

COURT 185



B.K. TAYLOR

# School-Finance Reform *in* **Red and Blue**

**T**he constitutionality of state school-finance systems has been under attack for nearly 40 years. Since the California Supreme Court's 1971 ruling in *Serrano v. Priest*, finance-reform advocates have filed 139 separate lawsuits in 45 states. The specific language varies from state to state, but virtually all state constitutions contain education clauses that require the state legislature to provide an "adequate," "basic," or "thorough and efficient" education for all children. Plaintiffs have relied on these provisions to seek increases in the financial resources devoted to public schools, especially those serving disadvantaged students. Courts have in turn deemed school-finance systems unconstitutional in 28 states.

While school-finance lawsuits have attracted significant attention in the legal community and generated numerous state-specific case studies, nationwide analyses of the effects of school-finance judgments (SFJs) have been relatively few. This small pool of studies has produced some common conclusions, namely, that such judgments reduce funding inequality between districts by increasing spending in the poorest districts and that they do so by transferring responsibility for education funding from local to state governments. Some questions remain unanswered, however, such as why SFJs have substantially different effects in different states.

## **Where the money goes depends on who's running the state**

A court's ruling that an existing school-finance system is unconstitutional is only the first step toward funding reform. Some court orders provide instruction for how the legislature should fix the system, but most simply instruct state politicians to redesign the finance system themselves. In either case, the new finance system must garner the approval of the state legislature and governor. In other words, after the court ruling, the reform must pass through the state's usual lawmaking process. States with similar court rulings may end up

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with very different reforms, depending on how the legislature and governor respond.

With this political process in mind, we decided to investigate how politics might influence the way an SFJ alters a state's school-finance system. Our starting point was estimating the change in per-pupil funding that could be confidently attributed to an SFJ. We did this by comparing changes in funding in school districts where the state's school-finance system has been ruled unconstitutional in a court challenge to funding changes in comparable districts in states where no SFJ has been issued. We studied district-level changes in school funding following 23 school-finance judgments issued between 1988 and 2005. The lawsuits were all related to general education funding, and each was the first SFJ in a state during our period of study. In total, we studied funding outcomes in more than 13,000 districts over 18 years.

What we were most interested to know is whether the change in funding differs if a state has unified Democratic control of the state legislature and the governorship at the time of the court decision, unified Republican control, or when control is divided between the two parties as, for example, when the governor is a Republican and the Democrats control one or both of the houses of the legislature. To find out, we compared the outcomes of SFJs issued in each of these circumstances.

because the government at the time of the ruling is obligated to craft the policy response. Our approach, then, attributes the effect of the SFJ in subsequent years to the party in power when the judgment is made, even if there is a subsequent change in partisan control. We checked the validity of this decision by rerunning our analysis, attributing the funding associated with an SFJ in any given year to the party in control of the state government in that same year. With this method, our estimates of the relationship between partisan control and the effect of an SFJ, in dollars, were much less precise than when we used our preferred approach, although the substantive conclusions of our analysis remained the same. The better estimates lead us to conclude that party control at the time of the court decision has, on average, the most important role in determining the political response to an SFJ.

Table 1 lists the cases used in our analysis and the configuration of partisan control of the state government at the time of the court decision. Only three SFJs were issued during periods of unified Republican government: in New Hampshire, Ohio, and Wyoming. This suggests the need for caution in interpreting our results, especially about the patterns in school finance we see under Republican governments. There were seven judgments handed down during unified Democratic government (in Alabama, Kentucky, Maryland, Missouri, Tennessee, Vermont, and West Virginia) and 11 delivered

## **Democratic control results in across-the-board increases in state funding to local school districts, while Republican and divided government regimes tend to produce funding increases targeted to poorer districts.**

We found that court-ordered finance reform alters district funding levels under each type of partisan regime. On balance, Democratic control results in across-the-board increases in state funding to local school districts, while Republican and divided-government regimes tend to produce funding increases targeted to poorer districts. SFJs in all three types of political environments lead to a shift in funding responsibility from local to state governments, although to differing degrees.

