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EFFORTS TO EQUALIZE FUNDING  
BETWEEN WEALTHY AND POOR SCHOOL DISTRICTS  
IN MAINE, NEW HAMPSHIRE, AND VERMONT

BY

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DISSERTATION

Submitted to the University of New Hampshire

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Doctor of Philosophy

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ABSTRACT

EFFORTS TO EQUALIZE FUNDING

BETWEEN WEALTHY AND POOR SCHOOL DISTRICTS

IN MAINE, NEW HAMPSHIRE, AND VERMONT

by

Michael R. Harris

University of New Hampshire, December, 2002

Advisor: Casey Cobb

Funding inequities between rich and poor school districts have been the subject of analysis, litigation, and policy decisions across the United States for almost four decades. Pressures for the reform of state educational funding systems have been driven by the national political trend toward equal educational opportunity and by litigation in state courts. The policy responses by states have varied significantly, however, and that variation has characterized the responses in the three New England states of Maine, New Hampshire, and Vermont. Much research nationally has focused on the litigation about school funding, but little study has been given to the subsequent policy decisions in the states. This research study is a comparative analysis that examines the factors that have shaped the policy decisions about school funding equalization in Maine, New Hampshire, and Vermont.

The research methods included (a) the study of archival documents to establish background conditions and to examine the litigation and policy responses in each of the three states and (b) a series of face-to-face interviews



with well-informed elites, specifically officials, analysts, and politicians. The data analysis was conducted with consideration given to the paradigm outlined by Carr and Fuhrman (1999) which suggested that litigation, leadership, and public campaigns have been major factors in policy setting. The analysis first examined the data within each state separately before considering the data from the three states comparatively.

The analysis of the data suggested the following: (a) litigation can serve as a catalyst for policy but it is not as significant as the volume of research has suggested, (b) leadership is necessary but its form may vary, (c) educational issues like accountability and achievement have had little impact on equalization policy, and (d) policy decisions have been consistent with each state's political culture. Also, the data suggested that the responses of the three New England states have been representative of the responses across the country.

## INTRODUCTION

“The history of education since the industrial revolution shows a continual struggle between two forces: the desire by members of society to have educational opportunity for all children, and the desire of each family to provide the best education it can afford for its own children. . . . These two requirements are in direct opposition.” (Coleman, 1970, p. vii)

While summarizing the history of education in this country, Coleman also anticipated the alignment of forces that would define the problems of equal educational opportunity and the equalization of educational funding for the subsequent three decades and more. The roots of those problems, i.e., the disparities in educational funding and spending between wealthy and poor school districts across the United States, have been longstanding. The major sources of funding for public schools have always been the states and their local districts. According to a 1997 report by the Center for the Future of Children, the total state share of school funding during the 1995-96 school year was 48%, and the total local share within states was 45% (Howell & Miller, 1997, p. 40). Although the percentage of the state share of total school spending varied considerably among the states from a high of 74% in New Mexico to a low of 7% in New Hampshire, in no state did the federal contribution exceed 16%. The typical revenue source of the local share has been the local property tax; even after three decades of the increasing use of other tax sources, local governments across the country still relied on the property tax for 75% of their total tax revenues in 1990-91 (Swanson & King, 1997).

However, districts have been subject to large differences in local tax base wealth, and those differences have created significant funding gaps between wealthy and poor school districts. In his book, *Savage Inequalities*, Kozol (1991) cited the disparities between the Chicago schools and a high school in one of the city's wealthy suburbs, New Trier. "The wealth of New Trier's geographical district provides \$340,000 worth of taxable property for each child; Chicago's property wealth affords only one-fifth this much" (p. 66). A study by the United States General Accounting Office (USGAO) in 1998 added that "localities with low tax base wealth usually have low funding per pupil even with high tax rates; localities with high property values have high funding per pupil even with low tax rates" (p. 15). Statistically, fifteen states had large funding gaps between wealthy and poor districts during the 1991-92 year, and another twenty states had moderate gaps, according to the USGAO study.

These gaps have prompted many states to consider policies which have been directed at equalizing the funding between property-rich and property-poor school districts. The USGAO report defined equalization as "a state's effort to compensate for differences in districts' abilities to raise education revenues" (1998, p. 100). A state with perfect equalization would enable all of its districts "to provide the state average funding level when all districts make an equal tax effort" (p. 4). The equalization effort of a state is measured by the state's share of total education funding and by the degree to which the state targets this funding to its poorer districts. A state can also attempt to equalize funding in an inverse manner by capping the revenues that wealthy districts can raise with their own resources, and equalization can be enhanced by the efforts of poor districts to raise their own rates. Whereas capping is rarely used because it is so "politically sensitive" (p. 5), the latter strategy is used often. The USGAO

study found that in 1991-92, for example, the poorest districts in thirty-five states were making a greater tax effort than the wealthiest districts and thereby were contributing to the reduction of the funding gaps.

Those gaps and the higher tax rates in poor districts have prompted lawsuits in more than forty states since 1970, and the suits usually have challenged the constitutionality of state school finance systems (USGAO, 1998). A repeated pattern of the last thirty years has been the issuance of a legal challenge to a state financing system through a suit in the state court system followed by a period of political debate in the legislative and executive arenas in response to the legal decision and arguments. Although some states have undergone reforms to their school finance systems without court challenges, states facing court orders were more likely to initiate attempts to address their intrastate funding disparities (Evans, Murray, & Schwab, 1999). The initial legal challenges in the 1970's were based on the economic concepts of equity and fiscal neutrality. Those initial cases did not develop an acceptable standard of equity for use across states (Augenblick, Myers, & Anderson, 1997, p. 67), and the concept of equity could not account for variable education costs due to factors such as individual pupil needs (Parrish & Fowler, 1998, p. 99). Because of those failings and the turn of national attention to the issue of student achievement, the last decade has seen a shift to cases characterized by concerns about educational adequacy for all students and about the funding required to improve student performance (Ladd, Chalk, & Hansen, 1999).

Irrespective of court orders, though, the interplay between legal and political factors in the consideration of equalization policies is complex and usually contentious. Decisions must be made about whether or not to attempt equalization at all and then about the extent of equalization and the means to

effect it. Moreover, the debate over equalization invokes the opposing forces and core values cited by Coleman in his description of the history of education at the beginning of this study.

Because of the limited federal role in educational spending, the equalization debate is played out in every state. Consequently, any analysis of the debate must focus on intrastate factors. The three northern New England states of Maine, New Hampshire, and Vermont have been engaged in intense debates over equalization during the past decade. The three states are similar demographically and geographically, and they began their debates with funding gaps that were measured as moderate, according to the 1998 USGAO report. However, their court rulings and policy decisions have differed dramatically. Vermont and New Hampshire have both witnessed successful court challenges to their funding systems, but Maine's court challenge was unsuccessful. All three states did initiate reforms of their funding systems. Vermont's reforms have resulted in almost total equalization, Maine's equalization efforts have been extensive in scope but limited in effect, and New Hampshire's efforts have been limited.

#### Significance and Purpose of the Study

Many studies have been conducted which have focused on the court challenges to funding disparities across the country (Verstegen & Knoeppel, 1998; Minorini & Sugarman, 1999; Minorini & Sugarman, 1999a; Howe, 1999) and on economic models for equalization (Guthrie & Rothstein, 1999; Duncombe & Yinger, 1999), but there are relatively few case studies or comparative studies of the political debates, decisions, and consequences within states regarding equalization policies. Despite the continuing importance of equalization and the ongoing debates about it, few attempts have

been made to investigate and explain, for example, the divergent paths taken by states such as Maine, New Hampshire, and Vermont from their initial court challenges and equalization considerations to the determination of policy and the implementation of their reform models.

The purpose of this study was to examine (a) the efforts to equalize funding between wealthy and poor school districts and (b) the political, educational, economic, and demographic factors that have determined the focus and scale of those efforts in Maine, New Hampshire, and Vermont.

The study attempted to answer the following questions:

1. What social and political factors explain the divergent paths that have been taken in Maine, New Hampshire, and Vermont with respect to the school funding equalization policies of the three states?

2. What have been the effects of litigation, political leadership, and public support campaigns on equalization policy making in the three states?

This study utilized multiple methodologies of historical research including (a) archival research of documents regarding the determination of policies for the funding equalization efforts in the three states, and (b) face-to-face interviews of key players, stakeholders, and analysts in the equalization debates. This research will be useful in explaining the differences in the reform models the three states have chosen and in outlining the factors that are significant in the political debate and the policy decision making regarding equalization efforts across the country.

## CHAPTER I

### REVIEW OF THE LITERATURE

“The case for equality in public education is a schizophrenic medley of Karl Marx and Barry Goldwater. St. Thomas and Saint-Simon.”

(Coons, Clune, & Sugarman, 1970, p. xxi)

“Equality of educational opportunity . . . may perhaps best be thought of in terms of the long struggle between liberty and equality in the American culture.” (Mosteller & Moynihan, 1972, p. 7)

The debate about equalization is essentially an argument about the *redistribution of resources*. Although capping the tax rates of wealthy districts and raising the rates of poor districts are equalization instruments that do not directly involve redistribution, they are the lesser options of equalization policy, and even they imply a measure of state control over local issues. Increasing the state share of education costs and targeting funding to poor districts are the more significant options, and they indirectly or directly involve the collection of revenues from wealthy districts which are eventually redistributed to poor ones. Clune (1995) pointed out that “all education spending involves a transfer from taxpayers to those being educated” (p. 107), and Kozol (1991) declared that “no matter what devices are contrived to bring about equality, it is clear that they require money-transfer” (p. 223). Although the means and the criteria for the collection and distribution of monies vary widely, it is always true that “the idea of equity involves value judgments about how to determine fairness in the financing of K -12 education” (Berne & Stiefel, 1999, p. 9). Equalization policies

trace their roots to philosophies about redistribution, justice, and fairness.

The justification of redistribution as a tool of social fairness was advanced by Rawls in his 1971 book, *A Theory of Justice*. Rawls insisted that there are two principles of social justice that define the roles of liberty and equality. First, “each person is to have an equal right to the most extensive liberty compatible with a similar liberty for others” (p. 60). One’s liberty is extensive, but it must not interfere with the liberty of others. Second, social and economic inequalities are permitted only insofar as they serve to everyone’s advantage and as they are “attached to positions or offices open to all” (p. 60). Rawls explained that “deep inequalities cannot possibly be justified by the notions of merit or desert” (p. 7). Therefore, social justice may require redistribution when inequalities do not serve to everyone’s benefit or when they restrict the liberty of certain members of society. “It is the duty of society, Rawls believes, to ensure that our opportunities are as little affected by our circumstances as possible” (Rogers, 1999, p. 58). No one actually deserves a greater or lesser share of society’s resources, and the state must ensure the equality of opportunity for all.

Kozol (1991) addressed an argument that tries to utilize Rawls’ thinking to justify inequality in educational funding. According to this argument, schools should train low-income children with the educational basics so that they can get entry-level jobs while suburban schools should offer more expansive educations focusing on college preparation because their students can more consistently take advantage of the broader opportunities. “Investment strategies, according to this logic, should be matched to the potential economic value of each person” (p. 74). Society is better served and all individuals are happier with the correct training and employment according to this argument.



However, claimed Kozol, "This thinking must diminish the horizons and the aspirations of poor children, locking them at a very early age into the slots that are regarded as appropriate to their societal position. On its darkest side, it also leads to greater willingness to write off certain children" (p. 76). That is unjust because, as Rawls wrote, "it does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many" (1971, p. 4). Kozol's prescription was a massive redistribution of resources to benefit the schools of low-income children in order to offer those children the same educational opportunities that children in wealthy districts already have.

Nozick (1974) posed the counter-arguments to Rawls' description of social justice and his justification of redistribution. Nozick emphasized liberty and insisted that it must be prioritized and protected as society's highest value. Every individual is at liberty to earn wealth and resources, and "wealth is created with moral encumbrances which entitle its owners to absolute control over it irrespective of the social ramifications of such a distribution" (Paul, 1981, p. 4). If there is no violation of law or liberty in the manner by which an individual has garnered his or her wealth, then social justice demands that there be no redistribution. "There are absolute rights against redistributionist interference" (Paul, p. 10). Redistribution may be imposed only when there has been a violation of law or liberty in the collection of wealth. "The state may not use its coercive apparatus for the purpose of getting some citizens to aid others" (Nozick, 1974, p. ix). Therefore, a higher standard is required for redistribution because the social order benefits when private property and self-interest are preserved and protected. Liberty is preserved, and the procedure by which resources are earned is the standard for justice. Status and equality are not standards by which justice is weighed according to Nozick.

Nozick's prioritization of liberty was used by Sandel (1996) not only to explain the contemporary civic philosophy in the United States but also to develop a normative structure for the future. According to Sandel, the country has embraced the concept of liberty to the extent that the United States has become a "procedural republic" in which its citizens even have the liberty to "choose their own values" (p. 58). Prior to World War II, the country had espoused the collective and formative values of a national civic life. Now, the concept of liberty has so dominated civic life that even the growth of the welfare state has been sustained by "an ethic of fair procedures and individual rights" (p. 74) rather than by any sense of redistributive justice. For the last fifty years, "steps to distribute income more equally were deemed desirable but secondary to the aim of full employment and economic growth" (p. 63). Moreover, Sandel ultimately embraced the downsizing of the moral community when he described the current reality of overwhelming global economic forces and fragmenting ethnic and communal identities. The only "revitalized civic life" that can sustain a democracy will be found in "the politics of neighborhood" (p.74). Allegiance to larger entities will only develop where larger entities somehow "reflect the identity" (p. 74) of the smaller communities. With liberty dominant and identity fragmentized, Sandel believed, there is little likelihood that any redistribution of wealth can be realized.

### The History of School Finance Litigation

The concepts of equal educational opportunity and equal protection under the law were the legal expressions of redistribution that became the sources for many subsequent equalization policies (Berne & Stiefel, 1999). In tracing the origins and the shaping of equalization efforts, Berne and Stiefel identified the following court decision and three books as the significant

influences that defined equal opportunity and equal protection in education:

1. The 1954 United States Supreme Court ruling in Brown v. Board of Education declared school segregation by race to be a violation of the Fourteenth Amendment's equal protection clause. Although the case did not focus on the financing of schools, it was important to the issue of equalization because it essentially validated the legal concept of equal educational opportunity for all children.

2. Coleman et al. issued *Equality of Educational Opportunity* in 1966 which concluded that "students' family and other background characteristics were more important than school resources in determining school achievement" (Berne and Stiefel, 1999, p. 15). Coleman's report, therefore, suggested that arguments in support of equalization policies could not be based on actual educational outputs. Advocates might justify equal educational opportunity morally and philosophically, but its substantive effects remained questionable.

3. Wise published *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity* in 1968. He posited the principle of wealth neutrality by insisting that "the quality of a child's education in the public schools of a state should not depend upon where the child happens to live or the wealth of his local community" (p. xi). The principle was the first link between the legal concept of equal opportunity and the economic one of school financing, and it became the foundation for the subsequent court cases on school financing and equalization.

4. Jencks et al. produced a major collaborative study in 1972 entitled *Inequality*. Its most significant finding was that income equalizing could be accomplished more effectively by directly redistributing income than by addressing inequality in educational opportunity. The effect of the study was

similar to that of Coleman's; advocates of equalization had to focus on inputs and processes rather than on subsequent outputs.

Minorini and Sugarman (1999) added another book to the list of influences that informed subsequent equalization efforts. In 1970, Coons, Clune, and Sugarman embellished Wise's concept of wealth neutrality in a manner that was better suited to legal arguments. In their study *Private Wealth and Public Education*, they agreed with Wise that educational discrimination based on wealth was unconstitutional and that education was a fundamental right protected by the federal constitution. Moreover, their principle of "fiscal neutrality" focused on educational inputs, and they asserted that the dollar inputs to schools must not be a function of wealth other than the wealth of a state as a whole. Spending for education must be essentially equitable across a state.

With redistribution translated into legal concepts and the justification of redistribution focused on the moral standard of fairness, lawyers and advocates for poor districts turned their attention to the courts in the attempt to redress funding inequities. According to Minorini and Sugarman (1999), the locus of their efforts was defined by the issuance of another landmark Supreme Court ruling. Because of the success of the civil rights cases in the 1960's, advocates like Wise and the members of Coons's team expected that the federal courts would declare educational funding inequities across school districts to be unconstitutional. However, the federal Supreme Court decision in Rodriguez v. San Antonio Independent School District in 1973 deflated those expectations. A lower federal court had initially embraced the fiscal neutrality concept of the Coons team in deciding this case about school funding inequities. In its ruling on the appeal, though, the United States Supreme Court denied education the

status of a fundamental right. The high court also stated that wealth, unlike race, was not justified as a suspect classification, and so education funding was not subject to an equal protection analysis under the federal Constitution.

The Rodriguez decision took the school finance issue out of the federal courts, and lawyers and advocates of equalization focused instead on the state courts.<sup>1</sup> Minorini and Sugarman (1999) emphasized the success of the efforts in the state courts by pointing to the 43 challenges to state finance systems that have been litigated, including 19 that have declared their state systems to be illegal under their state constitutions. Four early funding equity cases were particularly significant, according to Minorini and Sugarman. In California, the 1971 case of Serrano v. Priest attacked the disparities in per pupil spending across the state. Although the initial 1971 Serrano decision was based in part on the assumption of federal protections which were subsequently denied by the Rodriguez ruling, an appeal of the Serrano case in 1976 upheld the original decision by applying the state constitution's equal protection clause. New Jersey's 1973 decision in Robinson v. Cahill similarly declared that the state's school funding system with its gross disparities in per pupil spending violated the New Jersey constitution. Of special importance, though, was the finding in the Robinson decision that the violation was based on the state constitution's education clause, which guaranteed a "thorough and efficient system" of education to all students. Washington and West Virginia also had cases in the late 1970's that overturned state systems because of inequities, but the two cases foreshadowed a rationale that would become more important in later cases. In both states, decisions were rendered that criticized specific educational opportunities and programs. The decisions declared the opportunities in poor districts to be "woefully inadequate," as expressed in West

Virginia's Pauley v. Kelly (1979) decision. The California and New Jersey cases, therefore, opened the state courts as jurisdictions for rulings on the inequities of educational finance systems based on either equal protection clauses or education clauses in state constitutions. The West Virginia and Washington cases suggested that courts could insist on judging the merit of actual educational programs.

