

URBAN LEGENDS, DESEGREGATION AND SCHOOL FINANCE: DID KANSAS CITY REALLY PROVE THAT MONEY DOESN'T MATTER?

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ABSTRACT

This article examines whether conservative critics are correct in their assertion that the Kansas City, Missouri School District (KCMSD) desegregation plan clearly establishes that no correlation exists between funding and academic outcomes. The first section provides a summary of public education in the KCMSD prior to 1977, the beginning of the *Missouri v. Jenkins* school desegregation litigation. The second and third sections analyze whether the *Jenkins* desegregation and concurrent school finance litigation (*Committee for Educational Equality v. State*) addressed these problems. The fourth section provides an overview of school finance litigation and explains how the KCMSD desegregation plan has been cited as proof by conservatives that no correlation exists between educational outcomes and academic performance. The final section uses national and state level data on school funding and student outcomes to determine whether their assertions are correct.

TABLE OF CONTENTS

Introduction		2
Section I:	Overview of Education in the KCMSD prior to <i>Missouri v. Jenkins</i> and <i>Committee for Educational Equality</i>	5
A.	Lay of the Land	5
B.	Population Trends	7
C.	School Finance Formulas and Organizational Structures	9
D.	Pre- <i>Jenkins</i> Attempts to Desegregate	11
E.	Calls for Consolidation	13
Section II:	<i>Missouri v. Jenkins</i>	15
A.	1977-1984	15
B.	District Court Remedial Orders (1985-88)	17
C.	Supreme Court Decision (1990)	20
D.	Supreme Court Decision (1995)	21
E.	Settlement Decree (1997-98)	23
F.	March to Unitary Status (1999-2003)	26

Section III:	<i>Committee for Educational Equality v. State</i>	28
A.	Trial Court Opinion	28
B.	Outstanding Schools Act	30
C.	Summary of <i>Jenkins</i> and <i>Committee for Educational Equality</i>	33
Section IV:	Implications of the KCMSD Saga for School Finance Litigation	34
A.	Overview of School Finance Litigation	34
B.	The KCMSD Desegregation Plan as Proof That “Money Doesn’t Matter”	37
Section V:	Empirical Evaluation of the Conservative Critique	39
A.	Premise #1: Did the KCMSD Receive More Money Than Other School Districts Over and Extended Period?	40
B.	Premise #2: Did the State of Missouri Cover a Disproportionate Share of the Costs of the Desegregation Plan?	47
C.	Premise #3: Was the KCMSD a Largely Inefficient School District?	53
D.	Summarizing the Empirical Critique	61
Conclusions		63

INTRODUCTION

Since the late 1960s, plaintiffs have challenged the legality of school finance formulas in 45 states.¹ A number of courts that have invalidated their school finance systems have found that a correlation exists between educational funding and academic outcomes. For example, in *Montoy v. State*, a Kansas trial court observed:

In defense, Defendants simply argue “money doesn’t matter.” Without regard to the constitutional mandate that there be adequate funds for a suitable education and that those funds be equitably divided, the defense seems to say: there is no correlation between spending and student learning, so what’s all the fuss.

“Money doesn’t matter?” That dog won’t hunt in Dodge City!²

Conservative critics have countered that a school desegregation case, *Missouri v. Jenkins*, proves that no such correlation exists. In this case, a federal district court held that the state of Missouri

¹ ACCESS, *Litigation*, at <http://www.schoolfunding.info/litigation/litigation.php3> (visited Feb. 20, 2006).

² *Montoy v. State*, 2003 WL 22902963, at *40 (Kan. Dist. Ct. Dec. 2, 2003). See Section IV-A for a discussion of other cases that have found a correlation between funding and outcomes.

and the Kansas City, Missouri School District (KCMSD) had operated a *de jure* segregated school system in violation of the Fourteenth Amendment.³ A *Wall Street Journal* editorial explained the application of the *Jenkins* case to school finance litigation in the following manner:

Over the past two decades, courts in more than 30 states have intervened in education policy and ordered billions of dollars spent on schools in the name of boosting student performance and ensuring equitable financing. The result has been an avalanche of new spending on inner city and rural schools, but, alas, not much measurable achievement by the kids who were supposed to be helped.

In one of the most notorious cases, in Kansas City, Missouri in the 1980s, a judge issued an edict requiring a \$1 billion tax hike to help the failing inner-city schools. This raised expenditures to about \$14,000 per student, or double the national average, but test cores continued to decline. Even the judge later admitted that he had blundered.⁴

Robert Hardaway in an editorial published in the *Denver Business Journal* characterizes the KCMSD desegregation case in similar tones:

The fact is that money is not, and never has been, the key to educational quality. In 1985 a federal judge in Kansas City, frustrated by the failure of court-mandated busing to integrate the public schools, ordered the creation of “magnet” schools. Tax increases of as much as 50 percent were ordered, and \$1 billion was raised to increase teacher salaries and build lavish facilities, including, according to *Time* magazine, “a new planetarium, an art gallery, television studios, therapeutic whirlpools and an Olympic-sized swimming pool with an underwater alcove so that coaches [could] film a diver’s technique.” The predictable result? Test scores declined, and racial discrimination intensified when minority students seeking admission to the magnet school were cruelly denied on grounds that their skin was the wrong color. Outraged African-American parents later filed a complaint.⁵

³ *Jenkins v. Missouri*, 593 F. Supp. 1485 (W.D.Mo. 1984).

⁴ *Texas School Lesson*, WALL STREET JOURNAL, Nov. 29, 2005, at A18.

⁵ Robert Hardaway, *Pouring Even More Money into Education the Wrong Approach for the United States*, DENVER BUSINESS JOURNAL, Apr. 18, 1997, at <http://www.bizjournals.com/denver/stories/1997/04/21/editorial4.html> (visited Feb. 28, 2006). See also Lil Tuttle, *Paying Private Prep School Prices for Public Schools*, Claire Boothe Lee Policy Institute, at <http://www.cblpolicyinstitute.org/privatepublic.htm> (visited Feb. 22, 2006) (“The *higher spending/higher achievement theory* was put to its ultimate test in 1985 when a federal court ordered a complete overhaul of Kansas City’s public schools.”); Bob Caudle, *Judges Make Poor Headmasters*, THE MORNING NEWS, Nov. 6, 2005, at http://www.nwaonline.net/articles/2005/06/09/columns/bob_caudle/87bcaudle.prt (visited Feb. 22, 2006); (“Arkansans should take a lesson from what happened to the Kansas City School district when a federal judge intervened to ‘help’ the district with its teaching duties.”); Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Cascade Policy Institute, at http://www.cascadepolicy.org/pdf/edref/I_118.pdf (visited Feb. 22, 2006) (“The Kansas City (Missouri) School District provides the perfect illustration of the inefficacy of increasing resources to improve academic and social

This article examines the KCMSD desegregation plan to determine whether it actually establishes that no correlation exists between funding and academic outcomes. The first section provides a summary of public education in the KCMSD. Specifically, we identify the organizational and funding problems that had a negative impact on the school district prior to 1977, the beginning of the *Jenkins* litigation. The second and third sections analyze whether the *Jenkins* desegregation and concurrent school finance litigation (*Committee for Educational Equality v. State*) addressed these problems.

The fourth section provides an overview of school finance litigation and explains how the KCMSD desegregation plan has been cited as proof by conservatives that no correlation exists between educational outcomes and academic performance. We explain that conservatives have based their critique on three premises: (1) the KCMSD received more money than other school districts over an extended period ; (2) the state of Missouri covered a disproportionate share of the costs of the desegregation plan, to the detriment of school districts throughout the rest of the state; and (3) the exorbitant spending on KCMSD was largely inefficient, leading to no improvement in educational outcomes. The final section uses national and state level data on school funding and student outcomes to determine whether these premises are correct.

outcomes.”); *Executive Alert (July/August 1998)*, National Center for Policy Analysis, at <http://www.ncpa.org/sub/ea/1998/ea98d.pdf> (visited Feb. 22, 2006) (“Kansas City, Mo., spent the past 12 years developing the best public school system money can buy,...on the premise that this would improve the education of black students in the district...But the results are dismal); Ron Goldfarb, *It Is Not the Money*, Parents & Schools Special Report, May 2000, at http://bcn.boulder.co.us/univ_school/psnews/pss0500.htm (visited Feb. 23, 2006) (“Blanket statements that you can fix public education by throwing money at it...remind me of the Kansas City, Missouri, school district.”); Anna B. Duff, *Missouri School Board Gets Tough*, INVESTOR’S BUSINESS DAILY, Oct. 28, 1999, at <http://www.nancypappas.com/Articles/School%20Construction/School%20Bond%20Construction/Two%20Billion%20Failed%20To%20Improve%20Schools%20In%20Missouri.htm> (visited Feb. 23, 2006) “Those who argue that what schools need in order to improve is more money may want to take a look at what happened in Kansas City, Mo., after an extra \$2 billion was lavished on its school district over the past 15 years.”); Outraged African-American parents later filed a complaint.”); *The Cash Street Kids: Kansas City, Missouri Public School Performance Lags*, 328 THE ECONOMIST 23 (1993), at <http://proquest.umi.com/pqdweb?did=371074&sid=3&Fmt=3&clientId=9874&RQT=309&VName=PQD> (visited Feb. 22, 2006) (The KCMSD desegregation plan “clearly underlines the lack of any simple relationship between spending more money and getting better results.”)

SECTION I: OVERVIEW OF EDUCATION IN THE KCMSD PRIOR TO *MISSOURI V. JENKINS* AND *COMMITTEE FOR EDUCATIONAL EQUALITY*

A. Lay of the Land

The KCMSD is carved out of the two-state metropolitan area. Figure 1 provides a geographic view of the Missouri side of the Kansas City metropolitan area, using demographic data, county, place and school district boundary data from the 2000 U.S. Census. The city of Kansas City, Missouri is concentrated in two counties north and south of the Missouri river, with the center city and downtown areas concentrated in Jackson County, south of the river. In the area south of the river, several school districts are carved partly and in some cases entirely out of the city limits. Those districts include the KCMSD, Center School District, Raytown (partially), Grandview (partially), Hickman Mills and Lee's Summit (overlapping a small corner of the city). The KCMSD also overlaps a portion of the city of Independence (Northeast corner of KCMSD). As can be seen in the right hand panel of Figure 1 and in Figure 2, zip codes in the core of Kansas City, Missouri are predominantly black (over 90%) and remain clearly bounded to the west and somewhat to the south and east by the formal boundaries of residential segregation.

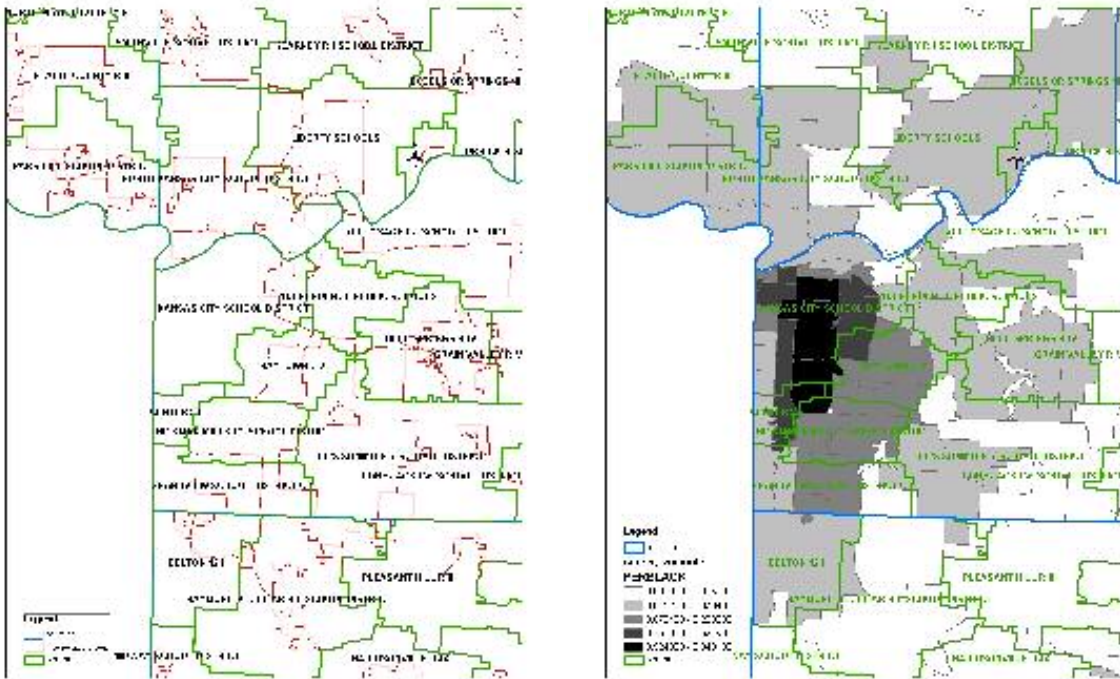
Figure 1 and Figure 2 do not include Kansas zip codes adjacent to the west of Kansas City and Center school districts which were in the 1960s and remain today the most segregated – white only – zip codes in the metropolitan area (in some cases less than ½ of 1% black).

Figure 1

School Districts in the Kansas City Metropolitan Area

School Districts & Incorporated Places

School Districts & % Black by Zip Code



In 2000, the KCMSD remained approximately 70% black, while the resident population within the KCMSD boundaries is only about 42% black (2000 U.S. Census). Figure 2 shows that the neighborhoods along the Kansas border, home to the original country club and shopping district, range from 2% to 17% black residents.

Table 1 summarizes the racial and economic characteristics of major public school districts in the Kansas City metropolitan area. Contiguous districts are noted with a Y. Note that while white students and families did not migrate into the KCMSD, minority families have, over the past three decades, migrated into neighboring districts Center, Hickman Mills and Raytown. The geographic barrier that separates North Kansas City has been much less penetrable. Even less penetrable is the state/county line that separates Johnson County, Kansas (Shawnee Mission, Blue Valley, Olathe).

