Urban Legends, Desegregation and School Finance: Did Kansas City Really Prove That Money Doesn't Matter?

Preston C. Green III
Penn State University

Bruce D. Baker
University of Kansas

Follow this and additional works at: https://repository.law.umich.edu/mjrl

Part of the Civil Rights and Discrimination Commons, Education Law Commons, Law and Politics Commons, and the Law and Race Commons

Recommended Citation
Available at: https://repository.law.umich.edu/mjrl/vol12/iss1/3

This Article is brought to you for free and open access by the Journals at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Journal of Race and Law by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.
URBAN LEGENDS, DESEGREGATION AND SCHOOL FINANCE: DID KANSAS CITY REALLY PROVE THAT MONEY DOESN'T MATTER?

Preston C. Green, III*
Bruce D. Baker**

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 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 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.

INTRODUCTION.........................................................................................................................58
I. AN OVERVIEW OF EDUCATION IN KCMSD PRIOR TO MISSOURI V. JENKINS AND COMMITTEE FOR EDUCATIONAL EQUALITY .........................................................................................................................59
   A. Lay of the Land ..................................................................................................................59
   B. Population Trends ..........................................................................................................62
   C. School Finance Formulas and Organizational Structures ..............................................63
   D. Pre-Jenkins Attempts to Desegregate ..............................................................................65
   E. Calls for Consolidation .....................................................................................................66
II. MISSOURI V. JENKINS ...........................................................................................................67
   A. 1977–1984 ......................................................................................................................67
   B. District Court Remedial Orders (1985–88) ....................................................................68
   C. Supreme Court Decision (1990) ....................................................................................70
   D. Supreme Court Decision (1995) ....................................................................................71
   E. Settlement Decree (1997–98) .........................................................................................73
   F. March to Unitary Status (1999–2003) .............................................................................75
III. COMMITTEE FOR EDUCATIONAL EQUALITY V. STATE ..................................................76
   A. Trial Court Opinion .........................................................................................................77
   B. Outstanding Schools Act ................................................................................................78
   C. Summary of Jenkins and Committee for Educational Equality ........................................80

* Preston C. Green, III is an associate professor in the Department of Educational Policy Studies, Penn State University.
** Bruce D. Baker is an associate professor in the Department of Teaching and Leadership, University of Kansas.
IV. IMPLICATIONS OF KCMSD SAGA FOR SCHOOL FINANCE LITIGATION ................................. 80
   A. Overview of School Finance Litigation ......................................................... 81
   B. The KCMSD Desegregation Plan as Proof That "Money Doesn't Matter" .......... 82
V. EMPIRICAL EVALUATION OF THE CONSERVATIVE CRITIQUE ....................... 84
   A. Premise #1: Did KCMSD Receive More Money Than Other School Districts Over an Extended Period? 84
   B. Premise #2: Did the KCMSD Desegregation Plan Prove That Spending Large Sums on Predominantly Minority Schools Is Inefficient? 90
   C. Premise #3: Did the State of Missouri Cover a Disproportionate Share of the Costs of the Desegregation Plan? 95
   D. Summarizing the Empirical Critique ......................................................... 100
CONCLUSIONS ................................................................................................. 101

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 did so after finding a correlation between educational funding and academic outcomes.2 Conservative critics have countered that Missouri v. Jenkins, a series of school desegregation cases involving the Kansas City, Missouri School District (KCMSD), proves that no such correlation exists. For example, 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 scores continued to decline. Even the judge later admitted that he had blundered.3

This Article examines whether the KCMSD desegregation plan proves that there is no correlation between funding and academic outcomes. The first section of the Article summarizes public education in 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 the concurrent school finance litigation initiatives addressed these problems.

The fourth section offers an overview of school finance litigation and explains how conservatives have relied on the KCMSD desegregation plan to prove that no correlation exists between educational outcomes and academic performance. We also examine the three premises conservatives have based their critiques: (1) KCMSD received more money than any other school district over an extended period; (2) because the exorbitant spending on KCMSD did not lead to improvement in educational outcomes, the plan serves as a cautionary tale for why spending large sums on predominantly black schools is non-productive and inefficient; and (3) the state of Missouri covered a disproportionate share of the costs of the desegregation plan, to the detriment of the rest of state's school districts. The Article's final section examines national and state level data on school funding and student outcomes to determine whether these conservative premises are correct.

I. AN OVERVIEW OF EDUCATION IN KCMSD PRIOR TO MISSOURI v. JENKINS AND COMMITTEE FOR EDUCATIONAL EQUALITY

A. Lay of the Land

KCMSD is carved out of a two-state metropolitan area. Using demographic as well as county, place and school district boundary data from the 2000 U.S. Census, Figure 1 presents a geographic view of the Missouri side of the Kansas City metropolitan area. Kansas City, Missouri is located in two counties north and south of the Missouri river. The center city and downtown areas are in Jackson County, south of the river. In the region south of the river, several school districts are carved partly and in some cases, entirely outside of the city limits. Those districts include KCMSD, Center School District, Raytown (partially), Grandview (partially), Hickman Mills and Lee's Summit (overlapping a small corner of the city). KCMSD also overlaps a portion of the city of Independence.

(Northeast corner of KCMSD). Figure 1 and Figure 2 indicate that people living in the core of Kansas City, Missouri (identified by zip code) are over 90% black. Thus, despite the end of de jure segregation, many areas are still de facto segregated.

Figure 1 and Figure 2 do not include Kansas zip codes adjacent to the west of Kansas City and Center school districts. Since the 1960s, these areas have been the most segregated—white only—zip codes in the metropolitan area.

**Figure 1**

**School Districts in the Kansas City Metropolitan Area**

School Districts & Incorporated Places

---

*Legend*

- Other School Districts
- Incorporated Places
- No School District/Incorporated Place
In 2000, KCMSD remained approximately 70% black, but the resident population within KCMSD boundaries was only about 42% black. 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.

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. It is also noteworthy, that while white students and families were not migrating into KCMSD, for over three decades, minority families had been migrating into the neighboring districts Center, Hickman Mills and Raytown. The geographic barrier that separates North Kansas City has been much less penetrable. However, the state/county line that separates Johnson County, Kansas (Shawnee Mission, Blue Valley, Olathe has proven to be even less penetrable.

---

<table>
<thead>
<tr>
<th>District</th>
<th>State</th>
<th>County</th>
<th>Contig. KCMSD</th>
<th>Average Daily Membership</th>
<th>Median Household Income</th>
<th>Median Housing Unit</th>
<th>% Black</th>
<th>% Hispanic</th>
<th>% Subsidized Lunch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Center</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>2,676</td>
<td>$33,455</td>
<td>$81,794</td>
<td>39.5%</td>
<td>2.2%</td>
<td>24.5%</td>
</tr>
<tr>
<td>Hickman Mills</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>7,304</td>
<td>$38,570</td>
<td>$64,629</td>
<td>51.1%</td>
<td>1.8%</td>
<td>23.1%</td>
</tr>
<tr>
<td>Independence</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>11,229</td>
<td>$34,257</td>
<td>$71,153</td>
<td>3.1%</td>
<td>2.5%</td>
<td>19.3%</td>
</tr>
<tr>
<td>North Kansas City</td>
<td>MO</td>
<td>CL</td>
<td>Y</td>
<td>16,506</td>
<td>$40,569</td>
<td>$83,144</td>
<td>3.2%</td>
<td>2.5%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Raytown</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>8,349</td>
<td>$37,264</td>
<td>$72,651</td>
<td>18.2%</td>
<td>1.9%</td>
<td>13.6%</td>
</tr>
<tr>
<td>Kansas City</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>36,645</td>
<td>$25,363</td>
<td>$50,174</td>
<td>69.4%</td>
<td>5.5%</td>
<td>52.3%</td>
</tr>
<tr>
<td>Lee's Summit</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>12,769</td>
<td>$59,671</td>
<td>$129,400</td>
<td>3.3%</td>
<td>1.4%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Blue Springs</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>12,409</td>
<td>$56,409</td>
<td>$115,700</td>
<td>3.8%</td>
<td>2.1%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Grandview</td>
<td>MO</td>
<td>JK</td>
<td>Y</td>
<td>4,341</td>
<td>$38,972</td>
<td>$81,209</td>
<td>32.2%</td>
<td>2.1%</td>
<td>22.5%</td>
</tr>
<tr>
<td>Liberty School District</td>
<td>MO</td>
<td>CL</td>
<td>Y</td>
<td>5,295</td>
<td>$47,727</td>
<td>$103,560</td>
<td>3.7%</td>
<td>1.4%</td>
<td>9.1%</td>
</tr>
<tr>
<td>Kansas City</td>
<td>KS</td>
<td>WY</td>
<td>Y</td>
<td>21,743</td>
<td>$26,850</td>
<td>$43,750</td>
<td>52.2%</td>
<td>10.9%</td>
<td>55.0%</td>
</tr>
<tr>
<td>Shawnee Mission</td>
<td>KS</td>
<td>JO</td>
<td>Y</td>
<td>31,334</td>
<td>$48,376</td>
<td>$114,699</td>
<td>3.4%</td>
<td>2.8%</td>
<td>7.8%</td>
</tr>
<tr>
<td>Blue Valley</td>
<td>KS</td>
<td>JO</td>
<td>Y</td>
<td>12,648</td>
<td>$78,615</td>
<td>$196,611</td>
<td>1.7%</td>
<td>1.0%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Olathe</td>
<td>KS</td>
<td>JO</td>
<td>Y</td>
<td>17,072</td>
<td>$55,105</td>
<td>$172,201</td>
<td>4.4%</td>
<td>2.1%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Piper</td>
<td>KS</td>
<td>WY</td>
<td>Y</td>
<td>1,239</td>
<td>$57,316</td>
<td>$104,698</td>
<td>4.2%</td>
<td>3.3%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Turner</td>
<td>KS</td>
<td>WY</td>
<td>Y</td>
<td>3,958</td>
<td>$35,952</td>
<td>$55,052</td>
<td>9.2%</td>
<td>7.4%</td>
<td>30.5%</td>
</tr>
</tbody>
</table>

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

B. Population Trends

Many black families moved from rural communities to Kansas City during the late nineteenth and early twentieth centuries in order to take advantage of the city's educational opportunities. In 1869, the Kansas City school board opened Lincoln School for black elementary students. Between 1880 and 1889, the district opened five more black elementary schools and in 1887, Lincoln was converted into a secondary school. 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. Two decades later, the percentage of black children who attended city schools had shrunk to a little more than half, but still exceeded white student percent-

6. Id. at 32.
7. Id.
8. Id. at 31.
ages significantly. By 1940, there were 12 schools built to educate black students in KCMSD.