Despite a number of successful "equity" cases prior to 1980, "there was a growing dissatisfaction with the outcomes of school finance 'equity' cases" (Minorini & Sugarman, 1999a, p. 183). The California and New Jersey experiences in particular led many advocates of equalization to look for other legal arguments. Shortly after the Serrano decision, voters in California passed Proposition 13, which radically restricted local and state taxing. As a result, California wound up equalizing its school spending by "leveling down" (p. 186) to the point that educational programs in all districts suffered. New Jersey's legislature had a difficult time determining a satisfactory financing plan that could provide enough funding for the poor districts, and the plaintiffs repeatedly returned to court. Minorini and Sugarman wrote in 1999 that "New Jersey school finance litigation has carried on for more than 20 years, and remains unresolved" (p. 50).

Moreover, lawsuits in many states were simply unsuccessful, and the rationales in those decisions reflected the general arguments against redistribution and equalization. The Idaho Supreme Court, for example, expressed a concern for the separation-of-powers in its 1975 ruling in Thompson v. Engelking. The court refused to enter into the area of public school financing, which had always been a legislative matter. Also, the Idaho court expressed "some doubt as to whether equal funding had a significant

relationship to educational quality” (Minorini & Sugarman, 1999, p. 53). The Oregon Supreme Court utilized a different theme in rejecting the plaintiff’s case in its 1979 ruling in Olsen v. State. The court argued that the state’s interest in promoting the local control of education justified the disparities that resulted from locally-based funding. The Oregon court feared that its invocation of an equal protection clause with regard to school funding could be similarly used to contest disparities in other locally-based services such as police and fire protection.

Kozol (1991) has been highly critical of the lack of progress toward equalization despite the state court decisions of the 1970’s, and he blamed the federal Supreme Court ruling in Milliken v. Bradley of 1975 for the perpetuation of funding inequities. A federal district court had ordered a metropolitan desegregation plan for Detroit and its suburbs after reasoning that desegregation could not be achieved within the limits of Detroit alone. However, the United States Supreme Court overturned the order. It concluded that the suburbs had not contributed to any actual discrimination in Detroit. Therefore, the suburban districts could not be punished with the loss of local choice and with the order to join in the Detroit desegregation plan. Although the case focused on racial desegregation, the Supreme Court ruling further isolated the schools of the cities in many respects. The surrounding suburbs had no responsibility to contribute to the solution of the city schools’ problems such as desegregation or funding equalization.

Nonetheless, a new argument for equalization was suggested in the earlier Washington and West Virginia cases and by the 1983 report *A Nation at Risk* published by the National Commission on Excellence in Education. That report focused attention on the shortcomings of public education and on the

need for better performance and programs; those were the very specifics that the Washington and West Virginia cases evaluated. "Productivity importantly replaced inequality as the salient reform objective" (Minorini & Sugarman, 1999a, p. 186). By 1989, therefore, the arguments of equalization advocates were focused on student performance and the adequacy of educational programming, and new legal challenges were raised in state courts. Utilization of the concept of adequacy also enabled advocates to support the principle of vertical equity by demanding funding adjustments for students and districts with special needs. In the earlier funding cases, the concept of fiscal neutrality had generally supported the principle of horizontal equity by which all children within a state were entitled to the same absolute amount of school spending. The concept of adequacy provided a means to expand the factors involved in funding determinations.

According to Minorini and Sugarman (1999), Texas and Kentucky were the settings for the cases that outlined the designs of subsequent state cases. The 1989 Texas decision, Edgewood v. Kirby, declared that wealth-based disparities in school funding violated the state's education clause which guaranteed an "efficient" system that would ensure a "general diffusion of knowledge." It ordered the state legislature to devise an acceptable funding system in a state where broad-based property and income taxes were prohibited. After three proposals were rejected by the state court, an unusual plan was approved in 1995. The plan included a form of "recapturing" by which part of the tax revenues raised by wealthy districts was distributed directly for use by poor districts. This system of redistribution offered wealthy districts several options by which they could consolidate with or share funding directly with poor districts. The Kentucky court decision of the same year, Rose v.



Council for Better Education (1989), took the bold step of declaring the entire state system of education, not simply its financing component, to be in violation of the state constitution's education clause. It ordered the state legislature to redesign its educational system so as to ensure equal access for all students to adequate educational opportunities. The court also stipulated a set of guidelines for the legislature which included a list of seven items that the court insisted would characterize an adequate education. The Kentucky legislature responded by enacting the Kentucky Education Reform Act that increased the minimum per pupil spending state-wide and that included new state curriculum frameworks and a new assessment system. According to Verstegen (1998), these rulings and the subsequent rulings in nine other states over the next decade represented two important departures from previous policies: (a) they established educational outcomes as critical objectives of state education policy, and (b) they required more than the minimal or basic educational programs that had been considered previously as the acceptable standards for state policies.<sup>2</sup>

#### Economic Models for Equalization Policies

As court decisions declared a succession of state education funding systems to be in violation of their state constitutions, economists and policy makers devised a series of models for possible legislative adoption. All of the models essentially utilized some combination of the following broad options that were outlined in the USGAO report of 1998: (a) increase the state share of total educational funding and thereby decrease the dependence on the local property tax, (b) target more state aid to the poor districts, (c) set a cap on the amount of money that the wealthy districts can raise and spend on their schools, and (d) provide incentives for the poor districts to boost their tax rates in order to

raise more revenues for school spending. The first two options were clearly methods of redistribution, and the others focused on regulating local tax rates in order to reduce the gap in spending between wealthy and poor districts.

After criticizing the typical policy setting decisions of state legislatures, Augenblick, Myers, and Anderson (1997) outlined the following four approaches by which legislators could convert the concept of educational adequacy into funding formulas:

1. With a *historical spending approach*, legislators set a base-cost for an adequate education by using the actual school expenses of the previous year with some consideration given to the quality of education that was provided across the state.

2. The *expert design approach* stipulated that "it is possible for a group of experts to postulate the needs of a model school district with precision and to associate a standard set of prices with those needs" (p. 75). The experts determined the services that are needed and assigned prices to those services.

3. The *econometric approach* utilized complex statistical methodology to determine the relationship between spending and pupil performance and then set funding levels according to desired outputs.

4. The *successful schools approach* examined the expenditures of schools that were judged to be successful and then set funding levels according to those findings.

Odden and Clune (1998) concentrated on the shift in legal emphasis from equity to adequacy in suggesting a set of proposals for new school finance systems. They criticized the contemporary systems for lacking equity targets and for not encouraging better school and student performance. They then proposed that states set "clear fiscal equalization policy targets" (p. 162) and

then add strategies and programs directed at the targets. They urged each state to “reduce differences in base spending per pupil” (p. 163) and to identify a minimal spending level linked to educational standards for use across the state. For example, they recommended that legislators “use a state’s median per-pupil expenditure as a policy target and raise the spending of the bottom half of all districts to this level, thereby eliminating all extremely low spending districts” (p. 164). Odden and Clune also advocated the addition of compensatory aid for low-income students in order to account for their particular educational needs. Finally, Odden and Clune listed a set of strategies for encouraging higher performance at the school level such as school-based budgeting and performance-based incentives for teachers and schools. The concept of additional school funding was utilized as both a policy target and a policy tool.

Guthrie and Rothstein (1999) used the expert design approach in determining a funding formula for Wyoming that has been adopted and utilized in that state. Their approach followed four steps: (a) defining adequacy with the use of specific educational performances, (b) using “professional judgment . . . [to] determine means for assembling instructional components capable of delivering whatever outcomes are deemed ‘adequate’” (p. 210), (c) assigning costs to the instructional components, and (d) adjusting the costs by accounting for student differences and needs, school sizes and characteristics, and geographical factors. Their judgments and calculations produced a preliminary per pupil cost of \$6,580, excluding capital expenditures, and they recommended that the state use that figure as a figure for block-grant distribution to the state’s school districts.<sup>3</sup>

Duncombe and Yinger (1999) developed the basis of an econometric

model with their analysis of data from New York State. Their initial assumption was that state funding formulas based on average costs would be inadequate for districts with large numbers of high-cost students. Therefore, they argued, performance standards must be set in conjunction with educational cost indexes which are “designed to measure how much a school district would have to spend, relative to the average district, to obtain any given performance target” (p. 261). The authors completed a series of complex statistical calculations accounting for environmental factors, varied student populations, labor market costs, and school district efficiency, and they produced a set of indexes that could be utilized to adjust the per pupil cost of adequacy. Their conclusion was that “cost variation across schools is very large and cannot be ignored” (p. 291) in the legislative determination of funding formulas.

#### Studies of State Policy Responses

Guthrie and Rothstein (1999) conceded that although their analysis examined the problems of determining an adequate funding level for education in Wyoming, it did not analyze the factors that were involved in determining the methods of raising the necessary funds and identifying the revenue sources. The legal arguments regarding equalization have been similar across the many states in which there have been cases, but the specific policy responses and the selections of economic models and revenue options have varied. Especially insofar as the more recent court cases have focused on the imprecise concept of adequacy, the legislative solutions have often required the consideration of more issues than funding formulas alone.

There is also evidence that suggests the limited effects of equalization petitions on state governments. According to Minorini and Sugarman (1999), 43 states have now experienced litigation involving their education finance

systems. Of the 43 cases, 19 were won by the plaintiffs, but the other 24 were unsuccessful. Moreover, the 1998 report by the USGAO surveyed all the states regarding their equalization efforts during the period 1991-92 to 1995-96, which was a relatively active period for equalization considerations. Thirty-one states reported no changes in their targeting efforts, and 36 states reported no change in their state share of overall education funding. Although equalization has clearly been a prominent issue that has prompted legal challenges and legislative debate, that prominence has not ensured state action and reform.

Hickrod (1995) examined the pressures that school funding litigation has placed on state legislatures. In examining the responses of all 50 state legislatures to petitions for equalization reform, Hickrod found many structural changes but little substantive reform. He concluded that the rulings that declared finance systems to be unconstitutional have generally shifted school tax burdens from the local districts to the state sources and that they have resulted in some increased equity across their states. However, successful cases have had only modest effects on overall per pupil spending rates. He suggested that efforts directed at equity have not always implied additional considerations of adequacy.

Carr and Fuhrman (1999) studied the policy responses in the four states of Kentucky, Alabama, Texas, and New Jersey, and they concluded that “the political climate can impede efforts to take actions” based on court decisions because “the political incentives for governors and legislators are such that comprehensive changes in school finance programs are not likely to come easily” (p. 137). Their analysis of the four states is summarized as follows:

1. Kentucky served as the exception to the authors' conclusion about the difficulties and failures of the political process because it had undergone major

educational reform as well as finance equalization. The Rose (1989) decision declared the entire state educational system to be in violation of the state constitution. The unequivocal court ruling complemented the ongoing efforts by a series of reform-minded governors and by the business community to reform an unsatisfactory state school system, and those efforts led to the passage of the Kentucky Education Reform Act. This expert-driven plan addressed finance, curriculum, and governance, and it resulted in some degree of educational improvement in the state. Kentucky's efforts, therefore, featured a decisive court ruling, strong leadership from a succession of governors, and a campaign that successfully mobilized public support.

2. Carr and Fuhrman (1999) pointed to Alabama as an example of the typical political limitations on equalization because it had resisted reform efforts despite circumstances and a court ruling in 1993 (Harper v. Hunt) similar to those in Kentucky. The reforms in Alabama were resisted from the start by conservatives who objected to the accompanying taxes and to the "social engineering" aspects of the reforms. Also, the state teachers' association opposed the reforms because of their accountability provisions. The key to the opposition, though, was the election in 1994 of Governor Fob James who campaigned with an antitax pledge and who took advantage of the racial and class prejudices in the state to defeat the reform attempts. Although other states have witnessed repeated appeals to their courts when policy responses were inadequate, the court decision in Alabama, which was issued by a county court rather than a state one, was "an insufficient incentive for the legislative and executive branches to enact reform" (p. 160).<sup>4</sup>

3. Texas responded to its 1989 Edgewood decision with several unsuccessful legislative efforts before passing an unusual plan that met with

court approval. Texas was confronted with the clear need for a targeted redistribution plan because any attempt to raise the expenditures of all districts to at least a state average would have required more tax revenue than was politically feasible to raise. However, the court continued to demand a plan, and the legislature eventually reached a compromise by which wealthy districts consolidated with poor districts in a manner that equalized funding to a significant degree.

4. The initial Robinson (1973) case in New Jersey was involved in repeated litigation, and the court even briefly closed the state's schools during a stalemate period. The policy difficulties resulted from disagreements about tax increases and from racial prejudices, and the opposition to equalization eventually defeated both the reform legislation and the Democratic governor who proposed it, James Florio. Whereas the original Robinson ruling was issued in 1973, it was not until 1998 with the fifth in a series of rulings in the Abbott v. Burke case that a plan which assisted the 30 poorest districts in the state was finally approved by the state court.

Goertz and Edward (1999) also examined the New Jersey efforts, but they reviewed the situation following the implementation of the court-approved plan. They expected that the new plan would probably not undergo any further court modification as long as the state and the districts specified in the plan made good faith efforts towards its implementation. However, the authors cited the importance of other factors including the capability of the state education system and the local districts to design and execute meaningful school reforms that could improve the performance of the poor districts. The addition of funding alone would not be sufficient to effect improvements.

The 1998 report by the USGAO examined the equalization efforts in

Oregon, Kansas, Rhode Island, and Louisiana which took place between 1991 and 1996. Those four states produced the following sets of strategies and results:

1. Oregon's plan was produced as a response to the need to reduce property taxes which were the main source of local funding for the state's public schools. That need had been cited by a panel commissioned by the state legislature, and it had been emphasized by the passage of a constitutional amendment in 1990 which placed a cap on the property tax. Those factors compelled the state legislature to increase the state's share of school funding from 33% to 59%; the state share for any given district equaled a base funding total with adjustments minus the revenue the local district could raise at a state-mandated tax rate. The plan was phased in over several years. Essentially, the plan increased the state share of education funding, but it did not explicitly target funds to poor districts. Instead, the result has been the reduction of tax efforts by poor and wealthy districts and the narrowing of the funding gap among districts.

2. The equalization efforts in Kansas were prompted by a 1991 pretrial court ruling that threatened the continuation of the existing school funding system because of its tax and spending disparities. The legislature consequently adopted a new system for 1992-93 that increased the state share of funding and targeted additional funding to poor districts. The new system established a base budget for each district and then funded the difference between the base and what the district could raise under the uniform property tax rate. Districts that could raise more money at the uniform rate than was required for the base budget remitted that money to the state for redistribution, but districts retained the freedom to raise their local rates in order to raise more



revenues for themselves. The result has been an improvement in equalization although the poor districts continue to make greater tax efforts than the wealthy districts because of the low figure at which the uniform rate is set.

3. Rhode Island's efforts were prompted by a state budget crisis in 1990 which was caused by the state's bail-out of its savings and loan institutions. The state share of education funding had to be reduced at that time, and the poor districts were unable to compensate for the loss of revenue. Because of the inequities, the state legislature took action to address the problems of the funding system. In 1995-96, the state initiated a system which implemented several new categorical funding programs that targeted poor districts, and it slightly increased the state share of funding from 40% to 42%. The changes had little impact, however, because the poor districts utilized their increased funding to cut their tax rates which undermined the attempts at equalization. The poor districts had no incentive to maintain their higher tax efforts, and the slight increase in state share did not compensate for the lowered tax rates.

4. Louisiana also responded to a state budget crisis, but its crisis was caused by problems in the oil industry in the 1980's. That exacerbated the unfairness of funding for the schools, and the legislature approved a new plan for 1992-93 which targeted more aid to poor districts. However, the poor districts then lowered their own rates while the wealthy districts raised theirs. With only a modest increase in state share, the new plan actually widened the funding gap between wealthy and poor districts.

Baker and Imber (1999) also reviewed the equalization efforts in Kansas, and they emphasized a different set of factors from those cited in the USGAO study. Focusing on the provision by which districts can continue to raise money on their own with no state-imposed limit, the authors found that the wealthy

districts had raised their tax rates to the point that they were still spending significantly more than the poor districts. In fact, average per pupil expenditures across the state had actually dropped since the 1992 baseline year. Although the new plan has alleviated some of the tax burden of the poor districts, it has not produced significant equalization. Baker and Imber concluded that the “politically manipulated system currently in use in Kansas” (p. 137) had approved a plan which lacked the strength to impose real equalization because it refused to restrict the wealthy districts.

Addonizio, Kearney, and Prince (1995) studied the efforts of the Michigan state government to determine a new school funding system after it eliminated its entire revenue system in 1993. The elimination of the local property tax system was a response to repeated state budget deficits, over-reliance on the property tax for school funding, the loss of equity among districts, and the failure of a series of reform initiatives. The elimination of the property tax as a tax base pressured the state officials to develop a new plan. Eventually, the legislature and the governor agreed to a compromise funding package which outlined a spending plan, and they presented a choice of alternative tax plans to the voters. In March 1994, the voters approved a constitutional amendment which increased the state sales tax and established a guaranteed base for per pupil spending. Combined with revenues from the state income tax, the state share of education spending increased from 45% to 80%. The level of state funding was determined on a historical basis which examined spending levels of previous years; the funding plan also granted categorical aid for special needs. The entire plan did produce property tax relief by balancing the major tax sources, and it did improve educational equity to a limited degree. However, differences have continued, and they actually were institutionalized in the new

law which permitted “range preserving” (p. 257).