Table 1
Characteristics of Districts Adjacent to KCMSD (1990 to 2000)

District	State	County	Contig. KCMSD	Average Daily Membership	Median Household Income	Median Housing Unit	% Black	% Hispanic	% Subsidized Lunch
Center	MO	JK	Y	2,676	\$33,455	\$81,794	39.3%	2.2%	24.5%
Hickman Mills	MO	JK	Y	7,304	\$36,570	\$64,629	51.1%	1.8%	23.1%
Independence	MO	JK	Y	11,299	\$34,257	\$71,153	3.1%	2.5%	19.3%
North Kansas City	MO	CL	Y	16,506	\$40,589	\$83,144	3.2%	2.5%	13.3%
Raytown	MO	JK	Y	8,349	\$37,264	\$72,651	18.2%	1.9%	13.8%
Kansas City Missouri	MO	JK	Y	36,645	\$25,363	\$50,174	69.4%	5.5%	52.3%
Lee's Summit	MO	JK		12,769	\$59,671	\$129,400	3.3%	1.4%	6.1%
Blue Springs	MO	JK		12,409	\$56,409	\$115,700	3.8%	2.1%	4.9%
Grandview	MO	JK		4,341	\$38,972	\$81,209	32.2%	2.1%	22.9%
Liberty School District	MO	CL		5,295	\$47,727	\$103,560	3.7%	1.4%	9.1%
Kansas City Kansas	KS	WY	Y	21,743	\$26,850	\$43,750	52.2%	10.9%	55.0%
Shawnee Mission	KS	JO	Y	31,334	\$48,376	\$114,699	3.4%	2.8%	7.8%
Blue Valley	KS	JO		12,648	\$78,615	\$196,611	1.7%	1.0%	1.3%
Olathe	KS	JO		17,072	\$53,105	\$117,201	4.4%	2.1%	8.1%
Piper	KS	WY		1,239	\$57,316	\$104,698	4.2%	3.3%	4.9%
Turner	KS	WY		3,958	\$35,362	\$55,052	9.2%	7.4%	30.5%

Data Source: National Center for Education Statistics, Common Core of Data, Fiscal-Nonfiscal Longitudinal File

B. Population Trends

Many black families moved to Kansas City during the later nineteenth and early twentieth centuries from rural areas because of the educational opportunities provided by the city.⁶ In 1869, the Kansas City school board opened Lincoln School for black elementary

⁶ SHERRY L. SCHIRMER, A CITY DIVIDED: THE RACIAL LANDSCAPE OF KANSAS CITY, 1900-1960 31 (2002). A major reason for this phenomenon was that state constitutional provisions and legislation discouraged the provision of education for blacks in rural areas. 5 RICHARD S. KIRKENDALL, A HISTORY OF MISSOURI: 1919 TO 1953 (1986); GERALD W. HEANEY & SUSAN UCHITELLE, UNENDING STRUGGLE: THE LONG ROAD TO AN EQUAL EDUCATION IN ST. LOUIS 59 (2004); W. Sherman Savage, *Legal Provisions for Negro Schools in Missouri from 1865 to 1890*, 16 J. OF NEGRO HIST. 309, 320 (1931). In 1865, the state legislature required school boards to establish one or more schools for blacks when there were 20 or more black students within the school district. Henry S. Williams, *The Development of the Negro Public School System in Missouri*, 5 J. OF NEGRO HIST. 137, 138 (1920). If the averaged dropped below 12, then the school could be closed for up to six months. *Id.* In 1883, the legislature reduced the requisite number to 15. Savage, *Legal Provisions for Negro Schools in Missouri from 1865 to 1890*, *supra* note 6, at 316. The law further stated that if the attendance of black students fell below 10, the school could be closed for up to six months. *Id.* at 318. In 1889, the legislature made it a crime for black and white children to be educated in the same schools. *Id.* at 319. This statute was enacted to prevent school districts with small black populations from operating integrated schools in violation of the 1875 constitutional provision mandating separate schools for whites and blacks. HEANEY & UCHITELLE, *supra* note 6, at 58. These laws effectively prevented rural black children from obtaining an education because they lived in districts with very small black populations. Savage, *Legal Provisions for Negro Schools in Missouri from 1865 to 1890*, *supra* note 6, at 320.

students.⁷ Between 1880 and 1889, the district opened five more black elementary schools and converted Lincoln into a secondary school in 1887.⁸ In 1885, two-thirds of the city's black children were enrolled in its schools, as compared to less than one-half of the city's white children.⁹ Two decades later, the percentage of black children who attended city schools had shrunk to a little more than half, but that percentage still exceeded that of white students who were enrolled.¹⁰ By 1940, 12 of the more than 60 schools in the segregated KCMSD served black students.¹¹

The black population that was moving into the city was low-income and poorly educated, while the white population that was moving to the suburbs was better-educated and wealthier.¹² In 1959, the median income for suburban residents was \$6,828 compared to \$5,906 for the central city.¹³ The median income for Central City's non-white residents was \$4,001.¹⁴

The state legislature subsequently enacted a variety of legislation designed to increase the educational opportunities for black children. For instance, in 1897, the state legislature authorized districts with a population of less than 25 black children to join in order to secure enough children to have a school. W. Sherman Savage, *Legal Provisions for Negro Schools in Missouri from 1890 to 1935*, 22 J. OF NEGRO HIST. 335, 338 (1937). In 1907, the legislature permitted any district with less than 25 black children could send them to some other district if it did not wish to maintain a separate school. *Id.* In 1921, county and district boards were forced to pay the tuition to any community where a black school was located. *Id.* at 340. In 1929, the obligatory level of black children for the operation of school was lowered to eight. *Id.* at 341. However, these legislative amendments failed to significantly increase the educational opportunities offered to rural black children. *Id.*

⁷ SCHIRMER, *supra* note 6, at 32.

⁸ *Id.*

⁹ *Id.* at 31.

¹⁰ *Id.* at 32.

¹¹ Peter W. Moran, *What's In a Name: Issues of Race, Gender, Culture, and Power in the Naming of Public School Buildings in Kansas City, Missouri, 1940-1995*, 35 PLAN. & CHANGING 129, 130 (2004). There was evidence that the black schools in the KCMSD were not equal to white schools. In 1898, the pupil-teacher ratio for black schools was 65:1, or one-quarter higher than the ratio in schools for whites. SCHIRMER, *supra* note 6, at 32. In 1952, the Missouri Supreme Court in *State ex rel. Hobby v. Disman*, 250 S.W.2d 137 (Mo. 1952) denied a writ of mandamus to compel the transfer of black students from a black elementary school to white schools in the area due to the lack of equal educational facilities at the black school. Although the court noted that the black elementary school lacked an auditorium and a cafeteria steam table and had a small playground and separate buildings, *Id.* at 139-40, it ruled that these shortcomings did not violate the Equal Protection Clause because the black school's facilities were "substantially equal" to those provided to white students. *Id.* at 141.

¹² CLIFFORD HOOKER & VAN D. MUELLER, EQUAL TREATMENT TO EQUALS: A NEW STRUCTURE FOR PUBLIC SCHOOLS IN THE KANSAS CITY AND ST. LOUIS METROPOLITAN AREAS 21 (1969) (ERIC Document Reproduction No. ED 042 233).

¹³ *Id.* at 24.

¹⁴ *Id.*

According to the 1960 U.S. Census, 20.2% of the families living in the suburbs had incomes over \$10,000, while 10.0% had incomes below \$3,000.¹⁵ In contrast, 4.1% of the central city non-white families had incomes over \$10,000, while 36.5% had incomes below \$3,000.¹⁶ According to data from 1965 individual income returns, 23.2% of the white families living in the Kansas City metropolitan area had income levels below \$3,000.¹⁷ The percentage of non-white families living below the \$3,000 income level was 51.7%.¹⁸ Furthermore, 86.7% of non-white families lived in poverty areas.¹⁹ According to the 1960 U.S. Census, 53.4% of the Kansas City suburbanites had completed high school as compared to 16.7% of central city non-whites.²⁰

C. School Finance Formulas and Organizational Structures

Missouri's school finance system during the period before *Jenkins* relied heavily on local property taxation to fund public schools.²¹ In 1955, voters through a special referendum partially addressed the need for increased educational funding by approving a Foundation Program and a cigarette tax to fund it.²² School funds distributed through this program were divided into three categories: equalization, flat grant, and teacher allowance.²³ To qualify for the first two categories, school districts were required to levy a one dollar school tax and operate their schools for 180 days with adequate attendance.²⁴ The equalization program guaranteed poor school districts \$130 per pupil and made up any differences between the local tax levy and that

¹⁵ *Id.* at 23.

¹⁶ *Id.*

¹⁷ *Id.* at 23.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 24.

²¹ *Id.* at 28.

²² EDWIN J. BENTON, A HISTORY OF PUBLIC EDUCATION IN MISSOURI, 1760-1964 101-02 (Ph.D. diss., St. Louis University, 1965).

²³ *Id.* at 102.

²⁴ *Id.*

amount.²⁵ The flat grant payments came to \$102 per pupil in average daily attendance.²⁶ The school finance formula also included a teacher daily allotment, which was based on the college preparation of teachers. While this allotment placed pressure on school districts to hire better qualified teachers, it also advantaged those districts that already employed more highly qualified teachers.²⁷

During the period prior to the *Jenkins* litigation, the KCMSD received more funding from the state's school finance system than most school districts. Our analyses of available data indicated that in 1968, the KCMSD was generating about \$554 in local tax revenue per pupil and spending about \$802 per pupil. The KCMSD's expenditures per pupil in average daily attendance were second highest in the state in 1968 among the relatively small sample of 32 districts reporting, behind only one small rural district, and ahead of the two Kansas City metro area suburban districts reporting (Liberty & Clay County).²⁸

Ironically, the KCMSD's high standing may have been partly due to the strategically planned racial segregation within the city. During the first half of the 20th century, several high value residential and commercial properties had been developed within the city's and school district's boundaries, including a posh shopping center and an elite country club. These areas of

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ U.S. DEPARTMENT OF EDUCATION. NATIONAL CENTER FOR EDUCATION STATISTICS, ELEMENTARY AND SECONDARY GENERAL INFORMATION SYSTEM (ELSEGIS): PUBLIC ELEMENTARY-SECONDARY SCHOOL SYSTEMS FINANCES 1967-68 (1968). Our analysis appears to contradict a 1969 report commissioned by the state legislature that advocated the consolidation of the KCMSD with the surrounding suburbs. According to this report, in 1962, the suburbs had more than twice the resources (\$126.33) available than Central City (\$54.40). HOOKER & MUELLER, *supra* note 12, at 27. This report also asserted that in 1966, a direct relationship existed in the Kansas City metropolitan area between taxable wealth and per-pupil expenditures. *Id.* It may have been possible that the 1969 report may have adopted the incorrect assumption that the Kansas City metropolitan area consisted of an underfunded core surrounded by more affluent and affluent white suburbs. Unlike many eastern states at the time, Kansas City's own boundaries were relatively sprawling and suburban growth had yet to fully take off, with the exception of development across the state line.

the city remained almost entirely white, but the presence of these areas within the school district boundaries provided some strength to the school district's property wealth base.

Unfortunately for the KCMSD, these areas of the city are immediately adjacent to the state line with Kansas, where, through the 1940s, 1950s, and 1960s, state, local and county officials were more complicit to continued racially restricted real estate development. Further, ample land was available in Kansas. The next wave of stately mansions would be built on the Kansas side of the state line, and eventually the racially restricted country club would be moved as well.

It is also important to note that even though the KCMSD had more money available to it than the surrounding suburbs, there was evidence that the state's funding system may have been insufficient to meet the needs of the KCMSD's growing poor, black population. Because of white flight, a declining tax base, and rising costs of public services, Kansas City had grown increasingly dependent on federal funding to operate its schools.²⁹ According to Peter Moran, federal funds never constituted more than 2% of the KCMSD's operating budget until 1966.³⁰ Two years later, the district received \$4.2 million from Elementary and Secondary Education Act (ESEA) grants, or nearly 10% of the KCMSD's operating budget.³¹

D. *Pre-Jenkins Attempts to Desegregate*

After the Supreme Court held in *Brown v. Board of Education*³² that *de jure* segregation of public schools was unconstitutional, the KCMSD school board ordered the superintendent and

²⁹ Peter W. Moran, *Too Little, Too Late: The Illusive Goal of School Desegregation in Kansas City, Missouri, and the Role of the Federal Government*, 107 TCHRS. C. REC. 1933, 1940 (2005).

³⁰ *Id.*

³¹ *Id.* at 1941.

³² 347 U.S. 483 (1954).

the district's research department to design a desegregation plan for the KCMSD.³³ The transitional plan consisted of black and white attendance zones in which black and white students attended the school closest to them. The plan also contained a transfer policy that enabled students to transfer between schools.³⁴

The transitional plan failed to desegregate the KCMSD.³⁵ One reason for the failure of the plan was that the KCMSD liberally granted student transfers.³⁶ The transfer policy became the primary means by which students avoided desegregation.³⁷ Another reason for this failure was that the attendance zones drawn by the school district tended to reflect the prevailing patterns of residential segregation.³⁸ Although it became clear by the mid-1960s that the transitional plan was failing to bring about desegregation, the KCMSD refused to modify the transfer policy or implement strategies designed to bring about desegregation, such as clustering schools, implementing busing, creating magnet schools, or building schools on sites designed to maximize integration.³⁹ Consequently, by the mid-1970s, Kansas City was no longer in compliance with constitutional standards of desegregation.⁴⁰

The U.S. Department of Health, Education, and Welfare (HEW) managed to convince the KCMSD to make changes in its desegregation plan through a "carrot and stick" approach.⁴¹ In exchange for federal resources, in the 1970s the Office for Civil Rights (OCR) and the HEW convinced the KCSMD to make several changes to its schools to achieve more desegregation. Among other things, the KCMSD changed its transfer policy from a vehicle for evading

³³ *Moran, supra* note 29, at 1935.

³⁴ *Id.*

³⁵ *Id.* at 1937.

³⁶ *Id.* at 1935.

³⁷ *Id.*

³⁸ *Id.* at 1936.

³⁹ *Id.* at 1936-40.

⁴⁰ *Id.* at 1940.

⁴¹ *Id.*

integration to a tool that could promote integration.⁴² The KCMSD also abandoned its neighborhood policy, while incorporating a desegregation plan that included school clusters and busing.⁴³ Finally, through negotiations with OCR, the KCMSD implemented a magnet school program to attract white students.⁴⁴

Unfortunately, HEW and OCR became involved too late to achieve desegregation in the KCMSD. In 1960, there were more than 51,000 white students in the KCMSD, constituting 72% of the district's enrollment.⁴⁵ By the mid-1970s, when the HEW and OCR began to pressure the district to increase its efforts to obtain desegregation, there were fewer than 20,000 white students in the KCMSD, or one-third of the school population.⁴⁶ Thus, it became apparent that only a desegregation plan that included the surrounding suburbs would desegregate the KCMSD.⁴⁷

E. *Calls for Consolidation*

Beginning in the mid-1960s, policy makers discussed the possibility of incorporating parts of the surrounding suburbs into the KCMSD.⁴⁸ In 1967, KCMSD Superintendent James Hazlett suggested that a metropolitan approach to education and integration should be contemplated. Suburban school administrators rejected Hazlett's overtures.⁴⁹ In 1968, a commission appointed by the state legislature recommended that the school districts of the Kansas City area be consolidated.⁵⁰ According to the commission, the primary problem with

⁴² *Id.* at 1949.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 1950.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ PETER W. MORAN, RACE, LAW AND PUBLIC SCHOOL DESEGREGATION 160 (2005).

⁴⁹ *Id.*

⁵⁰ *Id.*

Missouri's organizational system was that taxable wealth and educational needs were unevenly distributed throughout the state.⁵¹ Students in metropolitan areas were harmed because of the high concentrations of disadvantaged persons in the cities.⁵²

In 1969, the commission issued a report that set out a strategy for consolidating the KCMSD and St. Louis with the surrounding suburbs.⁵³ Its plan called for a "regional board of education with limited responsibilities and local boards of education to perform most of the traditional functions of a school board."⁵⁴ The regional board would have the responsibility for levying a uniform education tax throughout the region and distributing such money to the local boards.⁵⁵ The commission also proposed an organizational scheme that clustered urban and suburban school districts.⁵⁶ The state legislature refused to adopt the suggestions of the commission because many rural committees were committed to resist further attempts to consolidate,⁵⁷ and suburbanites objected to attempts to consolidate their schools with urban schools on local control grounds.⁵⁸

⁵¹ *Id.* at 160-61.

⁵² *Id.* at 161.

⁵³ HOOKER & MUELLER, *supra* note 12.

⁵⁴ *Id.* at 49.

⁵⁵ *Id.*

⁵⁶ *Id.* at 51.

⁵⁷ MORAN, *supra* note 48, at 162. In 1913, there were more than 10,000 districts in Missouri; more than 1,000 were rural school districts with less than 10 students. KIRKENDALL, *supra* note 6, at 100. In 1947, the state legislature passed a school reorganization law that radically reduced the number of school districts within the state. The law required each board in 1949 to propose a reorganization plan for the school districts in the county. The law also required the board to repeat the process if voters rejected the first plan. To encourage consolidation, the state also provided funds for new construction. By 1954, the state's number of school districts had been reduced from nearly 8,500 before the passage of the law to around 4,000. *Id.* at 328. There are presently 524 school districts in Missouri. Missouri Department of Elementary and Secondary Education, *Missouri School Improvement Program*, at <http://dese.mo.gov/divimprove/sia/msip/msip%20overview.htm> (visited Mar. 11, 2006).

⁵⁸ MORAN, *supra* note 48, at 162.

SECTION II: *MISSOURI V. JENKINS*

In the previous section, we outlined the conditions in the KCMSD that led to the *Jenkins* and *Committee for Educational Equality* cases and examined whether these cases addressed the school district's needs. Our review of the educational history of the KCMSD up until the commencement of the *Jenkins* litigation shows that district organizational policies worked together with the school finance system to create a situation in which the KCMSD may not have adequate resources to meet the needs of its student body. School desegregation efforts before the *Jenkins* litigation neither increased resources for the KCMSD nor resulted in an alteration of school district boundaries. Moreover, state officials ignored suggestions to consolidate the Kansas City metropolitan with the surrounding suburbs. In this section we analyze whether *Jenkins* addressed these organization and funding problems.

