one-time dips but sustained and relatively robust redistributions of resources among school districts. The average decline in inequality among the five states is 29.4%. Some of the dips are gradual, but Kentucky's and New Jersey's are steep and abrupt. Taken together these changes tell a story, in most instances, of persistent and meaningful decreases in inequality over time. Clearly, the states exhibit significant variation—in both the slope of the decline and its duration. But despite these differences, the lesson we should learn from court-initiated school finance equalization is that it generally achieves results. With the exception of Connecticut, school financing between districts in these states was invariably more equal after the courts became involved than it was before. Moreover, the fact that the top-spending districts did not decline sig-

<sup>25</sup> Recall that not all school districts in New Jersey were included within the scope of the court's ruling (see note 20 above for details). Although most districts in the state saw their financing changed in the wake of the Quality Education Act (see pp. 208–9 below), only the Special Needs and I & J districts technically were subject to the court's ruling.

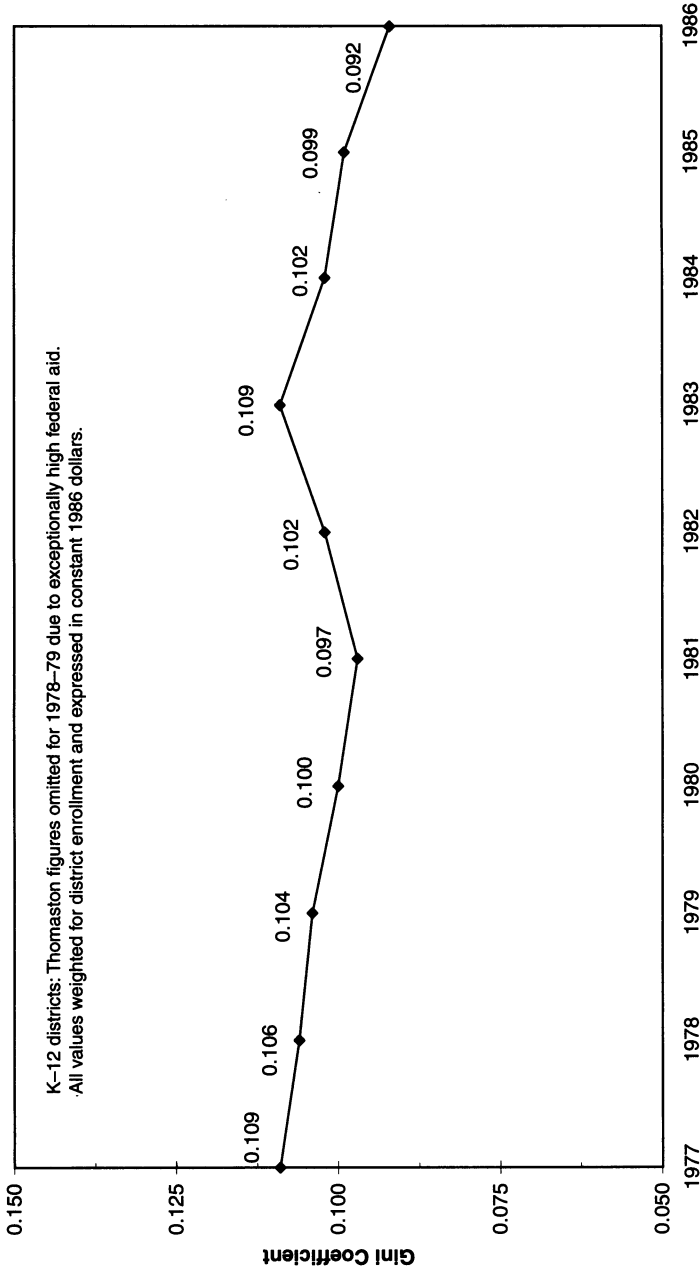


Fig. 6. Gini coefficient for Connecticut school districts, 1977-1986: per pupil combined state and local revenues only. Data source: Connecticut Public Expenditure Council Annual Reports, 1977-86.

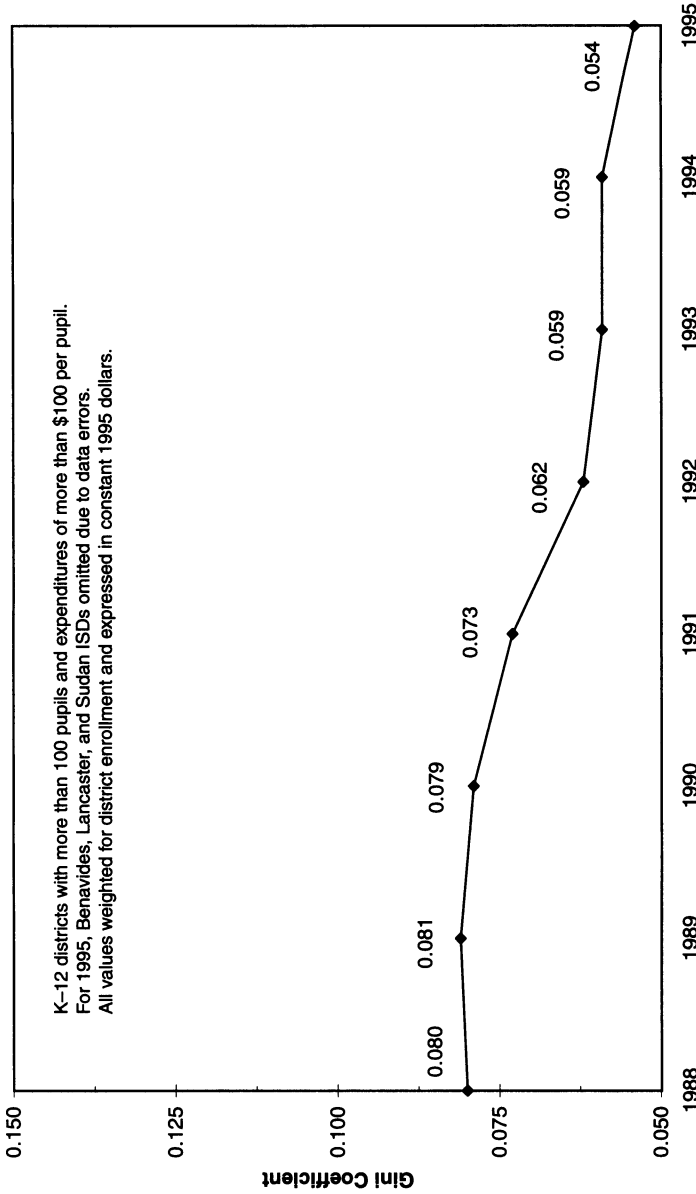


Fig. 7. Gini coefficient for Texas school districts, 1988-1995; per pupil total operating expenditures minus federal aid. Data source: Texas Education Agency, March 1994 & July 1996.

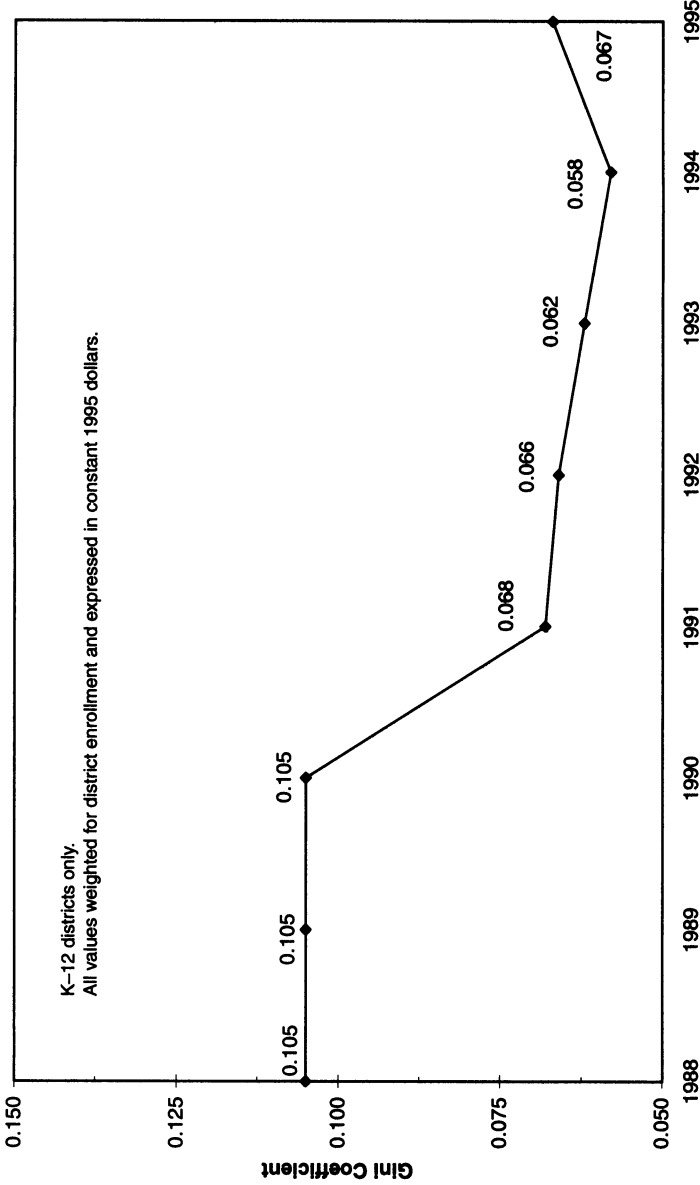
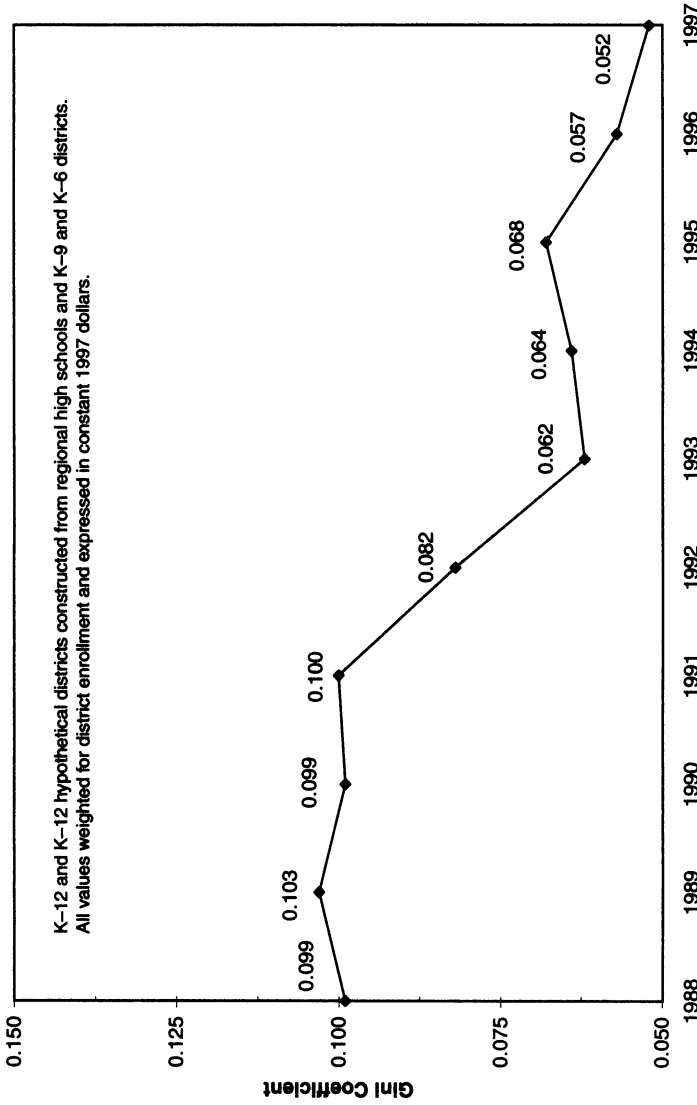