Howe (1996) detailed New Jersey’s attempts at funding equalization by examining the gubernatorial term of James Florio from 1990 to 1994 in the context of redistributive politics. New Jersey had experienced a series of court cases about school funding beginning with the Robinson v. Cahill cases in 1973 and continuing through the Abbott v. Burke decisions that began in 1985. In 1990 the Abbott II decision provided a “window of opportunity” for Governor Florio to propose a funding plan which required a true redistributive component of taking revenues directly from wealthy districts and distributing them to poor ones. Florio had won a landslide election in 1989, and he was supported by his party’s Democrats who held majorities in both legislative chambers. However, his plan soon met opposition from voters from the wealthy districts, from the teachers union which objected to his changes in its pension system, from antitax groups, and from the National Rifle Association which opposed his concurrent attempts at gun-control. Moreover, New Jersey was experiencing an economic recession at that time which created a budget-gap that required additional revenues. Howe concluded that Florio pushed his administration’s Quality Education Act too quickly and that he failed to garner additional broad-based support. Although the legislature approved his plan during the summer of 1990, the strength of the opposition continued to grow, especially in response to the package of an increased income tax for education funding and an increased sales tax for the budget deficit. By the election of 1990, the Democrats had reelection difficulties as manifested by Senator Bill Bradley’s narrow win over the relatively unknown Christine Todd Whitman. Florio supported a set of amendments to the Quality Education Act in 1991, but the Democrats lost both legislative chambers in the 1991 elections. Florio himself

then lost to Whitman in the 1993 gubernatorial election. Howe further concluded that Florio's plan was a case of "too much, too soon" (p. 37) especially given the extent of redistribution required by the plan. Instead of engendering consensus and cohesion across the state for the cause of educational equity, Florio's plan for redistribution was confronted with a tax backlash and with the resentment and prejudices of the wealthy.

Howe (1999) also used the New Jersey case as a model for comparison with the funding situations in Vermont, Ohio, and New Hampshire. In a study of the school funding litigation in the four states, he examined the statements of the various court decisions concerning issues such as the states' responsibilities for public education, the determinants of school district funding levels, and the roles of local property taxes. Despite some differences among the state situations, he concluded that the general trend established by the cases was "the evolution of social equality" through "state-directed school equity" (p. 42). Because of the court decisions, the states were being required not only to assume the responsibility for the funding of all of their schools but also to equalize funding and even educational outcomes.

## Chapter I Notes

1. A current case in the Third Circuit Court of Appeals suggests that some school finance cases might return to federal courts (Walsh, 1999). The Philadelphia Board of Education along with several citizens groups and parents have sued the governor of Pennsylvania alleging that the state allocates less money to schools with predominately minority student enrollments. Such an allocation would violate Title VI of the 1964 Civil Rights Act which bans discrimination in institutions that receive federal aid. The state has claimed that only the federal government can sue for enforcement of the particular law and that the law applies only in situations of intentional discrimination. A federal district court initially agreed with the state's position and rejected the case. However, the appeals court reinstated the case finding that prior rulings regarding disparate-impact bias applied in this situation. On December 6, 1999, the U.S. Supreme Court let the Third Circuit decision stand, and the suit will proceed to trial in the federal district court.

2. The utilization of the concept of adequacy as a criterion for assessing a state's school funding system has also led to the consideration of specific factors such as the condition of school facilities and the quality of special education services in rendering judgments about systems. A district court judge in Idaho has issued an order in the case of Idaho Schools for Equal Educational Opportunity v. Idaho that requires the state legislature to repair the poorest public schools in the state because those schools have become "dangerous." Although the legislature had established a loan fund to address building repairs, few districts had become eligible for the loans.

Because of special education issues, even Hawaii's funding system has been challenged in court despite the state's one-district system. The 1994 decision in Felix v. Hawaii ordered the state to improve its special education services. However, the implementation of the order has been slow and inadequate, and the state has witnessed a series of subsequent court orders and legislative moves in support of the original order. Because Hawaii is a single school district, equalization is not an issue, but the contents of an adequate education for all children have, nonetheless, become the focus of litigation.

3. Guthrie also testified in a school finance trial in a state court in which a coalition of advocacy groups charged that students in New York City were not receiving enough state aid to provide them with an adequate education (Keller, 1999). Much of the basis of the charge is the poor performance of the city students on the state's own assessments. In January of 2001, the state judge ruled in favor of the plaintiffs in the case of Campaign for Fiscal Equity v. New York by determining that (a) the state's funding system did not provide the city students with the opportunity for a "sound basic education" as promised by the state constitution and (b) that the system's disproportionate impact on minority students presented a violation of federal civil rights law (Keller, 2000). This trial was the first clear case that attempted to link a state's own educational

standards that define and measure adequacy with its level of school funding. In June of 2002, though, a state appeals court reversed the lower court ruling and expressed doubt that the state funding system was depriving the city students of an adequate education.

North Carolina's case of Leandro v. North Carolina has followed the New York case's focus on the use of state standards and assessments in establishing adequacy. After the state supreme court remanded the case for trial in 1997, the trial judge issued a set of three memoranda between October 2000 and March 2001. The judge declared that a student who performed at the proficient level on the state's own tests was obtaining a "sound" basic education. However, by using that standard, the judge subsequently stated that the at-risk children of Hoke County in particular were not receiving an adequate education. He, therefore, ordered the state to provide those children and the at-risk children throughout the state with programs, strategies, and, if necessary, more funding to improve their educations.

4. Minorini and Sugarman (1999a) added that Alabama has witnessed an attempt by the state defendants to have the state supreme court invalidate the original order of the trial court. The court rejected that attempt in 1997 and insisted again that the legislature produce a remedial plan. However, the legislature has still not passed such a plan. Despite the absence of a new state plan, though, an Alabama county judge relied on the original 1993 order to rule in February 2001 that the state could not cut its school funding as outlined in an already-approved state budget. The judge ruled that school funding is constitutionally protected from statewide budget cuts by the 1993 decision .

## CHAPTER II

### RESEARCH DESIGN AND METHODOLOGY

#### Nature of the Research

The purpose of this study was to examine the factors that have influenced the determination of public policy regarding the equalization of educational funding in Maine, New Hampshire, and Vermont. Specifically, the study attempted to answer the following questions:

1. What political and social factors explain the divergent paths that have been taken by Maine, New Hampshire, and Vermont with respect to the school funding equalization policies in the three states?
2. What have been the effects of litigation, political leadership, and public support campaigns on equalization policy making in the three states?

The study involved a comparative analysis of three case studies of state-level policy making. It relied upon the methodologies of historical research including (a) the examination of documents that describe the historical and demographic conditions and (b) the analysis of qualitative data from interviews with key policy-makers, stakeholders, and observers that examined the causal relationships of factors involved in the policy making.

The subjects for the case studies were the northern New England states of Maine, New Hampshire, and Vermont. The three states share many similar geographic and demographic features, and the similarities have been critical because they enabled the study to control a significant number of background factors. Despite the similarities, the states have pursued different courses with regard to school funding policies.

### Data Sources and Collection

Data collection involved archival research of documents and interviews with major participants and stakeholders. The document review included the examination of primary sources such as court decisions and of secondary sources such as newspaper and journal articles. The review established the baseline historical and demographic conditions of the case studies, and it also provided information for comparison with the data obtained in the interviews.

Face-to-face interviews were conducted with selected legislators, state officials, educators, and observers from the media and academia from each of the three states. The face-to-face format was chosen because it permitted participant explanation and expert analysis of the causal relationships among the factors involved in policy making. The interviews sought information about the subjective experiences and opinions of well-informed policy "elites" (Dexter, 1970). The research questions required a subjective interpretation and analysis of events and their causal factors, and so interviews with expert "elites" who participated in or analyzed the events provided rich sources of information. The length and the complexity of the interview instrument were appropriate for face-to-face interviewing, and the cost and time required were acceptable. Subject bias was also acceptable insofar as the subjective understanding of the participants and observers was important and the analysis of the data regularly considered the bias of individual points of view.

### Instrument Construction and Administration

The interview instrument (Appendix) was created after the consideration of the data from the review of the related literature. The initial data from the review suggested the importance of certain factors in policy making (e.g., litigation, leadership); the interviews then explored the relative importance of



the factors and the relationships among them. An interview protocol was developed that formulated a set of general, open-ended questions that was used for all the participants. The protocol also included a set of additional points for follow-up questions that varied with the individual participants as the interviewer deemed to be appropriate (Dexter, 1970). This journalistic style enabled the participants themselves to define and structure their comments while maintaining an open discussion and addressing the necessary issues.

The questions included in the interview plan were based on the factors cited by Carr and Fuhrman (1999), i.e., litigation, leadership, and public campaigns. However, two modifications were made. The Carr and Fuhrman study referred to the need for "extensive and prolonged efforts to educate the public" about school finance reform in order to build support for reform efforts (p. 167). In Maine, New Hampshire, and Vermont, those efforts have focused on the public perception of student achievement in each state and on the school accountability measures that can be linked to finance reform. Therefore, the questions in the interview plan regarding the education of the public concentrated on student achievement and accountability. Also, the literature review suggested the importance of certain distinctive political features in each state. Aside from the specific factors cited by Carr and Fuhrman, the political culture of each state appeared to be important as well because school finance reform has been integrally linked to the political process. This linkage of political culture with the determination of policy was explored at length by Marshall, Mitchell, and Wirt (1989). Therefore, a set of questions about political culture was added to the interview plan in order to assess the viability of political culture as a factor affecting the reform process.

The protocol was pilot tested with a single individual prior to its initial use

with the study participants. Aside from suggesting some changes in interviewing style, the pilot interview went well, and no changes in the protocol were made. All of the interviews were audiorecorded, and the interviewer supported the recordings with written notes. Two of the Maine participants were interviewed via telephone, and all of the others were conducted face-to-face. Two of the audiorecordings were faulty, and so the written notes were utilized as the data source for those two interviews. All of the other interviews were recorded and subsequently transcribed. Participant checks were utilized insofar as each interview subject (aside from the two for whom the recordings were faulty) was given the opportunity to review a transcript of his or her interview and asked to verify that it expressed what he or she intended to report.

### Participants

The attempt was made to obtain a range of viewpoints within each state in terms of political and professional positions. Therefore, the roster of participants in each of the states included leaders and key personnel from the state's educational systems, from academia and the media, and from the political systems. Several individuals were selected by virtue of their positions, and others were suggested by the researcher's advisors and by earlier interview participants. Confidentiality was promised to all of the participants, and so references to all participants throughout the study have been made by state and position.

The following table lists the participants by state and category:

#### Educational System

- Maine:
1. An official in the state Education Department
  2. An administrator in the state Superintendents Association

- Vermont:**
1. An official in the state Education Department
  2. An administrator in the state Superintendents Association

**New Hampshire:**

1. An official in the state Education Department
2. An administrator in the state School Administrators Association

#### Academia and Media

- Maine:**
3. A school administration professor at UMaine
  4. An education policy professor at UMaine

- Vermont:**
3. The director of an institute for education policy analysis
  4. A columnist and director of an institute for state policy analysis

**New Hampshire:**

3. An editor of a prominent daily newspaper
4. The director of an institute for state policy analysis

#### Political System

- Maine:**
5. A Independent state senator who chairs the Appropriations and Financial Affairs Committee
  6. A Democratic state representative who sits on the Education and Cultural Affairs Committee

- Vermont:**
5. A school superintendent who assisted in the passage of the state's current school funding law
  6. A former Democratic state senator who was actively involved in the passage of the current school funding law

New Hampshire:

5. A Democratic state senator who was involved in the state's recent tax proposals
6. A former Republican state senator who was prominently involved in the education funding debates

### Comparative Analysis and Research Paradigm

This research study is a comparative analysis of the equalization funding policies in Maine, New Hampshire, and Vermont. The research design attempted to follow the guidelines set by Holt and Turner (1970) for comparative policy studies by (a) controlling the background factors among the three states and (b) selecting the sample of participants in a manner that was consistent across the states while maintaining a representative range of expert points of view. The former task was accomplished with the selection of three states that seemed to share many geographic, demographic, and economic traits as well as similarities in the histories of their general political cultures. The research examined those similarities in its study of archival documents. The latter task was accomplished in the selection of participants who have been prominently involved in the funding equalization debates and who represented a range of constituencies and opinions. In addition to ensuring that the participants were selected from several professional categories, the researcher also ensured that liberal and conservative political views were represented in Vermont and New Hampshire. Notably, it was difficult to identify a balance of opposing viewpoints in Maine, but that difficulty was later explained when interview data was obtained about the state's political culture. Because of, first, the control of the background factors and the selection of the participants and, second, the range

of the participants' positions and views, the validity of determinations about the different responses of the states and the factors causing those responses has been enhanced.

The research questions for this study were deduced in part from the comparative analysis of four states conducted by Carr and Fuhrman (1999), who presented three factors as necessary although not sufficient for school funding reform (i.e., litigation, political leadership, and public support campaigns). This research study tested their theory in the context of the recent experiences of Maine, New Hampshire, and Vermont with respect to school funding equalization policies. Questions about a fourth factor, political culture as described by Marshall, Mitchell, and Wirt (1989), were added because the reviewed literature and the archival data suggested that state-specific factors were important in the consideration of policy decisions. The following four factors, therefore, served as the "conceptual lenses" for the analysis of the data from the archival study and the interviews:

1. **Litigation.** Carr and Fuhrman stated that successful litigation "can act as a catalyst for reform" (1999, p. 166). Strong and sweeping court decisions can "appear to inspire legislators to pass significant equity-enhancing reform" (p. 167), according to their claim. Each of the three states involved in the study has undergone a legal challenge to its funding system with different outcomes and impacts on the policy decisions across the three states.
2. **Leadership.** According to Carr and Fuhrman, "strong activist political leadership and positive incentives are needed to enact equity-enhancing school finance reform" (1999, p. 167). Indeed, they regarded leadership as the single necessary and most critical factor involved in reform.

Leadership was needed to overcome the natural political and popular resistance to any change that would cost money.

3. Public campaigns. Carr and Fuhrman described this as “extensive and prolonged efforts to educate the public and create a community of interest for reform” (1999, p. 167). If arguments cannot be made that the broader public will ultimately gain as a result of the equity reforms, then it is unlikely that the reform efforts will prevail. In the northern New England states, the public campaign has focused on the outcome of student achievement and the standards of accountability. The interview questions focused accordingly on those specific topics.
4. State political culture. Marshall, Mitchell, and Wirt (1989) explained the power of culture and values over policy, and Petronicolos and New insisted that the “contextualized” nature of equity reform efforts demanded that analysis concentrate on state-specific factors (1999, p. 385). Accordingly, data were collected regarding state-specific factors like political culture to balance the inquiries regarding factors that represented national trends like litigation, leadership, and accountability.

The transcript data, therefore, were analyzed according to their relevance to the factors studied by Carr and Fuhrman and to the research questions of the study. Data for each state were analyzed individually before they were utilized in the comparative analysis. Relevance of the data was assessed in three ways:

1. Triangulation within each state was established when a particular report or datum was confirmed by multiple sources from among the documentary evidence and the comments of the participants.
2. Singular and unique comments of participants were noted when they

offered compelling explanations for historical events that were described in the archival research.

3. Statements of disagreement were reported when individual participants explained events in ways that strikingly differed from the interpretations offered by the rest of the state's participants.

### Summary

Maine, New Hampshire, and Vermont have reacted differently to the pressures for equalization reform, and there has been little research regarding the political and social factors that might explain the different responses among states across the country. Carr and Fuhrman (1999) have attempted one of the few studies of the factors, and so the data collection and analysis of this study has given particular regard to their causal paradigm. A research design that incorporated archival study and face-to-face interviews with well-informed elites provided information on the policy making regarding school funding equalization in the three northern New England states. The archival study attempted to establish the similar background conditions of the three states, and consistency was maintained in the selection of participants for the three sets of interview samples. Because of that control and consistency, the differences among the states in the factors examined by the research data would become more meaningful as explanations of the differences in the states' policy decisions.

CHAPTER III  
THE DEMOGRAPHIC AND POLITICAL  
CONTEXT OF NORTHERN NEW ENGLAND:  
THE “OLD NEW ENGLAND”

“There are two New Englands . . . . more of the old New England is to be found north of the Massachusetts border and more of the new in the three southern states.” (Lockard, 1959, p. 3)

The bifurcation of New England that Lockard described more than four decades ago persists today insofar as the northern New England states of Maine, New Hampshire, and Vermont continue to share many characteristics that distinguish them from southern New England and the rest of the United States. The extremes of some of the characteristics have moderated since Lockard wrote, but the uniqueness and the similarities of many of the characteristics remain. An examination of the demographics, the political cultures, and the educational systems of the three states is important because it not only confirms the essential similarities in background conditions of the states, but it also specifies several subtle distinctions that are attributable to recent changes in the states and relevant to the funding equalization debates.

Demographics

Lockard described the traditional New England image as one “of a quaint, quiet, and very reserved community” with “nasal-toned, eloquently laconic Yankees” (1959, p. 3). Perhaps once characteristic of all of New England, that image remained essentially valid for northern New England,



according to Lockard, in his time of the mid-twentieth century. Since then, the “quaint” traits of the image have been sacrificed to varied demographic and economic pressures, but northern New England remains an unusually homogeneous population across its three states. Maine, New Hampshire, and Vermont are three of the eleven smallest states in the country in terms of both population and land area. According to the year 2000 figures from the U.S. Bureau of the Census, their populations are overwhelmingly white. Each of the states has a racial profile that is approximately 96% white; those figures make them the three whitest states in the country. In terms of the percentages of their populations that live in metropolitan areas, the 1998 census figures ranked New Hampshire 34th among the 50 states with only 52% of its residents in urban areas. Maine ranked 44th, and Vermont was 49th. Their populations have relatively low rates of poverty, and the employment profiles of the three states are strikingly similar. Service and trade are the two largest employment sectors; together, they employ more than half of the workers in each of the three states.