The black population moving into the city was low-income and poorly educated, while the white population that was moving to the suburbs was wealthier and better-educated. In 1959, the median income for the central city was $5,906 compared to $6,828 compared for suburban residents. According to the 1960 U.S. Census, 4.1% of central city non-white families had incomes over $10,000, while 36.5% had incomes below $3,000. In contrast, 20.2% of the families living in the suburbs had incomes over $10,000, while 10.0% had incomes below $3,000. According to the 1960 U.S. Census, 53.4% of the Kansas City suburbanites were high school graduates, in contrast to only 16.7% of central city non-whites.

C. School Finance Formulas and Organizational Structures

Prior to Jenkins, Missouri’s public school finance system relied heavily on local property taxes. In 1955, voters partially addressed the need for increased educational funding by approving a foundation program and a cigarette tax. These initiatives divided school funds into three categories: equalization, flat grant, and teacher allotments. To qualify for the first two categories, school districts had to levy a one dollar school tax and meet attendance requirements for 180 days. The equalization program guaranteed that poor school districts received $130 per pupil. It did so by providing additional aid to districts that could not raise this amount on their own. The flat grant added an additional $102 per pupil who met daily attendance standards. The school finance formula also included a teacher daily allotment based on each teacher’s level of college

9. Id. at 32.
12. Id. at 24.
13. Id. at 23.
14. Id.
15. Id. at 24.
16. Id. at 28.
18. Id. at 102.
19. Id.
20. Id.
21. Id.
Teacher allotments encouraged school districts to hire higher qualified teachers, and rewarded districts that already employed highly qualified teachers.\textsuperscript{22}

Before Jenkins, KCMSD already received more funding from the state’s school finance system than most school districts. Our analyses of available data indicated that in 1968, KCMSD was generating about $554 in local tax revenue per pupil and spending about $802 per pupil. In 1968, among the relatively small sample of 32 districts reporting, KCMSD’s expenditures per pupil in average daily attendance were the second highest in the state. KCMSD trailed only one small, rural district, and was ahead of the two Kansas City metro area suburban districts reporting: Liberty and Clay County.\textsuperscript{23}

Ironically, KCMSD’s high standing may have been a partial result of the city’s strategically planned racial segregation. During the first half of the 20th century, several high value residential and commercial properties such as a posh shopping center and an elite country club, had been developed within the school district. These areas of the city may have been predominantly white, but their presence increased the property wealth base of the entire school district.

Unfortunately for KCMSD, these select areas were adjacent to Kansas, where state, local and county officials permitted the district to develop into a racially restricted community between the 1940s and 1960s. Further, because there was ample land available in Kansas, the next wave of stately mansions were built on the Kansas side of the state line. As a result, the racially restricted country club was moved to Kansas as well.

It is also important to note that even though 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 KCMSD’s growing poor, black population. White flight, a declining tax base, and the rising costs of public services, had all forced Kansas City to become dependent on federal funding for school finance.\textsuperscript{24}

Before 1966, federal funds never constituted more than 2% of KCMSD’s operating budget.\textsuperscript{25} Two years later, it was responsible for 10% of

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{22} Id.
\item \textsuperscript{23} Id.
\item \textsuperscript{25} 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).
\item \textsuperscript{26} Id.
\end{itemize}
\end{footnotesize}
KSMSD's operating fund which amounted to $4.2 million in aid from Elementary and Secondary Education Act (ESEA) grants.27

D. Pre-Jenkins Attempts to Desegregate

After the Supreme Court held in *Brown v. Board of Education*28 that *de jure* segregation in public schools was unconstitutional, the KCMSD school board ordered the superintendent and the district’s research department to design a desegregation plan for KCMSD.29 The transitional plan called for black and white students attending the school closest to them regardless of race. The plan also contained a transfer policy that enabled students to transfer between schools.30

The transitional plan failed to desegregate KCMSD.31 One reason for this was that KCMSD granted student transfers too liberally.32 Transfers became a way for students to avoid desegregation.33 Also, attendance zones did not address problems caused by residential segregation.34 By the mid-1960s it was clear that desegregation attempts were not working but KCMSD refused to change. It rejected desegregation alternatives such as clustering schools, implementing busing, creating magnet schools, and building schools on sites designed to maximize integration.35 Consequently, by the mid-1970s, Kansas City was no longer in compliance with constitutional desegregation standards.36

The U.S. Department of Health, Education, and Welfare (HEW) and the Office for Civil Rights (OCR) used the “carrot and stick” approach to convince KCMSD to modify its transfer policy.37 In exchange for federal resources, KCMSD agreed to allow school clustering and busing, and to develop a magnet school program to attract white students.38

Unfortunately, HEW and OCRs’ assistance came too late. In 1960, there were more than 51,000 white students in KCMSD, constituting 72% of the district’s enrollment.39 However by the mid-1970s, there were fewer than 20,000 white students in KCMSD, or one-third of the school

---

27. *Id.* at 1941.
30. *Id.*
31. *Id.* at 1937.
32. *Id.* at 1935.
33. *Id.*
34. *Id.* at 1936.
35. *Id.* at 1936–40.
36. *Id.* at 1940.
37. *Id.* at 1940–48.
38. *Id.*
39. *Id.* at 1950.
district's population.\textsuperscript{40} KCMSD's only chance was to develop a desegregation plan that included the surrounding suburbs.\textsuperscript{41}

E. Calls for Consolidation

Beginning in the mid-1960s, policymakers discussed the possibility of incorporating parts of the surrounding suburbs into KCMSD.\textsuperscript{42} KCMSD Superintendent James Hazlett suggested that a metropolitan approach to education and integration should be seriously considered\textsuperscript{43} despite the disapproval of suburban school administrators. In 1968, a commission appointed by the state legislature recommended that all Kansas City school districts be consolidated in order to address varying taxable wealth and educational needs among existing districts.\textsuperscript{44} Students in metropolitan areas were adversely and disproportionately affected because of the high concentrations of disadvantaged people living in the city.\textsuperscript{45}

In 1969, the commission issued a report that set out a strategy for consolidating KCMSD and St. Louis with the surrounding suburbs.\textsuperscript{46} 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."\textsuperscript{47} The regional board would have the responsibility of levying a uniform education tax throughout the region and distributing the money to the local boards.\textsuperscript{48} The commission also proposed an organizational scheme that clustered urban and suburban school districts.\textsuperscript{49} Unfortunately, the state legislature refused to adopt the commission's consolidation suggestions because of rural communities that did not want to consolidate and suburban communities that did not want to relinquish their local control.\textsuperscript{50}

\textsuperscript{40} Id.
\textsuperscript{41} Id.
\textsuperscript{42} Peter W. Moran, Race, Law, and the Desegregation of Public Schools 160 (LFB Scholarly Publishing 2005).
\textsuperscript{43} Id.
\textsuperscript{44} Id. at 160–61.
\textsuperscript{45} Id. at 161.
\textsuperscript{46} Hooker & Mueller, supra note 11.
\textsuperscript{47} Id. at 49.
\textsuperscript{48} Id.
\textsuperscript{49} Id. at 51.
\textsuperscript{50} Id.
II. MISSOURI V. JENKINS

In the previous section, we outlined the conditions in 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 KCMSD up until the commencement of the Jenkins litigation shows that district organizational policies and the state's school finance system are responsible for KCMSD lack of adequate resources. School desegregation efforts neither increased resources for KCMSD nor altered school district boundaries. These actions, coupled with the refusal of state officials to consolidate KCMSD with surrounding suburban districts obstructed the district's desegregation attempts. In this section we analyze whether Jenkins helped integrate KCMSD by addressing the district's organizational and funding problems.

A. 1977–1984

In March 1977, KCMSD, the superintendent, members of the school board, and the children of school board members sued the states of Kansas and Missouri, 18 school districts on both sides of the state line, and the federal departments of HEW, Housing and Urban Development (HUD), and the Department of Transportation (DOT). The plaintiffs alleged that Kansas and Missouri schools were still de jure segregated and responsible for keeping KCMSD homogenized. However, in October 1978, Western District Court of Missouri Judge Russell Clark dismissed all of the Kansas defendants and realigned KCMSD as a single defendant.

In 1979, a new plaintiff group consisting of eight students from the Kansas City area filed an amended complaint alleging that the Kansas City public schools were unconstitutionally segregated. The state of Missouri, 13 suburban school districts surrounding KCMSD, KCMSD, and the federal departments of HEW, HUD, and DOT were all named as defendants. KCMSD subsequently filed a cross-claim against the state claiming that the state had failed to dismantle its previous dual system.