A. 1977-1984

In March 1977, the KCMSD, the superintendent, members of the school board, and the children of school board members brought suit against the state governments of Kansas and Missouri, 18 school districts on both sides of the state line, and the federal departments of Health, Education and Welfare (HEW), Housing and Urban Development (HUD), and the Department of Transportation (DOT).⁵⁹ The plaintiffs alleged that *de jure* segregation in both Kansas and Missouri had helped to create the concentration of black residents in the KCMSD.⁶⁰ In October 1978, Western District Court of Missouri Judge Russell Clark dismissed all of the Kansas defendants and realigned the KCMSD as a defendant.⁶¹

⁵⁹ *Id.*

⁶⁰ *Id.* at 164.

⁶¹ *Id.* at 169-70.

In 1979, a new plaintiff group consisting of eight school age children from the Kansas City area, represented by attorney Arthur Benson, filed an amended complaint alleging that the Kansas City public schools were unconstitutionally segregated.⁶² The state of Missouri, 13 suburban school districts surrounding the KCMSD, the KCMSD, and the federal departments of HEW, HUD, and DOT were named as defendants. The KCMSD then brought a cross-claim against the state on the ground that it had failed to dismantle its previous dual system.⁶³

In 1984, Judge Clark dismissed the suburban school districts and federal agencies, but held that the KCMSD and the state had operated a *de jure* segregated school district.⁶⁴ Clark also declared that “much of the cost for preparing and implementing a plan to dismantle the vestiges of a dual system in the KCMSD should be borne by the state” because the state had the “primary responsibility for insuring that the public education systems in the State comport with the United States Constitution.”⁶⁵

Plaintiffs’ attorney Arthur Benson originally hoped to bring about a restructuring of the Kansas City-metropolitan area through the opening left in *Milliken v. Bradley (Milliken I)*⁶⁶ permitting interdistrict remedies where plaintiffs could establish racially discriminatory intent on the part of suburban districts.⁶⁷ When Clark ruled that the state had committed *de jure* segregation in his 1984 opinion, Benson assumed that the verdict implied a finding of metropolitan-wide discrimination.⁶⁸ Benson then drafted a plan that would have consolidated the KCMSD with the surrounding 11 suburban school districts. Judge Clark struck down this plan

⁶² *Id.* at 175.

⁶³ 593 F. Supp. 1485.

⁶⁴ *Id.*

⁶⁵ *Id.* at 1506.

⁶⁶ 418 U.S. 717 (1974).

⁶⁷ *An Ordinary Case with an Extraordinary Remedy*, Miller Center for Public Affairs, University of Virginia, at http://64.233.179.104/u/MCPA?q=cache:rxCFX6zaCZcJ:millercenter.virginia.edu/programs/apd/past_fellows/2000/dunn_chapter.pdf+%22missouri+v.+jenkins%22&hl=en&gl=us&ct=clnk&cd=1&ie=UTF-8 (visited Feb. 6, 2006).

⁶⁸ *Id.*

because he lacked the authority under *Milliken I* to order the restructuring of school districts where no constitutional violation had occurred.⁶⁹ As the judge explained, “because of restrictions on this Court’s remedial powers in restructuring the operations of local and state government entities, that portion of the KCMUSD plan which would require the consolidation of eleven suburban school districts with the KCMUSD goes far beyond the nature and extent of the constitutional violation this Court found existed.”⁷⁰

B. District Court Remedial Orders (1985-88)

In June 1985, Judge Clark issued his first remedial order.⁷¹ He found that “[s]egregation has caused a system wide *reduction* in student achievement in the schools of the KCMUSD.”⁷² Judge Clark then ordered a variety of remedial programs, pursuant to the Supreme Court’s 1977 *Milliken v. Bradley* decision (*Milliken II*), which authorized federal district courts to impose remedial programs designed to remedies caused by racial discrimination.⁷³ He then ordered a wide range of educational programming designed to increase student achievement. Among other things, Clark held that the KCMUSD be restored to AAA status, which was the highest level of accreditation granted by the state department of education.⁷⁴ Clark also ordered that class sizes be reduced to “remedy the vestiges of past discrimination, by increasing individual attention and instruction, as well as increasing the potential for desegregation educational experiences for KCMUSD students by maintaining and attracting non-minority enrollment.”⁷⁵ Clark further ordered the adoption of summer school, full-day kindergarten, before and after school tutoring,

⁶⁹ *Jenkins v. Missouri*, 807 F.2d 657, 698 (8th Cir. 1986) (summarizing district court’s January 1985 order).

⁷⁰ *Id.*

⁷¹ *Jenkins v. Missouri*, 639 F. Supp. 19 (W.D.Mo. 1985).

⁷² *Id.* at 24 (emphasis supplied by the court).

⁷³ 433 U.S. 267 (1977).

⁷⁴ *Jenkins*, 639 F. Supp. at 26.

⁷⁵ *Id.* at 29.

and early childhood development programs.⁷⁶ Moreover, Clark directed the state to fund an effective schools program for all of the schools within the KCMSD and the adoption of an extensive capital improvements program.⁷⁷

Although Clark acknowledged that his 1984 opinion had declared that the state had the primary responsibility for bearing the costs for implementing the desegregation plan, he observed that the KCMSD should also bear some of the financial burden.⁷⁸ The KCMSD's operating levy at the time of the June 1985 order was \$3.75 per \$100 assessed valuation. However, a rollback statute called for the districts' operating levy to be reduced to \$3.26, and a statewide reassessment would further reduce the \$3.26 levy. Consequently, the KCMSD was \$3 million short of the revenue to pay for the levy and the district's only unallocated funds were an \$850,000 to \$1million contingency fund.⁷⁹ Clark ordered that the rollback be enjoined for one year to enable the state to raise an addition \$4 million and to provide the KCMSD the opportunity to submit a tax levy increase at the next regularly scheduled school election.⁸⁰ In subsequent decisions, Clark would increase the district's levy to \$4.96.⁸¹

In 1987, Clark concluded that the KCMSD did not have sufficient resources to fund its share of the remedy.⁸² He imposed a 1.5% increase as surcharge on the state income tax on residents and nonresidents of the KCMSD, including business associations, partnerships, and corporations for work performed in the KCMSD.⁸³ This surcharge would remain in effect until

⁷⁶ *Id.* at 30-33.

⁷⁷ *Id.* at 33-34, 39-41.

⁷⁸ *Id.* at 43.

⁷⁹ *Id.* at 44.

⁸⁰ *Id.* at 45.

⁸¹ *Jenkins v. Missouri*, 1992 WL 551568 (W.D.Mo. Jun. 25, 1992) (authorizing the KCMSD to maintain its property tax levy at a rate of \$4.96 per \$100 assessed valuation for the 1992-93 school year); *Jenkins v. Missouri*, 1993 WL 546576 (W.D.Mo. Jun. 30, 1993) (authorizing the KCMSD to maintain its property tax levy at a rate of \$4.96 per \$100 assessed valuation for the 1993-94, 1994-95, and 1995-96 school years).

⁸² *Jenkins v. Missouri*, 672 F. Supp. 400, 411 (W.D.Mo. 1987).

⁸³ *Id.* at 412.

the bonds were retired on until other provisions were implemented that would ensure their requirement.⁸⁴ Clark also ordered the KCMSD to increase its property tax levy from \$2.05 to \$4.00 per \$100 assessed valuation through the 1991-92 school year.⁸⁵ Further, he directed the KCMSD to issue capital improvement bonds totaling \$150 million, which would be retired within 20 years of the date issued.⁸⁶

On appeal, the Eighth Circuit upheld the scope of the capital improvement and the imposition of a property tax increase, but held that the income tax surcharge was unconstitutional.⁸⁷ With regard to the property tax increase, the court expressed its belief that the district court decision was within the scope of its remedial power.⁸⁸ The court also noted that state law could not hamper a court from remedying a constitutional violation.⁸⁹ However, the Eighth Circuit cautioned Judge Clark to pay more deference “to the views of state and local officials and to the working of local tax collection procedures to the extent that they appear compatible with the goals to be achieved.”⁹⁰ The appropriate method for determining the KCMSD’s funding obligation was for the district court to “authorize the school board to submit a proposed levy to the collection authorities adequate to fund its budget, including its share of the cost of the desegregation programs ordered by the district court,” and to enjoin county and state officials that would reduce the levy below the amount set by the board.⁹¹

The Eighth Circuit declared the income tax surcharge unconstitutional because the district court exceeded its remedial authority.⁹² While Judge Clark was authorized to set aside

⁸⁴ *Id.* at 413.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Jenkins v. Missouri*, 855 F.2d 1295 (8th Cir. 1988).

⁸⁸ *Id.* at 1311.

⁸⁹ *Id.* at 1313.

⁹⁰ *Id.* at 1314.

⁹¹ *Id.*

⁹² *Id.* at 1315.

restrictions imposed by state law that hindered it from dismantling a dual educational system, he was not empowered to restructure the tax system.⁹³ Thus, the income tax surcharge exceeded the district court's authority because the tax "restructure[d] the State's scheme of scheme of school financing and create[d] an entirely new form of taxing authority."⁹⁴

C. *Supreme Court Decision (1990)*

The U.S. Supreme Court granted the state's certiorari petition.⁹⁵ The Court held that the property tax increase imposed by the district court exceeded its authority in imposing the tax increase itself, and that the Eighth Circuit should have reversed the district court in this regard.⁹⁶ The Court noted that "[i]n assuming for itself the fundamental and delicate power of taxation the district court not only intruded on local authority but circumvented it altogether."⁹⁷ Before taking on this task, Judge Clark should have determined whether less intrusive options were available.⁹⁸ The Supreme Court rejected the district court's conclusion that it had no choice but to impose the tax increase because the Eighth Circuit had presented a viable option. That is, Clark could have authorized the KCMSD to impose property taxes at a rate sufficient to fund the remedy and could have enjoined the operation of state laws that would have prevented the school district from exercising such power.⁹⁹

The Supreme Court dismissed the state's claim that Article III and the Tenth Amendment barred the federal judiciary from directing a local governmental entity to levy taxes necessary to comply with the desegregation decree. The Court found that the Tenth Amendment was not

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Missouri v. Jenkins*, 495 U.S. 33 (1990).

⁹⁶ *Id.* at 52.

⁹⁷ *Id.* at 51.

⁹⁸ *Id.*

⁹⁹ *Id.*

implicated when a federal court was remedying a state violation of the Fourteenth Amendment. This was the case because the Fourteenth Amendment was designed to curtail state conduct that violated the Constitution.¹⁰⁰ With respect to Article III, the Court observed that a court order ordering a local governmental body to levy its own taxes was within the scope of a federal court's power.¹⁰¹

D. *Supreme Court Decision (1995)*

The Supreme Court again ruled on the Kansas City desegregation litigation in 1995. This challenged revolved around two components of the district court's remedial order. The first component required the state to finance salary increases for the KCMSD instructional and non-instructional staff. The state asserted that funding for salaries went beyond the district court's remedial authority.¹⁰² The second component required the state to continue financing quality educational programs for the 1992-93 school year. The state asserted that such funding was prohibited by *Freeman v. Pitts*¹⁰³ because the state had achieved partial unitary status with respect to the state's quality programming.¹⁰⁴

Judge Clark rejected the state's arguments. He held that the salary increases were necessary to improve educational opportunities and to reduce racial isolation.¹⁰⁵ He also held that to eliminate the vestiges of past discrimination, it was necessary to improve the "desegregative attractiveness" of the KCMSD.¹⁰⁶ Although Clark did not address the state's claim that it no longer had to provide funding for quality education because it had achieved

¹⁰⁰ *Id.* at 55.

¹⁰¹ *Id.*

¹⁰² *Jenkins*, 515 U.S. at 80.

¹⁰³ 503 U.S. 467 (1992).

¹⁰⁴ *Jenkins*, 515 U.S. at 80.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

unitary status with respect to this issue, he nonetheless ordered the state to continue providing funding for quality programs.¹⁰⁷

The Eighth Circuit upheld the holding of the district court.¹⁰⁸ It rejected the state's claim that the salary increases were not directly related to a state constitutional violation. In reaching this conclusion, the court noted that the remedy was not only designed to compensate victims of the KCMSD's discriminatory practices, but was also designed to reverse white flight by providing superior educational opportunities.¹⁰⁹ The court also rejected the state's assertion that it had achieved unitary status with respect to quality programming because the KCMSD was still below national norms at a number of grade levels.¹¹⁰

The Supreme Court reversed the Eighth Circuit's holding that the state must fund salary increases and quality education programs exceeded the court's remedial authority and remanded the case back to the district court.¹¹¹ The Court found that the district court's decree violated the *Milliken* decisions because it "created a magnet district of the KCMSD in order to serve the *interdistrict* goal of attracting nonminority students from the [surrounding school districts] and redistributing them within the KCMSD."¹¹²

The Court also ruled that Judge Clark's order requiring the state to continue funding quality educational programming because student achievement levels was below national norms could not be sustained.¹¹³ The Court noted that the basic chore of the district court was to determine whether the reduction in achievement in minority students caused by the KCMSD's

¹⁰⁷ *Id.* at 80-81.

¹⁰⁸ *Jenkins v. Missouri*, 11 F.3d 755 (8th Cir. 1993).

¹⁰⁹ *Id.* at 767.

¹¹⁰ *Id.* at 761-62.

¹¹¹ *Jenkins*, 515 U.S. at 94.

¹¹² *Id.* (emphasis supplied by the Court).

¹¹³ *Id.* at 100.

prior *de jure* discrimination was eliminated to the extent practicable.¹¹⁴ However, Judge Clark had failed to determine the effect that segregation had on the performance of minority students.¹¹⁵ Moreover, the Court explained that many of the goals of quality education programs had been achieved. Specifically, the Court explained that the KCMSD had achieved AAA accreditation status and that students who had attended schools that had not received such status had received remedial programming for up to seven years.¹¹⁶ Finally, the Court reminded Judge Clark to “bear in mind that its end purpose is not only ‘to remedy the violation’ to the extent practicable, but also ‘to restore state and local authorities to the control of a school system that is operating in compliance with the Constitution.’ ”¹¹⁷

E. *Settlement Decree (1997-98)*

Energized by its victory before the Supreme Court, the state moved in April 1996 for a declaration of unitary status.¹¹⁸ In May 1996, the state and the KCMSD entered into an agreement whereby the state would be dismissed from the case once it had paid \$320 million in desegregation funds to the KCMSD over a three-year period, with the court’s approval.¹¹⁹ The termination agreement would have kept in place the court-ordered KCMSD tax levy, which had been raised to \$4.96 per \$100 in assessed value.¹²⁰ In March 1997, Judge Clark approved the agreement, but refused to grant the KCMSD’s request to extend court supervision until alternative funding sources were guaranteed. He held that the district court did not have the

¹¹⁴ *Id.* at 101.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 102.

¹¹⁷ *Id.* (quoting Freeman, 503 U.S., at 489).

¹¹⁸ Jenkins v. Missouri, 959 F. Supp. 1151, 1154 (W.D. Mo. 1997).

¹¹⁹ *Id.*

¹²⁰ *Id.* at 1154.

power to impose the levy in order to avoid “fiscal chaos.”¹²¹ Judge Clark also rejected the argument that “financial vestige” was a remaining vestige of prior discrimination.¹²² Essentially, the KCMSD argued that the actions of the state created an atmosphere that made it impossible for the district to raise funds necessary to operate its schools.¹²³ Clark rejected this argument because it was the duty of the KCMSD and the state to ensure that the district had adequate funding.¹²⁴

During the transitional period, Clark ordered the KCMSD to reduce the achievement gap between black and white students by 2.6 normalized curve equivalents (NCE’s) because “13% of the initial gap and 13% of the increase in the gap may be traced to the prior discrimination within the KCMSD.”¹²⁵ He also ordered the district to modify its budget process “so that actual expenditures may be reconciled with the budgeted amounts for each line item by department.”¹²⁶ Clark found that the state had not achieved unitary status with regard to racial balance, but held that the state had achieved unitary status with respect to extracurricular activities.¹²⁷

Judge Clark’s 1997 opinion is notable for his reflections regarding the successes and failures of the desegregation decree. He observed that “the Court remains quite proud of the innovations it ordered,” and that “[a] large amount of the money spent in the District has indeed resulted in tangible benefits.”¹²⁸ These benefits included “new and renovated schools, an increased number of computers, higher technology available to all students, and intervention

¹²¹ *Id.* at 1162.

¹²² *Id.* at 1169.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.* at 1179.