Despite these general similarities with Maine and Vermont, New Hampshire has recently experienced more pressures of population growth and economic development than its two neighbors. Manchester, New Hampshire is the only city in the region with a population in excess of 100,000, and New Hampshire’s population density of 132 inhabitants per square mile is more than double the density of the two other states. According to 1999 figures from the U.S. Department of Commerce, New Hampshire’s per capita income of \$30,905 ranks seventh in the country; the per capita figures for Maine and Vermont are both below \$26,000 and are lower than the national figure of \$28,518. New Hampshire has become wealthier and more urban, especially along its Massachusetts border, than either Maine or Vermont.

## Politics and Governance

Politics and governance in northern New England have long been characterized by two traits: (a) one-party (i.e., Republican) politics and (b) local control exercised by town governments. Lockard's study of New England in 1959 was a comparative analysis of one-party and two-party states with Maine, New Hampshire, and Vermont serving as the one-party bloc. In that study, Lockard wrote that the "political organization over most of New England tends to be localized within the individual town rather than based on the county as in most of the rest of the country" (p. 5). Those two traits have moderated somewhat, however, since Lockard's study as two-party systems have become operative in each of the states and as state governments have assumed more importance. The resultant political cultures and systems of the three states still bear similarities, but the subtle differences among them and the reasons for the moderating changes are important as well.

The basic governmental structures of the three states are similar. The three state constitutions are among the oldest and the briefest in the country. Each of the states has a governor as its chief executive, a high court, and a two-house legislature. One chamber in each of the legislatures is relatively large. New Hampshire's House of Representatives, for example, includes 400 members, and it is the largest state legislative body in the country. The size of the larger houses traces back to the early New England desire for the representation of every town in the chamber as a substitute for home rule (Lockard, 1959).

All three of the states were long-time Republican bastions. Vermont voted for Republican presidential candidates in every election from 1856 to 1964 and for Republican governors in every election from 1856 to 1962. From

1857 to 1955, Maine had Republican governors for all but 11 years. Maine and Vermont were the only two states in the country to vote against Franklin Roosevelt in the presidential election of 1936. Although lacking the dramatic record of its neighbors, New Hampshire has also been strongly Republican. From 1857 to 1963, for example, New Hampshire had Republican governors for 100 of the 106 years.

However, the staunch Republicanism has moderated somewhat as each state now has a competitive two-party system. Since 1954, Maine has elected two Independent and four Democratic governors, and its moderation has been in large part attributable to the appeal of several Democratic personalities such as Edmund Muskie and George Mitchell (Maisell & Ivry, 1997). New Hampshire has a three-term Democratic governor as a result of the 2000 election, but its moderation is less easily explained. The state has seen a significant immigration of former Massachusetts residents in recent decades. Massachusetts tends to be a politically liberal state, but analysts disagree whether the newcomers reflect that state's liberalism or an anti-tax libertarianism which compelled them to leave the state (Fistek, 1997). Vermont is now generally in Democratic control, and it features the country's only socialist Congressman. This radical departure from tradition is probably attributable to (a) the emergence of several popular Democrats such as Thomas Salmon, Margaret Kunin, and Howard Dean, (b) the immigration of young, politically liberal professionals to the state because of life-style choices in recent years (Nelson, 1997), and (c) the turn of the national Republican Party to dogmatic conservatism especially on the social and environmental issues which Vermonters have typically regarded with political moderation or liberalism (Speel, 1998).

The structural and political combinations produce some subtle but significant differences among the three states in their political cultures and power systems. Based on a structure conceived by Elazar (1984), Harrigan (1988) classified the political cultures in Maine and Vermont as moralistic and New Hampshire's as moralistic-individualistic. He identified the moralistic culture with the old Puritan ethic in which "government exists to achieve moral goals that are in the public interest" (p. 24). In an individualistic culture, however, "government exists primarily to distribute favors to government supporters and to regulate the marketplace so that everyone can freely pursue his or her own self-interest" (p. 24). New Hampshire's moralistic strain is the remnant of colonial New England Puritanism, but its individualism is a newer development tracing to the rise of business interests in New York and Massachusetts. The moralism has long been dominant in New Hampshire, but the individualism has increasingly shaped the perception of the role of the state government in recent decades.

Harrigan (1988) also rated the relative powers of various political players in each state. He rated Maine's governor as strong and its interest groups as moderate in power. The old triumvirate of paper companies, manufacturers, and utilities no longer wields the power that once controlled the decision making in the state. Reflective of the two-year terms of their governors, Vermont's and New Hampshire's chief executives were rated by Harrigan as moderate and weak, respectively. Vermont's interest groups were assessed as moderate, and New Hampshire's were judged to be strong. The continuing strength of New Hampshire's interest groups and media has been regularly demonstrated by *The Manchester Union Leader*, which is published in the largest metropolitan area in the three states and which is the only statewide

newspaper in the region. Its power to coerce anti-tax pledges from the state's gubernatorial candidates in recent decades is representative of its dominating influence in New Hampshire (Speel, 1998).

Political players in New Hampshire are also recognized by the magazine *Business New Hampshire* which publishes an annual list of the state's ten most powerful people as determined by its own survey. During the last decade, the individuals with the longest tenures on that list have been Jeanne Shaheen, the three-term Democratic governor and current candidate for the United States Senate; Judd Gregg, the current Republican United States Senator; Joe Flynn, the Commissioner of the Department of Safety; Joe McQuaid, the editor of *The Union Leader*; Craig Benson, the CEO of Cabletron and current gubernatorial candidate; and Chris Gallagher, a lobbyist (Phelps, 1999). The diversity of the list reflects the dispersion of power in the state and the prominence of business and interest groups as political players.

In summary, the three states have shared similar governmental structures and political traditions. However, while Vermont and Maine have evolved and moderated in generally similar fashions, New Hampshire has responded to several unique forces by developing a different political culture and power system. New Hampshire now includes a strong strain of individualism in its culture, and its interest groups including its media are relatively powerful. Conversely, its governor, saddled with a two-year term and an Executive Council that oversees most major executive appointments, is relatively weak.

Speel (1998) summarized the divergence of New Hampshire's political system from those of Maine and Vermont by stating that "New Hampshire's overall higher income levels may have made its voters more disposed toward supporting the non-tax pledge, and the state's population density and more

urban nature may have allowed more influence for the largest city's (Manchester's) newspaper" (1998, p. 86). In terms of both substance and symbolism, New Hampshire's tax system and the influence of *The Union Leader* across the state are aptly descriptive of the state's unique political culture and the limits on its political leadership.

#### Education: Students and Funding

Because the three northern New England states share many demographic and governmental traits, their school-aged populations and school systems are essentially similar. Especially conspicuous is the absence of significant minority populations in northern New England relative to the rest of the country. Nationally, 35.8% of the country's school children are minority students, according to 1996 data from the U.S. Department of Education. However, New Hampshire's minority percentage is 3.6%, and Maine's and Vermont's minority populations are even smaller. Also, the childhood poverty rates within the three states are relatively low. According to *Kids Count*, a publication of the Anne E. Casey Foundation, New Hampshire had the lowest rate of childhood poverty in the country in 1999, and Maine and Vermont ranked sixth and ninth respectively. All three states boast high graduation rates and small class sizes relative to national norms. Moreover, just as New England differs from much of the country in its dependence on local town government instead of county systems, its school districts tend to be relatively small. The districts in northern New England are town and city-based rather than county-based as is the case in much of the country. New Hampshire, for example, has 162 school districts, Maine has 227, and Vermont has 251. By contrast, the entire state of Florida has only 67.

The educational funding in all three states has been characterized by

relatively high total revenues and by low equity across districts. According to figures of the National Education Association, the per pupil expenditures in the three states in 1999-2000 ranged from a high of \$7,309 in Vermont to \$6,937 in Maine and \$6,932 in New Hampshire. All three of those figures exceeded the national figure of \$6,585. *Education Week* graded all three states with high marks in its 1999 assessment of funding adequacy. *Education Week* also graded the allocations of educational funding (i.e., the amount that is dedicated to instructional services) of the three states as above the national norm. However, the assessment graded the three states as below average with regard to funding equity, and the report by the USGAO (1998) described the funding gap between wealthy and poor districts in each of the states as moderate. This means that there was a moderate relationship between the educational funding for a given pupil and the tax base wealth of that pupil's district.<sup>3</sup>

Despite the superficial similarities in their student populations and their school district characteristics, the three states have diverged in the critical area of student achievement. New Hampshire typically boasts College Board SAT scores that are among the highest in the nation. Data released by the College Board for the year 2000 test administration indicated that about 70% of the students in each of the three states took the SAT exams compared to the national total of about 40%. New Hampshire students averaged a total of 1039 on the verbal and math tests while the national average was 1019. Vermont's student average was 1021, and Maine's was 1004.

Another important set of differences among the three states lies in their sources of school funding and in their past efforts to equalize funding across their school districts. According to figures from the National Education Association, 49% of the nation's total school funding in 1997-98 came from

state sources and 44% from local sources. Maine's revenue sources correspond closely to the national ratio with 46% in state funds and 48% in local money. Prior to its recent funding changes, Vermont had been more dependent on local funds with 67% of its funding coming from local district sources and 28% from state ones. New Hampshire has also enacted recent changes, but its fund-raising system had been dramatically skewed with 91% of its funding in 1997-98 coming from local sources and only 6% from the state.

The sources of the state funds vary across the three states as well. Nationally, states in 1992 raised more than 64% of their total revenues from a combination of sales taxes and individual income taxes (Swanson & King, 1997). Maine and Vermont exhibited similar profiles by raising 70% and 64% respectively from those two sources. However, New Hampshire has had no sales tax, and its individual income taxes on investments raised only about 8% of its total revenues. There has been no single source of significant revenue in the state; New Hampshire has relied instead on a variety of lesser taxes and on other means such as lotteries to generate revenues. This has resulted in a relatively weak tax effort on New Hampshire's part. Data for 1991 compiled by the Advisory Commission on Intergovernmental Relations ranked New Hampshire 43rd amongst all states in its taxing effort<sup>6</sup> while Maine and Vermont ranked 11th and 21st respectively.

The report by the USGAO (1998) on the equalization of school funding determined the equalization effort of each state by calculating the "proportion of the state's average funding level that state policies allow districts to finance with an equal tax effort" (p. 72). The national effort was calculated at 62%. Maine exceeded that norm at 63%, whereas Vermont (45%) and New Hampshire (13%) were below the national norm. That means that in New Hampshire,



especially, a larger burden has fallen on the tax rates of poorer districts because an equal tax effort by districts across the state will leave its poor districts grossly underfunded. Although New Hampshire's targeting efforts to direct funding to poor districts was relatively high, its state share of the total school funding was so low that its overall equalization effort remained low. By contrast, Maine's state share of total education funding and its targeting efforts were both in the medium range nationally, and so its equalization effort matched the national norm. Prior to its recent changes, Vermont had a low state share and a medium targeting effort which together produced an equalization effort below the national norm but far above New Hampshire's figure. Therefore, although the school districts in the three states receive funds that are relatively high on the average, each of the states has had a funding gap between the wealthy and the poor districts that was measured as moderate and that was primarily the product of the pattern of wealth distribution. The gaps have been similar because the demographics and the school governance systems of the three states are so similar. However, the efforts to address the gaps (i.e., the measures of state share and targeting) have varied significantly among the three states; Maine's equalization efforts have measured statistically as above-average, Vermont's had been below-average until recently, and New Hampshire's have been the lowest in the country.

### Chapter III Notes

5. The 1998 USGAO report explained its calculation of funding gaps with the following: "We measured the funding gap between poor and wealthy districts by calculating the elasticity of total (state and local) funding per pupil with respect to district tax base wealth measured as district resident income per pupil. An elasticity measures the percentage change in one variable associated with a 1-percent change in a second variable" (p. 20).

6. Swanson and King (1997) stated that tax effort "is measured as a state's actual tax revenue relative to its hypothetical fiscal capacity." Capacity is "the relative per capita tax revenue a given state would raise if its tax system made use" of the twenty-seven levies that are typically used across the country at the national average rate for each (p. 109).

## CHAPTER IV

### LITIGATION AND INITIAL RESPONSE

The school spending gaps in the three northern New England states prompted lawsuits during the last decade aimed at promoting the funding equalization efforts among their respective school districts. However, there is some disagreement among researchers regarding the effects of law suits and court orders on equalization policies. The prevailing view of the relationship has been expressed by Evans, Murray, and Schwab (1999) with the statement that "court-ordered reform has achieved its primary goal of fundamentally restructuring school finance and generating a more equitable distribution of resources" (p. 93). Carr and Fuhrman (1999) similarly regarded the various state court decisions as one component of a general trend in school finance reform across the country that has produced greater equalization. Court orders have often been necessary as catalysts for reform, they claimed, and the decisions have typically set the standards for the subsequent reform efforts. Petronicolos and New (1999), however, insisted that the many separate state court decisions about school financing cannot be generalized with regard to their impact on the state responses. Instead, they attested that "these interpretive acts" of state constitutions "are stubbornly contextualized -- historically, socially, and textually" (p. 385). The landmark United States Supreme Court case on school financing, Rodriguez v. San Antonio (1973), did not follow the Brown v. Little Rock (1954) decision in the latter's generalizability of education as a fundamental right because it focused on one group of litigants that was not a suspect class, i.e., the poor. Because of the Rodriguez decision,

subsequent finance cases have been limited to state courts where the decisions have had little impact on each other or on other educational issues. According to Petronicolos and New, the finance cases have been relevant only to their own states and their unique circumstances.

The statistical data offer no clear conclusions regarding the relationship between court cases and equalization policies. States with weak equalization efforts have certainly been vulnerable to legal attempts to impose stronger policies. Of the 23 states listed in the USGAO report (1998) as below the national norm in their equalization efforts in 1991-92, 12 have seen successful state court challenges to their school funding systems since 1992. However, successful suits have not been sufficient for reform in some states nor have they been necessary for the implementation of equalization efforts in others. Six states with below average efforts according to the USGAO report had received court orders regarding school finance reforms before 1992, but those orders had not prompted equalization efforts to the level of the national average. Also, of the 27 states with above average equalization efforts, only seven of the states had earlier received court orders that had mandated greater equalization efforts. The others had attained their equalization levels without the impetus of direct court orders.

Therefore, although states with school funding gaps have been vulnerable to suits challenging their funding systems, the relationship between litigation and equalization policies is not a clear one. Three basic situations have occurred: (a) some states have developed and implemented equalization policies without court orders, (b) some states have responded to court orders by significantly improving their equalization efforts, and (c) some states have virtually ignored or at least minimized their responses to court orders for

equalization. It is notable that Maine, Vermont, and New Hampshire represent the three situations despite their general background similarities. All three states had school funding gaps that were measured as moderate, and all three had court cases challenging their funding systems. However, the court decisions and the responses of the states fundamentally differed. An examination of the decisions and the responses of the three states is critical to any understanding of the factors involved in the determination of their equalization policies.

Maine: School Administration District #1 et al. v. Commissioner, Department of Education (1995)

Maine's school funding suit was filed by 83 school districts and three students who challenged the state over its reductions in state school funding from levels that had been set by the state's School Finance Act of 1985. The reductions had been imposed by the legislature in response to budget stresses during the economic difficulties of the late 1980's and early 1990's. All school districts in the state had had their state funding reduced by the same percentage during that period of stress. Poor districts claimed, however, that the reduction had imposed greater hardships on them because of their greater relative dependence on state funding. The suit alleged, therefore, that the manner of distribution of the state funds violated the equal protection clause of the state constitution. The suit focused only on funding; it raised no issues regarding the adequacy of educational services.

The unanimous 1995 decision from the Maine Supreme Judicial Court was rendered in favor of the state defendants. The ruling was a relatively brief one, and it made no reference to the history of funding efforts in Maine or in other states. The judges simply declared the following: (a) there was no

suspect class of plaintiffs involved and no challenge regarding a fundamental right to education, (b) consequently, the funding reductions should be evaluated on a rational basis, (c) there was no constitutional provision that set or implied specific funding levels, and (d) therefore, the legislature could reduce funding when it determined that cuts were necessary. There was no constitutional right to funding, and the question of levels was an issue for the state legislature alone. Moreover, education was a state responsibility, and the state was satisfactorily fulfilling it. The decision concluded with the following judgment about the original School Finance Act and the subsequent reductions: “The Act as a whole, including the provisions for reductions from recommended levels of funding, continues to further a legitimate goal of subsidizing the local communities’ efforts to provide resources for education, but to do so within available state revenues” (p. 850).

The suit had been limited in its scope because the state had already taken the initiative on equalization efforts with the School Finance Act of 1985. The act set state subsidies to districts so as to ensure a minimal level of education, it established a system of state assessments and standards, and it revised teacher certification requirements. Also, the act was accompanied by a significant rise in the state share of total school funding. The lawsuit did not challenge the quality of education in the state, and the court ruling essentially validated the state’s efforts at equalization during a period of general economic stress.

Although the state’s equalization efforts had been defended, the suit did highlight needs that the state government promptly attempted to address amidst a remarkable level of political consensus. The governor, Republican John McKernan, and the legislature appointed the Rosser Commission which was

charged with examining disparities across the state in educational adequacy, pupil spending equity, and taxpayer equity. Despite the increased state share of school funding since the passage of the School Finance Act, the minimal state subsidy still had not reached the average cost per pupil of most poor districts. The commission, therefore, recommended a series of reforms that were quickly adopted. The reforms adjusted the school funding formula to include funding for more school services and to consider measurements of both property wealth and per capita income within districts. The level of consensus amongst policy makers regarding the need for additional reforms was represented by the analysis of Brennan and DeLogu (2000) that “there is near total agreement” regarding funding levels, revenue sources, and equity (p. 79). Furthermore, they continued, Maine policy makers “should not let the relatively few points of disagreement nor the tone of our debate get in the way of working together and developing a more unified strategy that will more nearly achieve those goals and objectives with respect to state school aid” (p. 80).