Fig. 8. Gini coefficient for Kentucky school districts, 1988-1995: per pupil total revenue minus federal aid. Data source: Kentucky Department of Education, March 1994 & December 1996.



**Fig. 9.** Gini coefficient for New Jersey's Special Needs and I & J districts, 1988-1997: per pupil combined state and local revenues. Data source: New Jersey Department of Education, January 1994 & March 1997.

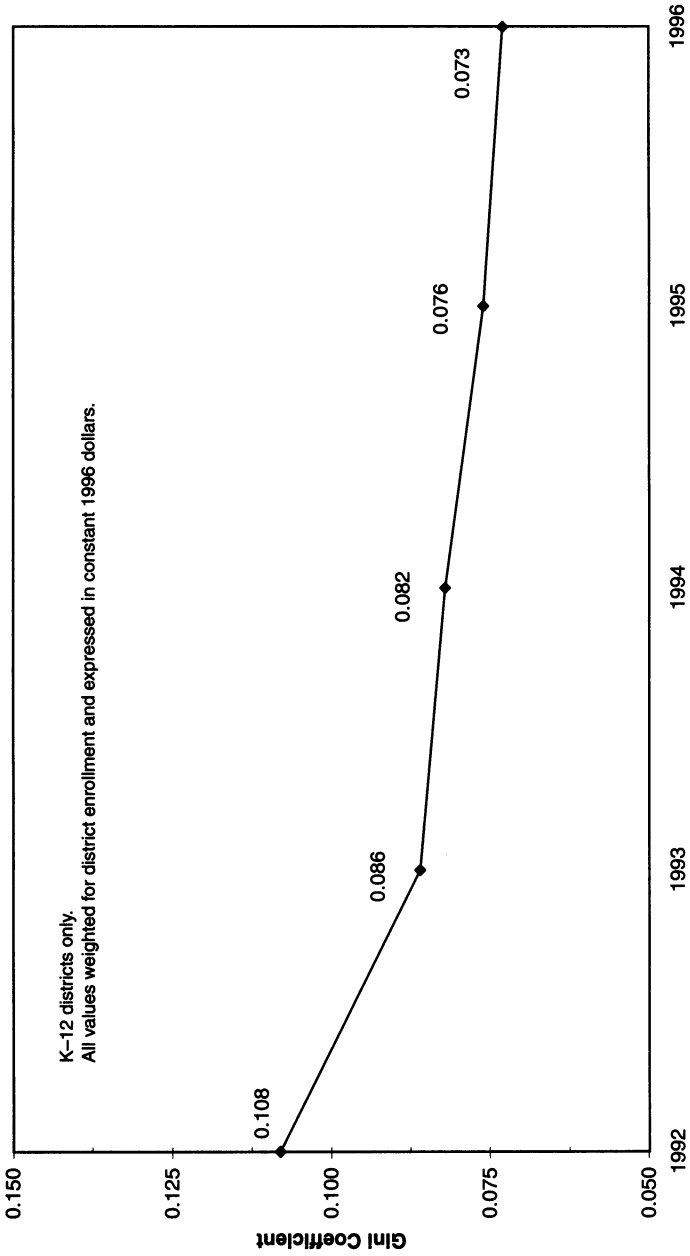


Fig. 10. Gini coefficient for Tennessee school districts, 1992-1996; per pupil combined state and local revenues. Data source: Tennessee Department of Education, April 1996.



nificantly (except in Texas) over these time periods (as shown in Figs. 1–5) indicates that, contrary to many critics' fears, state legislatures are usually able to raise the revenues of low-wealth districts rather than simply cap resources in affluent districts.

### **Findings from Three States Where School Finance Reform Litigants Lost**

These trends in the level of equity and adequacy of school finance systems, while impressive, could be dismissed as part of a general, secular trend—one that had little to do with court decrees and state supreme court rulings. That is, these changes could have occurred without judicial interventions. If I am to claim that courts were central to this reform process, I must also examine cases in which the court were not involved. Only by comparing changes in adequacy and equity in states where courts were not involved and where courts were involved can we begin to determine the scope of judicial influence on school finance reform. The three states studied in this section—Oklahoma, North Carolina, and Illinois—were chosen because their local political cultures and their political geographies of poverty are roughly similar to states studied in the first part of this article. Thus, we can compare North Carolina outcomes with outcomes in Kentucky and Tennessee because all three are Southern or border states in which Appalachian rural poverty constitutes a significant feature of school financing inequalities. In contrast, Illinois's urban, predominantly black poverty rate is roughly comparable to the inequalities experienced in Connecticut and New Jersey's central cities. Finally, Oklahoma and Texas are both Southwestern states with significant rural poor populations—although central city poverty is present in Texas as well. The aim is to find similar states in which the judicial outcomes differed.

So how do these states compare? Figures 11–13 illustrate trends in the ranges of revenues and the median revenues.<sup>26</sup> Oklahoma's median revenues have seen significant growth since its 1987 decision, but the bottommost districts have not joined in that revenue growth (Fig. 11). As a result, Oklahoma's range has expanded significantly. In contrast, North Carolina's median expenditures have nearly tripled in real dollars, and the bottommost districts have likewise spent significantly greater funds (Fig. 12). Illinois median revenues have grown modestly, but the bottommost districts actually received fewer resources in 1993 than they did in 1990—a contraction of almost 4% (Fig. 13). In sum, the median revenue and expenditure figures for these three states show significant increases, but at somewhat smaller rates of growth than was shown in the five states where state supreme

<sup>26</sup> Expenditure data for North Carolina.