¹²⁶ *Id.*

¹²⁷ *Id.* at 1165-68. The Eighth Circuit affirmed Judge Clark’s ruling on appeal. *Jenkins v. Missouri*, 122 F.3d 588 (8th Cir. 1997).

¹²⁸ *Jenkins*, 959 F. Supp. at 1173.

programs to help impoverished children.”¹²⁹ Despite the strides made by the district during the *Jenkins* litigation, Clark acknowledged that the performance of the KCMSD was inadequate in many areas.¹³⁰ Among other things, he cited the lack of a comprehensive instructional program, on-going administrative instability, the lack of a security plan, and the lack of a budgeting plan.¹³¹ He was also troubled by the fact that only five elementary schools, one middle school, and one high school achieved or surpassed the statewide average on the Missouri Mastery and Achievement Tests (MMAT).¹³²

Judge Clark concluded that these deficiencies were not caused by a lack in educational resources. In fact, he asserted that “the KCMSD has an operating budget that *far exceeds* the budgets of other school districts.”¹³³ Clark was also troubled by the “size and inefficiencies of the KCMSD’s administration.”¹³⁴ Because he was concerned that the KCMSD was not up to the task of getting its financial affairs in order during the transitional period,¹³⁵ he appealed to the state educational commissioner and the state department of education to over the KCMSD through its transitional phase.¹³⁶ If they declined his request, then Clark would seek the department’s help in finding a Special Master to manage the KCMSD.¹³⁷

The KCMSD appealed Judge Clark’s holding that it was not the district court’s duty to guarantee funding for the district and that there was no financial vestige of prior discrimination.¹³⁸ After the appeal was argued, Missouri voters adopted a constitutional

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.* at 1173-74.

¹³² *Id.* at 1173.

¹³³ *Id.* at 1174 (emphasis supplied by the court). We analyze whether the KCMSD was such a high-spending district in Section V.

¹³⁴ *Id.* at 1177. We analyze whether the KCMSD was an inefficient system in Section V.

¹³⁵ *Id.* at 1178.

¹³⁶ *Id.* at 1179.

¹³⁷ *Id.*

¹³⁸ *Jenkins v. Missouri*, 158 F.3d 984 (8th Cir. 1998).

amendment that authorized school boards whose operating levy for 1995 was set by court order to set subsequent tax rates at any levy below the 1995 rate, which was \$4.96 for the KCMSD.¹³⁹ Additionally, the state legislature enacted Senate Bill 781 after argument on appeal, which set the operating levy for the KCMSD at \$4.95. This legislation was contingent upon settlement of the St. Louis case on or before March 15, 1999.¹⁴⁰ The Eighth Circuit dismissed the appeal because it was now possible for the KCMSD to fund school construction projects. Thus, the case was not ripe for review.¹⁴¹

F. *March to Unitary Status (1999-2003)*

After the March 1997 order, Judge Clark excused himself from the *Jenkins* litigation.¹⁴² The case was then reassigned to Judge Dean Whipple.¹⁴³ True to Clark's predictions, many of the chronic problems facing the district endured.¹⁴⁴ In October 1999, the state department of education unanimously voted to designate the KCSMD as unaccredited.¹⁴⁵ State officials found that the district satisfied none of the 11 state performance standards for accreditation, including general academic achievement, reading achievement, scores on college entrance exams, attendance, and dropout rates.¹⁴⁶ Judge Whipple found that the state department of education's curriculum standards were consistent with the district court's desegregation decree because they both encouraged the district to take steps to improve academic achievement.¹⁴⁷ Whipple also found that the board's decision to designate the KCMSD as unaccredited could help the district

¹³⁹ MO. CONST. art. X, § 11(g).

¹⁴⁰ S. Bill 781, 89th General Assembly (Mo. 1998).

¹⁴¹ *Jenkins*, 158 F.3d at 986.

¹⁴² MORAN, *supra* note 48, at 272.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Jenkins v. School Dist. of Kan. City, Mo.*, 73 F. Supp. 2d 1058, 1059 (W.D. Mo. 1999).

¹⁴⁶ *Id.* at 1067-68.

¹⁴⁷ *Id.* at 1076.

achieve the goals of the desegregation order by holding it accountable for its educational failures.¹⁴⁸ Moreover, Whipple rejected the KCMSD’s assertion that the board’s removal of accreditation status would make it virtually impossible for the district to comply with its desegregation order. “While the negative consequences of an unaccredited designation, both direct and indirect, may indeed be real,” Whipple observed that teachers and students may more likely leave the KCMSD because of the “realization that the KCMSD is not, in fact, providing the education needed.”¹⁴⁹

Judge Whipple also held *sua sponte* that the KCMSD had achieved unitary status and dismissed pending litigation.¹⁵⁰ Whipple acted in this manner because the district had made considerable progress toward eliminating the vestiges of prior segregation to the extent practicable and because the state’s accreditation standards would force the KCMSD to take the necessary steps to improve educational outcomes.¹⁵¹ Additionally, Whipple dismissed the suit because the KCMSD was providing an equal education to its students, regardless of race.¹⁵² On this point, Whipple cautioned that the U.S. Constitution does not set educational standards; thus, “it is incumbent on this Court to ensure that the Fourteenth Amendment not become so corrupted as to guarantee educational standards that it was not meant to ensure.”¹⁵³ The Eighth Circuit reversed Whipple’s *sua sponte* ruling stating that the KCMSD had attained unitary status and releasing the district from further court supervision because the parties were entitled to a notice and a hearing before the district court dismissed the case.¹⁵⁴

¹⁴⁸ *Id.* at 1077.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 1079.

¹⁵¹ *Id.* at 1080.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Jenkins v. Missouri*, 216 F.3d 720, 727 (8th Cir. 2000).

On March 2001, Judge Whipple held a unitary status hearing on the KCMSD's motion for partial unitary status.¹⁵⁵ On March 2002, Whipple held that the district had achieved unitary status with regard to racial balance, facilities, budget and transportation.¹⁵⁶ On March 2003, Judge Whipple granted the KCMSD's motion for unitary status because the district had reduced the achievement gap by the amount required by Judge Clark in his 1997 decision and because the district had in good faith complied with the district court's orders for a reasonable time.¹⁵⁷

SECTION III: *COMMITTEE FOR EDUCATIONAL EQUALITY V. STATE*

The *Committee for Educational Equality* case began in 1990, when plaintiffs filed a lawsuit alleging that the state's school finance system violated the state constitution.¹⁵⁸ The plaintiffs consisted of a non-profit group representing poor rural and urban school districts. The St. Louis and Kansas City School districts joined the case as intervenor-plaintiffs and four affluent districts joined as intervenor-defendants.¹⁵⁹ This section provides a summary of the trial court opinion, discusses the state legislature's response (The Outstanding Schools Act), and provides a brief summary of key points from the *Jenkins* and *Committee for Educational Equality* cases.

A. Trial Court Opinion

In January 1993, a state trial court held that the school finance system violated the state equal protection clause because "the wealth of the local community is the primary and

¹⁵⁵ *Jenkins v. School Dist. of Kan. City, Mo.*, No. 77-0420-CV-W-DW, slip op. at 4 (W.D. Mo. Aug. 13, 2003).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at 29-30.

¹⁵⁸ Access, *Litigation: Missouri*, at http://www.schoolfunding.info/states/mo/lit_mo.php3 (visited Feb. 22, 2006).

¹⁵⁹ *Id.*

predominant determinant of the quality of a child’s education in Missouri.”¹⁶⁰ In reaching this conclusion, the court noted that “[a] high and *very* significant correlation exists among *all* school districts between state and local revenues per pupil and equalized assessed valuation of property per pupil.”¹⁶¹ The court found that an even higher correlation existed “between the statutorily determined measure of local fiscal capacity” and “state and local revenues per pupil.”¹⁶² These funding inequalities between rich and poor school districts could not be justified “by asserting that the poor have brought the plight upon themselves by putting forth low local fiscal effort to support the public schools” because the data clearly demonstrated that such disparities were caused by local wealth, rather than choice.¹⁶³

Moreover, the court held that the school finance system violated the education clause because it failed to provide adequate funding to meet the educational needs of their students.¹⁶⁴ The state’s failure to fund education existed in spite of the fact that the state had the capacity to fund education. Missouri ranked 49th among states in terms of current expenditures for public schools as a percent of personal income.¹⁶⁵ In fact, in order to raise current per-pupil expenditures to the national average in 1989-90 of \$4,975, an additional \$957 million in funding would be necessary.¹⁶⁶

The court neither ordered the redistribution of educational funding nor instructed the state legislature as to how it could satisfy its constitutional duty. The court stayed the judgment until

¹⁶⁰ Committee for Educ. Equal. v. State, No. CV190-1371CC, slip op. at 12 (Cir. Ct. Cole County Jan. 15, 1993).

¹⁶¹ *Id.* (emphasis supplied by the court).

¹⁶² *Id.*

¹⁶³ *Id.* at 20.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 21.

¹⁶⁶ *Id.*

90 days after the next regular session to give the legislature the chance to enact a school finance system that was in compliance with the state constitution.¹⁶⁷

B. *Outstanding Schools Act*

In response to the trial court decision, the legislature in 1993 enacted the Outstanding Schools Act, which, among other things, increased matching aid levels, encouraged all districts to raise their property tax levies, and modestly altered other features of the school finance formula.¹⁶⁸ Like its predecessor, the formula provided school districts with a guaranteed tax base, but raised the minimum local property tax rate without voter referendum from \$1.25 to \$2.75 for every \$100 of assessed value.¹⁶⁹ Matching aid ratios were determined by the ratio of each district's taxable assessed property value per pupil compared to the state guaranteed assessed valuation per pupil, and included an income multiplier (district income factor) to drive more matching aid to lower income districts.¹⁷⁰ If a district's own assessed value per pupil is

¹⁶⁷ *Id.* at 33. The Missouri Supreme Court dismissed the defendants' appeal because the trial court opinion was not a final, appealable judgment. *Committee for Educ. Equal. v. State*, 878 S.W.2d 446, 454 (Mo.banc 1994).

¹⁶⁸ MO. REV. STAT. § 160.500 -- 160.538, 160.545, 160.550, 161.099, 161.610, 162.203, 162.1010, 163.023, 166.275, 166.300, 170.254, 173.750, 178.585, 178.698 (West 2005). The act "includes provisions relating to reduced class size, the A+ schools program, funding for parents as teachers and early childhood development, teacher training, the upgrading of vocational and technical education, measures to promote accountability and other provisions of those sections." *Id.* § 160.500(1).

The trial court held that the Outstanding School Act rendered all of the original claims made in *Committee for Educational Equality* moot, except for a state constitutional provision requiring that at least 25% of state revenues be applied to education. *Committee for Educ. Equal. v. State*, 967 S.W.2d 62, 63 (Mo. banc 1998). On that matter, the trial court held that the state had allocated more than the mandated minimum amount and found for the defendants. On appeal, the plaintiffs claimed that funds received from the federal government should be considered state revenue pursuant to the 25% funding provision of the state constitution. *Id.* The state supreme court rejected this assertion, noting that "[i]t is no longer the case, if indeed, it ever was, that 'state revenue' merely means all monies deposited in the state treasury." *Id.* at 64.

¹⁶⁹ MO. REV. STAT. § 163.031(1). In 1980, Missouri voters adopted an amendment to the state constitution, known as the "Hancock Amendment," which required voter approval of any increase above the local property tax rate in effect when the provision was adopted on November 1980. MO. CONST. art. X, § 22(a). In 1998, the state constitution was amended to permit school boards to set their property tax rates at \$2.75 or less without voter approval. MO. CONST. art. X, § 11(b). In *Thompson v. Hunter*, 119 S.W.3d 95 (Mo.banc. 2003), the Missouri Supreme Court held that these two provisions could be reconciled, and thus the levy imposed by section 11(b) was not subject to the Hancock Amendment.

¹⁷⁰ MO. REV. STAT. § 163.031(1).

approximately 50% of the state guarantee, that district would receive in state aid, \$1 for each dollar raised from local property income. School districts also received additional funding for several categories, including special education students and students eligible for free and reduced lunch.¹⁷¹

This would mean that in a year where the state guaranteed wealth was \$150,000, the minimum attainable state and local revenue per pupil without voter referendum would be \$4,125. For a district with 50% of the guaranteed wealth, \$2,062 would be raised from local taxes and \$2,062 would be provided in state aid. If that district had 20% children qualifying for free and reduced lunch, the district would be guaranteed a minimum of approximately \$4,290 per child. If that same district had lower than average income, state aid per pupil would be adjusted slightly upward. In short, increased numbers of children in poverty and lower income levels increase the matching rate of state aid.¹⁷²

At the time of the passage of the Outstanding Schools Act, the KCMSD did not operate under the \$2.75 minimum, but was instead operating under the \$4.96 levy imposed by Judge Clark.¹⁷³ The KCMSD continued to operate under the court-imposed levy after the passage of the act, meaning that the act did little to change the financial circumstances of KCMSD.¹⁷⁴ As noted earlier, the state legislature adopted Senate Bill 781, which set tax rate for the KCMSD at \$4.95. That is, the state chose to meet its state constitutional obligation by allowing local boards

¹⁷¹ *Id.* § 163.031(3).

¹⁷² Nonetheless, R. Craig Wood and Associates, in a 2003 Report to Missouri Legislators, found that funding levels remained highly associated with district property wealth and income and almost entirely associated with local property tax rates. R. CRAIG WOOD ET AL., FINANCING MISSOURI'S PUBLIC ELEMENTARY AND SECONDARY SCHOOLS: FINAL REPORT (2003).

¹⁷³ *Jenkins v. Missouri*, 1992 WL 551568 (W.D.Mo. Jun. 25, 1992) (authorizing the KCMSD to maintain its property tax levy at a rate of \$4.96 per \$100 assessed valuation for the 1992-93 school year).

¹⁷⁴ *Jenkins v. Missouri*, 1993 WL 546576 (W.D.Mo. Jun. 30, 1993) (authorizing the KCMSD to maintain its property tax levy at a rate of \$4.96 per \$100 assessed valuation for the 1993-94, 1994-95, and 1995-96 school years).

of education to access a \$2.75 tax rate to generate “adequate” funding, but required that KCMSD levy a \$4.95 tax rate to generate “adequate” funding.

In 2005 the Missouri legislature adopted a more complete overhaul of the school finance formula, which will ultimately guarantee a foundation level of funding at \$6,117 per pupil (on a 7-year phase-in), and include increased student need weights for children in poverty and limited English proficient children. The plan is to be partially supported by increasing local tax levies to \$3.43, from \$2.75. Still, KCMSD is assumed to generate its higher “adequate” level of financing with a \$4.95 rate.¹⁷⁵

The legislature’s decision to continue to codify KCMSD’s court-imposed tax levy for its school finance formula directly contradicts the approach that many states take with regard to high-need school districts. By the late 1980s and early 1990s, many states had already moved away from tax rate driven, matching aid formulas. Such formulas typically set a base level of funding and apply a series of need weightings to specific student populations to generate for each district, a need adjusted basic level of funding. Then, each district levies a state required tax rate, and the state fills the gap between the funds raised locally from the required property tax rate and the need adjusted basic level of funding.¹⁷⁶ Under such a model, had the KCMSD’s need been estimated at 40 to 50% above the basic level, it would have been the state’s obligation to fill this gap. While SB 287 adopts such a structure, actual student need adjustments in the formula are insufficient for driving adequate funds to KCMSD, St. Louis City or other poor urban fringe

¹⁷⁵ *Id.* § 163.011. The Committee for Educational Equality has challenged the new school finance formula on the ground that it exacerbates the constitutional deficiencies of the school finance system. Missouri School Boards' Association, *School Districts File Updated Lawsuit Challenging State Funding (11/28/2005)*, News and Events, at <http://www.msbanet.org/news/news.asp?ID=281> (visited Feb. 17, 2006).

¹⁷⁶ Bruce D. Baker & William D. Duncombe, *Balancing District Needs and Student Needs: The Role of Economies of Scale Adjustments and Pupil Need Weights in School Finance Formulas*, 29 J. OF EDUC. FIN. 97 (2004).

districts. As such, funding generated in these districts at only the \$3.43 levy will be insufficient. These inadequacies will be only partially offset by KCMSD's mandated higher rate.