Vermont: Amanda Brigham et al. v. State of Vermont (1997)

Vermont’s school funding case was brought by two students, two school districts, and two property owners. They contested the disparities in school funding across the state which resulted from the state’s dependence on local property taxes and the inequities in local property tax bases. Vermont utilized a foundation formula by which state aid to schools was based on the state’s standards for public school approval. The state funding, therefore, ostensibly provided a minimal level of educational adequacy which districts could then supplement with their own locally-generated revenues. The plaintiffs claimed that the disparities in local revenues violated the public education clause and the common benefits clause of the state constitution. In response, the state did

not challenge the existence of the disparities in educational opportunities that were provided to students across the state, but the state did deny that it had any constitutional responsibility for equity. It argued instead that the benefits of local control outweighed the need for a more extensive state role.

In ruling unanimously for the plaintiffs, the Vermont Supreme Court first declared that a public right to education was assured by the public education clause of the state constitution. The ruling examined the cases of several other states in which that right had been upheld, and the court also found significance in the fact that education was the only specific public service actually listed in the constitution. Therefore, public education was a state responsibility although the state could delegate its implementation to local districts.

The ruling then evaluated the state's obligation toward the assurance of equal educational opportunities across the state, and its espousal of the principle of wealth neutrality was strikingly similar to the original expression of that tenet by Wise (1968) almost three decades earlier. Because of the constitution's common benefits clause, the decision declared that "the distribution of a resource as precious as educational opportunity may not have as its determining force the mere *fortuity* of a child's residence" (p. 396). Moreover, the assurance of equal educational opportunity could not be fulfilled by the implementation of a minimal standard of adequacy nor discarded because of the possible benefits of local control as the state claimed. The court declined, however, to impose a standard of absolute equity for spending or a cap on expenditures by wealthy districts. "Equal opportunity does not necessarily require precisely equal per capita expenditures nor does it prohibit cities and towns from spending more on education if they choose" (p. 397). The standard established by the court was "substantial equity" (p. 397). While



focusing on equal educational opportunity, the court also chose not to issue any rulings about tax rate equity across the state or about standards for educational adequacy. The court left the consideration and resolution of those issues to the legislature.

The Brigham decision, therefore, was a rather narrow decision that focused on the state's obligation to provide substantial equity in educational opportunity. According to Howe (1999), the decision affirmed the state's responsibility for public education, and it declared that the assurance of only a minimal level of funding support was insufficient. Moreover, the ruling insisted that local control could be maintained apart from the funding sources. The case was similar to the equity rulings of state cases across the country in the 1970's (Ehrenhalt, 1999); it did not address the issues of educational adequacy or taxpayer equity. Moreover, it did not actually issue a judgment regarding the existence or degree of funding inequities across the state; it simply stated that substantial equity had to be provided.

Despite the ruling's omission of any property tax considerations, the readiness across Vermont to consider property tax problems prompted an immediate governmental response to the Brigham decision. Within four months, Act 60 had been passed by the legislature, and it radically overhauled the state's school funding system. Act 60 established a state property tax, and it then distributed the revenues from that tax to school districts at the rate that would supposedly ensure an adequate education. In a concession to local control, the act allowed districts to raise more revenues for their schools through their own local property taxes, but the wealthiest districts of the state were required to submit certain percentages of that additional revenue to the state for redistribution to the poorest districts.

The redistribution section of Act 60 was a unique and ambitious attempt by Vermont to establish real equity of school spending and tax rates, and it stirred the most reaction across the state. According to Burkett (1998), “most states have opted for the least drastic change possible” (p. 44) when faced with the court-ordered reform of their education funding systems. Most states, for example, have simply opted for larger state shares of total spending without trying to address the equity issues. Vermont, however, not only raised its basic subsidy level, but it also went much further than other states in trying to minimize the spending and taxing gaps. It tried for real equalization by penalizing the wealthy districts for spending more, and it redistributed the penalty fines, known as “shark pool” funds, to the poor districts. Wealthy districts could choose to spend more on their children, but that choice often came at a steep price. Tax rates quadrupled in some wealthy districts like Winhall, for example, in their attempts to maintain local funding levels. A few wealthy districts have resorted to the establishment of private foundations which contribute donated funds to the local schools in the attempt to circumvent the restrictions on local tax revenues.

All of this has resulted in what Burkett has described as “class warfare” (1998, p. 43). Nonetheless, Act 60 has ultimately achieved one of its main goals, i.e., the establishment of a correlation between tax rates and spending. According to Hoffman (2000), districts that spend more now do so with high tax rates, and those that spend less tend to have low tax rates. However, critics complain that Act 60 has resulted in uncontrollable school spending. Poor districts can create excess demand for state funds by simply raising the level of their expenditures. If the state does not have enough funds of its own to support that level through the state property tax and other revenues, then the penalties

paid by the wealthy donor districts increase. The balance among the state property tax rate, the per pupil subsidy, the shark pool funds, and additional state educational aid is very difficult to set. "Local voters can vote a budget, but how much local taxpayers must pay in property taxes is determined elsewhere by the actions of many other players, all trying to game the system to get more money" (McClaughry, 2000).

The 2000 state elections were generally viewed as a referendum on Act 60. Although the controversy over the state's recognition of civil unions had become the highlight issue, opinions about Act 60 tended to cut across voters in a similar manner. The reelection of Howard Dean as governor was significant insofar as he had been a staunch supporter of Act 60. However, the controversy throughout that campaign and the assumption of Republican control of the state legislature suggest that the state will try to address some of the major problems associated with the act, e.g., the fact that school taxes are 24% higher than they were three years prior, the rise in total school spending of 17% over three years, and the increasing burden on the shark pool of funds from donor towns (Heaps & Wolf, 2000). Dean is not running for reelection in 2002, and so the election will more clearly focus on the debate over the retention of Act 60.

New Hampshire: Claremont School District & a. v. Governor & a. (1997)

The New Hampshire lawsuit was filed by a party of five school districts, five students, and eight taxpayers who claimed that the state's reliance on local property taxes to fund its schools violated the state constitution insofar as it produced widely varying local tax burdens. The plaintiffs cited violations of the constitution's equal protection and taxation clauses. In the first state Supreme Court hearing on this suit in 1993, the court had declared that the state did have

the responsibility to provide an adequate public education according to the state constitution. In the 1997 case, the plaintiffs returned to the state Supreme Court to claim that the financing system by which the state undertook that responsibility was unconstitutional. Therefore, the questions before the court in what was known as Claremont II were the following: (a) was the local property tax for schools a state tax? and (b) was the entire funding system unconstitutional because of the differences in property tax rates across the state?

In a 4-1 decision, the New Hampshire Supreme Court ruled in favor of the plaintiffs. The ruling first stated the conclusion that the system of property taxes for school funding was actually a state tax. Although the state could delegate much of the responsibility for the operation of schools to local districts, the property tax must be regarded as a state tax because the operation of schools was ultimately a state responsibility. Given that conclusion, the court then ruled that the existing system of varying local tax rates violated the taxation clause of the state constitution. Because the tax rates across the state were “unreasonable and disproportionate,” a correction was required so that taxes would be administered “in a manner that is equal in valuation and uniform in rate throughout the state.”

Those statements seemed to answer the initial questions posed in the case, but the ruling continued to address two other points. First, the court declared education to be a fundamental right under the state constitution. This meant that the administration of schools and the quality of education across the state would be evaluated by a standard of strict judicial scrutiny. The state, therefore, must assure an adequate education to all of its students, and absolute equity in spending might not meet the standard of adequacy required

by the court. The court recommended the use of criteria such as those used in Kentucky to measure educational adequacy. Second, the court added a brief statement that local control could not justify educational services below the level of constitutional adequacy, and the state must, therefore, ensure that “comparable funding” is provided to every district so that an adequate education could be secured for every student.

The Claremont II ruling was a broad, comprehensive one which addressed the issues of adequacy, student equity, and taxpayer equity. According to Howe (1999), the decision affirmed the state’s obligation for public education, and it opened the state’s administration of its schools to judicial review with a standard of strict scrutiny. The ruling demanded “comparable funding” for all of the state’s students and uniform tax rates across the state. It insisted that the state set standards for the determination of adequacy and recommended the use of specific criteria such as those used in Kentucky.

However, the court decision immediately encountered broad resistance. In a 1992 study, Garland had traced the political resistance to tax and funding reform to the state’s political embrace of local control. She actually concluded that there was public support for change of the tax system but that “there is a difference in political ideology between the New Hampshire legislature and the electorate” (p. 52). The legislature has typically been more conservative than the public. Following the court decision, one set of conservative opponents promptly sought approval of a constitutional amendment that would have negated the court’s ruling. The amendment would have reaffirmed the local control of schools, curtailed the judicial review of public education, and limited the state’s responsibility to provide funding. The amendment was defeated in the state legislature, however, and the Republican gubernatorial candidates

who supported the amendment in the 1998 and 2000 elections were both defeated as well.

Even those who have accepted the court ruling, however, have had difficulties proceeding primarily because of disputes over the amount of state funding required and the imposition of a state income tax. Limited by her campaign pledges to avoid broad-based taxes in general and an income tax in particular during her first two terms, Governor Jeanne Shaheen resisted calls for an income tax. Instead, she proposed a plan called Advancing Better Classrooms which outlined the use of a state property tax that was eventually adopted. The plan required the determination of the cost of an adequate education and then the imposition of the statewide property tax to fund the total cost across the state. Wealthy districts that could raise more revenues with the state tax than were needed according to the adequacy rate were compelled to contribute those funds to the state for redistribution to poor districts. The determination of the costs of adequacy by a governmental task force was a long, tedious process that utilized expert testimony to derive a formula based on a successful schools model. Although the legislature eventually agreed to use the formula, it later reduced the derived cost figure because it refused to fund the entire amount that would have been needed across the state.

The approved plan has subsequently been challenged in various courts on its provisions for abatements to individual taxpayers, its phase-in schedule for certain districts, its use of disparate valuations of property across the state, and its limited accountability measures. Hindered by insufficient funding and an insufficient adequacy cost, the plan has not helped the poor districts as intended although it has still aroused the opposition of the wealthy districts because of its redistributive provisions. School spending continues to vary

widely because districts can supplement the adequacy funds with their own locally generated tax revenues. Legislative debate is stalled over tax measures as well as the accountability standards that will accompany any funding bills.

The 2000 elections provided an unclear set of voter preferences. In the gubernatorial election, the candidate who favored a constitutional amendment as a means to negate the Claremont II decision, Gordon Humphrey, was defeated, but the income tax advocates from both major parties had been defeated earlier in the primaries. The state legislature has been controlled by income tax opponents, but the incumbent governor, Jeanne Shaheen, won reelection as the first New Hampshire governor in 30 years to win without taking a pledge against new, broad-based taxes. Nonetheless, the legislature has remained unable to produce a plan that can satisfactorily resolve the educational adequacy, the per pupil equity, or the taxation issues. School funding is again the prime topic of debate in the 2002 gubernatorial race, and the proposed solutions are the familiar ones (e.g., passage of a constitutional amendment, imposition of an income tax). All of the candidates advocate for the elimination of the state property tax, but they fervently disagree over the merits of an income tax.

## CHAPTER V

### ANALYSIS OF POLICY RESPONSES

Pressures for school funding equalization have been imposed on Maine, New Hampshire, and Vermont by the same funding gaps and subsequent trends toward equity that existed in states across the country. Despite some recent divergence, the three northern New England states have been characterized by similar political histories and demographic features, but their responses to the equalization pressures have been markedly different. The interviews that were conducted with officials, analysts, and politicians, therefore, addressed the reasons for the response within each state according to a framework of common factors including litigation, leadership, political culture, and school accountability and student achievement. The data from those interviews is reported below.

#### Maine: "We hit that brick wall."

Despite a longstanding tradition of conservative politics, a weak education clause in the state constitution, and an adverse court ruling, Maine initiated school funding equalization reforms about thirty years ago. The equalization attempts coincided with the state's shift to more centrist politics, and the state has maintained its equalization efforts despite regular adjustments to its taxation system and aid formula. The adjustments have been prompted in part by persistent inequities across the state in per pupil spending. However, although it has taken extensive equalizing measures, Maine has continued to have difficulty in attaining real equalization because of its economic limitations and the uneven wealth distribution across the state.



## Litigation and the Funding System

Several of the research participants outlined Maine's early efforts to develop a balanced funding formula and to fund a high state share of education spending. The administration professor pointed to the Sinclair Act of the 1960's as a "real commitment" to the high state share. The state association administrator cited the uniform property tax of 1973 as "one of the more equitable funding schemes in the country," and the state representative described the 1985 Education Finance Act as a sound formula with its balanced use of income and property taxes. The same balance was also praised by the state senator as an asset of the state's system.

However, four of the participants also asserted that there were significant and longstanding problems with the state system in general and with the revenue stream in particular. The state's tax revenues have been susceptible to economic downturns, and the state has been subsequently unable to attain its stated goals for the state share of education funding. The association administrator declared that "the problem has been that there hasn't been enough money to fund it the way it ought to be funded." The policy professor agreed with the analysis of revenue problems, and the state representative added that "we hit that brick wall" of funding limitations during the 1990-91 economic downturn. At that time, according to him, the state was faced with the persistent question of "How do we salvage adequate education funding?" The administration professor specified another related problem, i.e., that of the outlier districts. Maine is characterized by multiple districts of various sizes. It is a particular challenge in Maine to raise enough funds for the small, rural districts without distorting the entire formula and unbalancing the tax system. Instead, he said, Maine is faced with the continuing problem of "the rich still get

richer and the poor still get poorer” despite the intentions and efforts with equalization.

Two of the interview participants spoke about the next set of anticipated changes in the funding system. The current system has been based on actual per pupil spending determinations, but the association director and the representative described a new proposal that is based on “essential programs and services.” The new program would utilize input figures for funding derived in great part from assessment data.

### Leadership

Most of the participants characterized the state's leadership on the funding issue as critical, but they generally referred to leadership that came from groups rather than individuals. The state official did label the governor as “a key player” because of his budgetary powers, and the representative particularly praised the “vision” of current Governor Angus King. However, the senator denied that the governor has been key to the policy making. More typical were the comments of the administration professor who praised the bipartisan efforts of the legislature on education reform. He added a description of the cooperation in the 1960's between senators Bennett Keats and Gerard Conley who jointly set most of the state's legislative agenda. However, that cooperation served as an example of the state's bipartisanship rather than of the leadership of individuals. The professor concluded with a statement that he “didn't think education has been politicized as much in Maine as it has in some states.”

Similarly, the state representative spoke highly of the consensual manner in which the state government has operated on educational issues. He attributed that manner in great part to the structural arrangements of the state

government in general and of the legislature in particular. He commended the work of legislative committees and task forces, and he noted the credibility that has consistently been given to that work. For example, he remarked that “there’s been very strong and very credible legislative initiative coming from the educational committee.” Moreover, Maine is one of the few states that utilizes joint standing committees, i.e., regular legislative committees with membership from both chambers. This arrangement has eliminated the disagreements that arise when a state’s dual legislative chambers produce differing bills. Therefore, the state system has generally functioned so as to reduce disagreements and to encourage consensus.

Several participants also commented on the support and involvement of other groups in education reform efforts. That support was regularly described as powerful and essentially non-partisan. For example, after describing the legislature’s consensual work, the representative added that the “real consistency” of the personnel in the Department of Education has been integral to the process. He maintained that “you’ve got legislators who have a good working relationship with people who know” the details of education funding. The administration professor singled out the state teachers’ association as “the driving force” of reform in Maine. It is the largest union in the state, and it has consistently applied “political pressure to make sure that schools are funded appropriately.” The state senator mentioned the support of the state’s municipalities, its school superintendents, and its tax groups; they have all contributed to the drive to reform the state’s tax systems and school funding formulas. The state association administrator stated that “the State Board of Education and their non-political ability to look at the state as a whole” has been important in the considerations of reform.

## Political Culture

The Maine participants regularly cited the state's centrist politics and bipartisan support for education as representative of the state culture. The administration professor described the state's politics as centrist; in that setting, education has become an issue of focus and consensus. The important division in the state, according to him, is not the Democratic-Republican split; instead, it is the north-south split that affects more issues. He added, "It isn't like there aren't political issues out there but overall it hasn't been as divisive as some state situations." The senator added that the state has become socially moderate while remaining fiscally conservative. Issues in the state often become debates between morals and economics. The representative declared that the state is characterized by a high degree of consensus, and the policy professor described the state as being solution-driven. However, the state official disagreed somewhat with the descriptions of consensus. He noted that "what is divisive is measuring the ability to pay and determining for each unit what portion is paid for by the state." Although there may not be many issues that are divisive across the state, "sometimes the issue of ability to pay is the only issue that anyone talks about."

Most of the participants viewed the state as being consistently progressive on education. The association administrator declared that "everyone runs as a pro-education candidate." Although the state is still "very conservative" in his judgment, "when it comes to education they really have a history of being very progressive." The representative agreed that "the general populace has been very, very progressive about improving education for Maine citizens." He added that "I think they see the connection between a sound education and acquiring good jobs and their trying to get businesses to come

here.” The senator stated that K-12 education has been highly valued, but the state has not yet supported college education as enthusiastically.

The administration professor addressed one other unusual issue in Maine. A former superintendent, he described first the intense interest that budget deliberations once sparked in his districts. District and town meetings sometimes were held over several days because of the lengthy discussions. “We worked hard, we had to educate the people, but in the end, they always supported schools.” However, now that Maine has such a high state share for its school funding, “people didn’t even show up.” People now are “just removed from it because they were getting so much money from the state.” He concluded by saying “that’s an unintended consequence of the whole process.”