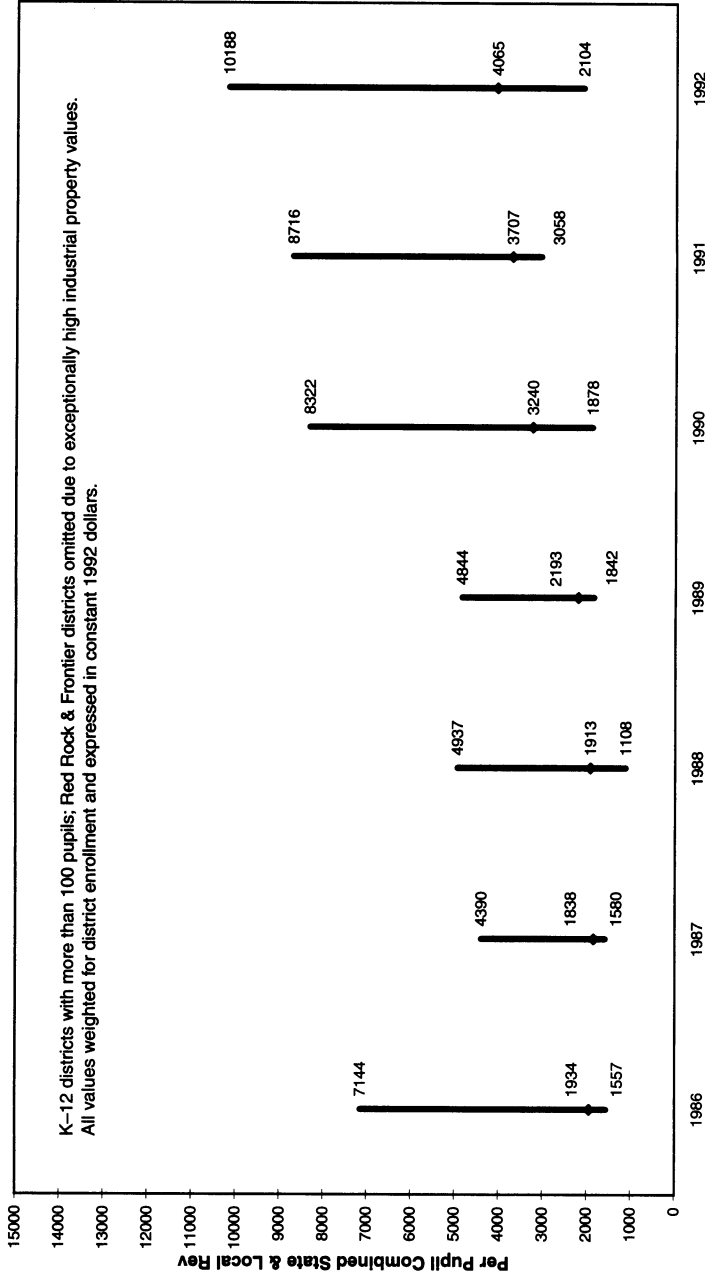
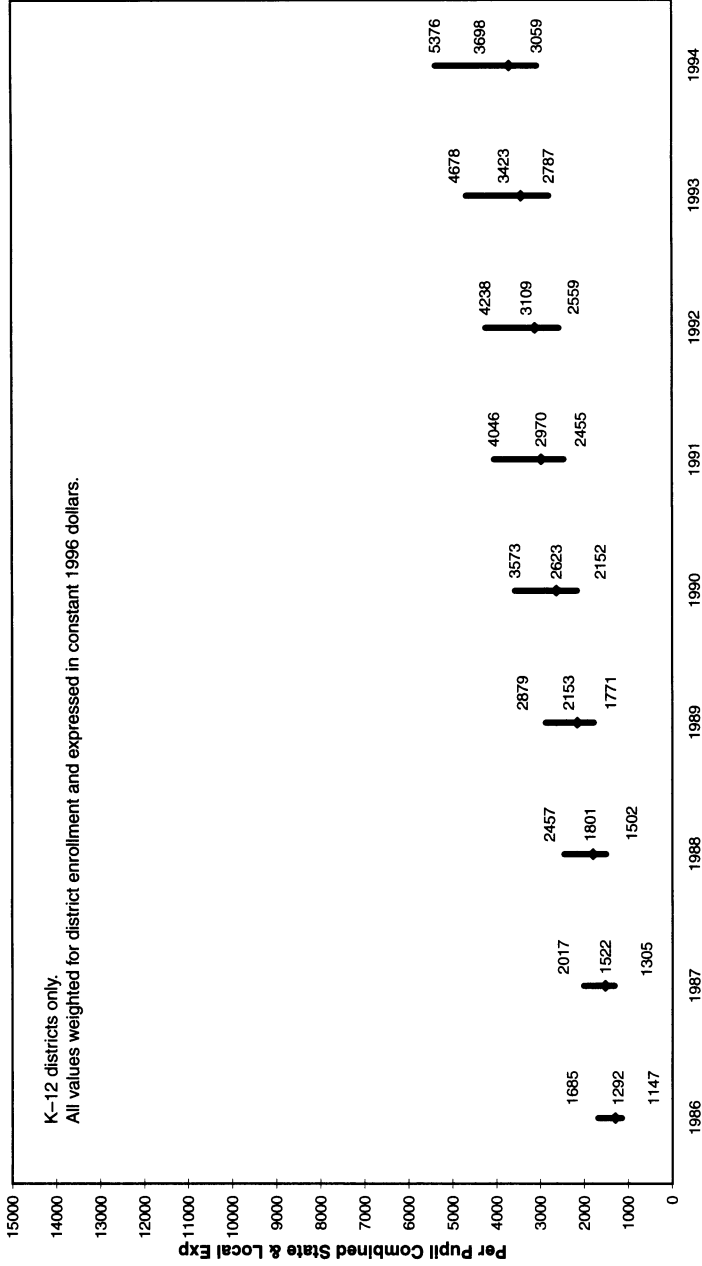
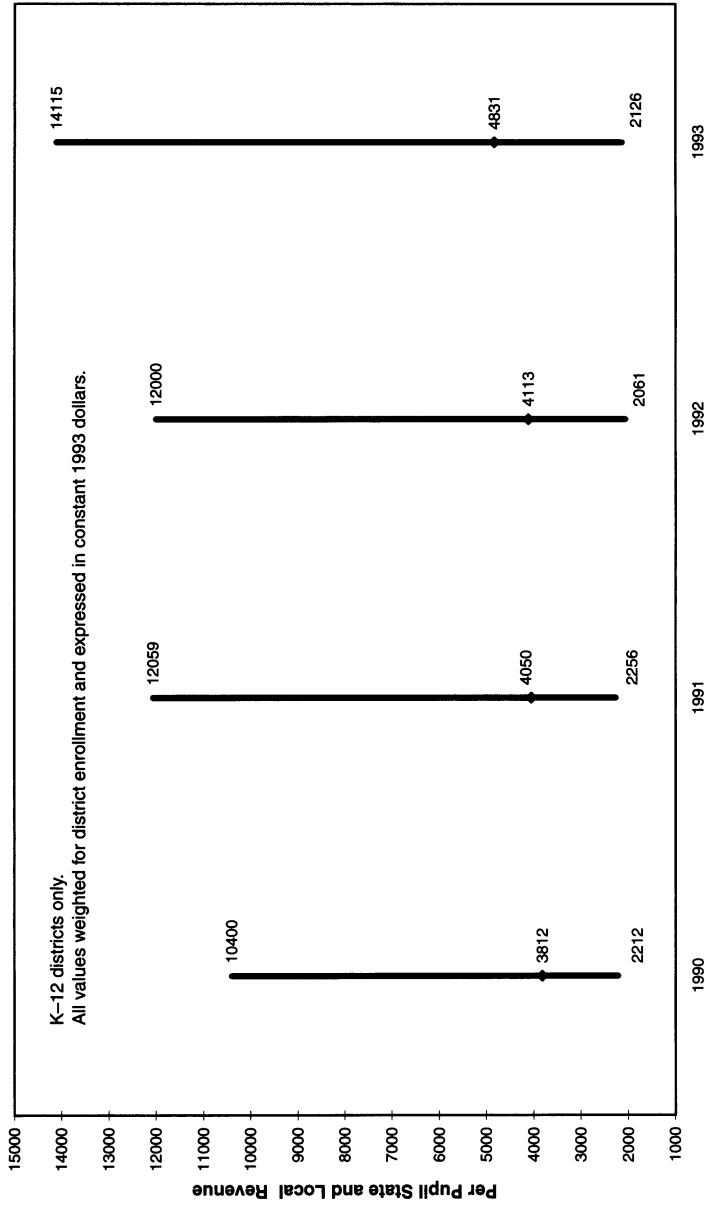


Fig. 11. Oklahoma school finance revenue ranges and medians, 1986–1992: high, low, and median per pupil combined state and local revenues. Data source: Oklahoma Department of Education, Annual Reports, 1985–86 to 1991–92.



**Fig. 12.** North Carolina school finance expenditure ranges and medians, 1986-1994: high, low, and median per pupil combined state and local expenditures. Data source: North Carolina Department of Education, April 1997.



**Fig. 13.** Illinois school finance revenue ranges and medians, 1992–1996: high, low, and median per pupil combined state and local revenues. Data source: National Center for Education Statistics, Common Core of Data CD-ROM, October 1996 edition.

courts have ordered the state legislatures to redesign the school finance system.<sup>27</sup>

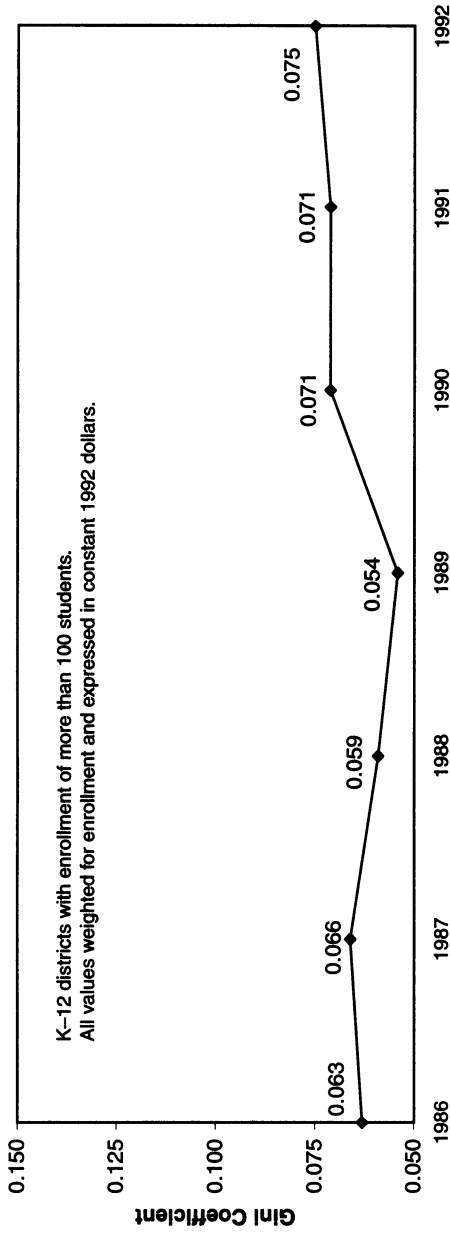
More dramatic differences, however, can be seen when we examine the changes in the level of equality within these school systems. In Oklahoma, five years after the state supreme court ruling declaring the school finance system constitutionally acceptable, inequality was 13.6% *worse*—a Gini index shift from 0.066 to 0.075 (Fig. 14). In North Carolina, the level of inequality was basically flat, seeing a slight worsening of inequality within two years after the decision but virtually identical inequality within five years (Fig. 15). In Illinois, the level of inequality from the filing of the lawsuit to one year after the district court decision was a whopping 19% worse, jumping from 0.079 among K–12 school districts to 0.094 (Fig. 16). In total, these three states saw on average a –9.2% change in the level of equality. In all three cases, equality was either worse or the same after the court decision.

Taken together, these two groups of states show a significant and meaningful effect of judicial involvement on school finance reform. The range and the Gini coefficient across these states and years give us a fairly good picture of the changes in the distribution of educational resources in the wake of these state supreme court decisions. We see that improvements in equality typically follow state supreme court decisions that order improvements in equality, and that little change or worsening inequality follows from decisions upholding the existing school finance systems—even in states that face roughly comparable forms of poverty.