C. *Summary of Jenkins and Committee for Educational Equality*

Our analysis of the *Jenkins* litigation reveals that Judge Clark attempted to enforce remedies on the KCMSD and the state of Missouri within his power under federal court precedents – most notably *Milliken I* and *Milliken II*. He refused to redraw district boundaries. Instead, he imposed a high property tax on the KCMSD that would, under the state's existing school finance formula, generate sufficient state and local revenues. Also, the state legislature responded to the KCMSD's concerns about funding after it had achieved unitary status by continuing to impose local property taxes at the level set by Judge Clark.

The state legislature responded to the *Committee for Educational Equality* litigation by accepting the state court's decree that educational equity and adequacy across schools in the state were primarily state legislative responsibilities, *except* in the case of the KCMSD, where the legislature left in place the higher taxes that it had imposed to settle the *Jenkins* case. As we have observed, the state legislature's requirement that the KCMSD assume such a high tax burden for funding an adequate education directly contradicted the funding approach that a number of states have adopted with respect to their high-need districts.

SECTION IV: IMPLICATIONS OF THE KCMSD SAGA FOR SCHOOL FINANCE LITIGATION

A number of conservatives have used the KCMSD experience as proof that no correlation exists between funding and educational outcomes.¹⁷⁷ In this section, we provide an overview of school finance litigation and discuss how several courts have accepted the premise that such a correlation exists.

A. Overview of School Finance Litigation

Scholars have divided school finance litigation into three “waves” in which one legal approach has predominated.¹⁷⁸ During the first wave, which lasted from the late 1960s to 1973, plaintiffs claimed that funding disparities between rich and poor school districts violated the Equal Protection Clause. In 1973, the Supreme Court ended the first wave in *San Antonio Independent School District v. Rodriguez* by holding that Texas’ reliance on local property taxation was permissible under the Equal Protection Clause.¹⁷⁹ The Court ruled that strict scrutiny was inapplicable because wealth was not a suspect classification¹⁸⁰ and education was not a fundamental right.¹⁸¹ Applying rational basis analysis, the Court held that the use of local property taxation was rationally related to the goal of encouraging local control of the public schools.¹⁸²

¹⁷⁷ See note 5 for citations.

¹⁷⁸ See Kent K. Anker, *Differences and Dialogue: School Finance in New York State*, 24 N.Y. U. REV. OF L. & SOC. CHANGE 345; Peter Enrich, *Leaving Equality Behind: New Directions in School Finance Reform*, 48 VAND. L. REV. 101 (1995); Preston C. Green, III & Bruce D. Baker, *Circumventing Rodriguez: Can Plaintiffs Use the Equal Protection Clause to Challenge School Finance Disparities Caused by Inequitable State Distribution Policies?*, 7 TEX. F. ON C.L. & C.R. 141 (2002); Michael Heise, *State Constitutions, School Finance Litigation, and the “Third Wave,”* 68 TEMP. L. REV. 1151 (1995).

¹⁷⁹ 411 U.S. 1 (1973).

¹⁸⁰ *Id.* at 29.

¹⁸¹ *Id.* at 37.

¹⁸² *Id.* at 49-50.

In the second wave of school finance litigation, which lasted from 1973 to 1989, plaintiffs asserted that funding disparities between rich and poor school districts violated state equal protection and education clauses. This approach had limited success: six state supreme courts invalidated their school finance formulas,¹⁸³ while 13 declared their formulas constitutional.¹⁸⁴ A major reason for this limited success was the local control doctrine. During the second wave, ten state supreme courts used the rational basis test to analyze state constitutional challenges to local property taxation. Nine of these courts held that local taxation was rationally related to the purpose of maintaining local control.¹⁸⁵

In the current wave, which began in 1989, plaintiffs have primarily asserted that school finance systems are preventing states from providing poor school districts with an adequate education as defined by state education clauses. The seminal third wave case is *Rose v. Council for Better Education, Inc.*, a case in which the Kentucky Supreme Court invalidated the state's entire educational system failed to provide students with an adequate education as required by its education clause.¹⁸⁶ In many successful third wave adequacy cases, courts have adopted

¹⁸³ These states are as follows: (1) Arkansas, *Dupree v. Alma Sch. Dist. No. 30 of Crawford County*, 651 S.W.2d 90 (Ark. 1983); (2) California, *Serrano v. Priest*, 557 P.2d 929 (1976); (3) Connecticut, *Horton v. Meskill*, 376 A.2d 359 (Conn. 1977); (4) New Jersey, *Robinson v. Cahill*, 303 A.2d 273 (N.J. 1973); (5) Washington, *Seattle School Dist. No. 1 of King County v. State*, 585 P.2d 71 (Wash. 1978); and (6) Wyoming, *Washakie County Sch. Dist. v. Herschler*, 606 P.2d 310 (Wyo. 1980). It is important to note that the *Robinson* and *Seattle School District No. 1* cases were decided on adequacy instead of equity grounds.

¹⁸⁴ These states are as follows: (1) Arizona, *Shofstall v. Hollins*, 515 P.2d 590 (Ariz. 1973); (2) Colorado, *Lujan v. Colo. St. Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982); (3) Georgia, *McDaniel v. Thomas*, 285 S.E.2d 156 (Ga. 1982); (4) Idaho, *Thompson v. Engelking*, 537 P.2d 635 (Idaho 1975); (5) Maryland, *Hornbeck v. Somerset County Bd. of Educ.*, 458 A.2d 758 (Md. 1983); (6) Michigan, *Milliken v. Green*, 212 N.W.2d 711 (Mich. 1973); (7) New York, *Board of Educ., Levittown Union Free Sch. Dist., v. Nyquist*, 439 N.E.2d 359 (N.Y. 1982); (8) Ohio, *Board of Educ. of City School Dist. of Cincinnati v. Walter*, 390 N.E.2d 813 (Ohio 1979); (9) Oregon, *Olsen v. State*, 554 P.2d 139 (Or. 1976); (10) Oklahoma, *Fair Sch. Fin. Council of Oklahoma, Inc. v. State*, 746 P.2d 139 (Okla. 1987); (11) Pennsylvania, *Danson v. Casey*, 399 A.2d 360 (Pa. 1979); (12) South Carolina, *Richland County v. Campbell*, 364 S.E.2d 470 (S.C. 1988); (13) *Kukor v. Grover*, 436 N.W.2d 568 (Wis. 1989).

¹⁸⁵ (1) *Shofstall*, 515 P.2d 390; (2) *Lujan*, 649 P.2d 1005; (3) *McDaniel*, 285 S.E.2d 156, (4) *Thompson*, 537 P.2d 635; (5) *Hornbeck*, 458 A.2d 758; (6) *Board of Educ., Levittown Union Free Sch. Dist.*, 439 N.E.2d 359; (7) *Board of Educ. of the City of Cincinnati v. Walter*, 390 N.E.2d 813; (8) *Fair Sch. Fin. Council v. State*, 746 P.2d 1135; (9) *Kukor*, 436 N.W.2d 568. The only second wave case to rule that reliance on local property taxation violated the rational basis test was *Dupree*, 651 S.W.2d 90.

¹⁸⁶ 790 S.W.2d 186 (Ky. 1989).

outcomes-based definitions of an adequate education and then directed state legislature to develop remedies that will attain these mandates.¹⁸⁷ Several courts have also found during the third wave that a correlation exists between educational spending and academic performance. In *Rose*, for instance, the Kentucky Supreme Court observed that “achievement test scores in the poorer districts are lower than those of rich districts and expert testimony clearly established that there is a correlation between those scores and the wealth of the district.”¹⁸⁸ The court also noted that “Kentucky’s overall effort and *resulting* achievement in the area of primary and secondary education are comparatively low, nationally, is not in dispute”¹⁸⁹

In *Lake View School District No. 25 of Phillips County v. Huckabee* the state of Arkansas disputed a claim that it was not providing students with an adequate education by arguing that no correlation existed between increased educational funding and improved school performance.¹⁹⁰ The state asserted that it had increased educational spending in response to the state supreme court’s holding that the school finance system was unconstitutional in *DuPree v. Alma School District No. 30 of Crawford County*¹⁹¹ and that student performance had not significantly improved. The state supreme court rejected this claim, in part, because the state’s

¹⁸⁷ In *Rose*, for instance, stated that the legislature must develop an educational system that provided children with the following capacities:

- (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- (ii) sufficient knowledge of economic, social and political systems to enable the student to make informed choices;
- (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state and nation;
- (iv) sufficient self knowledge and knowledge of his or her physical wellness;
- (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with counterparts in surrounding states, in academics or in the job market. *Id.* at 212.

The supreme courts of Arkansas (*Lake View Sch. Dist. No. 25 v. Huckabee*, 144 S.W.3d 741 (Ark. 2004)); Massachusetts (*McDuffy v. Secretary of the Exec. Office of Educ.*, 615 N.E.2d 516 (Mass. 1993)); and New Hampshire (*Claremont v. Governor*, 703 A.2d 1353 (N.H. 1997)) have adopted *Rose*’s definition of outcomes-based adequacy.

¹⁸⁸ *Rose*, 790 S.W.2d at 197.

¹⁸⁹ *Id.* (emphasis supplied).

¹⁹⁰ 91 S.W.3d 472, 488 (Ark. 2002).

¹⁹¹ 651 S.W.2d 90.

efforts to “correct the course of educational deficiencies in Arkansas are dependent on quality teachers.”¹⁹² The state had failed to ensure that its poor school districts would have quality teachers. The state’s entry level for teacher salaries was the lowest of the nine states comprising its region and was ranked 48th nationally.¹⁹³ There were also serious disparities in teacher salaries in Arkansas and poor school districts were losing teachers because of low pay.¹⁹⁴

In *Campaign for Fiscal Equity v. State*,¹⁹⁵ the New York Court of Appeals found that a correlation existed between the school finance system and the poor performance of New York City students. Increased funding could improve student performance by enabling New York City schools to provide better teachers, facilities, and instrumentalities of learning.¹⁹⁶

B. *The KCMSD Desegregation Plan as Proof That “Money Doesn’t Matter”*

The conservative claim that the KCMSD proves that no correlation exists between increased funding and educational outcomes rests on three premises. The first premise is that the KCMSD received more money for education than the rest of the country for an extended period. For instance, a 1998 report from the Cato Institute claims that the KCMSD “spent as much as \$11,700 per-pupil – more money per pupil, on a cost of living adjusted basis, than any other of the 280 largest districts in the country,” and that “it got it for more than a decade.”¹⁹⁷

¹⁹² *Lake View Sch. Dist. No. 25*, 91 S.W.3d at 489.

¹⁹³ *Id.* at 488-89.

¹⁹⁴ *Id.* at 489.

¹⁹⁵ 801 N.E.2d 326 (N.Y. 2003).

¹⁹⁶ *Id.* at 340-41. By contrast, in *Neeley v. West Orange-Cove Consolidated Independent School District*, 176 S.W.3d 746 (Tex. 2005), a case holding that the state of Texas had provided students with an adequately funded education, the Supreme Court of Texas rejected the assertion that increased funding would lead to improved educational outcomes. As the court explained: “While the end-product of public education is related to the resources available for its use, the relationship is neither simple nor direct; public education can and often does improve with greater resources, just as it struggles when resources are withheld, *but more money does not guarantee better schools or more educated students.*” *Id.* at 788 (emphasis supplied).

¹⁹⁷ Paul Ciotti, *Money and School Performance: Lessons from the Kansas City Desegregation Experiment*, Policy Analysis No. 298 (March 16, 1998), at <http://www.cato.org/pubs/pas/pa-298.pdf> (visited Dec. 2, 2005).

The second premise is that the state of Missouri picked up the majority of the tab for the desegregation plan, which caused much harm to other school districts. For example, a 1993 article in *The Economist* asserted that “[m]ore than three-quarters of the cost” of the desegregation plan “was borne by the state rather than the school district.”¹⁹⁸ According to the 1998 Cato Institute report, state attorney general Jay Nixon claimed that “44 percent of the entire state budget for elementary and secondary education was going to just 9 percent of the state’s students who lived in Kansas City and St. Louis.”¹⁹⁹ To replace the money spent on St. Louis and the KCMSD, “other districts in the state had to cancel field trips and extracurricular activities, defer maintenance, fire teachers, and freeze salaries.”²⁰⁰

The third premise is that because the added resources did not lead to improved student outcomes, the KCMSD desegregation plan is the national model for why pouring exorbitant sums of tax dollars into poor, urban, black schools is simply non-productive and inefficient. For example, David Armor and Christine Rossell noted that “[w]ith a unique court-ordered tax levy and court-ordered funding from the state, total expenditures [in the KCMSD] reached \$10,000 per pupil by 1990, with total funding exceeding \$1.5 million over approximately an eight-year period.”²⁰¹ However, this increase in expenditures did not raise the achievement levels of black students, which remained significantly below the achievement levels of white students from 1988 to 1995. “Thus,” Rossell and Armor concluded, “spending an extraordinary amount of money on a school desegregation plan and on magnet schools does not seem to improve minority achievement significantly or decrease the minority-white

¹⁹⁸ *The Cash Street Kids*, *supra* note 5.

¹⁹⁹ Ciotti, *supra* note 199, at 10.

²⁰⁰ *Id.*

²⁰¹ David J. Armor & Christine H. Rossell, *Desegregation and Resegregation in the Public Schools*, in *BEYOND THE COLOR LINE* 219, 247-48 (2002).

achievement gap.”²⁰² Critics also cite the KCMSD’s loss of accreditation in 2000 for failure to meet the 11 state performance standards for accreditation as further evidence that the desegregation plan was an abject failure.²⁰³

In the wake of a New York trial court ruling in *Campaign for Fiscal Equity* that the state’s school finance system was providing New York City school children with an adequate education,²⁰⁴ noted educational economist Eric Hanushek warned that *Jenkins* demonstrated that putting more money into the New York City was unlikely to lead to improved student performance. Hanushek asserted:

One need only look at the results in Kansas City. A school desegregation ruling in the 1980s began a period of more than a decade when the schools had access to virtually unlimited state funds. The dreams of school personnel did not translate into any measurable gains in student performance, even as their schools moved to the very top of national spending.²⁰⁵

SECTION V: EMPIRICAL EVALUATION OF THE CONSERVATIVE CRITIQUE

As we have explained, the conservative claim that the KCMSD desegregation plan clearly establishes that there is no correlation between educational outcomes and student achievement rests on three premises: (1) the KCMSD received more money than other school districts over an extended period ; (2) the state of Missouri covered a disproportionate share of the costs of the desegregation plan, to the detriment of school districts throughout the rest of the state; and (3) the exorbitant spending on KCMSD was largely inefficient, leading to no

²⁰² *Id.* at 248.

²⁰³ See David W. Kirkpatrick, *For Schools Money Isn't the Answer*, U.S. Freedom Foundation, at http://www.freedomfoundation.us/for_schools_money_isn_t_the_answer (visited Nov. 29, 2005).

²⁰⁴ *Campaign for Fiscal Equity v. State*, 719 N.Y.S.2d 475 (N.Y. Sup. Ct. 2001), *rev'd*, 744 N.Y.S.2d 130 (N.Y. App. Div. 2002), *aff'd and rem'd*, 801 N.E.2d 326 (N.Y. 2003).

²⁰⁵ Eric A. Hanushek, *Have New York City Children Been Saved?*, Hoover Institution, at http://www-hoover.stanford.edu/pubaffairs/we/2002/hanushek_0302.html (last modified Mar. 25, 2002).

performance outcome improvement. In this section, we empirically analyze each of these claims.

A. Premise #1: Did the KCMSD Receive More Money Than Other School Districts Over an Extended Period?

We first address the question of precisely how much KCMSD did spend per pupil and for how long, with a number of relative comparisons:

1. Relative to public school districts located in large urban centers nationally, how did the Kansas City Missouri school districts' actual current operating expenditures and current instructional expenditures compare?
2. Relative to other public school districts in the same labor market for teachers and marketplace for homeowners as defined by Consolidated Metropolitan Statistical Area (CMSA), how much more per pupil did the Kansas City Missouri public schools spend from 1980 to 2003, with specific annual analysis from 1990 to 2000?
3. Relative to other public school districts in the Kansas City CMSA, how did the demographics of Kansas City Missouri public schools differ and how did those demographics change from 1990 to 2000?