### **Which Party is Responsible?**

As we began our study, we had to decide how to assign responsibility for school funding changes produced by an SFJ in the years following the judgment, especially when the party that controls the state government changed. We decided to focus on partisan control at the time of the court decision

when government was divided (in Connecticut, Idaho, Kansas, Massachusetts, Minnesota, Montana, North Carolina, New Jersey, New York, South Carolina, and Texas).

### **State, Local, and Federal Funding**

While SFJs require a policy response from the state government, and therefore are expected to have a direct impact on *state* funding, they may also have an indirect effect on funding from local sources. Indeed, one concern over the efficacy of court-induced reforms is that local districts may reduce their own contribution to the schools in response to increases in state aid, thereby undermining efforts to increase total school spending. To provide a more comprehensive picture of the effect of SFJs, we look at the impact on both state and local funding.

## Divided We (Often) Govern (Table 1)

Between 1988 and 2000, courts in 20 states asked legislatures and governors to alter their school finance policies. In half of these states, control of state government was divided between the two political parties.

Control of Government	State	Year	Case
<b>Unified Democratic</b>			
	Kentucky	1989	Rose v. Council for Better Education
	Alabama	1993	Opinion of the Justices
	Missouri	1993	Committee for Educational Equality v. Missouri
	Tennessee	1993	Tennessee Small School Systems v. McWherter
	West Virginia	1995	Tomblin v. Gainer
	Vermont	1997	Brigham v. Vermont
	Maryland	2000	Bradford v. Maryland State Board of Education
<b>Divided</b>			
	Texas	1989	Edgewood Independent School District v. Kirby
	Montana	1990	Helena Elementary School District No. 1 v. Montana, as modified
	New Jersey	1990	Abbott v. Burke
	Kansas	1991	Mock v. Kansas
	Idaho	1993	Idaho Schools for Equal Educational Opportunity v. Evans
	Massachusetts	1993	McDuffy v. Secretary
	New York	1995	Campaign for Fiscal Equity, Inc. v. New York
	North Carolina	1997	Leandro v. North Carolina
	South Carolina	1999	Abbeville County School District v. South Carolina
	Minnesota	2000	Minnesota NAACP v. Minnesota
<b>Unified Republican</b>			
	New Hampshire	1993	Claremont School District v. Governor
	Wyoming	1995	Campbell County School District v. Wyoming
	Ohio	1997	DeRolph v. Ohio, as clarified

Note: States with divided control are those in which one party held the governorship and the other party had a majority in at least one house of the state legislature.

SOURCES: For court decisions Peterson and West (2007); for partisan control National Governors Association and the Statistical Abstract of the United States 2007.

Of course, because spending on schools also includes a small amount of federal aid, total funding is not simply the sum of state and local funding. Federal funds, which make up about 10 percent of total education funding, have until recently been limited to specific programs, such as the National School Lunch Program and special education. Thus, we would not expect a state court decision to influence federal funding, an assumption that is borne out in the data.