These findings also tell us, importantly, that not all courts effect change to the same degree. That is, court-ordered school finance reforms do not happen at the same pace or to the same magnitude in every place. Indeed in Connecticut, we see that the decreases in equality were not durable over the early 1980s. These variations among states are interesting in themselves, because they reveal different judicial capacities to achieve changes in equality. That is, the slopes and depths of the changes in equality as registered by the Gini coefficients of the Figures 6–10 measure something else in addition to equality. They implicitly measure the capacity of various state supreme courts to achieve what they have set out to accomplish. Many factors may influence that judicial capacity, ranging from executive leadership in the governor's office to public outrage over taxes to endorsements by teacher's unions of candidates in statehouse elections. It is to the task of explaining these differential outcomes that I turn in the next section.

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<sup>27</sup> The average annual median percentage increase for the five states where the state supreme court ordered reform was 14.2%; in the three states where the courts did not order reform it was 12.3%.



**Fig. 14.** Gini coefficient for Oklahoma school districts, 1986–1992: per pupil combined state and local revenues. Data source: Oklahoma Department of Education, Annual Reports, 1985–86 to 1991–92.



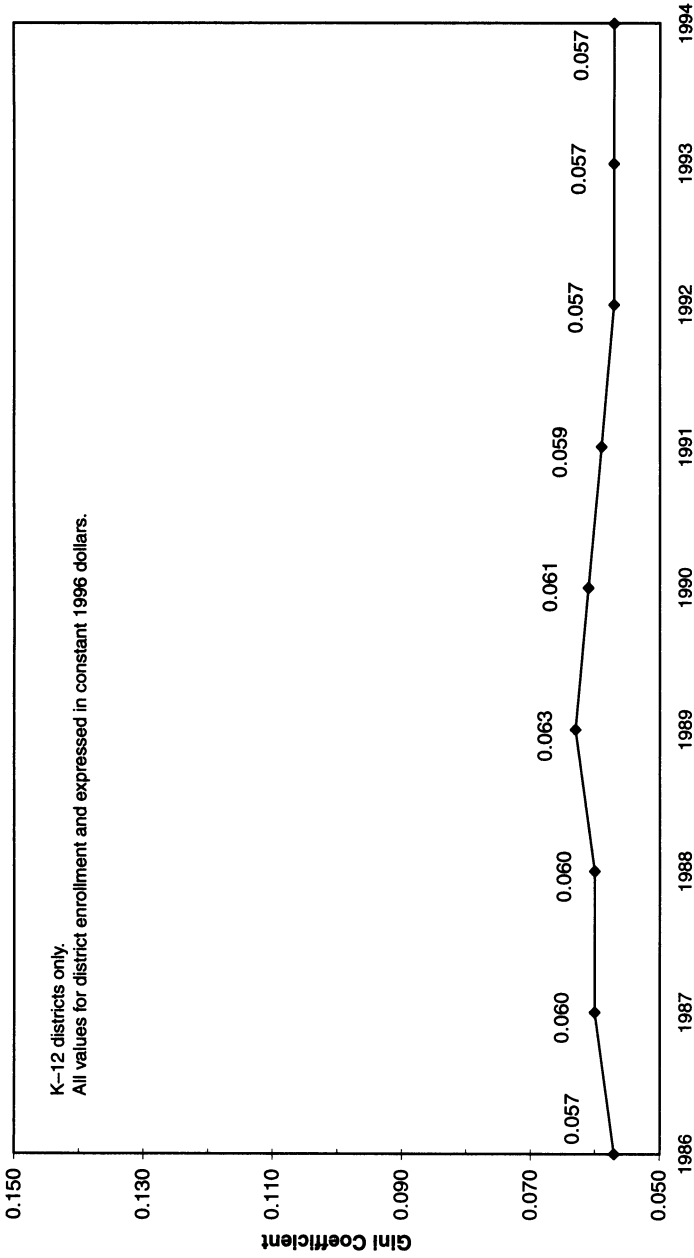
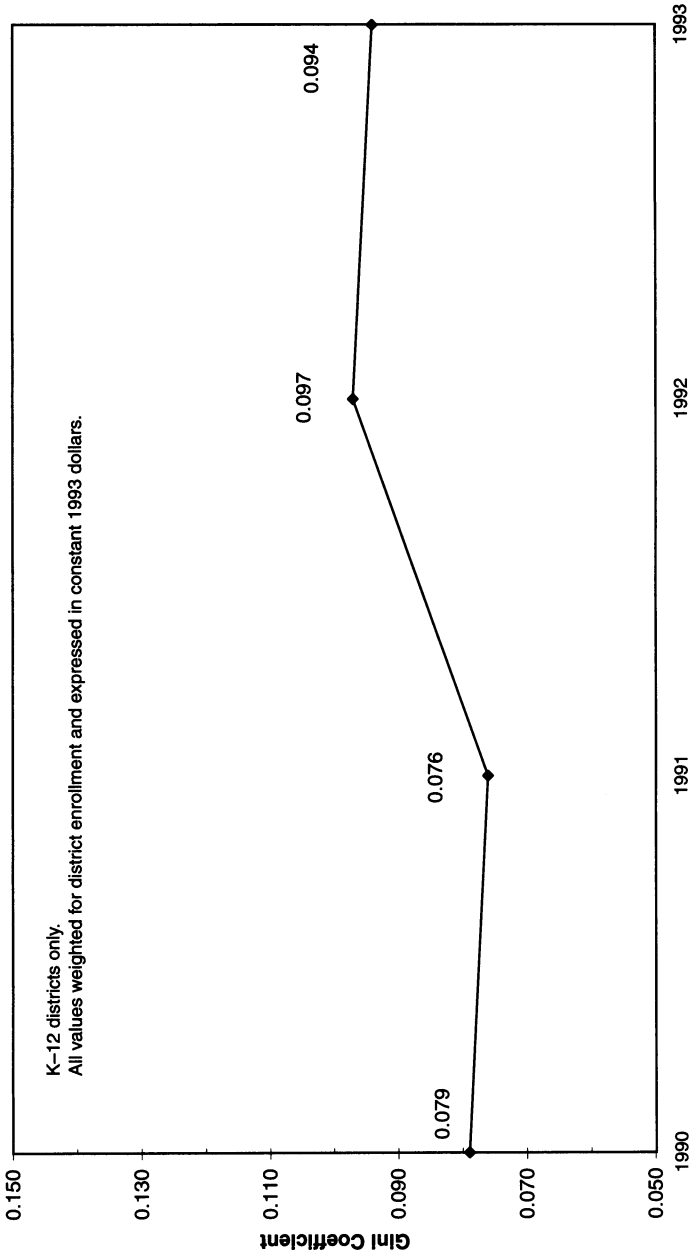


Fig. 15. Gini coefficient for North Carolina school districts, 1986–1994: combined state and local expenditures only. Data source: North Carolina Department of Education, April 1997.



**Fig. 16.** Gini coefficient for Illinois school districts, 1990–1993; per pupil combined state and local revenues. Data source: National Center for Education Statistics, Common Core of Data CD-ROM, October 1996 edition.

## II. How Do Courts Change Equity? Three Elements of a Policy-Centered Model of Judicial Capacity

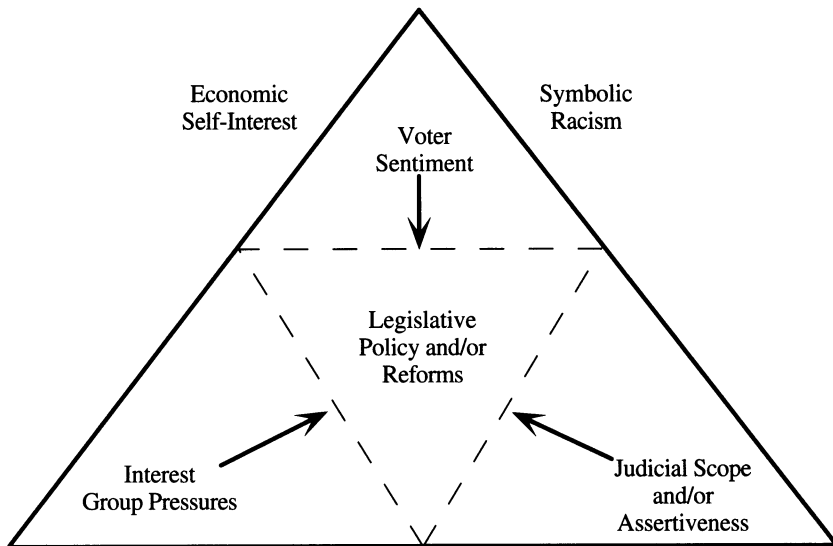
As the evidence from part I indicates, different courts are able to produce different degrees of school finance equity in different times and places. Here I present three dimensions of school finance politics that must be taken into account if we are to understand the obstacles confronting state supreme courts and other judicial actors within the school finance arena. Taken together, these three facets of school finance politics *could* constitute an explanatory model of judicial capacity, but my aim here is more modest. The three dimensions of this model—interest group opposition, voter opposition, and judicial scope and ambition—have complex relations in their own right, and tracing their influence on judicial conflicts within individual states is beyond my scope here. Instead, the remainder of the article explores how interest group pressures, voter sentiments, and judicial ambitions all influence the equity outcomes courts are able to achieve. Rather than proving conclusively the validity of this model and assigning causal weight among its three dimensions, my aim here is simply to argue that any account of judicial capacity within the realm of school financing must engage *at least* these three factors. My goal is to explicate the proposed causal linkages within the model and specify how scholars could fruitfully test them in the context of courts and education.