Table 2 summarizes the current operating per-pupil and instructional expenditures of the KCMSD relative to other major metropolitan districts nationally throughout the 1990s. Data for years 1990 to 2000 are from the National Center for Education Statistics, Fiscal-Non-fiscal longitudinal file. Data underlying Table 2 include only those districts in NCES Locale code "1," for districts in large central cities. Only districts enrolling at least 20,000 students were included. No regional cost or student need-based adjustments are applied. The data set includes 51 to 77 districts per year.

On average, throughout the 1990s, the KCMSD was a high spending district, spending from 12% to 76% above other major metropolitan districts in current operating expenditures per pupil but only from 2% to 38% above other major metropolitan districts in instructional

expenditures per pupil, a portion of the difference between current operating and instructional spending being current expenditures to pay-off costs associated with capital projects tied to the desegregative attractiveness plan. Also, the KCMSD’s operational and instructional edge declined rapidly from 1995 to 2000 following the U.S. Supreme Court decision to halt district court remedies. It would thus appear from Table 2 that KCMSD’s operating funding peaked for a window of about three to five years, and not the ten year period often referenced. Moreover, Table 2 includes data from 1968 and 1980 from a national survey of school finance (Elementary and Secondary General Information Survey). These figures show that in 1980 and as far back as 1968, KCMSD well prior to *Jenkins*, KCMSD was already spending significantly more than large urban districts elsewhere in the nation. In fact, in 1968 and 1980, the KCMSD’s ratio of spending to average spending for the group was much higher than in 2000.

Table 2
Comparisons of Kansas City, Missouri and Major Metropolitan Districts

Year	Current Expenditure Ratio to Other Large Cities	Instructional Expenditure Ratio to Other Large Cities	Poverty Ratio to Other Large Cities	Black Ratio to Other Large Cities	Number of Central City Districts
1968	1.24 ^[a]				142
1980	1.34 ^[b]				123
1990	1.39	1.13	0.91	1.81	51
1991	1.56	1.29	0.94	1.82	51
1992	1.73	1.36	0.95	1.88	52
1993	1.50	1.16	0.91	1.84	51
1994	1.57	1.24	1.00	1.89	53
1995	1.76	1.38	1.42	2.15	78
1996	1.55	1.31	1.08	2.16	77
1997	1.37	1.18	1.23	2.18	77
1998	1.30	1.12	1.20	2.17	77
1999	1.14	1.02	1.26	2.13	69
2000	1.12	1.02	1.25	1.98	73

Districts in NCES Locale #1 with over 20,000 students in ADM
Primary Data Source: National Center for Education Statistics Fiscal Longitudinal File

[a] Elementary and Secondary Education General Information Survey,
<http://webapp.icpsr.umich.edu/cocoon/IAED-SERIES/00101.xml>

[b] Elementary and Secondary Education General Information Survey,
<http://webapp.icpsr.umich.edu/cocoon/IAED-SERIES/00101.xml>

Table 3 attempts more directly to address the question of whether the KCMSD outspent for a decade or more, all other major metropolitan districts, adjusting for regional cost variations, using the 1993 – 94 National Center for Education Statistics Geographic Cost of Education Index.²⁰⁶ Data from 1990 to 2000 are drawn from the same source used in Table 2. Data from 1968 and 1980 are drawn from an archived data set of the Elementary and Secondary Education General Information Survey,²⁰⁷ predecessor to the U.S. Census Bureau’s Fiscal Survey of Local Governments (F-33), Public Elementary and Secondary School Finances. In 1968, the KCMSD ranked 19th of 142 districts enrolling 30,000 or more pupils. In 1980, five years before the initial district court decision and remedy order, the KCMSD ranked 24th nationally in unadjusted dollars.

Table 3 shows that in either adjusted or unadjusted dollars, the KCMSD ranked first nationally for only one year, 1992. In most years, the KCMSD fell behind districts including Boston, Rochester (NY), Pittsburg, Portland (OR) or Newark (NJ). By 2000, the KCMSD had fallen to 19th of 73 districts, lower than it had been in 1968 at 19th of 142.

Table 3
National Ranking of Kansas City in Adjusted and Unadjusted Per Pupil Expenditures

Year	Number of Districts in Group	Kansas City Rank (Current Expenditures)	Kansas City Rank (Current Expenditures Regionally Adjusted ^[d])
1968	142 ^[a]	19	
1980	123 ^[b]	24	
1990	51 ^[c]	7	4
1991	51	4	2
1992	52	1	1
1993	51	7	3
1997	77	6	4
2000	73	19	17

[a] All districts with greater than 30,000 students

[b] All metropolitan districts with greater than 20,000 students

[c] Large central city metropolitan districts with greater than 20,000 students

[d] National Center for Education Statistics Geographic Cost of Education Index (1993)

²⁰⁶ National Center for Education Statistics, *Education Finance Statistics Center*, at <http://www.nces.ed.gov/edfin/prodsurv/data.asp> (visited Mar. 13, 2006).

²⁰⁷ International Archive of Education Data, *Elementary & Secondary Education General Information Survey (ELSEGIS) Series*, at <http://webapp.icpsr.umich.edu/cocoon/IAED-SERIES/00101.xml> (visited Mar. 13, 2006).

Indeed Kansas City has historically been a high spending metropolitan school district. However, we find little or no evidence that the KCMSD spent more than all other major metropolitan districts and did so for as many if not more than 10 years running.

Next, we compare current operating and current instructional expenditures of the KCMSD to other districts in the Kansas City Core Based Statistical Area (CBSA). Table 4 again uses NCES/Census (F-33) data coupled with earlier ELSEGIS data. Table 4 shows that the KCMSD spent in some years, as much as twice what other districts in the same metropolitan area were spending. Focusing on instruction alone, that margin is cut to 58% above other Kansas City metro area districts. As seen in comparisons with national metropolitan areas, from 1995 to 2000, the KCMSD's funding margin tapered off quickly, to only 23% above metro average in current expenditures and only 9% above metro average in instructional expenditures. Coupled with funding declines, pupil to teacher ratios in KCSMD climbed to above metro area averages by 1999.

Table 4
Ratios of Expenditures and Selected Demographic Measures to KC Metro Area Districts

Year	Ratio of Current Expenditures to CMSA Mean	Ratio of Current Instructional Expenditures to CMSA Mean	Ratio of Poverty to CMSA Mean	Ratio of Black Share to CMSA Mean	Ratio of Hispanic Share to CMSA Mean	Ratio of Disability Share to CMSA Mean	Pupil to Teacher Ratio to CMSA Mean
1980	1.34						
1990	1.77	1.32	2.91	6.73	2.33	1.08	0.84
1991	2.03	1.58	2.74	6.76	2.12	1.07	0.78
1992	2.20	1.58	2.53	6.72	2.13	1.07	0.77
1993	1.95	1.39	2.57	6.60	2.11	1.02	0.75
1994	1.99	1.45	2.57	6.34	2.21	0.99	0.76
1995	2.04	1.49	3.31	6.59	2.27	1.00	0.77
1996	1.73	1.38	2.27	6.43	2.49	1.04	0.80
1997	1.50	1.25	2.95	6.36	2.53	1.01	0.91
1998	1.43	1.20	2.95	6.19	2.62	0.89	0.98
1999	1.25	1.11	3.55	8.11	3.28	0.93	1.08
2000	1.23	1.09	3.48	5.52	2.62	0.81	1.04
2003	1.26						

Data Source: National Center for Education Statistics Fiscal Longitudinal File

Table 5 and Table 6 attempt to adjust for relative need of the KCMSD versus other Kansas City metropolitan area districts, a method apparently not employed in the 1998 Cato Institute report. Due to the lay of the land and historical patterns of housing segregation in the metropolitan area, the KCMSD had, on average, six to eight times the black population share of districts in the metro, more than twice the Hispanic population share, and 2.5 to nearly 3.5 times the poverty rate of other districts in the same metro area. William Duncombe and John Yinger identify the additional cost per child qualifying for subsidized lunch at approximately 110% of the cost of achieving comparable outcomes for the non low income child.²⁰⁸ Following this work, and the application of these findings for need adjustment by Robert Bifulco,²⁰⁹ we apply a weight of 1.10 to each child qualifying for free or reduced price lunch as reported in the NCES

²⁰⁸ William Duncombe & John Yinger, *How Much More Does a Disadvantaged Student Cost?*, 24 ECON. OF EDUC. REV. 513 (2005).

²⁰⁹ Robert Bifulco, *District Level Black-White Funding Disparities in the United States: 1987-2002*, J. OF EDUC. FIN. (forthcoming).

fiscal/non-fiscal longitudinal file (aggregated from the public school universe enrollment data). Note that we are unable to apply additional adjustments for needs of limited English proficient students due to insufficient data on these students for Missouri school districts, and incompatible data for Kansas districts. Since our analyses adjust only for poverty-related needs, they should be considered conservative.

Before adjustments are applied, the KCMSD’s instructional spending ratios compared to other metro area districts climb to over 150% then decline back to 108%. When adjusted for poverty-related needs only, the KCMSD climbs only as high as 120% above other metro area districts, but declines to only 76% of other metro area districts by 2000. That is, by 2000, the KCMSD actually shows an instructional spending deficit of 24% relative to other districts in the Kansas City metropolitan area.

Table 5
Instructional Expenditures Per Pupil in KCMSD versus Other Kansas City Metro Districts,
Including Adjustments for Student Poverty

Year	<i>Instruction Not Adjusted for Need</i>			<i>Instruction Adjusted for Need</i>		
	CMSA	KC	KC %	CMSA	KC	KC %
1990	\$2,440	\$3,163	130%	\$2,172	\$2,211	102%
1991	\$2,537	\$3,894	153%	\$2,224	\$2,651	119%
1992	\$2,760	\$4,197	152%	\$2,365	\$2,828	120%
1993	\$2,857	\$3,788	133%	\$2,445	\$2,530	104%
1994	\$2,979	\$4,143	139%	\$2,533	\$2,693	106%
1995	\$3,064	\$4,426	144%	\$2,619	\$2,598	99%
1996	\$3,219	\$4,325	134%	\$2,655	\$2,764	104%
1997	\$3,285	\$4,036	123%	\$2,756	\$2,429	88%
1998	\$3,412	\$3,986	117%	\$2,883	\$2,425	84%
1999	\$3,562	\$3,845	108%	\$3,105	\$2,333	75%
2000	\$3,772	\$4,091	108%	\$3,271	\$2,477	76%

Enrollment > 2,000 in ADM

Cost adjusted by applying weight of 1.10 per subsidized lunch pupil

Data Source: National Center for Education Statistics Fiscal Longitudinal File

Table 6 replicates the analysis in Table 5 but with current operating expenditures which fold in a portion of the pay-down of capital projects associated with the judicially mandated

“desegregative attractiveness” plan. As indicated previously, before cost adjustments, the KCMSD in the early 1990s spent double that of other districts in the Kansas City metro. By 2000, that margin had declined to 18% above other districts. When adjusted for poverty alone, however, spending peaked at 60% above other districts in the Kansas City metro in 1992 and then declined rapidly to only 83% of funding available in other districts by 2000.

In short, while spending peaked in the early 1990s at levels that should have been more than sufficient for closing achievement gaps between average children and poor children (assuming conservatively, no other systematically greater educational needs among KCMSD students compared with other metro area students), that funding margin declined and did so quite rapidly throughout the late 1990s. By the close of the decade, the KCMSD faced significant funding deficits relative to metro area districts, adjusted for the cost of achieving comparable outcomes.

Table 6
Current Expenditures per Pupil in KCMSD versus Other Kansas City Metro Districts, Including Adjustments for Student Poverty

Year	<i>Current Not Adjusted for Need</i>			<i>Current Adjusted for Need</i>		
	CMSA	KC	KC %	CMSA	KC	KC %
1990	\$3,948	\$6,557	166%	\$3,504	\$4,584	131%
1991	\$4,120	\$7,867	191%	\$3,602	\$5,357	149%
1992	\$4,387	\$8,926	203%	\$3,754	\$6,016	160%
1993	\$4,585	\$8,211	179%	\$3,916	\$5,486	140%
1994	\$4,822	\$8,809	183%	\$4,088	\$5,725	140%
1995	\$4,963	\$9,436	190%	\$4,229	\$5,538	131%
1996	\$5,198	\$8,495	163%	\$4,272	\$5,429	127%
1997	\$5,407	\$7,688	142%	\$4,524	\$4,626	102%
1998	\$5,656	\$7,676	136%	\$4,766	\$4,669	98%
1999	\$5,929	\$7,093	120%	\$5,155	\$4,304	83%
2000	\$6,301	\$7,449	118%	\$5,450	\$4,510	83%

Enrollment > 2,000 in ADM

Cost adjusted by applying weight of 1.10 per subsidized lunch pupil (See Bifulco, 2005)

Data Source: National Center for Education Statistics Fiscal Longitudinal File

B. Premise #2: Did the State of Missouri Cover a Disproportionate Share of the Costs of the Desegregation Plan?

In this empirical analysis, we address whether the state of Missouri covered most of the costs of the KCMSD desegregation plan. We begin with a discussion of the additional annual operating aid raised through the state school finance formula. We conclude with a brief analysis of total revenues per pupil in the KCMSD, including additional capital funds raised for new construction and renovation, a centerpiece of the desegregation plan and flashpoint for the conservative critique.

The state of Missouri has long used a matching aid formula for distributed state revenues to local school districts. In Missouri, state aid for general operating budgets is pegged primarily to the local tax rate adopted by local voters via direct referenda. As previously discussed, matching aid ratios are determined by the ratio of each district's taxable assessed property value per pupil compared to the state guaranteed assessed valuation per pupil. If a district's own assessed value per pupil is approximately 50% of the state guarantee, that district would receive in state aid, \$1 for each dollar raised from local property taxes. An additional multiplier was added in the 1990s to adjust matching aid amounts by differences in district income. In addition, student need adjustments were added. Nonetheless, the primary determinant of total state and local revenue per pupil above and beyond that generated by a \$1.25 rate (early 1990s) or \$2.75 rate (later 1990s to present) is the tax rate approved by local voters, or in the case of Kansas City, the tax rate mandated by Judge Clark.

Also as previously discussed, despite concurrent state school finance litigation and subsequent modifications to the state school finance system (most notably, increasing the minimum tax rate and including poverty based adjustments to aid), no significant structural changes were made to the Missouri school finance formula until 2005. Rather, just as Judge

Clark chose to work within the perceived constraints of the *Milliken* decisions, state legislators also chose to work within the constraints of existing state school finance policies. By raising the KCMSD’s local tax rate to \$4.95, KCMSD would generate \$7,425 per pupil in state and local revenue before income and student need adjustment rather than the minimum \$4,125. At a 50% matching rate (close to that of KCMSD), this would generate \$126 million in total state aid per year ($.5 \times 7,425 = 3,713 \times 34,000$ students = 126,225,000) or about \$63 million more than would have been generated at the late 1990s minimum tax of \$2.75.

Table 7 summarizes local revenue per pupil generated by the KCMSD’s actual court imposed tax rate compared with what the district would have raised locally had it only been required to levy the current state average tax rate from 1999 to 2003. KCMSD residents were forced to raise \$1,200 to \$1,300 more per pupil than they would have been, had they imposed the state average local tax rate.

Table 7
Assessed Value per Pupil, Operating Levies and Local Revenue under Alternative Assumptions

Year	Assessed Value per Pupil		Operating Levy		Local Revenue per Pupil	
	Non-KC	KC	Non-KC	KC	KC at Current	KC at Average Non-KC Levy
1999	\$ 59,421	\$ 65,121	3.21	4.60	2,996	2,090
2000	\$ 63,586	\$ 68,687	3.24	4.95	3,400	2,222
2001	\$ 66,122	\$ 72,027	3.27	4.95	3,565	2,352
2002	\$ 72,049	\$ 77,762	3.28	4.95	3,849	2,551
2003	\$ 73,768	\$ 75,186	3.34	4.95	3,722	2,508

As seen in Table 7, the KCMSD has a slightly stronger than average property tax base, meaning that on average, KCMSD residents will pay a higher share of school revenue than districts statewide. Table 8 summarizes current expenditures per pupil, local revenue per pupil and local revenue shares of current expenditures for the KCMSD and all other Missouri school

districts. On average, while the KCMSD had much higher current operating expenditures per pupil than other districts statewide, KCMSD residents also paid a larger share of the total cost. Indeed, by the basic structure of the Missouri aid formula, this larger share was warranted.