### Gauging the Effects

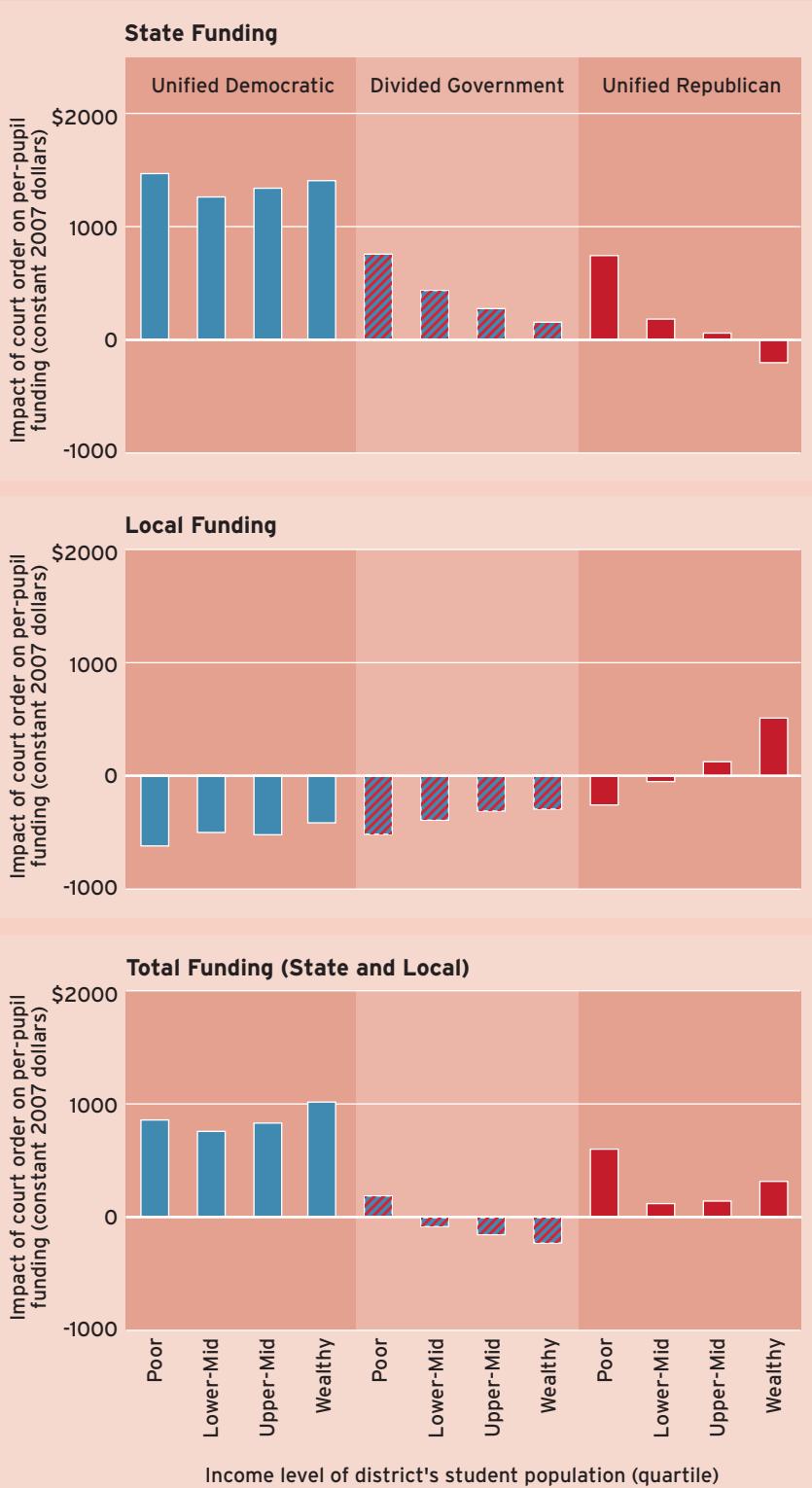
Our basic strategy was to compare changes in funding levels in districts where the state's school-finance system has been ruled unconstitutional to funding changes in comparable districts in states where an SFJ has not been issued. We make these comparisons with groups of districts that had Democratic,

Republican, or split-party control of the state government at the time the SFJ was issued. We allow for a one-year delay for the judgment to take effect because we assume that any changes in policy made as a result of the decision will be reflected in the next year's budget, at the earliest.

Because most school-finance lawsuits are aimed at increasing funding for poor districts specifically, we designed our analysis to measure how the effects of SFJs, and of the party in control of the state government at the time of the decision, might be different for school districts with high rates of students in poverty and for districts where the students are better-off financially. To look for these differences, we divided each state's districts into four quartiles based on the proportion of students living in poverty and allowed for the possibility that the effect of an SFJ, and of one under Democratic, Republican, or divided government, could be different in each quartile.