No one would deny that public opinion and interest group pressures influence policies that legislatures adopt. But in the context of school finance reform, state supreme court mandates to equalize or boost educational revenues often collide with the views of voters and many organized interests.<sup>28</sup> This renders the influence of organized interests and voter sentiments more indirect and contested. Thus, before we can understand how these elements affect equity outcomes, we need to understand how these three forces interact and play off one another. Figure 17 offers a diagram of the interactions of these pressures. In short, Figure 17 maps out how judicial scope and assertiveness, combined with interest group pressure and voter opposition (based on both economic self-interest and racial symbolism), exert pressures on a legislature as it devises the policy response to a state supreme court's constitutional challenge. This schematic shows how—under conditions of fiscal constraints—court decisions to equalize school financing place the state legislature between the demands of constituents and the influence of interest group activity. In differing settings, of course, different pressures will be

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<sup>28</sup> I should stress that not all organized interests work to diminish equalization; indeed, court opinions require forceful organized advocates—typically urban interests, executive officials from the governor's office, or members of the educational bureaucracy—to work within the legislature to achieve meaningful results.

deployed. Symbolic racism will be far less of an issue in Vermont than in Texas, and if interest groups are not well organized, they will be far less able to exert influence on the reform process. Also, states in which judicial ambitions are lower will experience different outcomes because voter and interest group opposition will not, most likely, dig in against modest reform goals. Because no one dimension alone accounts for the disparate outcomes in school financing battles across states, Figure 17 helps us to understand how in some settings voter opposition may successfully counter judicial efforts to equalize expenditures and how, in other settings, interest groups may distinctively alter the shape of the final legislative product. In short, this integrative model can help us explain variations across states even as it stays within the specific policy confines of educational financing. I now want to explore each feature of this policy-centered model in detail.



**Fig. 17.** A policy-centered model of judicial capacity to effect school finance reforms.

### Interest Group Blockage

This feature of school finance politics emerges from the widely observed fact that interest groups rapidly deploy to preserve their resources in the wake of a court decision mandating finance reform. The idea, of course, is not surprising. The notion that groups use legislative or executive branches to advance or defend their interests is a fundamental premise of American politics. Indeed, this logic stands behind much of Madison's *Federalist No. 10*. But the political tensions produced by this dynamic in the realm of school financing have, on occasion, been particularly acute. In a number of settings, legislatures have struggled

mightily in their efforts to comply with state supreme court mandates to equalize. Part of their struggles have been due to the reluctance of various interest groups to accept the redistribution of funds usually required for equalization. With livelihoods and significant resources at stake, various groups—such as teachers' unions, coalitions of affluent districts, business associations, taxpayers' groups, urban school districts, parent-teachers associations—all seek either to minimize the costs their members will have to pay or to maximize the potential rewards. Often, as well, the governor within a state will seek to reward or aid his or her political supporters through equalization—or, at least, mitigate the harms supporters will suffer. The result is that such lobbying and interest preservation necessarily minimizes the equalization that can take place. Some evidence<sup>29</sup> suggests that this collision of legislative pressures results in one of two outcomes: (1) a political stalemate or (2) a symbolic school finance reform in which the political logics of interest group blockage ensure that any equalization that survives the legislature necessarily produces only the slightest equalization of resources. In the first scenario, nothing emerges from the state legislature in the wake of a state supreme court decision invalidating the school finance system, and in the second, the legislative reform package that does emerge is designed more as a symbolic response to the state supreme court's constitutional objections than as a policy tool that will achieve meaningful results.

In both cases, the problem of interest group blockage is structured, in part, by the geographically defined nature of American public education. That is, place-specific benefits—such as state aid to local school districts—intersect with the electoral fortunes of individual legislatures in such a way as to facilitate pork-barrel politics.<sup>30</sup> It is near electoral suicide for a legislator to endorse reductions in aid to school districts in his or her home legislative district. Indeed, there are continual references within legislative debates over school financing to the need for all legislators to overcome localist, district-driven concerns. There is also much bemoaning of legislators' inability to overcome those district-driven concerns. In 1991 Texas Speaker of the House Gib Lewis, in the midst of a constitutional crisis over the Texas legislature's failure to enact reform legislation despite an impending court deadline, stated: "There might be some question whether or not a democratically elected body can pass something as controversial, explosive and divisive as school finance" (quoted in Reed 1995:283). A year and a half later, after yet another failed attempt to enact reform legislation, Lewis further stated, "This might be an unsolvable political problem we

<sup>29</sup> See, e.g., the case studies of Texas and Connecticut that I explore in Reed 1995.

<sup>30</sup> David Mayhew (1974) first examined this aspect of the "electoral connection" in relation to the U.S. Congress.

have here” (in Reed, p. 297). With a judicial gauntlet thrown down, Texas interests clashed intensely, almost leading to a breakdown of the legislative process: The Texas legislature suffered through three special sessions in 1990 as it struggled mightily to accommodate what appeared to be irreconcilable demands of courts and interest groups. Only under a judicial threat of enforced consolidation of school districts and state confiscation of local property tax revenues did the legislature lurch its way to a resolution of the crisis by adopting S.B. 1.<sup>31</sup> Interest group blockage could help explain the disparate outcomes among state supreme courts seeking equalization if we could link interest group strength to reduced equalization. This would, however, require an assessment of the interests that are at stake and the capacities of various groups to defend or advance those interests within state legislatures. By determining the relative strength of particular groups in particular states, we could map out how the intersecting interests and strengths of various groups forestall the enactment of equalizing legislation.

But even if this were done, there would remain a weak link in this line of argument. The fact is that interest groups—ultimately—do not singlehandedly determine the electoral fortunes of legislators. Although interest groups may exert influence in campaigns and elections (through donations, endorsements, the provision of volunteer labor), it is individual voters who, in the final analysis, either retain or reject legislators. Thus, in Texas, the legislators’ fears of retribution were, in part, instilled by their reading of the Texas electorate. They perceived that Texas voters would not endorse increased taxes to pay for equalization and would punish legislators if taxes were increased. Therefore, taxes could not go up, but the court nonetheless was insisting that new funds be committed to equalization. The resulting squeeze was then on the interest groups as they fought among themselves for a reallocated pie. This additional consideration—voters’ resistance to equalization—leads us to the next feature of the policy-centered model of judicial capacity.

### **Voter Opposition—Economic Self-Interest and Symbolic Opposition**

Voters understandably would be opposed to equalization if they see it as potentially harmful to themselves, their local school districts, or their children. This opposition may be based on economic self-interest or a more complex form of symbolic opposition.

The logic of voters defending their economic self-interest is not difficult. Indeed, it seems an axiom of political life that voters want generous services but low taxes. School finance equalization

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<sup>31</sup> See Reed (1995:262–65) for details of this single episode in a long, tangled story of Texas school finance politics.

endangers both of these political goals. At the service end, equalization threatens affluent districts with reduced resources for education, and at the taxation end, equalization promises additional levies to fund low-wealth districts. In short, equalization's allure for the affluent is not terribly appealing: reduced educational aid from the state but higher tax costs. Thus, if one assumes a rational *homo economicus*, then it is clear that perceived higher costs and lower benefits would lead to a greater likelihood that one would oppose equalization. And this is what some research has found. For example, in New Jersey, respondents to a 1990 poll concerning the Quality Education Act (QEA) were 15% less likely to support the act if they thought it would harm their local school district and 25% less likely to support it if they thought it would increase their local property taxes, all other variables held constant (Reed 1994:173, 192). Moreover, among a variety of variables—race, income, ideology, place of residency, support for tax increases—*only* these two economic self-interest variables significantly predicted support for or opposition to the QEA among all respondents (*ibid.*). Thus, it would appear that this perception of higher costs and lower benefits would drive opposition to legislative efforts to equalize school expenditures. But there is a bit of a problem here: The *perception* of economic costs and benefits does not always line up with the *reality* of where costs will fall and where benefits will accrue. Indeed, the QEA was designed to boost aid to far more districts than those singled out by the New Jersey Supreme Court as requiring additional funds. In an effort to secure middle-class support for equalization, New Jersey Governor Jim Florio designed the QEA (along with property tax rebates) to aid a broad range of lower-class and middle-class districts. The problem was that no one believed him. Florio had a massive credibility problem because of the \$2.8 billion increase in sales taxes and income taxes he sought to fund the \$1.1 billion QEA and to erase a burgeoning state budget deficit (*ibid.*, pp. 154–55). Feeling the brunt of a worsening recession, New Jersey taxpayers erupted in revolt against the tax package designed to fund the QEA and property tax relief.<sup>32</sup> Despite the pledges that middle- and lower-class districts would benefit under the new school finance regime—and budget allocations that fulfilled those pledges—middle-class New Jerseyans quite literally took to the streets (and to the talk radio airwaves) to voice their opposition. As a result, New Jersey state legislators, fearful of the growing backlash, scaled back the QEA, funneling \$350 million away from inner-city schools and applying it to property tax relief, largely for suburban homeowners (*ibid.*, pp. 177–82).<sup>33</sup> Thus, we see that the perception—whether accurate

<sup>32</sup> For an overview of the tax revolt see Kehler 1992.

<sup>33</sup> For additional budget details, see Goertz 1992:9–17.

or not—of increased costs and reduced resources can lead to hostility to equalization, which, in turn, can reduce the equalizing thrust of legislation.<sup>34</sup>

As scholars explore further this notion of economic self-interest, the role of perception should be central to their investigations. The New Jersey example suggests that people calculate their potential benefits and costs in ways that are, at times, divorced from the reality of that distribution. In short, intervening factors appear to reshape or reconfigure this tallying up of costs and benefits. How and why individuals are more likely to fear some potential costs than to accept potential benefits are important questions to unravel as we try to understand the nature of economic self-interest. Attitudes toward government, toward law, toward equality—all of these probably sharpen or dull one's perception of the relative costs and benefits of school finance equalization. What this means, however, is that identifying one's economic "self-interest" is by no means a neutral calculation; it most probably brings into play noneconomic considerations. We may translate or transfer our political or ideological opposition into a "neutral" economic idiom of costs, and it is important for scholars to examine that translation process—particularly in areas as historically charged as judicial intervention into education. Put simply, scholars should examine how "economic self-interest" is constructed and how ideological or cultural forces condition the means by which individuals ascertain their interests. This project leads us, in turn, to an exploration of the symbolic meanings of school finance equalization.