In 1984, Judge Clark dismissed the suburban school districts and federal agencies from the lawsuit, but ruled that KCMSD and the state had operated a de jure segregated school district. Clark also declared that "much of the cost for preparing and implementing a plan to dismantle
the vestiges of a dual system in 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."57

The plaintiffs' originally hoped to bring about a restructuring of the Kansas City-metropolitan area through the opening left in Milliken v. Bradley (Milliken I).58 Milliken authorizes interdistrict remedies if plaintiffs can prove that the suburban districts operated under a racially discriminatory intent.59 When Clark ruled that the state was de jure segregated, the plaintiffs assumed that the verdict implied a finding of metropolitan-wide discrimination.60 Accordingly, they drafted a plan to consolidate KCMSD with the surrounding 11 suburban school districts. However, Judge Clark struck down the plan because the court lacked the authority under Milliken I to order the restructuring of school districts where no constitutional violation had occurred.61 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 KCMSD plan which would require the consolidation of eleven suburban school districts with KCMSD goes far beyond the nature and extent of the constitutional violation this Court found existed."62

B. District Court Remedial Orders (1985–88)

In June 1985, Judge Clark issued his first remedial order.63 He found that "[s]egregation has caused a system wide reduction in student achievement in the schools of the KCMSD."64 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 eliminate the effects of prior discrimination.65 He then ordered a wide range of educational programming designed to increase student achievement. Among other things, Clark held that KCMSD must be restored to AAA status, which was the highest level of accreditation granted by the state department of education.66 Clark also

57. Id. at 1506.
59. An Ordinary Case with an Extraordinary Remedy (Miller Center for Public Affairs, University of Virginia, 2000) (on file with the authors).
60. Id.
62. Id.
64. Id. at 24 (emphasis supplied by the court).
ordered that class sizes must be reduced to "remedy the vestiges of past discrimination by increasing individual attention and instruction, as well as increasing the potential for desegregative educational experiences for KCMSD students by maintaining and attracting non-minority enrollment." Clark further ordered the adoption of summer school, full-day kindergarten, before and after school tutoring, and early childhood development programs. He then directed the state to fund an effective schools program for all KCMSD schools and to adopt an extensive capital improvements program.

Although Clark acknowledged that his 1984 opinion held that the state was primarily responsible for bearing the costs of implementing the desegregation plan, he did shift some of the financial burden to KCMSD. 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 district's operating levy to be reduced to $3.26, and a statewide reassessment would reduce the levy below $3.26. Consequently, KCMSD was $3 million short of the revenue needed to pay for the levy and the district's only unallocated funds were an $850,000 to $1 million contingency fund. Clark ordered that the rollback be enjoined for one year to enable the state to raise an additional $4 million and to give KCMSD the opportunity to submit a tax levy increase at the next regularly scheduled school election. In subsequent decisions, Clark increased the district's levy to $4.96.

In 1987, Clark concluded that KCMSD did not have sufficient resources to fund its share of the remedy. Therefore, he imposed a 1.5% increase on the state income tax on KCMSD residents, business associations, partnerships, and corporations. The surcharge was to remain in effect until the bonds were retired or until other provisions were implemented that would ensure their fulfillment. Clark also ordered KCMSD to increase its property tax levy from $2.05 to $4.00 per $100 assessed

67. Id. at 29.
68. See id. at 30–33.
69. See id. at 33–34.
70. See id. at 39–41.
71. Id. at 43.
72. Id. at 44.
73. Id. at 45.
76. Id. at 412.
77. Id. at 413.
valuation through the 1991–92 school year. He then directed KCMSD to issue capital improvement bonds totaling $150 million, which would be retired within 20 years of the date issued.

On appeal, the Eighth Circuit upheld the scope of the capital improvements and the validity of the proposed property tax increase. The court reasoned that the property tax increase, did not overstep the court's remedial power. It also noted that state law could not hamper a court from remedying a constitutional violation. 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."

The appropriate method for determining 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 enlist county and state officials that would reduce the levy below the amount set by the board.

The income surcharge however, was declared unconstitutional. The Eighth Circuit declared the income tax surcharge unconstitutional because the district court exceeded its remedial authority. While Judge Clark was authorized to set aside restrictions imposed by state law that hindered it from dismantling a dual educational system, he was not empowered to restructure the tax system. Thus, the income tax surcharge exceeded the district court's authority because the tax "restructure[d] the State's scheme of school financing and create[d] an entirely new form of taxing authority."

C. Supreme Court Decision (1990)

The U.S. Supreme Court granted the state's certiorari petition. 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. 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." Before taking on this task, Judge Clark should have determined whether less intrusive options were available. 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 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.

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 implicated when a federal court was remediating 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. 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.

D. Supreme Court Decision (1995)

The Supreme Court again ruled on the Kansas City desegregation litigation in 1995. This challenge dealt with two components of the district court's remedial order. The first component required the state to finance salary increases for KCMSD instructional and non-instructional staff. The state asserted that funding for salaries went beyond the district court's remedial authority. 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 because the state had achieved partial unitary status with respect to the state's quality programming.

Judge Clark rejected the state's arguments. He held that the salary increases were necessary to improve educational opportunities and to reduce racial isolation. He also held that in order to eliminate the vestiges

89. Id. at 51.
90. Id.
91. Id.
92. Id. at 55.
93. Id.
96. Jenkins, 515 U.S. at 80.
97. Id.
of past discrimination, it was necessary to improve the "desegregative attractiveness" of KCMSD.98 Although Clark did not address the state's claim that it no longer had to provide funding for quality education because it had achieved unitary status with respect to this issue, he nonetheless ordered the state to continue providing funding for quality programs.99

The Eighth Circuit upheld the holding of the district court.100 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 KCMSD's discriminatory practices, but was also designed to reverse white flight by providing superior educational opportunities.101 The court also rejected the state's assertion that it had achieved unitary status with respect to quality programming because KCMSD was still below national norms at a number of grade levels.102

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.103 The Court found that the district court's decree violated the Milliken I 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."104

The Court also ruled Judge Clark's order requiring the state to continue funding quality educational programming because student achievement levels were below national norms to be inadequate.105 It noted that the basic chore of the district court was to determine whether the reduction in achievement in minority students caused by KCMSD's prior de jure discrimination was reduced to a practical level.106 However, Judge Clark had failed to determine the effect that segregation had on the performance of minority students.107 Moreover, the Court believed that many of the goals of its quality education programs had been achieved. The Court explained that KCMSD had achieved AAA accreditation status and that students who had attended schools that had not received

98. Id.
99. Id. at 80–81.
101. Id. at 767.
102. Id. at 761–62.
103. Jenkins, 515 U.S. at 70.
104. Id. (emphasis supplied by the Court).
105. Id. at 100.
106. Id. at 101.
107. Id.
such status had received remedial programming for up to seven years.\(^{108}\) 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.'"\(^{109}\)

**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.\(^{110}\) In May 1996, the state and KCMSD entered into an agreement whereby the state would be dismissed from the case once it had paid $320 million in desegregation funds to KCMSD over a three-year period, with the court’s approval.\(^{111}\) 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.\(^{112}\) In March 1997, Judge Clark approved the agreement, but refused to grant KCMSD’s request to extend court supervision until alternative funding sources were guaranteed.\(^{113}\) He held that the district court did not have the power to impose the levy in order to avoid "fiscal chaos."\(^{114}\) Judge Clark also rejected the argument that there was still residual "financial vestige" from prior discrimination.\(^{115}\) Essentially, KCMSD argued that the actions of the state created an atmosphere that made it impossible for the district to raise sufficient funds to run its schools.\(^{116}\) Clark rejected this argument because it was the duty of KCMSD and the state to ensure that the district had adequate funding.\(^{117}\)

During the transitional period, Clark ordered 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 KCMSD."\(^{118}\) 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."\(^{119}\) Clark found that the state had not achieved unitary status with regard to racial balance, but held that the

\(^{108}\) Id. at 102.

\(^{109}\) Id. (quoting Freeman v. Pitts, 503 U.S. at 489).


\(^{111}\) Id.

\(^{112}\) Id.

\(^{113}\) Id. at 1162.

\(^{114}\) Id.

\(^{115}\) Id. at 1169.

\(^{116}\) Id.

\(^{117}\) Id.

\(^{118}\) Id. at 1165.

\(^{119}\) Id. at 1179.
state had achieved unitary status with respect to extracurricular activities.\textsuperscript{120}

Judge Clark's 1997 opinion is noteworthy because of his reflections regarding the successes and failures of the desegregation decree. He observed that "the Court remains proud of the innovations it ordered," and that "[a] large amount of the money spent in the District has indeed resulted in tangible benefits."\textsuperscript{121} These benefits included "new and renovated schools, an increased number of computers, higher technology available to all students, and intervention programs to help impoverished children."\textsuperscript{122} Despite the strides made by the district during the Jenkins litigation, Clark acknowledged that the performance of KCMSD was still inadequate in many areas.\textsuperscript{123} Among other things, he noted the lack of a comprehensive instructional program, ongoing administrative instability, lack of a security plan, and the lack of a budgeting plan.\textsuperscript{124} 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).\textsuperscript{125}

Judge Clark concluded that these deficiencies were not caused by a lack in educational resources because "KCMSD ha[d] an operating budget that \textit{far exceeded} the budgets of other school districts."\textsuperscript{126} Clark was also troubled by the witness testimony about the "size and inefficiencies of KCMSD administration."\textsuperscript{127} Because he was concerned that KCMSD was not up to the task of getting its financial affairs in order during the transitional period,\textsuperscript{128} he appealed to the state educational commissioner and the state department of education to cover KCMSD during the transitional phase.\textsuperscript{129} If they declined his request, then Clark would seek the department's help in finding a Special Master to manage KCMSD.\textsuperscript{130}

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.\textsuperscript{131} After the appeal was argued,

\textsuperscript{120} See id. at 1165–68. The Eighth Circuit affirmed Judge Clark's ruling on appeal. Jenkins ex rel. v. Missouri, 122 F.3d 588 (8th Cir. 1997).
\textsuperscript{121} Jenkins, 959 F. Supp. at 1173.
\textsuperscript{122} Jenkins v. Missouri, 122 F.3d 588 (8th Cir. 1997).
\textsuperscript{123} Id.
\textsuperscript{124} Id. at 1173–74.
\textsuperscript{125} Id. at 1173.
\textsuperscript{126} Id. at 1174. We analyze whether KCMSD was such a high-spending district in Section V.
\textsuperscript{127} Id. at 1177.
\textsuperscript{128} Id. at 1178.
\textsuperscript{129} Id. at 1178–79.
\textsuperscript{130} Id. at 1179.
\textsuperscript{131} See Jenkins v. Missouri, 158 F.3d 984 (8th Cir. 1998).
Missouri voters adopted a constitutional 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 KCMSD. Additionally, the state legislature enacted Senate Bill 781, which set the operating levy for KCMSD at $4.95. This legislation was contingent upon the St. Louis case being settled by March 15, 1999. The Eighth Circuit dismissed the appeal because it was no longer ripe for review now that it was possible for KCMSD to fund school construction projects.