#### Student Performance and Accountability

Three of the participants declared that the Maine public is generally satisfied with student performance but that there is a recognition of the need to do better. The association administrator stated that “we do very well compared to the nation, particularly on the NAEP tests.” He summarized that “people feel good about that.” However, “people know there’s still lots of work” because there are “significant percentages of kids who don’t meet the standards.” The state official agreed that “Maine is ... very proud of the fact that we consistently score extremely high on the NAEP.” Nonetheless, he referred to the recent release of lists that declared that Maine had 19 failing schools. Although he disputed the use of the term “failing,” he noted that Maine is determined to address that problem and, in fact, has effectively already done so. The policy professor also referred to the high NAEP scores for the state’s students while adding that he anticipated a continued drive to improve. The senator, though, disagreed while expressing skepticism about the NAEP scores. Maine’s scores

are high, but they are of limited value, she maintained. Concerns remain, and the state's intent to implement a funding system based on learning results will be helpful, she hoped, in obtaining resources and improving performance.

Three other participants agreed with the senator's contention that the state needs to improve its collegiate programming and availability. The representative pointed out the discrepancy that "we have the highest high school graduation rate in the country yet we're in the lower 40% in terms of those who go on to college." The state official and the policy professor cited the same discrepancy as something the state hopes to address.

Accountability was addressed briefly by four participants. The representative explained the state's early implementation of accountability measures as the product of Governor Joseph Brennan's work to address the disparities across the state. Accountability would drive increased funding for the poorer districts, according to the rationale of Brennan's administration. The representative along with the association administrator, the administration professor, and the senator all cited the proposed essential programs and services program as one that would drive future funding toward better accountability and performance. The professor, for example, opined that "Maine has placed a value on trying to be accountable."

Vermont: "The debate never ends."

The repeal or amending of Act 60, Vermont's education funding law, has continued to be a prime topic of debate throughout the state's 2002 legislative session. The law is a progressive one that has essentially equalized school spending across the state, but Vermont had been a traditionally conservative Republican stronghold reliant on local control of its schools and on local property taxes for their funding. There has been an influx of politically liberal

immigrants into the state in the past thirty years, and that demographic change has been followed by the rise of several strong moderate and liberal political figures in the state. Then, in 1997, the Brigham court decision mandated educational equity across the state, and the reform bill, Act 60, was passed shortly thereafter. Nonetheless, the contrast of the progressive bill with the conservative history of the state suggests the tensions that have continued with the debate over the Act and with its uncertain future.

### Litigation and the Funding System

The rendering of the Brigham decision coincided with a crest of popular pressure for property tax reform and with significant changes in the political power structure of the state. Most of the Vermont participants characterized the ruling as an “enabling decision,” as the education policy analyst described it. The analyst continued by stating that the ruling “let loose a pent-up demand for change” as suggested by the tax pressures and the political changes by which Democrats gained control of the governor’s seat and both houses of the legislature. The state department official agreed that the litigation had a “dramatic impact” by asserting the state’s obligation to provide public education to the state’s children without consideration of local resource limitations. The association administrator also used the term “pent-up demand” when describing the pressures for property tax reform and the desire for a more equitable system. The former legislator insisted that “we were primed” for the changes after the 1996 elections put Democrats in control. Although the superintendent suggested that the need for tax reform and the long period of political preparation for the changes might have produced the bill even without the court decision, he agreed that the case at least “accelerated” the changes and the passage of Act 60.

The columnist, however, disagreed with the descriptions of the Brigham impact as an “enabler” or even an “accelerator.” He stated his belief that Act 60 would have essentially been passed without the litigation because of the political and tax pressures. He agreed that some changes in the tax structure were overdue, but he expressed strong disapproval of the actual Brigham ruling. He insisted, first, that there was no reference to a fundamental right to education in the state constitution. In fact, he said, the proponents of reform had sponsored an amendment several years earlier which would have added such a reference, but the amendment failed. That seemingly would have ended the searches for a constitutional right to an education, he thought. Also, he objected to the lack of an actual trial in the case. The decision was simply rendered as an appeal to a rule of law, i.e., whether there was a constitutional right to an education, and so no trial record was ever compiled as to the question of educational inequity across the state.

Three participants addressed the issue of sustainability with regard to the design of a funding system. The association administrator used the term “sustainability” in describing the desired assets of a system. The policy analyst spoke of the need for a system that could withstand economic downturns without returning undue pressure to the property taxpayers. Similarly, the former legislator cited the need for a default system so that the system would be “uncompromised” when it was underfunded.

There were three other unusual points about the litigation and the subsequent legislation that individual participants raised. The former legislator attributed much of the school funding problem and the inequalities involved to the increase in commuterism in Vermont. The rapid increase in workers who live in one town and work in another has upset the “natural balance of tax base



and tax burdens” that existed previously. Vermont needed a new system that “reflects this crossing of town lines.” The state official discussed a similar problem of demographics when he expressed the impossibility of calculating a single per pupil spending figure that could be effective across the entire state. Vermont is a relatively small state, but its multiplicity and diversity of school districts create outliers that confound the use of a single calculation. Although they regularly expressed opinions that represented very different positions on the political spectrum, the policy analyst and the columnist both viewed the tendency toward consolidation with concern. The former acknowledged that the consolidation of schools and districts tends to be the typical response of states to equalization rulings, but he believed that it is not beneficial educationally. The latter expressed concern “that Act 60 is inexorably leading them into one big school system that is historically anathema” because of the accompanying loss of local control.

### Leadership

Most of the participants described the role of Governor Howard Dean in the policy making as restrained while acknowledging the prominent role played by several legislators in accomplishing reforms. The association administrator represented one view of the governor by describing him as “politically pragmatic.” The state official added that the governor has “tempered his position” on Act 60 because “he represents everybody.” Therefore, he has had to express some legitimate sympathy for the donor towns who have objected so vehemently to the Act. The former legislator viewed the situation as representative of Dean’s governing style. “Dean does not make proposals,” he claimed, whereas Governor Richard Snelling would likely have reformed the system had he not suddenly died in 1992. A couple of the participants, though,

were more critical of Dean's lack of leadership. The policy analyst remarked that "he just hasn't been consistent," and the superintendent stated bluntly that "the governor has been terrible" because of his ambitions to run for national office. In contrast, the superintendent praised the efforts of Lieutenant Governor and Democratic gubernatorial candidate Douglas Racine, who has been a consistent supporter of reform efforts and the retention of Act 60.

Most of the participants identified the state legislature as the source of leadership in the reform efforts, and former legislators Paul Cillo and John Friedan received most of the credit. The policy analyst called them the "architects" of Act 60, and he noted that "the legislature took the initiative" with the reform. The association administrator similarly credited Cillo and Friedan while pointing out that they lost their seats in subsequent elections. He cited their positions on civil unions for their losses while acknowledging that their work on Act 60 entailed political risk as well. The superintendent also praised the leadership roles of Cillo and Friedan, and the columnist, although a general critic of the equalization legislation, even complimented their attempts to include elements of both equity and local control in their bill.

Several participants also recognized the trend of the political parties in Vermont to coalesce around education and other recent issues. The state official, for example, admitted that the parties have developed distinct political lines, although "town loyalties are confusing for people" because of Act 60's direct effect on local tax rates. The superintendent stated that politics in Vermont have become more partisan especially since 1997 with the passage of Act 60 and the advent of the civil unions issue. Those issues have been "polarizing" as Republicans have "drifted" to the right, according to the superintendent. The former legislator suggested that the early efforts on reform

in Vermont were bipartisan in nature, but the party lines have become clearer as the debate has continued. He traced the intensification of partisanship to the tenure of Ralph Wright as the Speaker of the House from 1984 to 1994. "The Republicans hated Ralph ... and [school finance] was the one issue that was closely tied with him and the Democrats. They were going to make that the issue and bring him down."

Two participants expressed a similar concern about the possible changes in power over schools in Vermont. Both the columnist and the former legislator shared anxieties over the future of the local school boards throughout the state. The former worried that the consolidation effect of Act 60 will undermine the control of local boards so that there is no longer any leadership role left for them. The latter referred to the problem of the inability of lay boards to possess the expertise to fully "understand what they're doing." He questioned whether boards are going to be able to get members truly capable of guiding the education and business of the schools.

### Political Culture

Beyond the increase in political partisanship that several participants cited, the Vermont political culture has become more intense and ideological in nature in recent decades, according to most of the participants interviewed. The partisanship, therefore, is simply a reflection of the more general change in the culture. The policy analyst viewed the Act 60 debate as one that has been "shaped by ideology" over the issues of local control and equity. He added that school finance tends to be a political loyalty test across the country so that "the debate never ends." Finding that the school finance issue has overlapped with other Vermont issues like civil unions, the association administrator declared that "this state went through quite a transformation" from its traditional

Republican conservatism to its current more liberal culture. The superintendent argued that the change has not been so much one of a complete transformation as one which has seen the extremes becoming polarized in recent decades. "People [are] taking more absolutist positions." A liberal strand has developed on the school finance and civil unions issues, but economics and religion have been driving a conservative response. The columnist has regarded the changes in Vermont as part of an unfortunate trend toward big government. He offered the criticism that "our Vermont culture is based on the proposition that government is good, big government is better, ... and taxpayers' money is what's left after the state subtracts what is necessary for civilization." The former legislator explained the cultural changes by pointing to two demographic factors. First, he said, there was an influx of the "back-to-the-land folks" into Vermont in the 1970's, and they brought a liberal, progressive ideology with them. Second, "a lot of people who were growing up in the '60's were coming of age and starting to be elected to office" in the 1980's, and many of them tended to be progressive politically as well. These two demographic changes had a major impact in a small state like Vermont.

The association administrator added one other descriptor of Vermont that bears relevance to its culture. He claimed that schools tend to be the center of most communities in Vermont. The communities are small, and schools are often the dominant institution in them. Therefore, there is support for the schools, and people "are willing to invest in those schools."

#### Student Performance and School Accountability

Five of the six interview participants judged the school finance issue to be more of a tax and governance issue than an educational performance one. They agreed that there is general satisfaction with the schools across the state.

The association administrator stated that there is little “linkage” between the financing debate and the level of student performance. Moreover, he added that the passage of local school budgets is divorced from the state-wide issue of finance; budgets are affected primarily by local matters. The superintendent agreed that “people feel good about their schools.” The state official suggested that legislative committees tend to focus on topics like taxation and school choice and not on educational quality. Elaborating on that concept, the policy analyst and the former legislator added that the accountability regulations in Vermont have been added usually as either concessions to political needs or as objective additions to the public dialogue.

However, the columnist essentially disagreed with these judgments. First, he attributed more significance to the accountability measures. Regardless of whether they were right or wrong, “the backers of Act 60 made much of the linkage of educational quality to the availability of substantially equal resources per pupil.” This was the way to improve poor schools, they said. Second, the columnist was very critical of the actual accountability measures. Calling one state examination “goofy” and “a joke,” he generally criticized the measures as lacking rigor and being too subjective.

New Hampshire: “It’s like herding cats.”

New Hampshire’s debate over school funding reform has remained contentious and unresolved, and it is an integral component of the state’s 2002 gubernatorial election. The state has been characterized by traditionally conservative Republican politics emphasizing local control and a dependence on local property taxes for school funding. Economic and demographic conditions in the state have been altered in the last three decades, however, as the southern tier of the state especially has prospered

economically and become more suburban. The Claremont court decisions of recent years have challenged the reliance on the local property tax for school funding and declared the entire system of funding to be unconstitutional. That challenge and declaration have prompted the current unresolved political debate over compliance with the rulings and over the reform of the amount and source of state funding to schools.

### Litigation and the Funding System

The three Claremont court decisions have rendered successive statements about the state's responsibility for the public schools, the requirements for educational adequacy and tax equity, and an accountability system. The interviewed participants *unanimously agreed* that the decisions have had a *major impact* on the state by placing the school funding issue on the political agenda and by compelling the state to increase its share of educational funding. However, most of the participants criticized the outcomes in multiple and various ways. The state senator, for example, summarized the comments of the six participants about the impact of the litigation by stating, first, that "it's been overwhelming," and, then, "I don't think that the outcomes are particularly good so far."

The litigation clearly has increased the volume of the political debate and the amount of state funding being sent to the local schools. The official from the state Education Department pointed out that New Hampshire has moved from last in the country in the amount of state aid delegated to schools to the middle of the national list. The association administrator added that the state has "responded by moving a greater distance from pre-court decision to post-law than any other state I'm aware of." The former state senator asserted that the amount of state aid to local schools had quadrupled, and the newspaper editor

described New Hampshire as a “different place” since the decisions. The policy analyst opined that the decisions had pushed the issues of school funding and equalization onto the political agenda after years of being neglected. Ironically, though, he claimed that the neglect partly stemmed from the need of the parties involved to await the court’s decisions over several years. In fact, the analyst considered the possibility that the state funding formula, the Augenblick formula, might have been fully funded in 1995 if the litigation had not been filed. Full funding at that time might have precluded the need for the litigation.

Despite this general agreement on the impact of the litigation, the participants offered varied complaints about the subsequent debate and outcomes. The editor and the senator both lamented the continued resistance of many state legislators and administrators to the decisions as evidenced by the prolonged arguments over the principle of the state’s obligation and the difficulties in allocating funds. The senator criticized what he regarded as the continuing efforts to “minimize the obligation” of the state to the schools. On the other hand, the former senator rebutted the two points about the principle of the state’s obligation and the amount of state funding. He criticized the actual court decisions as usurpations of legislative power by the judiciary. Moreover, he regarded the court’s emphasis on adequacy as a mistake because it precluded the use of more efficient targeting of state funds to the relatively poor school districts.

Three of the participants cited the tension that has existed between the New Hampshire judiciary and legislature, but none of them regarded the tension as either a limiting factor or a causative one in the policy making on equalization reform. The association administrator actually described the tension as an asset insofar as it is “really part of the beauty of our form of

government.” The editor and the senator, however, were more critical of the situation. The former insisted that the tension “exacerbated or heightened the resistance” to the court decisions, and the latter declared that “this has heightened [the conflict] immensely, and that’s still one of the huge tensions.” The former senator placed the blame for the tension on the court; he insisted that it had breached the constitutional separation of powers by issuing policy mandates.

Several participants offered additional points relevant to the litigation that were unusual or unique. The policy analyst asserted that the clause in the state’s constitution that mandates uniform state taxation is specific to New Hampshire alone. It has exerted, he maintained, a significant impact on the litigation and a limiting one on the policy making because the state cannot use a graduated tax to fund education. It has had to apply a uniform-rate tax instead of a graduated system. The state senator was the one participant who referred to the objective of designing a funding policy that provides “sustainability” over time and through economic cycles. The association administrator asserted that an important change caused by the litigation has been the initiation of a “high stakes information age” because much of the funding formula is dependent on detailed enrollment, economic, and student performance data.

### Leadership

Most of the participants acknowledged limitations on the leadership that executive and legislative officials have been able to wield on the funding issue. The evaluations of the leadership of Governor Jeanne Shaheen, for example, ranged from the simple recognition of the limitations of her office to disappointment in her role to outright criticism. The state official asserted that the governor “certainly has supported” change but that there have been “so



many political ramifications” to confound her position. The association administrator pointed out that “we have a weak governor form of government” in New Hampshire, and the newspaper editor conceded that there have been great “political risks” for the governor with regard to the issue. The same risks were described by the senator, but he was critical that she had “missed a huge opportunity” to demonstrate leadership and lead the reform effort. The former senator was also critical of her lack of leadership, which he attributed to her personal political ambitions; he described her response to the policy debate as one of “duck, dodge, and weave.”

None of the participants identified any strong leadership from the legislative leaders, and several attributed that failure to the fractionalized nature of the state legislature. The policy analyst suggested that both political parties have been beset with internal divisions over taxes. Moreover, the New Hampshire House of Representatives is limited by two other factors, he suggested. First, it is effectively a volunteer body; as set by the state constitution, representatives are paid only \$100 annually. Second, it is a large body of 400 delegates. The volunteer nature and the large size make the house unpredictable and unresponsive to its leadership. The analyst characterized the situation by saying “It’s like herding cats ... 400 of them.” The current state senator considered those same factors and suggested that the “citizen” nature of the legislature renders it dependent on ideology rather than devoted to public service. Because the legislature is riven by “deep ideological differences” over local control and state responsibility, those differences limit its ability to resolve the funding issue. The association administrator similarly concluded that local tax concerns consistently have overridden party affiliations in the legislature. That has made it impossible for the parties to coalesce on the

funding issue and for the party leaders to deliver votes. The association administrator was the only participant who did praise an individual figure in the debate. He spoke highly of Senator Cliff Below for "his quite courageous uphill argument that is embedded in facts and analysis." More generally, the administrator referred to the leadership on this issue as coming "from underneath ... by concerned legislators, by interested interest groups."

The senator made one additional point of interest to the debate about equalization when discussing leadership. He expressed his belief that the social contract from which government derives its legitimacy and authority implies redistribution. He spoke at some length about the exchange in which "citizens give up certain of [their] natural rights" in order to create "a civil society with a state government."

#### Political Culture

Four of the participants emphasized the effect of the state's political culture on the funding debate, but there was some disagreement as to the characteristics of that culture. The traditional culture of New Hampshire has been a conservative one, and three of the subjects interpreted the current funding situation with its low tax and local control aspects as an affirmation of that culture. The editor referred to the state's continuing "obsession about taxation and local control" to the point that "elected officials ... [are]...resisting what the court says." The senator essentially agreed by insisting that the citizen legislature has continued to set a culture based on local control and ideology over public service. The policy analyst traced the origin of that culture and the state's maintenance of low taxes. In the 1950's and 1960's, he explained, New Hampshire resorted to revenues from gambling, specifically from horse racing and a lottery, when other states were imposing broad-based sales or income

taxes. This hiatus enabled William Loeb, the publisher of *The Manchester Union Leader*, to instill his no-tax culture in the state and to insist that political candidates for state offices take pledges to avoid broad-based taxes. He was able to assume control of the tax debate because of the large share of state revenues that gambling was temporarily able to provide. New Hampshire clearly identified itself as a state with no broad-based tax, and it has continued to do so.