From the perspective of voter symbolic opposition, courts are less able to achieve significant equalization when a sizable number of voters oppose equalization due to its symbolic meaning(s).<sup>35</sup> This element of school finance politics explains why an individual might oppose equalization not because of any direct harm he or she might endure but because of what that equalization *represents*. In this sense, the harm that a voter seeks to avoid has less to do with material or economic interests and more to do with the symbolic meanings of equalization. The political geography of education often contributes to both the status and the perceived accomplishment of individuals. If one can afford to live in the "right" towns, with high-achieving schools, one's status

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<sup>34</sup> A clarification here is needed regarding the causal linkage between voter opposition and judicial capacity. The argument that voter economic self-interest (and, likewise, voter symbolic opposition discussed below) may reduce the equalization of a reform package assumes that the legislature mediates between the conflicting demands of voters and the state supreme court. That is, the argument assumes that the legislature registers voter opposition and that registered opposition puts the legislature at odds with the court. In this sense, voters do not directly resist judicial efforts to equalize but instead create electoral incentives for legislators to resist those judicial efforts.

<sup>35</sup> The full causal linkage is that voters who oppose equalization due to its symbolic meanings create electoral incentives for legislators to oppose the judicial mandate to equalize. See note 34 above for a further discussion of how this linkage plays out.



and self-image are enhanced. Often, the desirability of particular towns or school districts rests on the very inequality that school finance equalization seeks to redress. Equalization—if structured in a politically acceptable way—may not attack the material interests of these residents or districts, but it may represent a symbolic blow to the relative position of either the individuals, the towns, or the districts.

Symbolic racism, as a component of symbolic politics, has been offered by several analysts as an explanation of white opposition to judicial and legislative policies that target economic and racial exclusion of “enclave districts.” Indeed, symbolic racism has been much studied as a source of opposition to busing as a tool of school integration. Symbolic racism, according to David Sears (1987), emerges out of generalized hostility to black demands for greater inclusion in the benefits of American political and economic life and a simultaneous commitment to traditional American values, such as self-reliance and individualism.<sup>36</sup> Most of the examinations of the role of symbolic opposition to educational policies have focused on school desegregation and integration,<sup>37</sup> but Kent Tedin’s (1994) recent work bridges quite admirably the interplay between the economic self-interest of school finance equalization and symbolic racial politics. Linking attitudes toward school finance equalization with the substantial literature on attitudes toward school busing and symbolic racism, Tedin (1994) found in two Houston school districts that economic self-interest (as measured by perceived effect of equalization on the finances of the local school district) has about the same effect on attitudes toward school finance equalization as do measures of prejudice and racial affect toward blacks. Tedin’s analysis was limited to 1,032 whites within two school districts near Houston, but he was able to show that racial affect had a substantial impact on attitudes toward school finance equalization—*independent of whether respondents thought their district would win or lose money in the reform process*. Tedin also found that respondents viewed the beneficiaries of school finance equalization in racial terms: 82% of his survey respondents (all whites) thought predominantly Hispanic districts would gain a lot or a little from a 1991 equalization plan.<sup>38</sup> Eighty-three per-

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<sup>36</sup> According to Sears (1987:56), symbolic racism emerges as whites perceive that blacks and other minorities are violating these traditional values through their political and economic claims that stress their group identity rather than their individual situation or contexts. As Sears writes, symbolic racism is a “blend of anti-black affect and the kind of traditional moral American values embodied in the Protestant Ethic . . . a form of resistance to change in the racial status quo based on moral feelings that blacks violate such traditional American values as individualism and self-reliance, the work ethic, obedience, and discipline.”

<sup>37</sup> For overviews of this literature, see Sears 1987; Sears, Hensler, & Speer 1979. For a contrasting view, see Bobo 1983.

<sup>38</sup> The 1993 constitutional referendum would have essentially preserved the 1991 plan that formed the basis of Tedin’s inquiries.

cent thought predominantly black districts would gain a lot or a little. Meanwhile, only 9% thought white districts would gain a lot or a little, whereas 73% thought white districts would lose a lot or a little (Tedin 1994). The assumption, in Houston, Texas, was that mostly minorities would gain from the plan and that whites would suffer.

Additional research indicates that parents of school-age children in New Jersey viewed school finance equalization through racial lenses, while the population at large saw the issue mostly in economic terms (Reed 1994). Among parents of school-age children in New Jersey, neither the perceived effects of equalization nor income could account for opposition to the QEA. Instead, race was a far better predictor of support or opposition. In general, white parents were far more likely to oppose the QEA and nonwhite parents were far more likely to support equalization, all other variables held constant. Indeed, being nonwhite meant one was 33% more likely to support the QEA, with all other variables held constant at their means (Reed 1994:174, 193).

These differences between different populations—along with Tedin's work—highlight the complex interplay of race and class tensions in the public attitudes toward judicially imposed school finance equalization. At times, economic self-interest may predominate and, in other settings, racial attitudes reshape the perceptions of economic self-interest in profound ways. The racial and economic cleavages are multivalent and are complicated further by interest group pressures operating on both the executive and legislative branches. I now turn from possible explanations that are independent of judicial influence to examine two theories in which judicial action is central to the resolution of school finance equalization battles.

### **Judicial Scope and/or Assertiveness**

It would seem self-evident that courts are more able to achieve significant equalization when the scope and ambition of the original state supreme court ruling is broad or when judicial actors are willing to use or threaten injunctive relief in subsequent judicial proceedings. But this proposition immediately confronts a long-standing debate within political science over the capacity (and legitimacy) of courts to act as policymakers.<sup>39</sup> Both Horowitz (1977) and Rosenberg (1991) contend that courts are severely limited as policymakers. Horowitz argues that the institu-

<sup>39</sup> Two standard references—one older, one recent—in this literature are Horowitz (1977) and Rosenberg (1991). See also Dahl (1957) and McCloskey (1960) for classic accounts of the argument that courts do not exceed, over the long run, the boundaries imposed on them by either the public at large or other more representative branches of government. For the Supreme Court's relationship to public opinion, see Marshall (1989).

tional features of adjudication cannot adequately encompass the complexity and variability of social problems or social policy, while Rosenberg argues, along somewhat different lines, that courts have not—either directly or indirectly—effected meaningful social change in the areas of school desegregation, women’s rights, environmental policy, apportionment, or prison overcrowding. The evidence presented in part I is a direct refutation of Rosenberg’s thesis. It appears, then, that Rosenberg’s argument that courts cannot achieve this kind of significant change in the face of public opposition must be rethought.<sup>40</sup> What needs to be explained, it seems, are the conditions under which courts can impose outcomes on a recalcitrant public. Judicial success or failure may simply lie in a court’s willingness to challenge aggressively and boldly a state legislature, through either activist rulings or a firm insistence on compliance, up to and including injunctions against the operation of finance systems that do not meet constitutional requirements. In Kentucky, for example, the state supreme court declared unconstitutional not only the school financing system but the entire system of public education. Lawmakers were ordered to scrap the entire system and rebuild it afresh. Perhaps not coincidentally, Kentucky has seen one of the largest drops in inequality among the states examined here. In Texas, lower court judges, in the course of implementing various Texas Supreme Court rulings, have repeatedly threatened state officials with injunctions suspending all education expenditures if they could not enact a school financing formula that met constitutional muster. These threats have seemed viable enough to prod an often unwilling legislature into action. Anecdotal evidence, then, seems to suggest that a court has some measure of control over the degree of compliance—either through an expansive original opinion or tough-minded subsequent rulings on legislative compliance.

Testing the viability of this claim, however, is difficult because of the small number of aggressive, activist decisions. Kentucky’s decision seems in many ways to be *sui generis*, an ambitious ruling that is quite unlike other school finance decisions, which are focused either on one element of school financing or concern themselves with the vaguer question of adequacy. For example, the recent decision in Arizona was aimed largely at capital ex-

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<sup>40</sup> Interestingly, Horowitz’s critique may still apply to the effects of judicial policymaking within the realm of educational finance. One of Horowitz’s insights is that judicial policymaking is inflexible and, as a result, can produce unwanted or perverse outcomes. It may turn out, in the long run, that greater equity leads some parents to exit the public school system in favor of private schools. The resulting “capital flight” in the wake of school finance equalization could echo the “white flight” of school desegregation suits. This question, to my knowledge, has not yet been explored in the school finance literature, but is a very important one. As an issue of first impression, it would seem that this could be a potentially greater problem in those states, like Texas, where policymakers have sought to achieve equalization through capping affluent districts’ resources rather than providing more resources to poorer districts.

penditures (*Roosevelt Elementary School District No. 66 v. Bishop* 1994), and many others have not sought systemic reform of educational financing.

Lessons, however, can perhaps be gleaned from other areas of educational litigation, particularly school desegregation and busing. Certainly Jennifer Hochschild's (1984) work suggests that energetic judicial intervention is more likely to achieve greater success than more timid judicial efforts. The point here is that we cannot accept Rosenberg's arguments at face value: Substantial change can occur in the face of public opposition, and some evidence suggests that judges have a measure of control over the degree of change. Judicial agency—like public opinion and interest group opposition—matters. The problem lies in identifying when and how it matters.

## Conclusion

The question of judicial effectiveness is an enduring one. This article contributes to the debate in two ways. First, I demonstrate that within the realm of school finance reform, state supreme courts have had a significant and durable impact on the distribution of educational resources. The judicial revolution that *Rodriguez* ignited has meaningfully changed the amount of money going to poor school districts. Second, this article has gone beyond merely describing the impact of state supreme courts on school financing and has offered an analytical framework that may explain why some courts succeed and others fail within the policy arena of school finance reform. It is important to note that many of the obstacles confronting state supreme courts lie beyond the influence of judges and the law. The equity and adequacy outcomes in these cases may not depend on the actions of courts or other judicial actors, but may rest more on the political and institutional contexts within which those judicial actors operate. One task for judicial scholars is to identify those elements of judicial capacity that lie within the orbit of judicial influence and those that lie outside. Thus, within the policy arena of constitutional litigation over educational financing, the difficult task for scholars will be to assign relative causal weights to the three factors that I argue here have influence over persistent resource inequalities in education.