F. March to Unitary Status (1999–2003)

After the March 1997 order, Judge Clark excused himself from the Jenkins litigation. The case was then reassigned to Judge Dean Whipple. True to Clark's predictions, many of the chronic problems facing the district endured. In October 1999, the state department of education unanimously voted to designate the KCSMD as unaccredited. State officials found that the district satisfied none of the 11 state performance standards for accreditation, including general academic achievement, reading achievement, college entrance exam scores, attendance, and dropout rates. 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. Whipple also found that the board's decision to designate KCMSD as unaccredited could help the district achieve the goals of the desegregation order by holding it accountable for its educational failures. Moreover, Whipple rejected 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

132. Mo. Const. art. X, § 11(g).
134. Jenkins, 158 F.3d at 986.
136. Id.
137. Id.
139. Id. at 1067–68.
140. See id. at 1076.
141. See id. at 1077.
KCMSD because of the "realization that KCMSD is not, in fact, providing the education needed."\footnote{142}{Id.}

Judge Whipple held *sua sponte* that KCMSD had achieved unitary status and dismissed pending litigation.\footnote{140}{Id.} Whipple acted in this manner because the district had made considerable progress toward eliminating vestiges of prior segregation to the extent practical and because the state’s accreditation standards would force KCMSD to take the necessary steps to improve educational outcomes.\footnote{144}{Id.} Additionally, Whipple dismissed the suit because KCMSD was providing an equal education to its students, regardless of race.\footnote{145}{Id.} Still, 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."\footnote{146}{Id.} The Eighth Circuit reversed Whipple’s *sua sponte* ruling stating that KCMSD had attained unitary status. It also released the district from further court supervision because the parties were entitled to notice and a hearing before the district court dismissed the case.\footnote{147}{Id.}

On March 2001, Judge Whipple presided over a unitary status hearing on KCMSD’s motion for partial unitary status.\footnote{148}{Id.} Twelve months later, Whipple held that the district had achieved unitary status with regard to racial balance, facilities, budget and transportation.\footnote{149}{Id.} On March 2003, Judge Whipple granted 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 complied with the district court’s orders in good faith for a reasonable amount of time.\footnote{150}{Id.}

III. COMMITTEE FOR EDUCATIONAL EQUALITY v. STATE

The *Committee for Educational Equality v. State* case began in 1990, when plaintiffs filed a lawsuit alleging that the state’s school finance system violated the state constitution.\footnote{151}{Molly A Hunter, Litigation: Missouri, NATIONAL ACCESS NETWORK, at http://www.schoolfunding.info/states/mo/lit_mo.php3 (last visited Feb. 22, 2006).} The Committee for Educational Equality was 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.\textsuperscript{152} This section provides a summary of the trial court opinion, discusses the state legislature’s response (i.e. the Outstanding Schools Act), and provides a brief summary of key points from the \textit{Jenkins} and \textit{Committee for Educational Equality} decisions.

A. Trial Court Opinion

In January 1993, a state trial court held that the Missouri school finance system violated the state equal protection clause because “the wealth of the local community is the primary and predominant determinant of the quality of a child’s education in Missouri.”\textsuperscript{153} In reaching this conclusion, the court noted that “[a] high and very significant correlation exists among \textit{all} school districts between state and local revenues per pupil and equalized assessed valuation[s] of property per pupil.”\textsuperscript{154} 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.”\textsuperscript{155} 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 [a] low local fiscal effort to support the public schools” because the data clearly indicated that disparities were caused by local wealth, not local choice.\textsuperscript{156}

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.\textsuperscript{157} 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.\textsuperscript{158} In fact, in order to raise current per-pupil expenditures to the national average in 1989–90 of $4,975 it would have to raise an additional $957 million.\textsuperscript{159}

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 simply stayed the judgment for 90 days after the

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{152} \textit{Id.}
\item \textsuperscript{153} Committee for Educ. Equal. v. State, No. CV190-1371CC, slip op. at 12 (Cir. Ct. Cole County Jan. 15, 1993).
\item \textsuperscript{154} \textit{Id.} (emphasis supplied by the court).
\item \textsuperscript{155} \textit{Id.}
\item \textsuperscript{156} \textit{Id.} at 20.
\item \textsuperscript{157} \textit{Id.}
\item \textsuperscript{158} \textit{Id.} at 21.
\item \textsuperscript{159} \textit{Id.}
\end{enumerate}
\end{footnotesize}
next regular session so that the legislature had a chance to enact a school finance system that complied with the state constitution.160

B. Outstanding Schools Act

In response to the trial court decision, in 1993, the legislature enacted the Outstanding Schools Act, which, increased matching aid levels, encouraged all districts to raise their property tax levies, and modestly altered other features of the school finance formula.161 The act included “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.”162 Like its predecessor, the formula provided school districts with a guaranteed tax base, but raised the minimum local property tax rate without a voter referendum from $1.25 to $2.75 for every $100 of assessed value.163 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.164 It also included an income multiplier (district income factor) to drive more matching aid to lower income districts.165 If a district’s own assessed value per pupil is approximately 50% of the state guarantee, that district would receive $1 for each dollar raised from local property income in state aid. School districts also received additional funding for sanctioned uses such as for special education students and students eligible for free or reduced lunch.166

This would mean that in a year, a state with a guaranteed wealth of $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, the district would be entitled to $2,062 in state aid. Similarly, a district with 20% children who qualified for free or reduced lunch, the district would be entitled to at a minimum, $4,290 per child in state aid. If that same district had a lower than average income, state aid per pupil would be adjusted slightly upward. In short, the higher the

160. 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. 1994).
162. Id. § 160.500(1).
163. Id. § 163.031(1).
164. Id.
165. Id. § 163.031(1).
166. Id. § 163.031(3).
number of children in poverty and lower income levels, the higher the matching rate of state aid.\textsuperscript{167} In 1993, KCMSD was still abiding by the $4.96 levy imposed by Judge Clark, which was substantially greater than the $2.75 minimum imposed by the Outstanding Schools Act.\textsuperscript{168} 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.\textsuperscript{169} As mentioned earlier, the state legislature adopted Senate Bill 781, which set tax rate for KCMSD at $4.95. Meaning, that the state met its state constitutional obligation by allowing the local boards of education to access a $2.75 tax rate to generate "adequate" funding, while requiring KCMSD to levy a $4.95 tax rate.

In 2005 the Missouri legislature adopted more changes to the school finance formula. The adjustments guarantee $6,117 per pupil in foundation level funding on a 7-year phase-in plan. It also includes higher weighted rates for low-income and limited English proficient students. The plan is partially supported by raising the local tax from $2.75 to $3.43. Yet despite these modifications, the court still expects KCMSD to shoulder a $4.95 tax rate which is higher than every other school district.\textsuperscript{170} Accordingly, 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.\textsuperscript{171} 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. The new aid distribution formulas set a base level of funding and implement a variety of need weighting mechanisms. This ensures that qualified students receive in each district, receive a need adjusted basic level of funding. Each district then levies a state required tax rate. For districts whose property taxes are not

\begin{itemize}
\item[167.] Nonetheless, R. Craig Wood & 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).
\item[170.] See Mo. REV. STAT. § 163.011.
\end{itemize}
enough to ensure a "basic level of funding," the state makes up the difference with state funds.\footnote{172}{Bruce D. Baker \& William D. Duncombe, \textit{Balancing District Needs and Student Needs: The Role of Economies of Scale Adjustments and Pupil Need Weights in School Finance Formulas}, 29 \textit{J. of Educ. Fin.} 97 (2004).} Under this model, if KCMSD’s need level been estimated at 40 to 50% above the basic level, it would have been the state’s responsibility to fill the gap. SB 287 employs a foundation plan, but its effectiveness is diminished because the actual student need adjustments in the formula are too low to adequately help poor districts such as KCMSD and St. Louis. Therefore, funding generated in these districts at only the $3.43 levy is not enough and will be only partially offset by KCMSD’s higher tax rate.

\textbf{C. Summary of Jenkins and Committee for Educational Equality}

Our analysis of the \textit{Jenkins} litigation reveals that Judge Clark attempted to enforce remedies on KCMSD and the state of Missouri by relying on the federal court precedents made by \textit{Milliken I} and \textit{Milliken II}. Clark refused to redraw district boundaries. Instead, he imposed a high property tax on KCMSD in order to generate sufficient state and local revenue under the state’s existing school finance formula. The state legislature’s response to KCMSD’s concerns about funding after it had achieved unitary status was to continue imposing local property taxes at the level set by Judge Clark.

In addition, the state legislature’s reaction to the \textit{Committee for Educational Equality} litigation proceedings was to accept 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 KCMSD. For KCMSD, the state legislature deemed it appropriate to hold the district to the much higher \textit{Jenkins} standard despite the fact that it contradicted the funding approach a number of states had adopted for their high-need districts.

\textbf{IV. Implications of KCMSD Saga for School Finance Litigation}

A number of conservatives have used KCMSD experience as proof that there is no correlation between funding and educational outcome. In this section, we provide an overview of school finance litigation and document how several courts have come to conclude that a correlation exists.
A. Overview of School Finance Litigation

Scholars have divided school finance litigation into three waves. Each wave represents a different legal strategy that characterized the era. 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 of the United States Constitution. However in 1973, this approach was no longer a viable option because the Supreme Court held in San Antonio Independent School District v. Rodriguez that using local property taxes to fund public schools did not violate the Equal Protection Clause of the Fourteenth Amendment—even if it caused poorer schools to receive substantially less than their more affluent counterparts.

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. These cases failed mainly because courts held that disparities created by local property taxation did not violate state constitutional provisions.

In the current wave, which began in 1989, plaintiffs have asserted that the existing school finance systems prevent states from providing poor school districts with an adequate education as defined by their state education clauses. The seminal case is Rose v. Council for Better Education, Inc., a case in which the Kentucky Supreme Court invalidated the state's entire education system for not providing students with an adequate education as required by the state constitution's education clause.