Table 8
Current Expenditures Per Pupil and Local Revenue Shares

<i>Year</i>	Local Revenue per Pupil		Current Expenditures per Pupil		Share of Current Expenditures	
	<i>Non-KC</i>	<i>KC</i>	<i>Non-KC</i>	<i>KC</i>	<i>Non-KC Share</i>	<i>KC-Share</i>
1999	\$ 1,920	\$ 2,996	\$ 5,269	\$ 7,199	36.4%	41.6%
2000	\$ 2,063	\$ 3,400	\$ 5,616	\$ 7,680	36.7%	44.3%
2001	\$ 2,165	\$ 3,565	\$ 6,008	\$ 8,642	36.0%	41.3%
2002	\$ 2,357	\$ 3,849	\$ 6,388	\$ 9,494	36.9%	40.5%
2003	\$ 2,460	\$ 3,722	\$ 6,622	\$ 8,659	37.1%	43.0%

Table 9 reveals one final feature of Missouri’s existing school finance formula that leads to substantial reductions in aid to the KCMSD relative to other districts statewide. Missouri is among a handful of states that continues to provide aid to local public school districts on the basis of their average daily attendance (ADA) rather than enrolled pupil count or membership. From 2000 to 2004, poverty rates and black student population share alone explain 59% of variations in attendance rates across Missouri school districts enrolling over 2,000 students. Both black population share and poverty rate are strongly associated with lower attendance rates, leading to systematically lower funding per eligible or enrolled pupil in districts with higher shares of either population. Table 9 shows that, in 1999, while districts on average (excluding the KCMSD), lost 5.6% of state aid due to differences between enrollment and ADA, KCMSD lost nearly 13%. That margin has closed over time as the KCMSD had improved its attendance rates. Nonetheless, the KCMSD continues to receive a lower share of state aid due to ADA based funding than other districts with lower poverty rates and smaller Black populations.

Table 9
Funding Reduction Effect of Providing Aid on the Basis of Average Daily Attendance

<i>Year</i>	State Revenue per ADA		State Revenue per Pupil		% Loss due to ADA Count	
	<i>Non-KC</i>	<i>KC</i>	<i>Non-KC</i>	<i>KC</i>	<i>Non-KC</i>	<i>KC</i>
1999	\$ 2,103	\$ 4,065	\$ 1,986	\$ 3,539	5.6%	12.9%
2000	\$ 2,216	\$ 3,473	\$ 2,081	\$ 3,118	6.1%	10.2%
2001	\$ 2,367	\$ 3,895	\$ 2,226	\$ 3,594	6.0%	7.7%
2002	\$ 2,408	\$ 3,924	\$ 2,289	\$ 3,633	4.9%	7.4%
2003	\$ 2,488	\$ 2,890	\$ 2,369	\$ 2,737	4.8%	5.3%

Adopting the logic of the federal district court in Missouri, many modern school finance adequacy complaints might be resolved by simply requiring high need, inadequately funded urban districts to levy sufficient property taxes to cover on their own, the cost of achieving adequate outcomes. Perhaps the most obvious extension of this logic applies to the proposed \$5 billion price tag for the State of New York to resolve school funding inadequacies in New York City, which enrolls over 1/3 of that state’s students.

Some might argue that large urban centers like New York or the KCMSD or New York City might have sufficient non-residential tax base and/or sufficient high income residents who either have no children or privately school them, such that the city’s poor families whose children attend public schools would not pay disproportionately for remedies. Indeed, the commercial and industrial tax base and wealth of families without children in the KCMSD schools does provide some buffer. Nonetheless, in 2003, the median voter (in a housing unit of median value and with median household income), in Missouri paid 1.25% of income in school operating tax levy. In the 95thile district, the median voter paid 1.75% and in the KCMSD, 1.85%.

Arguably, the judicial imposition of the KCMSD’s elevated tax rate has inhibited the district from initiating funding inadequacy claims against the state, or achieving sufficient legislative sympathy to lead to favorable school finance reform absent litigation. Common

public misperceptions are that (1) the KCMSD is flush with financial resources; and (2) the KCMSD has garnered, for the past 25 years, a disproportionate and unfair share of state resources. Yet, neither claim is necessarily true. As indicated previously, in recent years, the KCMSD's resource margin has all but disappeared, and when adjusting for need, the KCMSD faces a significant resource deficit relative to other districts in the Kansas City metro area. Second, the KCMSD has paid the same share of its state and local revenues as would any other district in the state of similar taxable wealth, income and poverty, with similar tax rate. Indeed, with its higher tax rate and overall size, the district does consume a significant share of the state's education funding. The same, however, can be said of some of the state's larger suburban school districts who have taken advantage of matching aid for levies above the \$2.75 rate and have done so at a rapidly increasing pace in recent years.

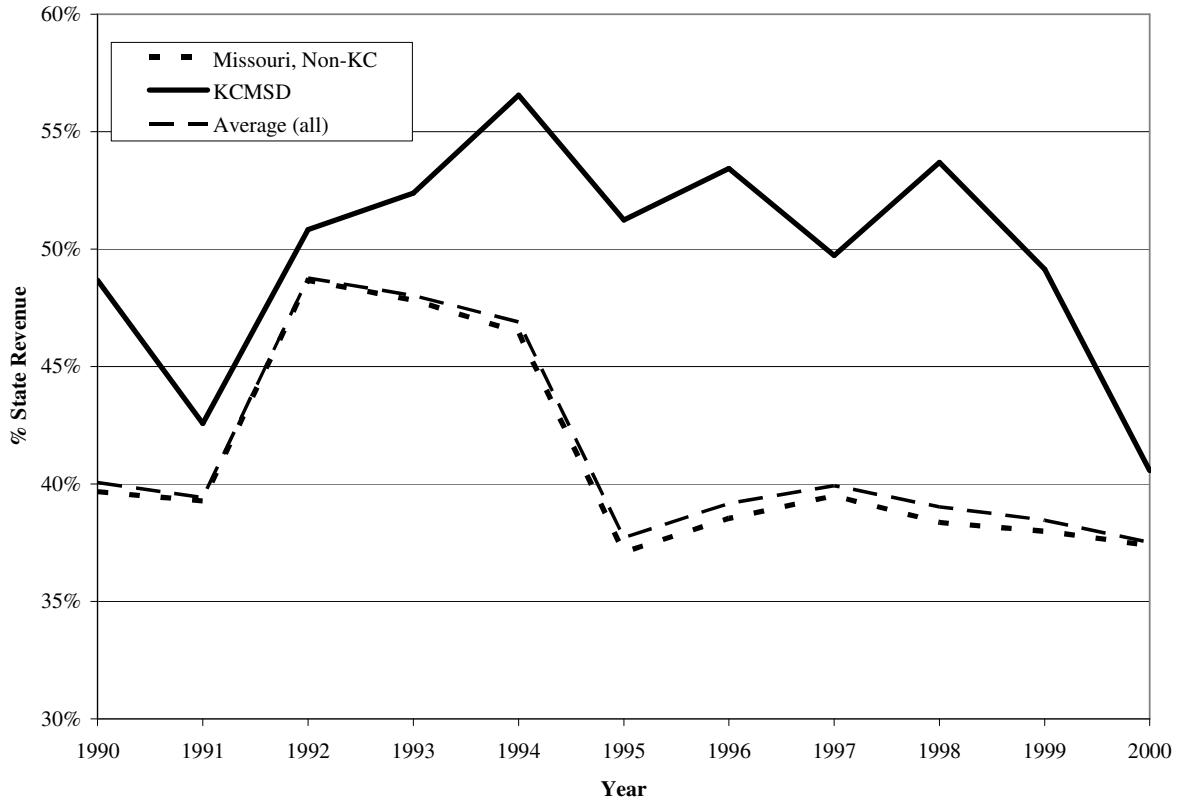
Figure 2 addresses the state share of total revenues per pupil for the KCMSD, relative to the rest of the state of Missouri, through the 1990s. The facilities plan component of the *Jenkins* remedies came at a total cost of around \$540 million.²¹⁰ To contextualize that number, first consider that new school facilities or substantially renovated ones should last for approximately 30 years. As such, the value of the \$540 million may spread out to about \$18 million per year. Across about 30,000 students per year, that value comes to about \$600 per pupil, or about 5% of per pupil revenues in peak years. As such, while \$540 million sounds like a great deal of money, and while it was to be expended over a shorter period than 30 years, the per pupil value over the 30-year period of that expense appears more modest and more realistic.

With the short-term increase in total revenue, including revenue for capital projects, the state's share of total revenue in the KCMSD climbed to between 50% and 55% during peak years (1992 to 1998). By 2000, the state share had dipped back below 45%. During that period,

²¹⁰ *Jenkins*, 515 U.S. at 78.

the district's total annual revenue ranged from about \$320 to \$450 million. If the expected share to be covered by the state was closer to 40% instead of 55%, in the peak year of revenue generating, the state share would have been \$180 million (40% x \$450 million). At 55% the state share of \$450 million would be \$247.5 million, or 67.5 million more than expected. If divided evenly across the state's 867,000 students in 1996 (includes only K-12 districts), that would amount to about \$78 per pupil that might have been spent on all Missouri children rather than KCMSD children, or approximately 1.3% over the average district level total revenue per pupil in that year (\$5,866). That is, measured very generously, increased allocations of state support to the KCMSD above and beyond the expected state share absent *Jenkins* remedies, resulted in a potential decrease of statewide funding by about 1.3% per pupil. It is conceivable, though unlikely that this 1.3% difference, never promised to districts statewide, could have been sufficient to reinstate some of the cancelled field trips and extra-curricular activities that other districts claimed had been eliminated because of the state's obligations to KCMSD.

Figure 2
 Percent of Total Revenue from State Sources in Missouri and in KCMSD



C. Premise #3: Was the KCMSD a Largely Inefficient School District?

Unfortunately, sufficient student outcome data were not available for the period of peak spending in the early to mid-1990s. Outcome data were, however, available for the period over which the KCMSD eventually achieved unitary status (2003). In this section, we explore the relative productive and cost efficiency of the KCMSD based on a statewide analysis but focusing our comparisons herein on districts in the Kansas City metropolitan area. Productive efficiency evaluates whether, given their current resource levels, regional costs and student population characteristics, school districts produce student outcomes at the expected level, or exceed or fail

to meet expectations. Alternatively, cost efficiency evaluates whether, given roughly the same sets of conditions, districts appear to be overspending to achieve given levels of outcomes.

Criticisms made by conservatives seem to have centered on simple measures of how well, on average, minority children in the KCMSD performed on standardized assessments and how they compared with other students statewide. It is indeed relevant to evaluate performance of poor minority children attending the KCMSD compared to non-poor, non-minority children throughout the state. Under consideration were measures of raw output, or production, and ideally, the students in the KCMSD should be provided equal opportunity to produce outcomes at comparable levels. It does not stand to reason, however, that when children in the district do not produce at comparably high levels, despite what would appear to be substantial funding, that the district is necessarily inefficient. One must more carefully and statistically rigorously evaluate what could be expected of these children, under these circumstances, receiving a specific level of resources.

Recall in a previous section that we used a poverty cost adjustment of 1.1 (110% above the cost for the average child) per child in poverty to reflect the higher costs of achieving a given set of outcomes with children from impoverished backgrounds. The logic behind the analysis in this section is similar. Rather than drawing cost adjustments from extant literature, we estimate statistical models of the outcome levels that can be expected, given demographic differences among students and spending differences. Alternatively, we estimate the expected costs of achieving current outcome levels, given student population differences.

For the following analysis, we estimate technical efficiency of production and cost efficiency of Missouri's scale efficient public school districts, enrolling over 2,000 students. We focus on *scale efficient* districts – those large enough to enjoy economies of scale and those at

the same time, large enough to have enough annual test takers to yield more reliable year to year performance outcomes.

Productive efficiency estimation places a student outcome measure as the dependent variable, in this case district's Missouri Assessment Program (MAP) Index score, and may include a lagged measure of the outcome variable, one period earlier as one predictor, along with a collection of student and schooling inputs and potential structural constraints of schools. We apply models both with, and without the lagged performance measure. We specify our model as follows:

$$\text{MAP} = b_0 + b_1\text{MAP}_{t-1} + b_2\text{Year} + b_3\text{CurexpADA} + b_4\text{Enrollment} + b_5\text{Enrollment}^2 + b_6\text{FRLunch} + b_7\text{Black} + b_8\text{Disability} + b_7\text{TeachCost} + e$$

Where MAP refers to each district's MAP index score, MAP_{t-1} refers to the 1 period lagged MAP index score (used in one set of models), Year refers to the year of the data, where the data set includes data from 2000 to 2005, CurexpADA refers to the districts' current expenditures per student in average daily attendance, Enrollment refers to district total enrollment (and enrollment squared), FRLunch refers to the percent of children receiving free or reduced price lunch, Black refers to the district percent black, Disability refers to the district percent of children in special education programs, and TeachCost refers to the relative cost of a teacher at specific degree level and years of experience in each U.S. Census Core Based Statistical Area across Missouri (compared to rural outlying areas).²¹¹

Cost efficiency estimation places districts current expenditures as the dependent variable in an education cost function. Costs are assumed to be a function of current outcome levels,

²¹¹ Estimated via a Core Based Statistical Area fixed effects model using teacher level data on about 62,000 to 65,000 teachers per year from 1998 to 2005 across the state of Missouri. The model was specified as: Wage = f(year, degree level, experience, CBSA).

student population characteristics, district structural characteristics and geographic variations in the prices of schooling inputs.

$$\text{CurexpADA} = b_0 + b_1\text{MAP} + b_2 \text{MAP}_{t-1} + b_3\text{Year} + b_4\text{Enrollment} + b_5\text{Enrollment}^2 + b_6\text{FreeLunch} \\ + b_7\text{Black} + b_8\text{Disability} + b_7\text{TeachCost} + e$$

Where CurexpADA has been moved to the position of the dependent variable and student outcomes (MAP) and lagged outcomes are included as independent (though endogenous) variables.

With the cost function, one can predict via any number of statistical or numerical maximization methods, the “cost” of achieving current outcomes under current conditions. Actual expenditures to achieve those outcomes, under current conditions may be more than underlying costs. As with production modeling, a portion of that difference can be assumed to be inefficiency, while other portions may include random error (perhaps created by measurement error among inputs or outcomes) and omitted variables.

The two broad categories of empirical methods for investigating school or district efficiency are regression based methods (Corrected Ordinary Least Squares and Stochastic Frontier Analysis) and numerical maximization methods (Data Envelopment Analysis).²¹²

²¹² Timothy J. Gronberg & Dennis Jansen, *Navigating Newly Chartered Waters: An Analysis of Texas Charter School Performance* (2001); David M. Anderson, *Stretching the Tax Dollar: Increasing Efficiency in Urban and Rural Schools*, in *WHERE DOES THE MONEY GO? RESOURCE ALLOCATION IN ELEMENTARY AND SECONDARY SCHOOLS* 156 (1996); Therese McCarty & S. Yaisawarng, *Technical Efficiency in New Jersey School Districts*, in *THE MEASUREMENT OF PRODUCTIVE EFFICIENCY* 271 (1993); Steven C. Deller & Edward Rudnicki, *Production Efficiency in Elementary Education: The Case of Maine Public Schools*, 12 *ECON. OF EDUC. REV.* 45 (1993); Authella Bessent & E. Wailand Bessent, *Determining the Comparative Efficiency of Schools through Data Envelopment Analysis*, 16 *EDUC. ADMIN. Q.* 57 (1980); John E. Anderson & Mabhubal Kabir, *Public Education Cost Frontier Models: Theory and an Application*. Paper presented at the Annual Meeting of the American Education Finance Association, Austin, TX, 2000; William Duncombe & Jerry Miner, *Productive Efficiency and Cost-Effectiveness: Different Approaches to Measuring School Performance*, in *Study on COST-EFFECTIVENESS IN EDUCATION: FINAL REPORT* 141 (1996); John Ruggiero, *Efficiency and Educational Production: An Analysis of New York School Districts*, 78 *REV. OF ECON. & STATS.* 499 (1996).