I do not claim that this model will apply to other situations of judicial intervention, although it might. The structure of the model depends, in significant part, on the fact that state supreme courts have, almost invariably, granted only declaratory relief instead of injunctive relief for violations of either the state educational or equality constitutional provisions. Declaratory relief simply charges the state legislature with the task of remedying the constitutional violation, rather than compelling compliance

through a court-ordered shutdown of schools—although injunctions have, in numerous situations, been threatened.<sup>41</sup> This agenda-setting function of declaratory relief quite literally places the state legislature at the center of the policy dispute. This, clearly, would not be the case in other forms of judicial efforts at social or political change. Thus the structure of the political battles over school finance equalization stems, in significant measure, from the customary judicial tool used to remedy the constitutional violation of school financing inequities. To this extent, this model may not be generalizable to other policy or political battles that courts may face.

To conclude, my aim here has been to twofold: first, to evaluate the impact of state supreme court decisions that have struck down unequal school financing systems; second, to propose a policy-centered model of judicial capacity that integrates existing research on courts and education and that may account for the significant variation among state political and institutional contexts. The extent to which I have been successful will depend on future examinations into the policy responses of state legislatures to these court decisions, examinations that will have to take into account both public opinion and interest group opposition to equalization. Only when we have these fine-grained accounts of school finance equalization politics will we have a clear understanding of the dynamics of judicial capacity. Only then will judicial scholars fully understand whether the new judicial federalism has spawned a judicial enterprise that judges can control—or whether the new judicial federalism creates a politics that controls judges.

## References

- Abrahamson, Shirley S. (1985) "Criminal Law and State Constitutions: The Emergence of State Constitutional Law," 63 *Texas Law Rev.* 1141–93.
- Banks, Jonathan (1992) "State Constitutional Analyses of Public School Finance Reform Cases: Myth or Methodology?" 45 *Vanderbilt Law Rev.* 129–60.
- Berne, Robert, & Leanna Stiefel (1984) *The Measurement of Equity in School Finance*. Baltimore: Johns Hopkins Univ. Press.
- Bobo, Lawrence (1983) "Whites' Opposition to Busing: Symbolic Racism or Realistic Group Conflict?" 45 *J. of Personality & Social Psychology* 1196–1210.
- Brennan, William J., Jr. (1977) "State Constitutions and the Protection of Individual Rights," 90 *Harvard Law Rev.* 489–504.
- Dahl, Robert A. (1957) "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker," 6 *J. of Public Law* 279–95.
- Dayton, John (1996) "Examining the Efficacy of Judicial Involvement in Public School Funding Reform," 22 *J. of Education Finance* 1–27.

<sup>41</sup> And in New Jersey actually executed. The New Jersey Supreme Court shut down the state's schools for a few days in July 1976, as a pitched battle consumed the state legislature over the funding mechanism for an equalization bill. Because of summer vacation, the shutdown only affected a few special education programs, but the state legislature quickly complied with the court order and enacted a state income tax to fund the equalization plan. See Lehne (1978) for an account of the episode.

- Evans, William N., Sheila E. Murray, & Robert M. Schwab (1997) "Schoolhouses, Courthouses and Statehouses after *Serrano*," 16 *J. of Policy Analysis & Management* 10–31.
- Feeley, Malcolm M. (1992) "Hollow Hopes, Flypaper and Metaphors," 17 *Law & Social Inquiry* 745–60.
- Gardner, James A. (1992) "The Failed Discourse of State Constitutionalism," 90 *Michigan Law Rev.* 761–837.
- Glick, Henry R. (1991) "Policy Making and State Supreme Courts," in J. B. Gates & C. A. Johnson, eds., *The American Courts: A Critical Assessment*. Washington: CQ Press.
- Goertz, Margaret E. (1992) "The Development and Implementation of the Quality Education Act of 1990." New Brunswick, NJ: Consortium for Policy Research in Education, Eagleton Institute of Politics, Rutgers University.
- Harvard Law Review (1991) "Unfulfilled Promises: School Finance Remedies and State Courts," 104 *Harvard Law Rev.* 1072–91.
- Heise, Michael (1995a) "The Effect of Constitutional Litigation on Education Finance: More Preliminary Analyses and Modeling," 21 *J. of Education Finance* 195–216.
- (1995b) "State Constitutional Litigation, Educational Finance and Legal Impact: An Empirical Analysis," 63 *Univ. of Cincinnati Law Rev.* 1735–65.
- Hickrod, G. Alan, Edward R. Hines, Gregory P. Anthony, John A. Dively, & Gwen B. Pruyn (1992) "The Effect of Constitutional Litigation on Education Finance: A Preliminary Analysis," 18 *J. of Education Finance* 180–210.
- Hirth, Marilyn A. (1994) "A Multistate Analysis of School Finance Issues and Equity Trends in Indiana, Illinois, and Michigan, 1982–1992: The Implications for 21st Century School Finance Policies," 20 *J. of Education Finance* 163–90.
- Hochschild, Jennifer L. (1984) *The New American Dilemma*. New Haven, CT: Yale Univ. Press.
- Horowitz, Donald L. (1977) *The Courts and Social Policy*. Washington: Brookings Institution.
- Howard, A. E. Dick (1976) "State Courts and Constitutional Rights in the Day of the Burger Court," 62 *Virginia Law Rev.* 873–944.
- Johnson, Carlyn E., & Robert G. Lehnen (1993) "Reforming Indiana's School Finance Formula, 1973–1990: A Case of Unanticipated Outcomes," 18 *J. of Education Finance* 264–80.
- Johnson, Gary, & M. George Pillainayagam (1991) "A Longitudinal Equity Study of Ohio's School Finance System, 1980–1989," 17 *J. of Educational Finance* 60–82.
- Kehler, David (1992) "The Trenton Tea Party: The Story of New Jersey's Tax Revolt," 60 *Policy Rev.* 46–49.
- Lehne, Richard (1978) *The Quest for Justice*. New York: Longman.
- Levine, Gail F. (1991) "Note: Meeting the Third Wave: Legislative Approaches to Recent Judicial School Finance Rulings," 28 *Harvard J. on Legislation* 507–42.
- Lutz, Donald S. (1996) "Patterns in the Amending of American State Constitutions," in G. A. Tarr, ed., *Constitutional Politics in the States*. Westport, CT: Greenwood Press.
- Marshall, Thomas R. (1989) *Public Opinion and the Supreme Court*. Boston: Unwin Hyman.
- Mayhew, David R. (1974) *Congress: The Electoral Connection*. New Haven, CT: Yale Univ. Press.
- McCann, Michael (1992) "Reform Litigation on Trial," 17 *Law & Social Inquiry* 715–43.
- McCloskey, Robert G. (1960) *The American Supreme Court*. Chicago: Univ. of Chicago Press.



- McUsic, Molly (1991) "The Use of Education Clauses in School Finance Reform Litigation," 28 *Harvard J. on Legislation* 307–40.
- Mintrom, Michael (1993) "Why Efforts to Equalize School Funding Have Failed: Towards a Positive Theory," 46 *Political Research Q.* 847–62.
- Pyat, Graham, Chau-Nan Chen, & John Fei (1980) "The Distribution of Income by Factor Components," 95 *Q.J. of Economics* 451–73.
- Rae, Douglas (1981) *Equalities*. Cambridge: Harvard Univ. Press.
- Reed, Douglas S. (1994) "The People v. The Court: School Finance Reform and the New Jersey Supreme Court," 4 *Cornell J. of Law & Public Policy* 137–98.
- (1995) "Democracy v. Equality: Legal and Political Struggles over School Finance Equalization." Ph.D. diss., Political Science Dept., Yale Univ.
- (1997) "State Constitutionalism and Social Change: The Limits of Countermajoritarianism." Presented at American Political Science Association Annual Conference, 30 Aug., Washington, DC.
- Rosenberg, Gerald N. (1991) *The Hollow Hope*. Chicago: Univ. of Chicago Press.
- (1992) "Hollow Hopes and Other Aspirations: A Reply to Feeley and McCann," 17 *Law & Social Inquiry* 761–78.
- Scheiber, Harry N. (1980) "Federalism and Legal Process: Historical and Contemporary Analysis of the American System," 14 *Law & Society Rev.* 663–722.
- Sears, David O. (1987) "Symbolic Racism," in P. A. Katz & D. A. Taylor, eds., *Eliminating Racism*. New York: Plenum Press.
- Sears, David O., Carl P. Hensler, & Leslie K. Speer (1979) "Whites' Opposition to 'Busing': Self-Interest or Symbolic Politics?" 73 *American Political Science Rev.* 369–84.
- Sites, Jeanette A., & Richard Salmon (1992) "West Virginia's School Finance: A Look at the Past and Present," 17 *J. of Education Finance* 318–36.
- Tarr, G. Alan (1994) "The Past and Future of the New Judicial Federalism," 24 *Publius* 63–79.
- Tarr, G. Alan, & Mary Cornelia Aldis Porter (1988) *State Supreme Courts in State and Nation*. New Haven, CT: Yale Univ. Press.
- Tedin, Kent (1994) "Self-Interest, Symbolic Values and the Financial Equalization of the Public Schools," 56 *J. of Politics* 628–49.
- Thro, William E. (1989) "Note: To Render Them Safe: The Analysis of State Constitutional Provisions in Public School Finance Reform Legislation," 75 *Virginia Law Rev.* 1639–79.
- (1990) "The Third Wave: The Impact of Montana, Kentucky, and Texas Decisions on the Future of Public School Finance Reform Litigation," 19 *J. of Law & Education* 219–50.
- (1994) "Judicial Analysis during the Third Wave of School Finance Litigation: The Massachusetts Decision as a Model," 35 *Boston College Law Rev.* 597–617.
- Verstegen, Deborah, & Richard Salmon (1991) "Assessing Fiscal Equity in Virginia: Cross-Time Comparisons," 16 *J. of Educational Finance* 417–30.
- William, Robert F. (1992) "Foreword: The Importance of an Independent State Constitutional Equality Doctrine in School Finance Cases and Beyond," 24 *Connecticut Law Rev.* 675–702.