In several successful third wave adequacy cases, courts have defined an "adequate education" in terms of academic outcomes. Subsequently, they directed state legislature to develop remedies that will comply with their mandates. Several courts have also found 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."178 The court also noted that the fact that "Kentucky's overall effort and resulting achievement in the area of primary and secondary education are comparatively low, nationally, is not in dispute."179

In Lake View School District No. 25 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.180 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. 30.181 They also contended that the increase in education spending was unnecessary because student performance had not significantly improved. The state supreme court rejected this claim, in part, because the state's efforts to "correct the course of educational deficiencies in Arkansas [were] dependent on quality teachers."182 The state had failed to ensure that its poor school districts would have quality teachers. In fact, the entry level for teacher salaries in Arkansas was 48th in the nation and the lowest of the nine states in the region.183 There were also serious disparities in teacher salaries causing poorer school districts to lose teachers because of the low wages.184

In Campaign for Fiscal Equity Inc. v. State,185 the New York Court of Appeals found that there is a correlation between the school finance system and the poor performance of New York City students. Increased funding could improve student performance by equipping New York City schools with the money to obtain better teachers, facilities, and other academic resources.186

B. The KCMSD Desegregation Plan as Proof That "Money Doesn't Matter"

The conservative claim that KCMSD proves that no correlation exists between increased funding and educational outcomes rests on three premises. The first premise is that 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 on a cost of living adjusted basis, KCMSD "spent as much as $11,700 per-pupil—more money

178. Rose, 790 S.W.2d at 197.
179. Id. (emphasis supplied).
182. Lake View Sch. Dist. No. 25, 91 S.W.3d at 489.
183. Id. at 488–89.
184. Id. at 489.
186. Id. at 340–41.
per pupil than any of the other 280 largest districts in the country," and that "[KCMSD] got [the extra money] for more than a decade."\textsuperscript{187}

The second premise is that because the added resources did not lead to improved student outcomes, KCMSD's desegregation plan underscores why pouring exorbitant sums of tax dollars into poor, urban, black schools is non-productive and inefficient. After the trial court in Campaign for Fiscal Equity ruled that the state's school finance system already provided New York City school children with an adequate education, esteemed educational economist Eric Hanushek cited Jenkins as an example as to why additional funding would not lead to improved student performance in city schools. 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.\textsuperscript{188}

In another example, David Armor and Christine Rossell observed that the achievement levels of black fifth-graders on the Iowa Tests of Basic Skills (ITBS) was significantly below the achievement levels of white fifth-graders from 1988 to 1995. However, they warned against increasing spending because of the failures that occurred with KCMSD. Armor and Rossell suggested that "[w]ith a unique court-ordered tax levy and court-ordered funding from the state, total expenditures [in KCMSD] reached $10,000 per pupil by 1990, with total funding exceeding $1.5 billion over approximately an eight-year period."\textsuperscript{189} "Thus, 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 achievement gap."\textsuperscript{190} Critics also point to KCMSD's loss of accreditation in 2000 as evidence that the desegregation plan was an abject failure.\textsuperscript{191}


\textsuperscript{190} \textit{Id.} at 248.

\textsuperscript{191} 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 (last visited Nov. 29, 2005).
The third premise is that the state's financial assistance for high-need urban school districts hurts other state districts by exhausting state resources. 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." According to the 1998 Cato Institute report, the 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." To replace the money spent on St. Louis and KCMSD, "other districts in the state had to cancel field trips and extracurricular activities, defer maintenance, fire teachers, and freeze salaries."

V. Empirical Evaluation of the Conservative Critique

As previously mentioned, 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) KCMSD received more money than other school districts over an extended period; (2) because the exorbitant spending on KCMSD did not lead to improvement in educational outcomes, the plan is the national model for why spending large sums on predominantly black schools is non-productive and inefficient; and (3) the state of Missouri covered a disproportionate share of the costs of the desegregation plan which indirectly harmed the state's other school districts. In this section, we empirically analyze each of these claims.

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

In order to determine the validity of this premise we must compare how much KCMSD spent per pupil and for how long with neighboring school districts:

1. Relative to public school districts located in large urban centers nationally, how did the Kansas City Missouri school district's actual current operating expenditures and current instructional expenditures compare?

2. Relative to other public school districts in the Kansas City Consolidated Metropolitan Statistical Area (CMSA),

---

194. *Id.*
how much more per pupil did the Kansas City Missouri public schools spend from 1990 to 2000?; and

3. Relative to other public school districts in the Kansas City CMSA, how did the demographics of Kansas City Missouri public schools differ and change from 1990 to 2000?

Table 2 summarizes the operating per-pupil and instructional expenditures of KCMSD relative to other major metropolitan districts nationally throughout the 1990s. The data for the years 1990 to 2000 are from the National Center for Education Statistics, Fiscal-Non-fiscal longitudinal file. The data in Table 2 includes 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 in the initial analysis. The data set includes 51 to 77 districts per year.

Table 2 shows that from 1990 to 2000, KCMSD was a high expenditure district. It spent 12% to 76% more than other major metropolitan districts in current operating expenditures per pupil. However this was only 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, 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—not the ten year period often argued. 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 was already spending significantly more than large urban districts elsewhere in the nation. In fact, in 1968 and 1980, 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

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

Table 3 attempts to address whether 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. 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, predecessor to the U.S. Census Bureau’s Fiscal Survey of Local Governments (F-33), Public Elementary and Secondary School Finances. In 1968, KCMSD ranked 19th of 142 districts enrolling 30,000 or more pupils. Twelve years later, KCMSD ranked 24th nationally in unadjusted dollars.

Table 3 shows that in either adjusted or unadjusted dollars, KCMSD ranked first nationally for only one year, 1992. In most years, KCMSD trailed Boston (MA), Rochester (NY), Pittsburg (PA), Portland (OR) or Newark (NJ) school districts. By 2000, KCMSD had fallen to 19th of 73 districts, which was lower than it had been in 1968 when it was also ranked 19th, but out of 142 school districts.

Kansas City has historically been considered a high spending metropolitan school district. However, we find little or no evidence that KCMSD outspent every other major metropolitan districts for over 10 years.

Next, we compare current operating and current instructional expenditures of KCMSD with the other Kansas City Core Based Statistical Area (CBSA) districts. Table 4 again, uses NCES/Census (F-33) data coupled with earlier ELSEGIS data. Table 4 shows that KCMSD sometimes spent as much as twice what other districts in the same metropolitan area were spending. When focusing on instruction alone, that margin is cut to only 58% above the other Kansas City metro area districts. As seen in comparisons with national metropolitan areas, from 1995 to 2000, KCMSD’s funding margin tapered off quickly, and was 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 were higher than metro area averages by 1999.
Table 4
RATIOS OF EXPENDITURES AND SELECTED DEMOGRAPHIC MEASURES TO KC METRO AREA DISTRICTS

<table>
<thead>
<tr>
<th>Year</th>
<th>Ratio of Current Expenditures to CMSA Mean</th>
<th>Ratio of Current Instructional Expenditures to CMSA Mean</th>
<th>Ratio of Poverty to CMSA Mean</th>
<th>Ratio of Black Share to CMSA Mean</th>
<th>Ratio of Hispanic Share to CMSA Mean</th>
<th>Ratio of Disability Share to CMSA Mean</th>
<th>Pupil to Teacher Ratio to CMSA Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>1.34</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>1.77</td>
<td>1.32</td>
<td>2.91</td>
<td>6.73</td>
<td>2.33</td>
<td>1.08</td>
<td>0.64</td>
</tr>
<tr>
<td>1991</td>
<td>2.03</td>
<td>1.58</td>
<td>2.74</td>
<td>6.76</td>
<td>2.12</td>
<td>1.07</td>
<td>0.78</td>
</tr>
<tr>
<td>1992</td>
<td>2.20</td>
<td>1.58</td>
<td>2.53</td>
<td>6.72</td>
<td>2.13</td>
<td>1.07</td>
<td>0.77</td>
</tr>
<tr>
<td>1993</td>
<td>1.95</td>
<td>1.39</td>
<td>2.57</td>
<td>6.60</td>
<td>2.11</td>
<td>1.02</td>
<td>0.75</td>
</tr>
<tr>
<td>1994</td>
<td>1.59</td>
<td>1.45</td>
<td>2.57</td>
<td>6.94</td>
<td>2.21</td>
<td>0.99</td>
<td>0.76</td>
</tr>
<tr>
<td>1995</td>
<td>2.04</td>
<td>1.49</td>
<td>3.31</td>
<td>6.59</td>
<td>2.27</td>
<td>1.00</td>
<td>0.77</td>
</tr>
<tr>
<td>1996</td>
<td>1.73</td>
<td>1.38</td>
<td>2.27</td>
<td>6.43</td>
<td>2.49</td>
<td>1.04</td>
<td>0.80</td>
</tr>
<tr>
<td>1997</td>
<td>1.50</td>
<td>1.25</td>
<td>2.95</td>
<td>6.36</td>
<td>2.53</td>
<td>1.01</td>
<td>0.91</td>
</tr>
<tr>
<td>1998</td>
<td>1.43</td>
<td>1.20</td>
<td>2.95</td>
<td>6.19</td>
<td>2.62</td>
<td>0.89</td>
<td>0.98</td>
</tr>
<tr>
<td>1999</td>
<td>1.25</td>
<td>1.11</td>
<td>3.55</td>
<td>8.11</td>
<td>3.28</td>
<td>0.93</td>
<td>1.08</td>
</tr>
<tr>
<td>2000</td>
<td>1.23</td>
<td>1.09</td>
<td>3.48</td>
<td>5.52</td>
<td>2.62</td>
<td>0.81</td>
<td>1.04</td>
</tr>
<tr>
<td>2003</td>
<td>1.26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 5 and Table 6 attempt to compare KCMSD with the other Kansas City metropolitan area districts when compared for need. This method was 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, KCMSD had on average, six to eight times the black population share; more than twice the Hispanic population share; and 2.5 to 3.5 times the poverty rate of KCMSD’s metro area school district counterparts. William Duncombe and John Yinger found that the additional cost per child qualifying for subsidized lunch was approximately 110% of the cost of achieving comparable outcomes for the non low income child. Following this work, and the application of these findings for need adjustment by Robert Bifulco, we apply a weight of 1.10 to each child qualifying for free or reduced price lunch as reported in the NCES fiscal/non-fiscal longitudinal file (aggregated from the public school universe enrollment data). Observe that we are unable to make additional adjustments for the needs of limited English proficient students due to insufficient or data on these students for the Missouri and Kansas districts. Since our analyses adjust only for poverty-related needs, they should be considered conservative.

