

Rural School Funding Inequities: An Analysis of Legal, Political, and Fiscal Issues

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*There is a long history of inequitable and inadequate funding for rural schools and difficult legal, political, and fiscal issues associated with efforts to resolve this dilemma. This article examines school funding equity litigation concerning rural schools, the effects of political power on rural funding, rural and urban competition for funding, the unique funding problems of rural schools, the growing threat to equity posed by sales tax funding schemes, and future funding litigation strategies for rural schools. Since *Serrano v. Priest* (1971), 17 federal and state supreme court opinions have discussed the unique concerns of rural schools in funding cases, with 11 of these opinions occurring since 1993. Many of these more recent cases prominently illustrate what may be an escalating legal battle over financial resources between rural and metropolitan area schools. In this struggle for resources, metropolitan area schools enjoy significant political and fiscal advantages over rural schools, limiting remedial options for rural schools. Absent adequate political or fiscal remedies for rural school funding problems, litigation may be the only remaining option for obtaining relief in some states.*

Rural schools in many states are disadvantaged by public school funding systems and face severe funding challenges (*DeRolph v. State*, 1997; *Leandro v. State*, 1997; *Tennessee Small School Systems v. McWherter*, 1993). Further, many children attending these under-funded rural schools also live in poverty and have exceptional educational needs (New York State Department of Education, 1992). Rural schools, like many urban schools, face serious funding challenges aggravated by this combination of limited educational resources and increased educational needs. In contrast, wealthier public schools enjoy significant funding advantages. Wealthier schools may have as much as 700 times more taxable wealth in their districts and receive as much as 10 times the per pupil revenues available to poorer schools (*Edgewood v. Kirby*, 1989, p. 392).

Many poorer schools, including some rural schools, have turned to litigation to obtain greater funding equity. Funding reform advocates have achieved some success through litigation based on state constitutional provisions. Poorer school districts have alleged that funding systems that rely on local wealth disadvantage their schools relative to wealthier districts. Accordingly, these plaintiffs seek a judicial order for funding reform by arguing that the state funding system violates equal protection or education article guarantees in the state constitution. In 34 states, the highest court has ruled on constitutional challenges to its

state funding system with 16 courts declaring school funding systems unconstitutional, and 18 courts upholding systems of public school funding (see Table 1).

But most of this litigation over educational resources has been dominated by conflicts between inner-city and suburban schools. For a variety of reasons, the problems of rural children and schools have received less attention than metropolitan problems. Among these reasons are the geographic isolation of rural areas and their often marginal representation in the political process. Nonetheless, as Hodgkinson (1992) recognized: "In the nation, for every urban 'hyper-poor' child living at 50 percent of poverty of the official poverty level, there is one rural child who is just as poor" (p. 18). Accordingly, advocates for rural children continue to seek greater opportunities for these children, including more equitable funding for rural schools (Pennsylvania, 1998).

Rural Schools and Funding Equity Litigation

Since *Serrano v. Priest* (1971), a wide variety of plaintiffs with varied interests have challenged the constitutionality of public school funding systems. But as Thompson (1990) recognized, there are "indicators of growing legal discontent" and an "increasing factionalism along rural and urban battle lines" (p. 71). Many school funding equity cases have included rural schools among the plaintiffs. Further, since *Serrano v. Priest* (1971), 17 federal and state supreme court opinions have discussed the unique concerns of rural schools in funding cases, with 11 of these opinions occurring since 1993 (see Table 2).

Many of these more recent cases illustrate what may be an escalating legal battle between rural schools and

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Table 1
State Supreme Court Opinions