Unfortunately, recent research suggests that district inefficiency is difficult to measure with great precision and accuracy, regardless of empirical method.²¹³

These methodological caveats in mind, to estimate technical efficiency of production and cost efficiency, we apply Stochastic Frontier Analysis (SFA). SFA decomposes the residual (difference between predicted cost and actual spending) of the cost function into two components – a random error term and cost inefficiency term. SFA fits a frontier model, or model across the most cost efficient (or productive efficient) districts in the sample, rather than fitting a model of average efficiency. SFA requires the researcher to specify the distribution of the random error term, which is most often assumed to be normal/half-normal (because districts can be only less than maximum efficiency).

Statistical software packages including STATA 9.0 produce estimates of relative cost or technical efficiency. Cost efficiency estimates assign the perfectly cost efficient district a value of 1.0, with less efficient districts (those having larger residuals after removing the error term), assigned higher values. Productive efficiency indices also assign a value of 1.0 for perfect (100%) efficiency, but then express as decimals, reductions to 100% efficiency. For clarity, we also compare predicted performance levels with actual, and predicted cost levels with actual, with recognition that the differences between predicted and actual values include both “inefficiency” and random error.

Table 10 summarizes key variables over school districts in the Kansas City, Missouri Core Based Statistical Area. Table 11 summarizes the predicted and actual cost and performance levels of Kansas City area (Missouri only) districts, including efficiency indices for alternative models. Districts are sorted from least to most cost efficient. Two emerging minority population

²¹³ Robert Bifulco & William Duncombe, *Evaluating School Performance: Are We Ready for Prime Time?*, in DEVELOPMENTS IN SCHOOL FINANCE, 1999 – 2000 (2000); Robert Bifulco & Stewart Bretschneider, *Estimating School Efficiency: A Comparison of Methods Using Simulated Data*, 20 ECON. OF EDUC. REV. 417 (2001).

districts, Grandview and Center school district appear less efficient than the KCMSD. Center School district, originally founded as a post-Brown segregated enclave, is now approaching black concentration levels of the KCMSD, is spending more per pupil than the KCMSD and is predicted to need less per pupil to achieve its current level of outcomes. As such, the inefficiency margin for Center is greater than that of the KCMSD. In productive efficiency, without a lagged performance measure, Center is slightly more efficient than the KCMSD, at 97.7% compared to 97.0%. Grandview, however, is both less cost efficient and less productive efficient than the KCMSD. Indeed the raw output of Grandview is higher, at a MAP index of 176, compared to the KCMSD's 161. And, Grandview's expenditure per ADA is lower than the KCMSD at \$8,020 compared to \$9,594. However, the models predict that Grandview, given its less needy population, should be able to achieve their MAP index of 176 with \$5,992 per pupil, or conversely, at \$8,020 per pupil should be able to achieve a MAP index of 189.37.

On productive efficiency, excluding lagged performance (which removes most existing variance), several districts miss their predicted mark by wider margins than the KCMSD. These include Belton, Excelsior Springs, Raymore-Peculiar, Raytown and Hickman Mills. Grandview, Excelsior Springs and Hickman Mills were also identified as marginally less efficient than other districts in the model including lagged performance.

Needless to say, even in its own metropolitan area, the KCMSD is not necessarily a standout on inefficiency. As such, it is difficult to believe that the KCMSD is an appropriate national poster-child for inefficient school district expenditure, at least in the last five years. Note that Hickman Mills' raw performance outcomes are only marginally better than those of the KCMSD, despite serving far fewer children in poverty, but similar black concentration.

Table 10

Descriptive Characteristics of School Districts in the Kansas City Core Based Statistical Area (2000 to 2004 averages)

District	Percent Subsidized Lunch	Percent Black	Percent Disability	Enrollment	Teacher Cost Index
KEARNEY R-I	5.7%	0.5%	11.6%	3195	1.128
BLUE SPRINGS R-IV	9.1%	5.2%	11.8%	12716	1.128
ODESSA R-VII	25.5%	1.9%	13.4%	2337	1.128
PLATTE CO. R-III	13.6%	3.6%	10.9%	2171	1.128
RAYTOWN C-2	30.7%	29.7%	11.7%	8461	1.128
LEE'S SUMMIT R-VII	7.7%	5.6%	12.3%	14597	1.128
NORTH KANSAS CITY 74	24.0%	6.1%	14.4%	16940	1.128
HICKMAN MILLS C-1	52.7%	69.3%	14.7%	7392	1.128
RAYMORE-PECULIAR R-II	12.7%	2.8%	8.5%	4455	1.128
HARRISONVILLE R-IX	22.2%	1.2%	10.3%	2338	1.128
PARK HILL	13.1%	6.1%	14.1%	9165	1.128
BELTON 124	26.9%	5.0%	11.5%	4594	1.128
FORT OSAGE R-I	32.2%	4.9%	16.8%	4845	1.128
EXCELSIOR SPRINGS 40	26.4%	2.5%	11.5%	2975	1.128
LIBERTY 53	11.6%	4.0%	11.2%	7087	1.128
INDEPENDENCE 30	34.5%	5.4%	15.7%	11198	1.128
KANSAS CITY 33	76.8%	69.7%	11.5%	30272	1.128
GRANDVIEW C-4	41.6%	49.9%	12.9%	4222	1.128
CENTER 58	52.1%	57.9%	15.2%	2594	1.128

Table 11
Alternative Rankings of Cost-Efficiency

District	Predicted MAP Index	Predicted MAP Index (lag)	Actual MAP Index	Productive Efficiency	Productive Efficiency (lagged MAP)	Predicted Current Expend per ADA	Actual Current Expend per ADA	Cost Efficiency
CENTER 58	183.12	177.36	177.21	0.977210	0.999848	\$6,905	\$9,676	1.356
GRANDVIEW C-4	189.37	177.84	176.08	0.963534	0.999847	\$5,992	\$8,020	1.314
KANSAS CITY 33	171.03	162.17	161.87	0.970443	0.999848	\$7,148	\$9,594	1.310
INDEPENDENCE 30	200.10	193.64	192.64	0.976100	0.999848	\$5,478	\$7,324	1.297
LIBERTY 53	213.37	207.08	207.42	0.978719	0.999848	\$5,281	\$6,780	1.271
EXCELSIOR SPRINGS 40	203.63	189.74	187.54	0.959418	0.999847	\$4,715	\$6,082	1.265
FORT OSAGE R-I	199.53	191.49	189.98	0.972588	0.999848	\$5,351	\$6,918	1.257
BELTON 124	203.23	189.39	189.23	0.964364	0.999848	\$4,749	\$5,966	1.254
PARK HILL	210.94	205.98	205.88	0.979757	0.999848	\$5,723	\$7,294	1.248
HARRISONVILLE R-IX	205.84	197.95	198.03	0.975767	0.999848	\$5,008	\$6,199	1.220
RAYMORE-PECULIAR R-II	211.89	196.64	196.39	0.962522	0.999848	\$4,622	\$5,697	1.207
HICKMAN MILLS C-1	179.29	164.84	162.89	0.954032	0.999847	\$6,376	\$7,756	1.197
NORTH KANSAS CITY 74	203.86	195.92	195.54	0.974919	0.999848	\$5,765	\$6,999	1.196
LEE'S SUMMIT R-VII	213.29	209.71	209.49	0.981265	0.999848	\$5,908	\$6,925	1.169
RAYTOWN C-2	197.07	187.12	186.05	0.969726	0.999848	\$5,538	\$6,487	1.165
PLATTE CO. R-III	208.44	201.96	203.14	0.979212	0.999848	\$5,374	\$6,240	1.156
ODESSA R-VII	200.77	192.05	190.79	0.971681	0.999848	\$5,180	\$5,815	1.140
BLUE SPRINGS R-IV	212.31	209.13	209.15	0.981928	0.999848	\$5,683	\$6,442	1.137
KEARNEY R-I	210.79	200.70	200.89	0.972545	0.999848	\$5,097	\$5,182	1.077

D. Summarizing the Empirical Critique

Contrary to the assertions of conservative critics, it turns out that the KCMSD outspent all other major metropolitan districts in only one year – 1992 – based on either unadjusted or regionally cost adjusted analysis of either current operating expenditures or current instructional expenditures per pupil. While spending peaked at 76% above average (1995) for those districts, by 2000, the KCMSD spent only 12% above average in current operating expenditures and only 2% above average in instructional expenditures. That is, peak funding lasted for a relatively short period of time. Relative to schools in the Kansas City metropolitan area, the spending edge was larger, at 2 to 1 over the average during the early 1990s. Again, by 2000 that margin had declined substantially to only 23% above average in current expenditures and only 9% above average in instructional expenditures. When adjusted for poverty related need, the KCMSD had only 83% of average current expenditures and only 76% of average instructional expenditures among large districts in its metropolitan area.

Despite the regional belief that the financial woes of all other school districts in out-state Missouri are primarily a function of disproportionate sums of state resources allocated specifically to the KCMSD, the district's property tax payers consistently paid a much higher share of the district's state and local operating revenue than other districts across the state. Further, the effects of redistributing statewide additional state revenues awarded to KCMSD would have been relatively small (\$78 per pupil at the highest).

Finally, regarding productive or cost efficiency, with specific emphasis on the Missouri Assessment Program, the KCMSD is neither the most, nor the least efficient district in the immediate metropolitan area, no less the entire state. However, given that these analyses were conducted over a period where the KCMSD's relative spending position had sunk to lower than

its relative position in 1968 and much lower than 1993, it is likely that the KCMSD's current productive and cost efficiency position are better than they might have been if estimated from 1992 to 1995. While spending peaked at relatively high levels during this period, it is difficult to conceive that student outcomes could be substantially positively affected, at whatever level of spending, in the time it takes for one cohort of students to move only from the 2nd to the 5th grade.

It is necessary to ask how the premises upon which the conservative critique is based could be so distorted. The first problem is that the conservative critique fails to take into account the history of the KCMSD and the state of Missouri. We have observed that the residential structure and demographics of the KCMSD were carefully crafted by city officials and real estate developers into racially segregated enclaves for the first 60 years of the 20th century. We have also noted that in the 1960s, the KCMSD was a relatively high spending district, but because of the school funding system's reliance on property taxation and the KCMSD's racial and socio-economic composition, the district would be soon be unable to meet its educational needs. Moreover, we explained that Judge Clark responded to the KCMSD's financial concerns in the *Jenkins* litigation by imposing an extremely high property tax rate on the district. We have further explained that the state legislature adopted the court-imposed tax rate to settle the KCMSD desegregation suit and that this high tax burden became part of the state school finance formula.

When considering these factors, it is easy to understand how by 2000, the KCMSD was in its weakest relative position in school funding since prior to the 1960s. It is also easy to understand that the *Jenkins* litigation only temporarily shifted the KCMSD's relative funding levels compared with either a national peer group of metropolitan districts or a local labor market

peer group. Moreover, it becomes clear that because of the KCMSD's disproportionate tax burden, district residents have shouldered a higher tax burden than residents of other Missouri school districts.

The second flaw with the conservative critique is that fails to provide a context for the funds spent of the KCMSD desegregation plan. Critics cite the statistics the KCMSD spent more than \$11,000 per pupil and that \$2 billion were spent on the desegregation plan as evidence of exorbitant spending. When taken out of context, these numbers appear huge. However, our analysis reveals that the KCMSD was a very high spending district for no more than five years, or the time in which one cohort of children is able to progress through five grade levels in the district. Further, when adjusted for student needs, the KCMSD's funding dropped below the metropolitan area average by 1998. This is hardly enough time to erase the generational poverty of the KCMSD or alter the residential structure and demographics of a school district that had been designed to be racially segregated until the 1960s.

CONCLUSIONS

In school finance litigation, a number of courts have held a correlation between educational funding and educational outcomes. Conservative critiques have asserted that the KCMSD desegregation case clearly establishes that no such correlation exists. Their critique is based on three premises: (1) the KCMSD received more money over an extended period than other school districts; (2) the state of Missouri covered a disproportionate share of the costs of the desegregation plan, to the detriment of school districts throughout the rest of the state; and (3) the exorbitant spending on KCMSD was largely inefficient, leading to no improvement in

educational outcomes. However, our empirical analysis does not support these claims. Thus, the KCMSD experience should not be cited as proof that “money doesn’t matter” with respect to academic outcomes. There are two reasons for this lack of support: (1) the conservative critique fails to consider the educational history of the state of Missouri and the KCMSD; and (2) the critique analyzes spending out of context.

Appendix A: Ordinary Least Squares and Stochastic Frontier Efficiency

Regressions

Models Underlying Predicted Values & Efficiency Estimates in Table 11

Table A1: Productive Efficiency Model without Lagged Performance

	OLS			SFA		
	Coef.	Std. Err.	P>t	Coef.	Std. Err.	P>z
<i>Year</i>						
2001	-0.014	0.005	0.003	-0.014	0.004	0.002
2002	-0.014	0.005	0.002	-0.014	0.005	0.002
2003	-0.008	0.005	0.116	-0.007	0.005	0.120
2004	0.000	0.005	0.941	0.001	0.005	0.877
<i>Current Spending per ADA (ln)</i>	0.079	0.010	0.000	0.080	0.010	0.000
<i>Enrollment (ln)</i>	0.164	0.047	0.001	0.168	0.047	0.000
<i>Enrollment (ln) Squared</i>	-0.009	0.003	0.001	-0.009	0.003	0.000
<i>Demographics</i>						
Percent Free/Reduced Lunch	-0.218	0.015	0.000	-0.220	0.015	0.000
Percent Black	-0.127	0.012	0.000	-0.125	0.012	0.000
Percent Disability	-0.371	0.022	0.000	-0.375	0.022	0.000
<i>CBSA Teacher Wage Fixed Effect</i>	-0.104	0.017	0.000	-0.104	0.016	0.000
<i>Intercept</i>	4.113	0.244	0.000	4.103	0.242	0.000
<i>R-squared</i>	0.806					

Table A2: Productive Efficiency Models with Lagged Performance

	OLS			SFA		
	Coef.	Std. Err.	P>t	Coef.	Std. Err.	P>z
<i>MAP Index Lagged 1 Period (ln)</i>	0.893	0.029	0.000	0.893	0.029	0.000
<i>Year</i>						
2001	-0.014	0.003	0.000	-0.010	0.002	0.000
2002	-0.004	0.003	0.104	0.006	0.002	0.011
2003	0.002	0.003	0.409			
2004				0.004	0.003	0.098
<i>Current Spending per ADA (ln)</i>	0.007	0.007	0.297	0.007	0.007	0.289
<i>Enrollment (ln)</i>	0.024	0.030	0.412	0.024	0.029	0.405
<i>Enrollment (ln) Squared</i>	-0.001	0.002	0.445	-0.001	0.002	0.438
<i>Demographics</i>						
Percent Free/Reduced Lunch	-0.018	0.011	0.119	-0.018	0.011	0.113
Percent Black	-0.017	0.008	0.042	-0.017	0.008	0.038
Percent Disability	-0.023	0.018	0.206	-0.023	0.018	0.199
<i>CBSA Teacher Wage Fixed Effect</i>	-0.006	0.011	0.581	-0.006	0.011	0.575
<i>Intercept</i>	0.411	0.194	0.034	0.407	0.190	0.033

R-squared 0.940

Table A3: Cost Efficiency Models

	OLS			SFA		
	Coef.	Std. Err.	P>t	Coef.	Std. Err.	P>z
<i>MAP Index (ln)</i>	0.379	0.363	0.297	0.431	0.337	0.201
<i>MAP Index Lagged 1 Period (ln)</i>	0.980	0.384	0.011	0.702	0.360	0.051
<i>Enrollment (ln)</i>	-1.243	0.208	0.000	-1.204	0.207	0.000
<i>Enrollment (ln) Squared</i>	0.071	0.012	0.000	0.070	0.012	0.000
<i>Demographics</i>						
Percent Free/Reduced Lunch	-0.089	0.083	0.284	-0.076	0.077	0.318
Percent Black	0.708	0.050	0.000	0.629	0.050	0.000
Percent Disability	2.251	0.069	0.000	2.246	0.072	0.000
<i>CBSA Teacher Wage Fixed Effect</i>	0.223	0.080	0.006	0.130	0.070	0.062
<i>Year</i>						
2001	-0.087	0.019	0.000	-0.055	0.017	0.001
2002	-0.028	0.019	0.139			
2003	0.008	0.018	0.674	0.032	0.017	0.059
2004				0.024	0.017	0.163
<i>Intercept</i>	6.385	1.386	0.000	7.303	1.365	0.000
<i>R-squared</i>	0.852					

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