Before adjustments are applied, KCMSD’s instructional spending ratios compared to other metro area districts climb to over 150% before reducing to 108%. When adjusted for poverty-related needs only, KCMSD rises only as high as 120% above other metro area districts, and

reduces to only 76% of other metro area districts by 2000. That is, by 2000, 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**

<table>
<thead>
<tr>
<th>Year</th>
<th>Instruction Not Adjusted for Need</th>
<th>Instruction Adjusted for Need</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CMSA</td>
<td>KC</td>
</tr>
<tr>
<td>1990</td>
<td>$2,440</td>
<td>$3,163</td>
</tr>
<tr>
<td>1991</td>
<td>$2,537</td>
<td>$3,694</td>
</tr>
<tr>
<td>1992</td>
<td>$2,760</td>
<td>$4,197</td>
</tr>
<tr>
<td>1993</td>
<td>$2,857</td>
<td>$3,788</td>
</tr>
<tr>
<td>1994</td>
<td>$2,979</td>
<td>$4,143</td>
</tr>
<tr>
<td>1995</td>
<td>$3,064</td>
<td>$4,426</td>
</tr>
<tr>
<td>1996</td>
<td>$3,219</td>
<td>$4,325</td>
</tr>
<tr>
<td>1997</td>
<td>$3,285</td>
<td>$4,035</td>
</tr>
<tr>
<td>1998</td>
<td>$3,412</td>
<td>$3,689</td>
</tr>
<tr>
<td>1999</td>
<td>$3,562</td>
<td>$3,645</td>
</tr>
<tr>
<td>2000</td>
<td>$3,772</td>
<td>$4,091</td>
</tr>
</tbody>
</table>

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, KCMSD in the early 1990s spent twice as much as any other district 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 the 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, KCMSD faced significant funding deficits relative to metro area districts, after being 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

<table>
<thead>
<tr>
<th>Year</th>
<th>Current Not Adjusted for Need CMSA</th>
<th>KC</th>
<th>KC %</th>
<th>Current Adjusted for Need CMSA</th>
<th>KC</th>
<th>KC %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>$3,948</td>
<td>$6,557</td>
<td>166%</td>
<td>$3,504</td>
<td>$4,584</td>
<td>131%</td>
</tr>
<tr>
<td>1991</td>
<td>$4,120</td>
<td>$7,867</td>
<td>191%</td>
<td>$3,602</td>
<td>$5,357</td>
<td>149%</td>
</tr>
<tr>
<td>1992</td>
<td>$4,387</td>
<td>$8,926</td>
<td>203%</td>
<td>$3,754</td>
<td>$6,016</td>
<td>160%</td>
</tr>
<tr>
<td>1993</td>
<td>$4,585</td>
<td>$8,211</td>
<td>179%</td>
<td>$3,916</td>
<td>$5,486</td>
<td>140%</td>
</tr>
<tr>
<td>1994</td>
<td>$4,822</td>
<td>$8,809</td>
<td>183%</td>
<td>$4,088</td>
<td>$5,725</td>
<td>140%</td>
</tr>
<tr>
<td>1995</td>
<td>$4,963</td>
<td>$9,436</td>
<td>190%</td>
<td>$4,229</td>
<td>$5,538</td>
<td>131%</td>
</tr>
<tr>
<td>1996</td>
<td>$5,198</td>
<td>$8,495</td>
<td>163%</td>
<td>$4,272</td>
<td>$5,429</td>
<td>127%</td>
</tr>
<tr>
<td>1997</td>
<td>$5,407</td>
<td>$7,688</td>
<td>142%</td>
<td>$4,524</td>
<td>$4,669</td>
<td>102%</td>
</tr>
<tr>
<td>1998</td>
<td>$5,555</td>
<td>$7,876</td>
<td>138%</td>
<td>$4,768</td>
<td>$4,669</td>
<td>98%</td>
</tr>
<tr>
<td>1999</td>
<td>$5,929</td>
<td>$7,953</td>
<td>120%</td>
<td>$5,155</td>
<td>$4,304</td>
<td>83%</td>
</tr>
<tr>
<td>2000</td>
<td>$6,301</td>
<td>$7,449</td>
<td>118%</td>
<td>$5,450</td>
<td>$4,510</td>
<td>83%</td>
</tr>
</tbody>
</table>

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 KCMSD Desegregation Plan Prove That Spending Large Sums on Predominantly Minority Schools Is Inefficient?

Conservative critics of school finance litigation argue that because the long-term and “excessive” spending of the KCMSD desegregation plan did not lead to improvement in educational outcomes, the plan serves as the “poster child” for demonstrating why spending large sums on predominantly black schools is unproductive and inefficient.

The logic of this evaluation framework is deeply flawed for three reasons. First, we have shown that KCMSD was a very high spending district for only five years, and that when adjusted for student needs, KCMSD was already below average in its metropolitan area by 1998. Coincidentally, it was not until 1998 that Missouri implemented its current and first statewide system of outcome assessment. It would be difficult if not impossible to evaluate the effects of funding that no-longer existed on outcomes that were not yet being measured.

Second, it is important to keep in mind that the primary goal of the KCMSD desegregation plan was to increase the “desegregative attractiveness” of the school district. Accordingly, Judge Clark did not target the additional educational spending on remedies, such as reducing class sizes in grades K–3199 or improving the quality of the district’s teachers,200

which might have reduced the district's racial achievement gap. Therefore, because of the limited goals of the KCMSD desegregation plan, the lessons of the Jenkins case are of limited applicability to school finance litigation.

Third, as we have shown, KCMSD remained predominantly black after plan implementation. Therefore, because the KCMSD plan failed to achieve substantive racial integration, it provides little or no evidence regarding the effectiveness of racial integration in improving outcomes.

Instead, the best way to determine whether KCMSD was inefficient is to evaluate the district when it had achieved unitary status. Importantly, efficiency is a purely relative concept. One cannot say whether a local public school district is efficient in production of student outcomes by evaluating that district alone. Rather, one must evaluate the district's expenditures and outcomes in the context of other districts attempting to achieve similar outcomes.

Further, one must attempt to control for factors outside district control, such as student population characteristics, which affect student outcomes and the cost of improving student outcomes. Similarly, schools and districts may have to pay different prices for their inputs, even if those inputs are of similar quality. For example, schools in one location compared with schools in another might have to pay substantially different wages to recruit and retain teachers with similar qualifications.

In this section, we explore the relative productive and cost efficiencies of KCMSD. We focus 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 that meet expectations. Cost efficiency evaluates the expected costs of achieving current outcome levels, given student population differences.

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—districts large enough to enjoy economies of scale and are large enough to have enough annual test takers to yield more reliable year to year performance outcomes.

Productive efficiency estimation places student outcome measurement as a dependent variable. The district’s Missouri Assessment Program (MAP) Index score is the dependent variable. The productive efficiency estimation may include a lagged measure of the outcome variable. We apply models both with, and without the lagged performance measure. We specify our model as follows:

\[
\text{MAP} = b_0 + b_1 \text{MAP}_{t-1} + b_2 \text{Year} + b_3 \text{CurexpADA} + \\
b_4 \text{Enrollment} + b_5 \text{Enrollment}^2 + b_6 \text{FRLunch} + b_7 \text{Black} + \\
b_8 \text{Disability} + b_9 \text{TeachCost} + e
\]
MAP represents each district's MAP index score; MAP\(_{t-1}\) equals the 1 period lagged MAP index score (used in one set of models); Year represents the year of the data, where the data set includes data from 2000 to 2005; CurexpADA represents the districts' current expenditures per student in average daily attendance; Enrollment represents the district total enrollment (and enrollment squared); FRLunch represents the percent of children receiving free or reduced price lunch; Black represents the district percent black; Disability represents the district percent of children in special education programs; and TeachCost represents the relative cost of hiring 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).\(^{201}\)

Cost efficiency estimation makes districts' current expenditures the dependent variable in an education cost function. Costs are assumed to be a function of current outcome levels student population characteristics, district structural characteristics and geographic variations in the prices of schooling inputs.

\[
\text{CurexpADA} = b_0 + b_1 \text{MAP} + b_2 \text{MAP}_{t-1} + b_3 \text{Year} + b_4 \text{Enrollment} + b_5 \text{Enrollment}^2 + b_6 \text{FRLunch} + b_7 \text{Black} + b_8 \text{Disability} + b_9 \text{TeachCost} + e
\]

CurexpADA is now the dependent variable and student outcomes (MAP) and lagged outcomes are the independent (though endogenous) 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).\(^{202}\) Unfortunately, recent research suggests that district inefficiency is difficult to measure with great precision and accuracy, regardless of empirical method.\(^{203}\)

\(^{201}\) 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).


With this caveat in mind, we apply the Stochastic Frontier Analysis (SFA) to estimate the technical efficiency of production and cost efficiency. 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 as opposed to a model of average efficiency. SFA requires the researcher to specify the distribution of the random error term. This is most often assumed to be normal/half-normal because districts cannot exceed maximum efficiency.

Statistical software packages including Stata 9.0 produce estimates of relative cost or technical efficiency. Cost efficiency estimates will assign a 100% cost efficient district a value of 1.0, with less efficient districts (i.e. those having larger residuals after removing the error term), receiving 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 performance levels, and predicted cost levels with actual levels.

Table 7 summarizes key variables over school districts in the Kansas City, Missouri Core Based Statistical Area. Table 8 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 (last column). Two emerging minority population districts, Grandview and Center school districts, appear less efficient than KCMSD. Center School district, originally founded as a post-Brown segregated enclave, is now approaching black concentration levels of KCMSD. It is spending more per pupil than 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 KCMSD. In productive efficiency, without a lagged performance measure, Center is slightly more efficient than KCMSD, at 97.7% as compared to 97.0%. Grandview is less cost efficient and less productive efficient than KCMSD. Indeed the Grandview’s MAP index of 176 is higher than KCMSD’s 161. Grandview’s $9,594 expenditure per ADA is also higher than KCMSD’s $8,020 expenditure per ADA.