Funding Systems Declared Unconstitutional	Funding Systems Upheld Against Constitutional Challenges
Arizona: <i>Roosevelt Elementary School District v. Bishop</i> (1994)	Alaska: <i>Matanuska-Susitna v. State</i> (1997)
Arkansas: <i>Dupree v. Alma School District</i> (1983)	Colorado: <i>Lujan v. Colorado State Board of Education</i> (1982)
California: <i>Serrano v. Priest</i> (1971)	Georgia: <i>McDaniel v. Thomas</i> (1981)
Connecticut: <i>Horton v. Meskill</i> (1977)	Idaho: <i>Idaho Schools for Equal Educational Opportunity v. Evans</i> (1993)
Kentucky: <i>Rose v. Council for Better Education</i> (1989)	Illinois: <i>Committee for Educational Rights v. Edgar</i> (1996)
Massachusetts: <i>McDuffy v. Secretary of the Executive Office of Education</i> (1993)	Kansas: <i>Unified School District v. State</i> (1994)
Montana: <i>Helena v. State</i> (1989)	Maine: <i>School Administrative District v. Commissioner</i> (1995)
North Dakota: <i>Bismarck Public School District v. State</i> (1994) ¹	Maryland: <i>Hornbeck v. Somerset</i> (1983)
New Jersey: <i>Abbott v. Burke</i> (1990)	Michigan: <i>Milliken v. Green</i> (1973)
Ohio: <i>DeRolph v. State</i> (1997)	Minnesota: <i>Skeen v. State</i> (1993)
Tennessee: <i>Tennessee Small School Systems v. McWherter</i> (1993)	New York: <i>Board of Education, Levittown v. Nyquist</i> (1982)
Texas: <i>Edgewood v. Kirby</i> (1989)	Oklahoma: <i>Fair School Finance Council v. State</i> (1987)
Vermont: <i>Brigham v. State</i> (1997)	Oregon: <i>Coalition for Equitable School Funding v. State</i> (1991)
Washington: <i>Seattle School District No. 1 v. State</i> (1978)	Pennsylvania: <i>Danson v. Casey</i> (1979)
West Virginia: <i>Pauley v. Kelly</i> (1979)	Rhode Island: <i>City of Pawtucket v. Sundlun</i> (1995)
Wyoming: <i>Campbell County School District v. State</i> (1995)	

¹Affirming a district court judgment that “the overall impact of the entire statutory method for distributing funding for education in North Dakota is unconstitutional” but lacking the super majority required by the North Dakota Constitution to declare statutes unconstitutional.

metropolitan area schools over financial resources. State supreme court decisions in *DeRolph v. State* (1997), *Leandro v. State* (1997), *Matanuska-Susitna v. State* (1997), *Campaign for Fiscal Equity v. State* (1995), *Tennessee Small School Systems v. McWherter* (1993), and Opinion of the Justices (1993) all prominently feature the legal battle between rural schools and metropolitan area schools over financial resources. Nonetheless, any conclusive judgments concerning the future of rural school funding litigation would be premature. An analysis of prior history and cases may provide a basis for speculation concerning future litigation, the future of rural school funding, and the role of litigation in that future, remains uncertain (Dayton, 1998).

There has been a long history of funding inequities for rural schools, as noted in *McDuffy v. Secretary of the Executive Office of Education* (1993, p. 517), *Rose v. Council for Better Education* (1989, p. 221), *Edgewood v. Kirby* (1989, p. 397), *McDaniel v. Thomas* (1981, p. 172), and *Pauley v. Kelly* (1979, p. 886). Nevertheless, many courts have been reluctant to intervene in school funding controversies or did not directly address the unique concerns of

rural schools. Whether future rural plaintiffs will be more successful remains uncertain. But if the fiscal status of rural schools continues to deteriorate, it is likely that litigation will escalate, absent adequate remedial legislation.

Political Power and Rural Funding

Because votes and wealth are the common currency of political power, poorer rural areas are significantly disadvantaged in political battles with more populous and wealthy metropolitan areas. The U.S. Supreme Court's decision in *Reynolds v. Sims* (1964) seriously curtailed rural political power by establishing the one man, one vote principle, and declaring that “legislators represent people, not trees or acres” (p. 562). Because isolated rural areas generally have more trees and acres than people and votes, their political status was limited accordingly. For rural schools seeking a political remedy to funding inequities, the comparatively weak political status of many rural areas may make it impossible for rural schools in many states to

Table 2

*Federal and State Supreme Court Opinions Discussing the Unique Concerns of Rural Schools in Funding Cases Since Serrano v. Priest (1971)*²

Federal Cases:

San Antonio v. Rodriguez (1973, p. 7)

State Cases:

Alabama: *Opinion of the Justices* (1993, p. 124)