However, the former senator disagreed with much of the analysis about the limits that ideology has imposed. He instead insisted that the current stalemate has come about in great part because of the stifling of ideology. The political extremes have been muted, he said, by the electoral battle for the middle of the electorate; candidates have repeatedly shifted their positions to the middle of the political spectrum. He maintained that the state would be better served if politics were more ideological because the extremes tend to drive the evolutionary improvements in institutions and programs that he believed were necessary.

#### Student Performance and School Accountability

The participants' comments on school accountability have assumed new relevance since the Claremont III decision was rendered, thereby imposing new demands on the state for the establishment and enforcement of actual accountability measures. All of the New Hampshire interviews were conducted, however, prior to the release of the decision. Although several of the participants made brief references to the pending decision, only the association administrator commented directly on the issue of accountability, and his statement was one of general surprise that issues of local control seemingly had overridden desires for more accountability up to that point. Republicans, in

particular, had been faced with a dilemma in choosing between local control and accountability, and they generally had opted for the former.

Five of the participants expressed opinions that the public generally seemed to be satisfied with their local schools although there is some vague dissatisfaction with the quality of education in general. The editor and the association administrator both expressed this belief, and the senator concurred while adding that the state's students have generally attained good test scores but needed to do better. The policy analyst elaborated on this theme by explaining that there has been a failure to recognize the wide disparities in school quality and student performance across the state. He attributed this failure primarily to the residents of the poorer districts; the "ones that have the largest misperceptions are those with the poorest schools." Because that sector of the public does not question the level of local student performance, the public across the state is not going to do so. Moreover, the state official perhaps summarized the opinions of the five participants about student performance by stating that "I don't think [the public] links that to the funding issue."

The lone dissenter was the former senator. He stated unequivocally that he wanted the quality of education in the state to improve. He wanted the quality of education that is provided to the top 5% of the state's students to be provided to at least 80% of the total state enrollment. That desire, he claimed, has been the basis for his interest in the issue and for his positions on the specific policy aspects.

CHAPTER VI  
THE CRITICAL FACTORS FOR EQUALIZATION REFORM  
IN MAINE, NEW HAMPSHIRE, AND VERMONT

The three states in the research study have been historically characterized by similar demographic conditions and political histories. Those conditions and traditions have been modified in Maine, New Hampshire, and Vermont during the last four decades at the same time that school funding reform efforts began across the country. The three northern New England states had similar funding problems, i.e., moderate sized gaps between rich and poor school districts that were the products of the uneven wealth distribution across the states and the taxation systems that were primarily dependent on local property taxes. Despite the similarities in conditions, political histories, and funding gaps, the three states have responded in dissimilar ways to the various pressures for school funding equalization. Maine, New Hampshire, and Vermont now make very different uses of the policy tools of equalization, i.e., state share of the total funding, targeting of state aid, caps on spending by rich districts, and the tax efforts by poor districts. Most of the differences can be explained by subtle distinctions in the sources of the equalization pressures, the responses of leadership, and the political cultures of the states.

Equalization reform in Maine began relatively early, as early as the 1960's according to one of the participants. A series of reforms during the ensuing decades addressed the taxation system as well as the funding formula in attempts to increase equalization. Notably, the reforms were not compelled

by any litigation. The state's constitution has a weak education clause in terms of state responsibilities, and the court suit that was eventually filed was lost in 1992. The reform efforts were initiated and continued primarily because of difficulties caused by economic slumps and the internal inequities across the state. Maine has had frequent problems in raising sufficient revenues for its services. In response to those difficulties, Maine produced a relatively balanced tax system with a high state share of school funding and a high degree of targeting for education aid. The implementation of that system has been characterized by broad, non-partisan consensus, a reliance on legislative and administrative experts, and the support of multiple interest groups. The reform efforts have also coincided with the state's political move to the center and its adoption of progressive education as a basic state value.

However, Maine has continued to be plagued by revenue problems, and a significant gap remains between the rich and poor districts of the state. The consensual policy process, effective leadership, and a favorable political climate have produced reform, but they have not guaranteed equalization. The varied sizes and the economic inequalities of the state's districts have produced outliers that resist the equalization efforts, and Maine has not imposed a cap on the spending of wealthy districts. Furthermore, a state with limited revenue sources like Maine remains especially vulnerable to economic cycles.

Vermont's equalization reforms were initiated in 1997-98 with the Brigham court decision and the subsequent passage of Act 60. The court decision coincided with the election of pro-reform Democrats to the legislature and with the cresting of pressure throughout the state to reform the system of local property taxation. The pressure for reform had been strong, and it was intensified, at least, by the court decision. Act 60 imposed a high state share of

total school funding, a significant degree of targeting of aid, and a virtual spending cap on wealthy districts. Moreover, the cap results in a redistribution of revenues from wealthy districts to poor ones. The resulting system effected a strong correlation across the state between local tax effort and local school spending. The reform effort was led by strong legislative leadership which compensated for the minimal role played by the governor. The election of Democrats to positions of power was important insofar as it signified a balancing of the state's political culture which had been made possible by demographic changes and a succession of successful liberal leaders across the state. The balanced culture was receptive to equalization reform in general and to the passage of Act 60 in particular, but it also signified an intensification of partisanship and ideological debate regarding school funding and control. School funding has clearly become a prime topic of the ideological debate, and the current uncertainty about the future of Act 60 is attributable to the intensified level of partisanship. The status of the current system and the future of equalization in Vermont may depend greatly on the subsequent balance of political power that will be set by state elections.

New Hampshire's series of Claremont decisions declared the state's school funding system unconstitutional and placed the equalization issue on the state's political agenda. A state property tax that was imposed after the first two decisions essentially supplanted local property taxes as a means of providing state aid toward the mandated adequate education for all students. According to some calculations, the state share of school funding has been quadrupled. However, the targeting of aid is minimal because of the decisions' assurance of state-funded adequacy for all students, and there is no cap on local spending. Also, issues regarding the definition of adequacy, the amount

of funding needed, and accountability remain unresolved.

Leadership on the issue in New Hampshire has been limited and diffuse. The governor has appeared weak on the issue, the legislature has been fractionalized, and the strongest interest group, *The Manchester Union Leader*, has led the opposition to equalization reform and compliance with the court decisions. The political culture of the state remains conservative; most of the state continues to identify closely with the local control of schools and low state taxes. Educational quality and accountability have not been strong enough issues to prompt change. Therefore, New Hampshire's efforts at equalization have essentially witnessed the affirmation of the old conservative state culture of local control and minimal broad-based taxes.

Despite similarities in many initial demographic and political conditions, the three states have responded in very different ways to equalization pressures. The source of those pressures in many states across the country has been litigation, and leadership and political culture have often shaped the policy responses. The following sections will analyze the impacts of those three factors on the policy responses in Maine, Vermont, and New Hampshire.

### Litigation

Litigation involving school funding has been the focus of much research and analysis. More than forty states have witnessed legal challenges to their school funding systems, and the cases have sometimes produced dramatic decisions. Analysts have regularly searched for trends in the decisions across the country, and some states have radically changed their funding systems subsequent to the decisions.

The experiences of the three subject states are generally representative of the range of experiences undergone by states across the country. Maine



initiated its reform without litigation, and the eventual case that contested the state system was lost. Vermont's court decision coincided with a shift in political power in the state and with public pressure to reform the state's property tax system. The ruling declared that the state's children were entitled to educational equity, but the research participants generally credited the state's funding reform more to the power shift. They described the court decision merely as an "enabler" or an "accelerator." In New Hampshire, the court ruling declared the state's funding system unconstitutional and insisted that the state provide an adequate education to its children. The decision placed the funding issue at the top of the political agenda, but the policy outcomes have been limited and unsatisfying to most stakeholders. In summary, the litigation experiences of the three states suggest that the impact of litigation has been limited at best. According to the responses of the participants, Maine reformed without any litigation, Vermont reformed coincidentally to its litigation, and New Hampshire remains in the midst of reform efforts and pressures despite its initial litigation and repeated appeals.

The limitations of school funding litigation are attributable in part to the nature of state courts. There is no federal fundamental right to an education, and so the cases have been heard in state courts with scrutiny given to state constitutions. State courts are regularly linked to their state political systems because of the appointment and election procedures for judges and the frequent tensions between courts and legislatures. For example, several participants cited the tension between the judiciary and legislature in New Hampshire tracing to the Claremont decisions and to a subsequent scandal amongst the judges on the state's high court. Similarly, the Vermont columnist related a narrative about the tensions in his state over a series of controversial

court appointments just prior to the Brigham case. Also, state courts rarely compel outright funding amounts, and they are reluctant to hold other branches of state government in contempt even when the compliance with court orders is slow or uncertain. Instead, the recourse of parties dissatisfied with the compliance with a court decision is to file subsequent and repeated appeals. New Hampshire, for example, has already had three Claremont decisions.

Moreover, education in general and education funding in particular have consistently posed problems when used as subjects for legal attention. Educational terms and issues tend to be imprecise and immeasurable and, therefore, not readily adaptable for definitive court rulings or subsequent legislative implementation. New Hampshire policy makers, for example, have been unable to define adequacy in a manner suitable for educational or funding purposes. Legislatures have regularly confronted the dual tasks of interpreting educational concepts and then negotiating funding amounts to support the interpretations. Court decisions alone have not brought closure to educational funding debates. By contrast, orders for desegregation in schools demanded due process rights which were defined and essentially non-negotiable, and the orders utilized the quantitative measure of population numbers with access to integrated schools as a standard.

Education also tends to be a highly localized issue, and this limits the effect of state court decisions. In the three research states, local control of schools has been a longstanding value, and one Vermont participant discussed at some length how schools are clearly regarded as the centers of their communities. Because of this local link, it has often been difficult for political leaders, especially in New Hampshire, to ensure immediate and complete compliance with court decisions about schools. Legislators typically vote

according to the preferences of their local constituents, and party ties have been fractured on school funding issues.

Therefore, the impact of litigation on equalization reform in Maine, Vermont, and New Hampshire has varied, but, overall, it has not been strong. Litigation can place the topic of equalization reform on a state's political agenda, but it is no guarantee of a particular outcome. Furthermore, a state like Maine may choose to initiate equalization efforts in the complete absence of any litigation.

### Leadership

In the states in which there has been policy reform, someone or some group has directed and driven the issue. In Maine, the equalization efforts were directed by consensual leadership from government officials, and the reform was generally supported by the interest groups that were involved. In Vermont, several legislators were credited by the interview participants as having played significant roles in the policy decision making. However, in New Hampshire the reforms were met with strong opposition from interest groups, including the region's most influential newspaper, and the leadership efforts there were generally restricted by structural and political factors.

In all three states, the governors have played lesser roles in the debates. Maine's governors have wielded more formal power than their colleagues in Vermont and Maine, and they have initiated some important educational programs, e.g., Governor Angus King's laptop computers for students. However, even in Maine the governors' roles in supporting equalization were viewed by the interview participants with differing opinions. The participants in Vermont and New Hampshire expressed little equivocation about the recent roles of their governors. Most agreed that the governors had played minimal

and ineffective roles because of a combination of the structural restraints on their powers and the political risks that accompanied the funding issue. Both states have had governors with ambitions for higher office, and the political calculus for them has dictated that they assume roles with safe proposals and little support for substantial reform. Nonetheless, no participant described any overt effort by a governor to actively oppose the equalization reforms in the three states.

Because of the lesser roles played by the governors, the legislators of the states have assumed the crucial roles, and the outcomes in the states have depended primarily on the power, priorities, and skills of the legislators. Moreover, the cohesion of the political parties has been important. The legislative direction of the equalization efforts in Maine has been supported by institutional structures such as the joint legislative committees and by the consensual nature of Maine's politics in general and its approach to educational issues in particular. In Vermont, the debate has been focused by the efforts of individual legislators and by the intensified partisanship toward the state's political agenda. Policy debates concentrate in legislatures, and the tone of Vermont's debate has been set by the state's ideological split. New Hampshire's equalization efforts in the legislature have been thwarted in great part by the fractionalization of the legislature caused by institutional structures (e.g., the large size and volunteer nature of the House) and the state political climate characterized by local control and antipathy toward broad-based state taxes.

Interest groups have been important indicators of public support for or opposition against equalization reform, and they have sometimes wielded outright power in determining outcomes. Maine's teachers' union was cited as

having been instrumental in the passage of reforms. Its influence has been important, and its support for progressive education measures has been steady. New Hampshire's reliance on gambling revenues enabled *The Manchester Union Leader* to control the subsequent taxation agenda by imposing a no-tax pledge on candidates for state office.

Therefore, in the states that have had significant reform, leadership has been necessary for the design of reform and the determination of policy. In Vermont, where reforms have been implemented, leadership by individuals has been prominent, and it has been especially active in the legislature. In New Hampshire, where there has been limited reform, the leadership has been limited by institutional structures, fractionalized parties, and the calculus of political risk by individual officeholders. The success of equalization efforts in Maine, though, suggests that leadership by individual figures can essentially be replaced by a political consensus that drives the policy making.

#### Political Culture

It is important to examine the effect of political culture on the policy making regarding equalization, but it is also important to determine how each state's political culture has been established. Because equalization involves the core values of a state's culture such as local control, taxation, equity, and choice, a state's response to equalization reform will inevitably reflect its culture. Indeed, it is often difficult to distinguish cause and effect in examinations of culture and equalization policy. Therefore, the statements of the research participants regarding the establishment and changes of state culture and the subsequent impacts of the changes on equalization efforts have been particularly valuable.

Each of the three research states was a traditional conservative

Republican stronghold with a moralistic strand in its culture that tended to support goals for the broad public interest. Maine's culture had moderated in recent decades to a political centrism. The shift was precipitated by the strength and appeal of its most prominent political leaders and by the problems that developed in the state which required a centrist, consensual approach. According to this reasoning, Maine could address its problems of economic slumps and its rural, outlier towns and districts only by turning to centrism and consensus. In Vermont, politics have become more balanced in recent decades because of demographic changes. The influx of social and political liberals devoted to quality-of-life issues and the maturation of a younger, more liberal generation infused the state's political mix with a set of opponents for the traditional conservatives. However, in Vermont the balance has incited ideological debate instead of centrism. Power in Vermont is derived from elections, not from consensus. In New Hampshire, the electorate continues to identify closely with local control, limited government, and low taxes. The state's political culture had been modified over many years with the addition of an individualistic strand that supported the business sector, and that addition has actually upheld the old, conservative culture. Although the state has changed demographically and economically, the changes have not yet prompted any significant alteration of the political culture. Reform efforts have not been able to overcome the traditional opposition because the opposition is consistent with the old political culture that has generally been affirmed.

The experiences of the three states with equalization reform also demonstrate the secondary status of equalization as a political issue and the primacy of financial issues in policy making. In New Hampshire, equalization has attained status as an "unacceptable" policy idea as defined by Marshall,

Mitchell, and Wirt (1989, p. 40). Policy proposals for significant school funding reform have been effectively unacceptable in New Hampshire's policy culture. Equalization reform in New Hampshire has even led to what Marshall, Mitchell, and Wirt called "open defiance" (p. 40); some politicians and officials have advocated for constitutional amendments or have spoken of refusing to implement the court's rulings. On the other hand, Vermont and Maine have demonstrated the power of concomitant driving issues. In both states, equalization reform became associated with property tax reform and efforts to develop a finance system that could be sustainable through economic slumps. Neither of those legislative aims required a school funding program directed at equalization efforts, but the latter became attached to those primary aims and accompanied the successful pieces of legislation.

The outcome of equalization reform in each state will be consistent with the state's political culture and values because culture defines a state's values and power base. It is impossible for an issue as politically charged and as reflective of a state's core values as school finance reform to be resolved in a manner contrary to the state's political culture without signaling a dramatic change in that very culture. The northern New England states, though, demonstrate that subtle changes in political culture can occur and that the outcomes of equalization reform efforts will reflect those changes.

## CHAPTER VII

### CONCLUSIONS

This research study has attempted to answer two questions:

1. What political and social factors explain the divergent paths that have been taken by Maine, New Hampshire, and Vermont with respect to the school funding equalization policies in each state?

2. What have been the effects of litigation, political leadership, and public campaigns on equalization policy making in the three states?

The study has examined and analyzed data from archival and interview research regarding the policy making about school funding in three states. Despite their similar demographic and historical conditions and their similar pressures for reform, the three states have pursued very different policies regarding funding equalization. At the very least, those policies have affirmed the statement from Carr and Fuhrman that “comprehensive changes in school finance programs are not likely to come easily” (1999, p. 137). The analysis of data from the three states suggested the following conclusions with respect to aspects of litigation, leadership, public sentiment, and political culture:

1. Consistent with Carr and Fuhrman’s contention (1999), litigation can play a role as an agenda-setter or as a catalyst for reform. However, the case study of Maine has shown that litigation is not a necessary leverage point for equalization reform, and the case study of New Hampshire demonstrated that litigation is not sufficient by itself to produce broad reform. Litigation plays a role in the reform process, but the role is a more limited one than that implied by the volume of research about school funding litigation.



2. Political leadership remains a critical and necessary factor for reform. In both Maine and Vermont, where broad equalization reforms have been implemented, leadership was credited by the interview participants as having been vital to driving the reform process. Although individual direction is the most commonly recognized type of leadership, the case of Maine suggested that consensual leadership can replace the direction of individuals. Carr and Fuhrman specified that leaders must articulate both the “benefits” from reform and the “evidence” linking the reform with educational improvements (1999, p. 167), but the data from Maine and Vermont suggested that behind-the-scenes legislative leadership in the form of policy drafting and committee work is just as crucial.

3. The research study identified the factor of public campaigns as used by Carr and Fuhrman (1999, p. 167) with student achievement and school accountability during the interviews because the public campaigns in the case studies have focused specifically on the latter issues. Although Carr and Fuhrman insisted that “extensive and prolonged efforts to educate the public and create a community of interest for reform are essential” (p. 167), the interview participants in Maine and Vermont generally did not cite achievement or accountability as driving forces for reform. In fact, the participants from both states generally thought that their publics “feel good about their schools,” as expressed by the superintendent from Vermont, and that there was little linkage between financing and performance issues. Accountability measures have been added to funding reforms as concessions in political negotiations rather than as responses to public demands, according to the participants.