## Cases

- Abbott v. Burke, 119 N.J. 287, 575 A.2d 359 (1990) (*Abbott II*).
- Bismarck Public School District #1 v. State, 511 N.W. 2d 247 (1994).
- Blase v. State, 55 Ill. 2d 94, 302 N.E.2d 46 (1973).
- Board of Education v. Walter, 58 Ohio St. 2d 368, 390 N.E.2d 813 (1979).
- Board of Education, Levittown Union Free School District v. Nyquist, 57 N.Y.2d 127, 439 N.E.2d 359 (1982).

- Brigham v. State, 692 A.2d 384 (1997).
- Britt v. North Carolina State Board of Education, 86 N.C. App. 282, 357 S.E.2d 432 *aff'd mem.* 320 N.C. 790, 361 S.E.2d 71 (1987).
- Buse v. Smith, 74 Wisc. 2d 550, 247 N.W.2d 141 (1976).
- City of Pawtucket v. Sundlun, 662 A.2d 40 (1995).
- Claremont School District v. Governor, 138 N.H. 183, 635 A.2d 1375 (1993).
- Coalition for Adequacy and Fairness in School Funding v. Chiles, 680 So. 2d 400 (1996).
- Coalition for Equitable School Funding v. State of Oregon, 311 Ore. 300, 811 P.2d 116 (1991).
- Committee for Educational Rights v. Edgar, 174 Ill. 2d. 1, 672 N.E.2d 1178 (1996).
- Danson v. Casey, 484 Pa. 415, 399 A.2d 360 (1979).
- DeRolph v. State, 78 Ohio St. 3d 193, 677 N.E.2d 733 (1997).
- Dupree v. Alma School District No. 30, 29 Ark. 340, 651 S.W.2d 90 (1983).
- Edgewood Independent School District v. Kirby, 33 Tex. Sup. J. 12, 777 S.W.2d 391 (1989) (*Edgewood I*).
- Fair School Finance Council of Oklahoma v. State, 746 P.2d 1135 (1987).
- Helena Elementary School District No. One v. State, 769 P.2d 684 (1989).
- Hornbeck v. Somerset County Board of Education, 295 Md. 597, 458 A.2d 758 (1983).
- Horton v. Meskill, 172 Conn. 615, 376 A.2d 359 (1977) (*Horton I*).
- Horton v. Meskill, 195 Conn. 24, 486 A.2d 1099 (1985) (*Horton III*).
- Idaho Schools for Equal Educational Opportunity v. Idaho State Board of Education, 128 Idaho 276, 912 P.2d 644 (1996).
- Ex parte James, 1997 Ala. LEXIS 16 (1997).
- Knowles v. State Board of Education, 219 Kan. 271, 547 P.2d 699 (1976).
- Kukor v. Grover, 148 Wisc. 2d 469, 436 N.W.2d 568 (1989).
- Leandro v. State, 346 N.C. 336, 488 S.E.2d 249 (1997).
- Lujan v. Colorado State Board of Education, 649 P.2d 1005 (1982).
- McDaniel v. Thomas, 248 Ga. 632, 285 S.E.2d 156 (1982).
- McDuffy v. Secretary of the Executive Office of Education, 415 Mass. 545, 615 N.E.2d 516 (1993).
- Milliken v. Green, 390 Mich. 389, 212 N.W.2d 711 (1973).
- Northshore School District No. 417 v. Kinnear, 84 Wash. 2d 685, 530 P.2d 178 (1974).
- Olsen v. State *ex rel.* Johnson, 276 Ore. 9, 554 P.2d 139 (1976).
- Pauley v. Kelly, 162 W.Va. 672, 255 S.E.2d 859 (1979).
- Richland County v. Campbell, 294 S.C. 346, 364 S.E.2d 470 (1988).
- Robinson v. Cahill, 62 N.J. 473, 303 A.2d 273 (1973) (*Robinson I*).
- Roosevelt Elementary School District No. 66 v. Bishop, 179 Ariz. 233, 877 P.2d 806 (1994).
- Rose v. Council for Better Education, 790 S.W. 2d 186 (1989).
- San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
- School Administrative District No. 1 v. Commissioner, Dept. of Education, 659 A.2d 854 (1995).
- Seattle School District No. 1 v. State of Washington, 90 Wash. 2d 476, 585 P.2d 71 (1978).
- Serrano v. Priest, 5 Cal. 3d 584, 487 P.2d 1241 (1971) (*Serrano I*).
- Serrano v. Priest, 18 Cal. 3d 728, 557 P.2d 929 (1976) (*Serrano II*).
- Shofstall v. Hollins, 110 Ariz. 88, 515 P.2d 590 (1973).
- Skeen v. State, 505 N.W.2d 299 (1993).
- State *ex rel.* Woodahl v. Straub, 161 Mont. 141, 520 P.2d 776 (1974).
- Tennessee Small School Systems v. McWherter, 851 S.W.2d 139 (1993).
- Thompson v. Engelking, 96 Idaho 793, 537 P.2d 635 (1975).
- Washakie County School District No. One v. Herschler, 606 P.2d 310 (1980).



## Appendix

### State Supreme Court Rulings Regarding Equity and/or Adequacy of School Funding

#### In Favor of Greater Equity and/or Adequacy of School Funding

- California: *Serrano v. Priest* (1971) (*Serrano I*); *Serrano v. Priest* (1976) (*Serrano II*). *Serrano I* was based on federal grounds held to be invalid under *Rodriguez*. *Serrano II* is based on state constitutional provisions.
- New Jersey: *Robinson v. Cahill* (1973) (*Robinson I*); *Abbott v. Burke* (1990) (*Abbott II*).
- Montana: *State ex rel. Woodahl v. Straub* (1974); *Helena Elementary School District No. One v. State* (1989). *State ex rel. Woodahl* found that a modest equalization scheme was constitutional; *Helena* found the existing scheme unconstitutional.
- Kansas: *Knowles v. State Board of Education* (1976). Supreme Court decision did not rule on merits; ruled that dismissal based on mootness was improper, remanded for further proceedings.
- Connecticut: *Horton v. Meskill* (1977) (*Horton I*); *Horton v. Meskill* (1985) (*Horton III*). School finance plaintiffs won in *Horton I*, but *Horton III* imposed a more demanding burden of proof for plaintiffs' claim concerning the adequacy of reform.
- Washington: *Northshore School District No. 417 v. Kinnear* (1974); *Seattle School District No. 1 v. State* (1978). *Northshore* did not rule in favor of greater equity; *Seattle School District No. 1* overturned much of *Northshore*.
- West Virginia: *Pauley v. Kelly* (1979).
- Wyoming: *Washakie County School District No. One v. Herschler* (1980).
- Arkansas: *Dupree v. Alma School District No. 30* (1983).
- Kentucky: *Rose v. Council for Better Education* (1989).
- Texas: *Edgewood Independent School District v. Kirby* (1989) (*Edgewood I*).
- Tennessee: *Tennessee Small School Systems v. McWhorter* (1993).
- Massachusetts: *McDuffy v. Secretary of the Executive Office of Education* (1993).
- New Hampshire: *Claremont School District v. Governor* (1993).
- Arizona: *Roosevelt Elementary School District No. 66 v. Bishop* (1994).
- Idaho: *Idaho Schools for Equal Educational Opportunity v. Idaho State Board of Education* (1996).
- Alabama: *Ex parte James* (1997).
- Vermont: *Brigham v. State* (1997).
- Ohio: *DeRolph v. State* (1997).
- North Carolina: *Leandro v. State* (1997).

#### Against Greater Equity and/or Adequacy of School Funding

- Illinois: *Blase v. State* (1973); *Committee for Educational Rights v. Edgar* (1996).
- Arizona: *Shofstall v. Hollins* (1973).
- Michigan: *Milliken v. Green* (1973).
- Idaho: *Thompson v. Engelking* (1975).
- Oregon: *Olsen v. State ex rel. Johnson* (1976); *Coalition for Equitable School Funding v. State* (1991).
- Wisconsin: *Buse v. Smith* (1976); *Kukor v. Grover* (1989). *Buse* declared unconstitutional a highly progressive funding mechanism that redistributed tax revenues across districts. The suit was brought by districts that had to pay the tax. *Kukor* held constitutional a moderately egalitarian funding mechanism that plaintiffs felt did not provide sufficient revenues for inner-city districts.
- Pennsylvania: *Danson v. Casey* (1979).
- Ohio: *Board of Education v. Walter* (1979).

Georgia: *McDaniel v. Thomas* (1982).

New York: *Board of Education, Levittown Union Free School District v. Nyquist* (1982).

Colorado: *Lujan v. Colorado State Board of Education* (1982).

Maryland: *Hornbeck v. Somerset County Board of Education* (1983).

Oklahoma: *Fair School Finance Council of Oklahoma v. State* (1987).

North Carolina: *Britt v. North Carolina State Board of Education* (1987).

South Carolina: *Richard County v. Campbell* (1988).

Minnesota: *Skeen v. State* (1993).

North Dakota: *Bismarck Public School District #1 v. State* (1994).

Maine: *School Administrative District No. 1 v. Commissioner* (1995).

Rhode Island: *City of Pawtucket v. Sundlun* (1995).

Florida: *Coalition for Adequacy and Fairness in School Funding v. Chiles* (1996).