On productive efficiency, excluding lagged performance (Which removes most existing variance), several districts miss their predicted mark by wider margins than 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, KCMSD is not necessarily an inefficiency standout. As such, it is difficult to believe that KCMSD during its last five year, is an appropriate national model for inefficient school district expenditure. Note that Hickman Mills’ raw
performance outcomes are only marginally better than those of KCMSD, despite serving far fewer impoverished children, but a similar black concentration.

**TABLE 7**
**DESCRIPTIVE CHARACTERISTICS OF SCHOOL DISTRICTS IN THE KANSAS CITY CORE BASED STATISTICAL AREA (2000 TO 2004 AVERAGES)**

<table>
<thead>
<tr>
<th>District</th>
<th>Percent Subsidized Lunch</th>
<th>Percent Black</th>
<th>Percent Disability</th>
<th>Enrollment</th>
</tr>
</thead>
<tbody>
<tr>
<td>KEARNEY R-I</td>
<td>5.7%</td>
<td>0.5%</td>
<td>11.6%</td>
<td>3185</td>
</tr>
<tr>
<td>BLUE SPRINGS R-IV</td>
<td>9.1%</td>
<td>5.2%</td>
<td>11.8%</td>
<td>12716</td>
</tr>
<tr>
<td>ODESSA R-VII</td>
<td>25.5%</td>
<td>1.9%</td>
<td>13.4%</td>
<td>2337</td>
</tr>
<tr>
<td>PLATTE C. R-III</td>
<td>13.6%</td>
<td>3.6%</td>
<td>10.9%</td>
<td>2171</td>
</tr>
<tr>
<td>RAYTOWN C-2</td>
<td>30.7%</td>
<td>29.7%</td>
<td>11.7%</td>
<td>8461</td>
</tr>
<tr>
<td>LEE'S SUMMIT R-VII</td>
<td>7.7%</td>
<td>5.6%</td>
<td>12.3%</td>
<td>14597</td>
</tr>
<tr>
<td>NORTH KANSAS CITY 74</td>
<td>24.0%</td>
<td>6.1%</td>
<td>14.4%</td>
<td>16940</td>
</tr>
<tr>
<td>HICKMAN MILLS -1</td>
<td>52.7%</td>
<td>69.3%</td>
<td>14.7%</td>
<td>7392</td>
</tr>
<tr>
<td>RAYMORE-PECULIAR R-II</td>
<td>12.7%</td>
<td>2.8%</td>
<td>8.5%</td>
<td>4455</td>
</tr>
<tr>
<td>HARRISONVILLE R-IX</td>
<td>22.2%</td>
<td>1.2%</td>
<td>10.3%</td>
<td>2338</td>
</tr>
<tr>
<td>PARK HILL</td>
<td>13.1%</td>
<td>6.1%</td>
<td>14.1%</td>
<td>9165</td>
</tr>
<tr>
<td>BELTON 124</td>
<td>26.9%</td>
<td>5.0%</td>
<td>11.5%</td>
<td>4594</td>
</tr>
<tr>
<td>FORT OSAGE R-I</td>
<td>32.2%</td>
<td>4.9%</td>
<td>16.8%</td>
<td>4845</td>
</tr>
<tr>
<td>EXCELSIOR SPRINGS 40</td>
<td>26.4%</td>
<td>2.5%</td>
<td>11.5%</td>
<td>2975</td>
</tr>
<tr>
<td>LIBERTY 53</td>
<td>11.6%</td>
<td>4.0%</td>
<td>11.2%</td>
<td>7087</td>
</tr>
<tr>
<td>INDEPENDENCE 30</td>
<td>34.5%</td>
<td>5.4%</td>
<td>15.7%</td>
<td>11158</td>
</tr>
<tr>
<td>KANSAS CITY 33</td>
<td>76.8%</td>
<td>69.7%</td>
<td>11.5%</td>
<td>30272</td>
</tr>
<tr>
<td>GRANDVIEW C-4</td>
<td>41.6%</td>
<td>49.9%</td>
<td>12.9%</td>
<td>4222</td>
</tr>
<tr>
<td>CENTER 58</td>
<td>52.1%</td>
<td>57.9%</td>
<td>15.2%</td>
<td>2594</td>
</tr>
</tbody>
</table>

**TABLE 8**
**ALTERNATIVE RANKINGS OF COST-EFFICIENCY**

<table>
<thead>
<tr>
<th>District</th>
<th>Predicted MAP Index</th>
<th>Predicted MAP Index (lag)</th>
<th>Actual MAP Index</th>
<th>Productive Efficiency</th>
<th>Productive Efficiency (lagged MAP)</th>
<th>Predicted Expend per ADA</th>
<th>Actual Expend per ADA</th>
<th>Cost Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CENTER 58</td>
<td>183.12</td>
<td>177.36</td>
<td>177.21</td>
<td>0.977210</td>
<td>0.995849</td>
<td>$6,905</td>
<td>$9,676</td>
<td>1.356</td>
</tr>
<tr>
<td>GRANDVIEW C-4</td>
<td>189.37</td>
<td>177.84</td>
<td>176.08</td>
<td>0.965354</td>
<td>0.995849</td>
<td>$5,992</td>
<td>$8,020</td>
<td>1.314</td>
</tr>
<tr>
<td>KANSAS CITY 33</td>
<td>171.03</td>
<td>162.17</td>
<td>161.87</td>
<td>0.970443</td>
<td>0.995849</td>
<td>$7,148</td>
<td>$9,594</td>
<td>1.310</td>
</tr>
<tr>
<td>INDEPENDENCE 30</td>
<td>200.10</td>
<td>193.64</td>
<td>192.64</td>
<td>0.976100</td>
<td>0.995849</td>
<td>$5,478</td>
<td>$7,324</td>
<td>1.297</td>
</tr>
<tr>
<td>LIBERTY 53</td>
<td>213.37</td>
<td>207.08</td>
<td>207.42</td>
<td>0.978719</td>
<td>0.995849</td>
<td>$5,281</td>
<td>$6,780</td>
<td>1.271</td>
</tr>
<tr>
<td>EXCELSIOR SPRINGS 40</td>
<td>203.63</td>
<td>189.74</td>
<td>187.54</td>
<td>0.959418</td>
<td>0.995849</td>
<td>$4,715</td>
<td>$6,082</td>
<td>1.265</td>
</tr>
<tr>
<td>FORT OSAGE R-I</td>
<td>199.53</td>
<td>191.49</td>
<td>189.98</td>
<td>0.972588</td>
<td>0.995849</td>
<td>$5,351</td>
<td>$6,918</td>
<td>1.257</td>
</tr>
<tr>
<td>BELTON 124</td>
<td>203.23</td>
<td>189.39</td>
<td>189.23</td>
<td>0.964394</td>
<td>0.995849</td>
<td>$4,749</td>
<td>$5,566</td>
<td>1.254</td>
</tr>
<tr>
<td>PARK HILL</td>
<td>210.94</td>
<td>205.88</td>
<td>205.88</td>
<td>0.979757</td>
<td>0.995849</td>
<td>$5,723</td>
<td>$7,294</td>
<td>1.248</td>
</tr>
<tr>
<td>HARRISONVILLE R-IX</td>
<td>205.64</td>
<td>197.95</td>
<td>198.03</td>
<td>0.975767</td>
<td>0.995849</td>
<td>$5,008</td>
<td>$6,199</td>
<td>1.220</td>
</tr>
<tr>
<td>RAYMORE-PECULIAR R-II</td>
<td>211.89</td>
<td>196.64</td>
<td>196.39</td>
<td>0.962522</td>
<td>0.995849</td>
<td>$4,622</td>
<td>$5,697</td>
<td>1.207</td>
</tr>
<tr>
<td>HICKMAN MILLS C-1</td>
<td>179.29</td>
<td>164.84</td>
<td>162.89</td>
<td>0.954032</td>
<td>0.995849</td>
<td>$6,376</td>
<td>$7,756</td>
<td>1.197</td>
</tr>
</tbody>
</table>
We acknowledge that these analyses were conducted over a period where KCMSD's relative spending position had sunk to lower than its relative position in 1968 and much lower than 1993. Thus, it is likely that KCMSD's current productive and cost efficiency rankings are better than they might have been if estimated from 1992 to 1995. However, 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 from the 2nd to the 5th grade.

C. Premise #3: 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 KCMSD, including additional capital funds raised for new construction and renovation, a centerpiece of the desegregation plan and flashpoint for the conservative critique.

Missouri has long used a matching aid formula to distribute state revenues to local school districts. State aid for general operating budgets is pegged primarily to the local tax rate adopted by local voters through 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 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 x 7,425 = 3,713 x 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 9 summarizes local revenue per pupil generated by 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 if they had imposed the state average local tax rate.