## Partisan Impacts (Figure 1)

Court-ordered finance reform affects school district funding differently depending on the partisan regime at the time of the ruling and the district poverty rate.



SOURCE: Author calculations

To isolate the effects of an SFJ on districts within each poverty quartile, we focus on changes in spending over time within specific school districts after taking into account changes from year to year in average education spending across all of the nation's school districts. Thus we effectively control for unmeasured attributes of each school district that are constant over time and for national trends that affect all districts, such as economic conditions or changes in federal education policy that could have an impact on funding even in the absence of an SFJ. We adjust for inflation by converting all per-pupil funding figures to constant 2007 dollars.

Of course, there are other factors that likely influence changes over time in the level of per-pupil funding in a school district, including characteristics that change over time and influence either their receipt of state funding or the propensity of school districts to raise their own local revenue. We account for the variation in funding that should be directly attributed to the percentage of the student population living in poverty, independent of any change produced by an SFJ. We also include the total number of students in the district, to allow for the possibility that large districts operate differently from small districts. And we estimate the impact on per-pupil expenditure of the proportion of students in a district with Individualized Education Plans (IEPs), as students with IEPs generally have special needs that result in higher spending. Finally, we include the proportion of the student population that is African American and the proportion Hispanic. Although we have no reason to believe that these two variables directly cause changes in education funding, they may be correlated with other relevant factors, such as property values or population growth, for which we lack direct information.

In addition to district-specific characteristics, we take into account state-level characteristics that could

influence state funding of education. In particular, we control for the fraction of the state's population over age 65 to account for the possibility that the elderly oppose increases in school spending. We also control for the fraction of the population that is of school age, which captures aggregate demand for educational services. The final control variable in our analysis is per-capita income in the state, as the demand for government services may increase with income.

Annual district-level financial and demographic information comes from the Common Core of Data (CCD), available from the National Center for Education Statistics (NCES). For years in which CCD data are not available (1988–1992 and 2005), we use data from U.S. Census Bureau Elementary-Secondary Education Finance Survey (F-33). Our analysis considers only local school districts and parts of local supervisory unions with at least 100 students, as identified by the CCD. We exclude Hawaii and Washington, D.C., because each has only one school district.

Additional district demographic information, including the proportion of the population aged 5 to 17 and the proportion of school-aged children living in poverty, comes from the U.S. Census Small Area Income and Poverty Estimates for most years. For 1989 and 2005, the district demographic information comes from the School District Demographics System. Because district poverty

governments, districts with different levels of poverty fare quite differently.

Figure 1 represents our findings graphically. Each bar in the graph represents the effect of an SFJ, that is, the within-district change in spending after the decision, for each category of partisan control and district poverty. We present separate estimates for the change in total funding, in funding from state sources, and in funding from local revenues.

In Democrat-led reforms, our estimates show, districts in every poverty quartile see a shift from local to state funding after an SFJ. Local funding decreases, while state funding increases. This pattern of centralization of school funding is consistent with evidence from earlier studies, which also shows that localities partially offset state efforts to increase overall education spending after SFJs.

The upshot is a net increase in total funding ranging from roughly \$750 to \$1,000 per pupil—a sizable impact, given that total per-pupil funding in our sample is a little over \$9,750 on average. While a few of the differences between quartiles are statistically significant, they are substantively small relative to the overall level of the funding increases. Indeed, if anything, the results indicate that the most affluent districts fare better than the poorest districts, in terms of total funding, when Democrats are in power, although this difference is not statistically significant. We should note here that high poverty does not necessarily imply low

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information is not available for every year, we use the poverty estimates from the closest available survey year. For example, the district poverty estimates for 1996, 1997, and 1998 all use the data from 1997.