Alaska: *Matanuska-Susitna v. State* (1997, p. 400)

Georgia: *McDaniel v. Thomas* (1981, p. 172)

Illinois: *Committee for Education Rights v. Edgar* (1996, p. 1189)

Kentucky: *Rose v. Council for Better Education* (1989, p. 221)

Maine: *School Administrative District v. Commissioner* (1995, p. 857)³

Massachusetts: *McDuffy v. Secretary of the Executive Office of Education* (1993, p. 545)

Minnesota: *Skeen v. State* (1993, p. 302)

North Carolina: *Leandro v. State* (1997, p. 257)

New York: *Campaign for Fiscal Equity v. State* (1995, p. 682)

Ohio: *DeRolph v. State* (1997, p. 744)

Tennessee: *Tennessee Small School Systems v. McWherter* (1993, p. 143)

Texas: *Edgewood v. Kirby* (1989, p. 397)

West Virginia: *Pauley v. Bailey* (1984, p. 131);
Pauley v. Kelly (1979, p. 886)

Wyoming: *Campbell County School District v. State* (1995, p. 1279)

²Page number identifies at least one reference to the unique concerns of rural schools in each case.

³Although referring only to "municipal obligations" for funding schools, it is interesting to note that the Court provided no guidance concerning the state's constitutional duties, if any, in addressing the funding difficulties of isolated rural areas, or those areas where towns may be too small to generate sufficient educational funds.

obtain adequate remedial legislation through the political process.

Further, both financial resources and political power are continuing to decline in many rural communities. Without the political influence that results from substantial voting power or wealth, rural school districts will have a limited voice in seeking legislative remedies for rural funding problems. If legislators ignore the difficulties of rural schools, or if remedial legislation is under-funded or otherwise inadequate, the only remaining option for obtaining adequate

relief may be litigation. But regardless of whether reform efforts are legislative or judicial, it is likely that metropolitan area school districts will continue to vigorously oppose efforts to increase the rural share of the state's educational resources.

Rural and Urban Competition for Funding

Because resources are limited, competition for these resources exists not only between financially advantaged and disadvantaged districts, but also among disadvantaged districts. Disadvantaged rural schools are often competing with disadvantaged urban schools in the struggle for financial resources. As Thompson (1990) recognized with respect to the competition for resources between rural and urban schools, "issues are being drawn along rural and urban lines which place these constituencies in direct conflict for governmental resources" (p. 71).

Unquestionably, many urban schools face challenging problems that must be resolved. For example, the protracted funding equity litigation in *Abbott v. Burke* (1990) presents a convincing record of educational need in urban New Jersey schools. But significant funding problems also exist for rural schools, and these problems remain largely unaddressed in many states. If rural schools are to meet the educational needs of their students and prevent the spiral of poverty associated with inadequate education, they must continue to strive for more equitable distribution of resources.

For a variety of reasons, urban schools have enjoyed some strategic advantages over rural schools in the struggle for limited resources. One factor limiting rural schools' efforts is that "[r]ural schools have been overshadowed by the well-publicized needs of urban schools . . . The public is not informed of the special problems faced by rural schools" (New York State Department of Education, 1992, p. 3). Accordingly, most politicians and activists have focused their reform efforts on urban schools. As a result of the political and media attention focused on urban areas, many people hold inaccurate assumptions about the relative situations of urban and rural areas. For example, when thinking about poverty, most people think about urban areas and inner-cities. As a study by the New York State Department of Education (1992) found:

Urban poverty is much more visible to the American public; the plight of city life is portrayed in newspapers and magazines, as well as television and motion pictures. The general public would be surprised to discover that by 1986, the poverty rate for rural areas (nonmetropolitan) was 18 percent, higher than the urban poverty rate of 12 percent and almost equal to the 18.6 percent of the central city. (p. 7)

Most people also picture inner-city minority children as the most likely victims of poverty, when in fact “the percentage of rural minorities living in poverty in rural areas is greater than in center cities . . . 44 percent of rural Blacks compared to 33 percent of urban Blacks were living in poverty” (New York State Department of Education, 1992, p. 7). Large and very poor rural black populations are particularly common in the Southeastern U.S. Although rural poverty may receive less media attention, the difficulties faced by poor rural children are just as harmful to these children as those faced by urban children. The National Rural Small Schools Task Force has identified poverty as the “primary problem facing rural educators and policy-makers” (New York State Department of Education, 1992, p. 7).