### Table 9

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessed Value per Pupil</th>
<th>Operating Levy</th>
<th>Local Revenue per Pupil</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-KC</td>
<td>KC</td>
<td>Non-KC</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>$59,421</td>
<td>$65,121</td>
<td>3.21</td>
</tr>
<tr>
<td>2000</td>
<td>$63,566</td>
<td>$68,687</td>
<td>3.24</td>
</tr>
<tr>
<td>2001</td>
<td>$66,122</td>
<td>$72,027</td>
<td>3.27</td>
</tr>
<tr>
<td>2002</td>
<td>$72,049</td>
<td>$77,762</td>
<td>3.28</td>
</tr>
<tr>
<td>2003</td>
<td>$73,768</td>
<td>$75,186</td>
<td>3.34</td>
</tr>
</tbody>
</table>

As seen in Table 9, KCMSD has a slightly stronger than average property tax base, meaning that on average, KCMSD residents pay a higher share of school revenue than districts statewide. Table 10 summarizes current expenditures per pupil, local revenue per pupil and local revenue shares of current expenditures for all Missouri school districts. On average, while KCMSD had a 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, their larger share was warranted.
Table 10
CURRENT EXPENDITURES PER PUPIL AND LOCAL REVENUE SHARES

<table>
<thead>
<tr>
<th>Year</th>
<th>Local Revenue per Pupil</th>
<th>Current Expenditures per Pupil</th>
<th>Share of Current Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-KC</td>
<td>KC</td>
<td>Non-KC</td>
</tr>
<tr>
<td>1999</td>
<td>$1,920</td>
<td>$2,996</td>
<td>$5,269</td>
</tr>
<tr>
<td>2000</td>
<td>$2,063</td>
<td>$3,400</td>
<td>$5,616</td>
</tr>
<tr>
<td>2001</td>
<td>$2,165</td>
<td>$3,565</td>
<td>$6,008</td>
</tr>
<tr>
<td>2002</td>
<td>$2,357</td>
<td>$3,849</td>
<td>$6,388</td>
</tr>
<tr>
<td>2003</td>
<td>$2,460</td>
<td>$3,722</td>
<td>$6,622</td>
</tr>
</tbody>
</table>

Table 11 reveals one final feature of Missouri’s existing school finance formula that leads to substantial reductions in aid to 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 by 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 KCMSD) lost 5.6% of state aid due to differences between enrollment and ADA, KCMSD lost nearly 13%. That margin has decreased after KCMSD had improved its attendance rates. Nonetheless, 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 11
FUNDING REDUCTION EFFECT OF PROVIDING AID ON THE BASIS OF AVERAGE DAILY ATTENDANCE

<table>
<thead>
<tr>
<th>Year</th>
<th>State Revenue per ADA</th>
<th>State Revenue per Pupil</th>
<th>% Loss due to ADA Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-KC</td>
<td>KC</td>
<td>Non-KC</td>
</tr>
<tr>
<td>1999</td>
<td>$2,103</td>
<td>$4,065</td>
<td>$1,986</td>
</tr>
<tr>
<td>2000</td>
<td>$2,216</td>
<td>$3,473</td>
<td>$2,081</td>
</tr>
<tr>
<td>2001</td>
<td>$2,357</td>
<td>$3,895</td>
<td>$2,226</td>
</tr>
<tr>
<td>2002</td>
<td>$2,408</td>
<td>$3,924</td>
<td>$2,289</td>
</tr>
<tr>
<td>2003</td>
<td>$2,468</td>
<td>$2,890</td>
<td>$2,369</td>
</tr>
</tbody>
</table>

Adopting the logic of the federal district court in Missouri, many modern school finance adequacy problems would be resolved by simply requiring high need, inadequately funded urban districts, to increase property taxes so that they cover all the costs of achieving adequate outcomes on their own. 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 argue that KCMSD has a large enough non-residential tax base and large enough number of high income residents to handle a local property tax hike without putting an unreasonable burden on the district's low-income residents. Indeed, the commercial and industrial tax base and wealth of families without children in KCMSD schools does provide some support. Nonetheless, in 2003, the median voter (in a housing unit of median value and with median household income) in Missouri already paid 1.25% of income in school operating tax levy. In the 95 percentile district, the median voter paid 1.75% and in KCMSD, 1.85%.

Arguably, the judicial imposition of 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) KCMSD is flush with financial resources; and (2) KCMSD has garnering, for the past 25 years, a disproportionate and unfair share of state resources. Yet, neither claim is true. As indicated previously, in recent years, KCMSD's resource margin has all but disappeared, and when adjusting for need, KCMSD faces a significant resource deficit relative to other districts in the Kansas City metro area. Second, 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 that have taken advantage of matching grant 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 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. 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, in reality, it equates to a modest and practical funding allocation.

With the short-term increase in total revenue, including revenue for capital projects, the state's share of total revenue in 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, the district's

204. Jenkins, 515 U.S. at 78.
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 (only K-12 districts), it would amount to about $78 per pupil and could 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 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**
Contrary to the assertions of conservative critics, it turns out that 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, 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 approximately 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, KCMSD had only 83% of average current expenditures and only 76% of average instructional expenditures among large districts in its metropolitan area.

Also, the claim of conservative critics of school finance litigation that Jenkins demonstrates that there is no correlation between increased educational resources and improved educational outcomes is flawed for three reasons. First, KCMSD was a high spending district for a relatively short time. Second, the primary focus of KCMSD desegregation plan was to increase desegregation. Therefore, in Jenkins, the court did not target funding on strategies which may have had a better chance of improving minority outcomes. Third, the KCMSD plan cannot even be used to establish that desegregation will not lead to improved outcomes because the district remained majority black throughout the period of judicial oversight. Indeed, our empirical analysis shows that KCMSD is neither the most, nor the least efficient district in the immediate metropolitan area, much less the entire state. Thus, the district is not the “poster child” for the proposition that no correlation exists between increased spending and improved educational outcomes.

Finally, 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 KCMSD, the district’s property taxpayers 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).

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 KCMSD and the state of Missouri. We have observed that the residential structure and
demographics of 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, KCMSD was a relatively high spending district, but because of the school funding system's reliance on property taxation and KCMSD's racial and socio-economic composition, the district would soon be unable to meet its educational needs. Moreover, we explained that Judge Clark responded to 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, 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 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 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 on the KCMSD desegregation plan. Critics cite the statistics that claim 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 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, KCMSD's funding dropped below the metropolitan area average by 1998. This is hardly enough time to erase the generational poverty of 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 that there is 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) 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, 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 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 II

TABLE A1
PRODUCTIVE EFFICIENCY MODEL WITHOUT LAGGED PERFORMANCE

<table>
<thead>
<tr>
<th></th>
<th>OLS</th>
<th>SFA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coef.</td>
<td>Std. Err.</td>
</tr>
<tr>
<td>Year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>-0.014</td>
<td>0.005</td>
</tr>
<tr>
<td>2002</td>
<td>-0.014</td>
<td>0.005</td>
</tr>
<tr>
<td>2003</td>
<td>-0.008</td>
<td>0.005</td>
</tr>
<tr>
<td>2004</td>
<td>0.000</td>
<td>0.005</td>
</tr>
<tr>
<td>Current Spending per ADA (ln)</td>
<td>0.079</td>
<td>0.010</td>
</tr>
<tr>
<td>Enrollment (ln)</td>
<td>0.164</td>
<td>0.047</td>
</tr>
<tr>
<td>Enrollment (ln) Squared</td>
<td>-0.009</td>
<td>0.003</td>
</tr>
<tr>
<td>Demographics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Free/Reduced Lunch</td>
<td>-0.218</td>
<td>0.015</td>
</tr>
<tr>
<td>Percent Black</td>
<td>-0.127</td>
<td>0.012</td>
</tr>
<tr>
<td>Percent Disability</td>
<td>-0.371</td>
<td>0.022</td>
</tr>
<tr>
<td>CBSA Teacher Wage Fixed Effect</td>
<td>-0.104</td>
<td>0.017</td>
</tr>
<tr>
<td>Intercept</td>
<td>4.113</td>
<td>0.244</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.805</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OLS</td>
<td>SFA</td>
</tr>
<tr>
<td>--------------------------</td>
<td>--------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>MAP Index Lagged 1 Period (ln)</td>
<td>0.893</td>
<td>0.029</td>
</tr>
<tr>
<td>Year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>-0.014</td>
<td>0.003</td>
</tr>
<tr>
<td>2002</td>
<td>-0.004</td>
<td>0.003</td>
</tr>
<tr>
<td>2003</td>
<td>0.002</td>
<td>0.003</td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td>0.004</td>
</tr>
<tr>
<td>Current Spending per ADA (ln)</td>
<td>0.007</td>
<td>0.007</td>
</tr>
<tr>
<td>Enrollment (ln)</td>
<td>0.024</td>
<td>0.030</td>
</tr>
<tr>
<td>Enrollment (ln) Squared</td>
<td>-0.001</td>
<td>0.002</td>
</tr>
<tr>
<td>Demographics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Free/Reduced Lunch</td>
<td>-0.018</td>
<td>0.011</td>
</tr>
<tr>
<td>Percent Black</td>
<td>-0.017</td>
<td>0.008</td>
</tr>
<tr>
<td>Percent Disability</td>
<td>-0.023</td>
<td>0.018</td>
</tr>
<tr>
<td>CBSA Teacher Wage Fixed Effect</td>
<td>-0.006</td>
<td>0.011</td>
</tr>
<tr>
<td>Intercept</td>
<td>0.411</td>
<td>0.194</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.940</td>
<td></td>
</tr>
</tbody>
</table>
### Table A3
#### Cost Efficiency Models

<table>
<thead>
<tr>
<th></th>
<th>OLS</th>
<th>SFA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MAP Index (ln)</strong></td>
<td>0.379</td>
<td>0.363</td>
</tr>
<tr>
<td><strong>MAP Index Lagged</strong></td>
<td>0.960</td>
<td>0.384</td>
</tr>
<tr>
<td><strong>Enrollment (ln)</strong></td>
<td>-1.243</td>
<td>0.206</td>
</tr>
<tr>
<td><strong>Enrollment (ln)</strong></td>
<td>0.071</td>
<td>0.012</td>
</tr>
<tr>
<td><strong>Demographics</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Free/Reduced</td>
<td>-0.089</td>
<td>0.083</td>
</tr>
<tr>
<td>Lunch</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Black</td>
<td>0.708</td>
<td>0.050</td>
</tr>
<tr>
<td>Percent Disability</td>
<td>2.251</td>
<td>0.069</td>
</tr>
<tr>
<td>CBSA Teacher</td>
<td>0.223</td>
<td>0.060</td>
</tr>
<tr>
<td>Wage Fixed Effect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>-0.087</td>
<td>0.019</td>
</tr>
<tr>
<td>2002</td>
<td>-0.028</td>
<td>0.019</td>
</tr>
<tr>
<td>2003</td>
<td>0.008</td>
<td>0.018</td>
</tr>
<tr>
<td>2004</td>
<td>0.024</td>
<td>0.017</td>
</tr>
<tr>
<td>Intercept</td>
<td>6.365</td>
<td>1.366</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.852</td>
<td></td>
</tr>
</tbody>
</table>