### **Partisan Patterns**

A new and very clear picture about the impact of politics on SFJs emerged from our findings. The school-finance reforms implemented by Democratic state governments have substantially different effects on district funding than reforms produced by Republican or divided governments. When a Democratic state government implements an SFJ-induced reform, all districts, poor and non-poor alike, see increases in total funding. Under Republican and divided

spending (in many states, high-poverty districts have the highest spending levels), so our findings here do not bear directly on spending inequality.

School-finance rulings handed down to divided governments produce decidedly different results. State funding increases across the board, but the changes in state funding differ markedly across the levels of district poverty: The poorer the district, the larger the increase in state funding. But, as in states with Democrat-led reforms, SFJs are not unmitigated wins for school-district budgets. All four quartiles see sizable reductions in funding from local sources. These reductions are large enough that the poorest quartile is the only one to see positive net changes in total funding. Overall, divided government reforms appear to represent a more or less straightforward redistribution of funding toward

the poorest districts. The net effects on state education funding appear to be budget-neutral, as we estimate that there is little change in total education funding after an SFJ under a divided government. That said, the net increase of roughly \$175 per student in total funding for poor districts is fairly modest when compared to total per-pupil funding.

Republican-controlled reforms present yet a third pattern of funding changes. Under Republican governments, funding shifts from local to state only for the poorest districts. Districts

the lawsuit filing and decision; and 3) lawsuits do not appear to be precipitated by changes in political regime. Among the 23 cases included in our study, the length of time from the initial filing through the final appellate court decision ranged from less than a year to nine years. On average, the process took four years. Due to the length of time the suits take and the variability of the speed of the adjudication process, advocates could not effectively time their lawsuits to specific political circumstances. In almost half of the cases (11 out of

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in the most affluent quartile face cuts in state funding, but they are able to more than compensate for these reductions by increasing local funding. In other words, Republican-led reforms involve centralization of funding for the poorest districts and decentralization of funding for the richest districts. The middle two quartiles are essentially unaffected. On net, both the poorest and the richest districts see increases in total funding, the former courtesy of state aid and the latter financed from their own tax base. Indeed, the richest half of districts in Republican states are the only group under any partisan regime to experience an increase in local funding following an SFJ.

### Alternative Explanations

A lingering concern with our results may be that party control of the state government is related to the decision to file a school-reform lawsuit. Finance reform advocates may time the filing of their lawsuits to take advantage of what they view as particularly favorable political conditions. Another possibility is that advocates might resort to litigation only when the legislative and political process fails to provide reform. Either of these possibilities means that SFJs might have effects that appear to be associated with party control but are not actually caused by the response of the party in power.

We answer by first noting that because nearly all states—45 of 50—were subject to at least one education-finance lawsuit, the central issue is not *whether* a state would face a suit but *when*. Beyond that point, we believe that this is not a major concern for three reasons: 1) the amount of time between lawsuit filing and the court decision is often long and always unpredictable; 2) the party in control often changes between

23), the party in control changed between the time of filing and the time of decision. Further, school-finance lawsuits do not appear to be triggered by changes in party control. On average, the party in control in the state was stable for six years prior to the filing of a case. In only three cases did the party in control change in the year of the lawsuit filing, and for each of those three cases, the party in control changed again before the lawsuit was decided.

### Conclusion

Which partisan arrangement leads to the best results for poor districts after a school-finance judgment? That question requires stepping into the debate about the relationship between student outcomes and school funding and goes beyond the evidence we present here. What our study does show is one of the many possible ways that politics can influence the implementation of court-ordered school-finance reform. Clearly, reforms implemented by Democrats produce the largest net increases in funding for all students. However, by delivering roughly equivalent funding increases to districts at all income levels, Democrat-led reforms do not target new resources to districts serving poor students. Reforms implemented by divided or Republican governments deliver concentrated benefits to districts serving poor students. In these instances, however, the actual flow of new dollars into poor districts is more meager than when Democrats are in control.

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