4. Each state’s political culture emerged as a controlling factor insofar as the responses to equalization pressures in the three states have been

consistent with the states' cultures. Because state political cultures reflect core values and important policies like school funding also reflect core values, it is a truism that school funding policy decisions will be consistent with cultures. The value of culture as a controlling factor lies in its explanatory power. Mitchell, Marshall, and Wirt validated the power of political culture in their 1989 study; they declared that "political culture is a strong candidate for explaining the variety of political systems, procedures, and policies" (p. 130). Throughout this research study, the explanatory power of specific factors like litigation, leadership, and accountability and achievement seemed incomplete. There always seemed to be a unique, state-specific variable that was not accounted for by the other factors. That variable was political culture. Its explanatory power in this research study has been evident in the causative links between, on the one hand, subtle changes in the cultures of Maine and Vermont with their broad policy reforms and, on the other hand, the affirmation of New Hampshire's old culture with its lack of definitive policy change. Despite the similarities of the historical political cultures of the three states, their policy responses to equalization pressures have been consistent with and shaped by subtle changes in their cultures.

The different responses of Maine, New Hampshire, and Vermont to equalization pressures not only provide data for the analysis of the causative factors of their own policy making, but they also are representative of the range of responses by states across the country. Maine began its extensive reforms without the prompt of litigation. Vermont instituted broad reforms following a court decision. New Hampshire responded to its litigation with a set of moderate reforms that has been unsatisfactory to most stakeholders and that has resulted in a series of subsequent appeals. This pattern of responses

essentially matches the pattern of responses of states across the country: reform without litigation, reform following litigation, and limited response to litigation.

### Reform without Litigation

According to Minorini and Sugarman (1999), thirty-one states have either had no significant school funding litigation or had cases in which the plaintiffs lost. Some of those states, nevertheless, have made strong equalization efforts like those in Maine. Of the sixteen states which ranked the highest in equalization effort in the USGAO study based on 1991-92 data (1998), only five had made their policies in response to litigation. The other ten had implemented policies with strong equalization efforts without the spur of court orders. Nevada, New Mexico, Minnesota, Delaware, and Utah had all made equalization efforts in the absence of any litigation. Florida, South Carolina, Oklahoma, Alaska, and Idaho had all made their efforts amidst court challenges that lost. Most of these high-effort states designed policies that relied primarily on high state shares of total school funding. Nevada, though, the only state whose effort was calculated at 100%, attained that rating with an unusually high targeting effort. Florida, Minnesota, and South Carolina utilized policies that balanced state share and targeting efforts, but the other six states relied primarily on high state shares.

Several additional states have implemented equalization policies without court orders. Michigan and Oregon both increased their state shares by considerable amounts in response to the pressures of overburdened local property taxes. Both states had court cases that lost, but the need for tax reform prompted the reforms of equalization efforts. Rhode Island and Louisiana responded to state economic crises involving revenue shortfalls by reforming

their funding systems. Both increased their targeting efforts, but their equalization efforts have been thwarted by the subsequent responses of their poorer districts to lower their local tax rates.

#### Reform following Litigation

As stated by Carr and Fuhrman, "Kentucky is often cited as the example of school finance reform that accomplished equalization and comprehensive reform at the same time" (1999, p. 155). Vermont's reforms in response to the Brigham decision have been similar to those in Kentucky, but the latter state enjoyed more consensual and broad-based support. Kentucky's policies were implemented following the Rose court decision in 1989, and they were designed in response to the state's broad-based calls for reform and the perceived need to stimulate the economic development of the state. The court decision clearly served as a mandate by declaring the entire state educational system to be unconstitutional, but there was widespread support for change before and after the decision. One-third of the state's school districts acted as plaintiffs in the suit, and the subsequent reforms were supported by the state's political leadership and business community.

Kentucky's response included a substantial increase in the state's share of educational funding, and that response is typical of the states that have responded quickly to court orders. Of the five states with the highest equalization efforts which had court orders for reform (Arkansas, Kentucky, West Virginia, California, and Washington), all have relatively high funding shares of total school spending (USGAO, 1998). Massachusetts responded to its McDuffy decision of 1993 by doubling its state funding, but it also revamped its curriculum and accountability standards. The high-stakes testing mandated in Massachusetts has been posed as a model for other states even as it has

remained a target of controversy. Kansas provided a slight variation on the typical pattern of response to litigation insofar as it reformed its finance system in response to a pretrial court ruling and in an effort to avoid an eventual court order. Kansas increased its share of funding from 42% to 59%, targeted more aid to poor districts, and imposed a uniform tax rate on all districts. These measures have provided some tax relief to poor districts, but the equalization efforts have been limited because the wealthy districts have generally raised their rates in order to increase their spending.

#### Limited Response to Litigation

New Hampshire's experience with school funding litigation has been characterized by two distinctive features that have been seen in several other states as well. First, the court's decision was met with criticism and even defiance, and, second, the decision was followed by a series of appeals by the plaintiffs for the enforcement of the decision. The former feature characterized the litigation in Alabama which began in 1993 with the Hunter decision. That decision by the Montgomery Circuit Court declared that Alabama students have a constitutional right to an adequate and equitable education. The state supreme court affirmed that decision later in 1993, and the circuit court has been working since that time with the state on an enforcement plan. However, the state's political leadership has regularly opposed reform, and various interest groups have expressed opposition to any increase in taxes. As a result, no plan of funding or educational reform has been implemented in the nine years since the ruling. On May 31, 2002, the state supreme court refrained from issuing any further order by stating that the matter was now a legislative one, not a court one. The court opined that it could not compel further action.

The response in Tennessee to the state's court orders has become

strikingly similar to New Hampshire's heated contest over taxes. The case of Tennessee Small School Systems v. McWherter was first filed in 1988, and the initial decision in 1993 declared that the state's system of funding schools was illegal because of its funding inequities. On October 8, 2002, a subsequent decision on an appeal of the case declared that the system was still unconstitutional because it had not equalized teacher salaries across the state. Tennessee's revenue system has been limited by the state's lack of an income tax and by the subsequent struggle to raise sufficient funds with a sales tax that is one of the highest in the country. However, the state legislature has repeatedly refused to enact a state income tax, and the current gubernatorial race is essentially a contest over the need for and the merits of an income tax.

The second feature of New Hampshire's response, repeated appeals, has been the experience in Texas and New Jersey. New Hampshire has now experienced three decisions in its original Claremont case, and numerous other cases have been filed challenging state laws on subjects such as property evaluation, tax abatements, and phase-in schedules. Texas went through five years and four rounds of state supreme court decisions in the Edgewood case before approving a plan that produced satisfactory reform. The problem facing Texas was the fiscal, political, and legal impossibility of raising enough revenues to fund a base level of expenditures across the entire state. The final plan, therefore, was an unusual one that matched wealthy districts with poor ones in a redistribution system that satisfied the demands of the court ruling while not extending itself to the entire state. New Jersey witnessed a three-year period in the 1970's with seven rounds of litigation over the Robinson case before a plan met approval. However, as economic inequities grew across the state, another round of legal challenges took place with the Abbott decisions of

the 1990's. New Jersey's economic and political problems were similar to those of Texas, and its most recent solution was similar to that of Texas as well. Instead of implementing a plan that addressed the entire state, the last Abbott decision created an entitlement for only the 30 poorest districts. New Jersey was already the highest spending state in the country in terms of per pupil expenditures, and this last plan was an effective, succinct way of limiting further expenditures. The sizes of New Jersey and Texas made it impossible for them to level-up all of the below-the-mean districts, and repeated appeals resulted until plans were developed to satisfy the court orders while still restraining total spending.

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Throughout the cases in northern New England and in states across the country, state political culture has remained the dominant factor in the calculus of equalization reform. The examples of the three case studies in this research affirmed the power of politics and economics and the secondary status of educational issues like student achievement and accountability. Similarly, the case studies conducted by Carr and Fuhrman (1999) led them to attribute the limited successes of reform to the primacy of politics and economics. The benefits of equalization reform have usually been publicly described as being educational; for example, equalization has regularly been cited as necessary to improve student performance in poor districts. That argument has even been undermined by research that has questioned the relationship between spending and student achievement. On the other hand, the opposition to equalization reform has usually been grounded in economic and political sentiments. For example, opposition in New Jersey focused on taxes, and the

debate in Alabama has included racial issues. Carr and Fuhrman concluded that “the arguments in favor of school finance reform are complex and usually contentious, while those opposing reform are fairly simple and often have more widespread appeal” (p. 167). The advocates for equalization have always been at a disadvantage.

For the past three decades, litigation attempted to supplant politics and economics as the driving factor in equalization reform in states across the country, but that attempt had only limited success. Court decisions often served as agenda-setters for equalization reform, but they were not able to consistently drive reform any further because they could not induce shifts in power relationships. Although necessary for reform, leadership has not been consistently strong enough to support litigation in driving reform because of the attendant political risks of reform or because of bureaucratic restraints. Also, achievement and accountability have not been strong enough forces to compel action because of the general popular support for schools and the doubts about the educational effects of equalization. Therefore, state political culture has remained dominant, and litigation has not been able to truly supplant politics and economics during the state debates over equalization reform.

Political culture can change, however, and the prospects for continuing equalization reform at the state level are greatly dependent on evolutionary culture change. It is notable, for example, that the current New Hampshire gubernatorial primary suggests that the state’s political parties are finally coalescing more clearly around the equalization issue. The Republican primary candidates all supported a constitutional amendment to void the Claremont decisions and the repeal of the state property tax. Both Democratic candidates supported the imposition of an income tax to fund educational spending. If the



coalescence continues, then the possibility of reform would become dependent on political power and partisanship as has been the case in Vermont. Reform would no longer be a victim of legislative fractionalization.

However, even if equalization reform were to become a distinguishing political issue between Democrats and Republicans, the economic challenges will probably continue to lurk beyond the political dimension to discourage equalization reform in the states. Small states like Maine and poor ones like Arkansas regularly face problems with limited revenue sources and with outlier districts. The limited revenue sources make those states especially vulnerable to economic slumps, and the extreme characteristics of the outliers defy the attempts of their funding formulas to effect real equalization. Meanwhile, large, relatively wealthy states like Texas and New Jersey have had their own economic challenges with equalization. School spending totals in those states were so prohibitive that the sums required for real equalization have been fiscally and even legally impossible to consider. The leveling-up of all below-the-mean districts has been politically inconceivable. Texas and New Jersey ignored all but their poorest districts when they fashioned the schemes to satisfy their legal mandates, and California resorted to a leveling-down process of its wealthy districts when it was faced with similar demands.

If economic realities continue to restrict the equalization efforts of the separate states, then the future of equalization reform may depend on its placement on the national agenda. Mitchell, Marshall, and Wirt acknowledged that “the explanatory power of peripheral culture is limited when all states are swept by specific policy reforms ... that arise out of currents that are national” (1989, p. 129). In other words, state political cultures would no longer stifle equalization reform if the issue were to be driven at a national level.

A federal political response would be ironic and unexpected because of the longstanding Rodriguez opinion (1973) that effectively took the equalization issue out of the federal courts. A federal legal right to an adequate education for every child remains unlikely, and there continues to be great reluctance on the part of the public and politicians to nationalize curriculum and instruction in any manner. The reluctance to address the issue nationally is also sustained by the estimates of the staggering amount of money that would be needed to impose effective and meaningful equalization through any leveling-up or redistribution processes across the country. Estimates of the funding required would be further complicated by debates of equity and adequacy and the task of determining appropriate baseline figures for districts across the entire country. Moreover, even if some leveling-up process were initiated, it is likely that the response of wealthy districts across the country would be to increase their own tax levies and school spending, thereby maintaining much of the current spending gap.

A more concerted effort by the states or the federal government to address equalization pressures is also discouraged by the uncertainty as to the effectiveness of the policy tools and the unresolved debate over funding standards. Indeed, further study ought to be devoted to these topics and, specifically, to the following questions:

1. What has been the effect of and the interaction between state share of total funding, targeting, capping, and tax effort? These are the four basic policy strategies used in equalization efforts, but no single strategy or combination of strategies has been clearly effective in reducing funding gaps. A stronger equalization effort has not necessarily even produced greater equalization in some cases, and greater equalization can sometimes be deceptive. For

example, California and Florida have actually produced strong equalization efforts by essentially lowering their statewide per pupil expenditures. Their funding gaps were decreased only because all of their districts had less funding. Most states, though, have increased their state share of total funding in their attempts to equalize. However, the sums of money required in the large states are prohibitive for that tool to be effective alone, and the small and poor states especially have had difficulty sustaining their efforts in times of economic slumps. Targeting and capping have been politically controversial, and it has been impossible for states to insist that poor districts maintain high tax rates when the initial equalization effort was often driven by demands to lower the rates of poor areas. Equalization efforts have sometimes seemed to be counterproductive to their intended objectives.

2. What should be the standards by which the effectiveness of equalization policy and tax and revenue systems are judged? The legal arguments for equalization have been based on the demands for equity and adequacy with their justifications derived ultimately from Rawls's defense of redistribution as social justice. However, the data examining the practical effectiveness of increased educational spending on student achievement has been mixed, and debate over the efficacy of tax and revenue systems has remained primarily political and philosophical. Can any standards other than the philosophical ones be derived and utilized to assess the effectiveness of school finance reform?

Nonetheless, the national push could conceivably develop from contemporary political sources. The federal government has assumed far more responsibility in recent years for the targeted funding of school operations like special education and facilities renovations. Now, the Republican Bush

Administration has secured passage of the No Child Left Behind Act in response to widespread demands for improved performance by the country's low-achieving schools, especially those in urban areas. Just as the issuance of *A Nation At Risk* in 1983 spurred consideration of educational adequacy in the states across the country, the passage of the No Child Left Behind Act has marked the establishment of the performance of the country's schools as a national political issue. The enactment of the new legislation indicates that school accountability and some degree of increased funding, at least, have become accepted even by conservatives because of the acknowledgement that the problem of low-performing schools must be addressed. It is unclear whether that acknowledgement will lead directly to equalization reform or whether the response will support the expansion of the private market and parental choice. However, both options include demands for accountability which engender assumptions of increased governmental responsibility and of increased funding, i.e., a significantly larger national share of total school spending and more targeting of aid to poor children and communities.

The demands for accountability, therefore, could induce an increased federal responsibility for some degree of increased equalization. It is at least conceivable that the focus of equalization reform will shift to the national scene and that the shift would have a political emphasis rather than a litigious one. If that were to happen, then the prospects for continuing reform might depend not so much on the actual educational merits of equalization reform as on the same issues that have determined the policy making in the states, i.e., political attention and the availability of resources.

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## **APPENDIX**

## Appendix: Interview Protocol

1. What is your opinion of the SAD #1/Brigham/Claremont court decision? In what way has it affected policy deliberations and decisions about school funding?
  - VT: Why has policy exceeded the court decision?
  - NH: Why has there been such a continuing struggle despite the court order? Has the disagreement been an issue-specific one or a generalized conflict between the court and the legislature?
  - ME: Why did Maine reform so early so that the litigation failed and was essentially unnecessary? Have there been other legal or constitutional considerations involved? What has pushed the reform efforts?
2. What is your opinion of the impact various leaders have had on the issue of school funding in the state? What effects did these people have or what limitations did they encounter? What has been the role of the political parties? Were there any interest groups that were prominent?
  - VT, ME: How did consensus form?
  - NH: Is the inaction the result of opposition, a lack of consensus for any policy, or satisfaction with the status quo? Did no one step forward to lead or were the attempts thwarted? Why haven't the parties coalesced and taken sides?
3. How would you describe the political culture of the state? Have the policy decisions regarding school funding reflected that culture? What values have been involved in the school funding issue?
  - VT, ME: What has caused the recent political changes toward moderation?
  - NH: Is this essentially a tax issue and is the tax issue a taboo one?
4. What is the general public perception of student achievement and the schools in this state? What effect has this perception had on the consideration of school funding? What is the state's role? Is there a problem in defining adequacy? What effect does spending have on achievement and how have accountability measures been included?

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		REVIEW LEVEL	EXE
		DATE OF NOTICE	9/21/2001
PROJECT TITLE	Efforts to Equalize Funding Between Wealthy and Poor School Districts		

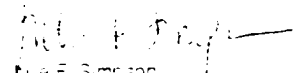
The Institutional Review Board (IRB) for the protection of human subjects in Research has reviewed and approved the protocol for your project as Exempt as described in Federal Regulations for CFR 46, Subsection 46.101, b, category 1.

Approval is granted to conduct your project as described in your protocol. **Prior to implementing any changes in your protocol, you must submit them to the IRB for review and gain written, unconditional approval.** If you experience any unusual or unanticipated results with regard to the participation of human subjects, please report such events to this office promptly as they occur. Upon completion of your project, please complete the enclosed Exempt Project Final Report form and return it to this office along with a report of your findings.

The protection of human subjects in your activity is an ongoing process for which you hold primary responsibility. In receiving IRB approval for your protocol, you agree to conduct the project in accordance with the ethical principles and guidelines for the protection of human subjects in research, as described in the following three reports: Belmont Report, Title 46, Code of Federal Regulations, Part 46, and UNH's Multiple Project Assurance of Compliance. The full text of these documents is available on the Office of Sponsored Research (OSR) website at [http://www.unh.edu/osr/comp Assurance\\_Belmont\\_Report\\_inde.htm](http://www.unh.edu/osr/comp Assurance_Belmont_Report_inde.htm) and by request from OSR.

If you have questions or concerns about your project or this approval, please feel free to contact our office at 862-2000. Please refer to the IRB # above in all correspondence related to this project. The IRB wishes you success with your research.

For the IRB:

  
Julie F. Simpson  
Regulatory Compliance Manager  
Office of Sponsored Research

cc: File

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