Rural School Funding Problems

Contrary to some idealistic images of rural life, many rural areas suffer from limited employment opportunities, income lag, underdevelopment of human resources, inadequate infrastructure, a continuing financial crisis in agriculture, a weakening political base, and population loss. Because of the limited opportunities available in rural areas, many of the most capable and ambitious young people in rural communities must move away to pursue education and careers. As Hektner (1995) recognized: “The historical trend of youth migration from farms and towns into cities and suburbs continues unabated” (p. 3).

In addition to these general rural community problems, rural schools also suffer from limited property tax bases, with farm land and unimproved land making up the majority of assessable property. Further, other potential sources of revenue are also limited (e.g., few commercial properties or retail sales for taxation). Many rural areas also have large senior citizen populations. Because of seniors’ low rates of disposable income and limited support for local public schools, it may be more difficult for these rural school districts to pass local tax increases.

Inequities associated with limited resources are further aggravated by increased costs resulting from diseconomies of scale, higher transportation expenses, and other heightened costs associated with rural education. For example, as the Supreme Court of Alabama recognized in *Opinion of the Justices* (1993) concerning these increased costs,

the current school funding formula is inequitable to students in rural areas because it fails to reflect the costs related to low population density to the detriment of the affected students. Transportation costs and other non-instructional expenses represent a disproportionate share of per pupil expenditures in rural counties. (p. 124)

Because many rural districts must fund their schools by taxing a very limited tax base, they may have relatively high property tax rates but a low monetary yield, leading to inadequate educational resources, inadequate educational opportunities, and ultimately an unskilled local labor force. High property tax rates and an unskilled local labor force impede the economic development needed to improve the local tax base. Without adequate state educational support and greater equity in tax rates, it is unlikely that disadvantaged rural communities will be able to attract the quality business and residential investors that could improve the local tax base and schools. As the Supreme Court of Tennessee recognized in *Tennessee Small School Systems v. McWherter* (1993, p. 144), the inadequate educational resources and relatively high property taxes in disadvantaged rural districts may create a cycle of poverty from which there is little hope of escape—without greater equity in school funding and taxation.

Many legislators are aware of the financial difficulties that face rural schools. Indeed “[t]hirty states . . . include a factor in their finance formulas to compensate for additional costs necessary to mount an educational program in rural, small schools or districts” (New York State Department of Education, 1992, p. 19). Unfortunately, compensatory funds for rural schools are inadequate in many of these states, and the remaining states do not compensate for higher rural costs. States’ school finance programs often fail to adequately compensate for rural schools’ dual dilemma of higher costs and reduced resources. Many rural schools are then faced with a double-edged sword impeding their educational progress: Costs continue to rise while resources are diminishing. As Green and Schneider (1990) recognized, “rural economies have been faced with large price declines in farm land values, instability in prices from extractive industries, and losses of manufacturing firms. Rural places must face the challenge of spending more on education from a position of economic weakness” (p. 302).

A Growing Threat to Funding Equity for Rural Schools

Legislators face a formidable task in adequately funding public schools. In their search for new sources of revenue, government officials are increasingly turning to local sales taxes to supplement local schools. But funding systems using local sales taxes pose a growing threat to equitable funding for rural schools as centers of commerce increasingly move from smaller communities to larger metropolitan areas. As the Supreme Court of Tennessee recognized in *Tennessee Small School Systems v. McWherter* (1993, p. 144), the use of local sales taxes to fund local schools significantly disadvantages rural school districts. The Supreme Court of Alabama also noted in *Opinion of the Jus-*

tices (1993) that “rural students are disadvantaged because they generally live in areas without large shopping centers and are thus unable to generate substantial sales tax revenues for support of their schools” (p. 124).

Nonetheless, because of the difficulty of acquiring additional funds for public schools in a political environment already aggravated by high taxes, funding schemes utilizing local sales taxes continue to attract supporters. Many property owners have been persuaded that local sales taxes provide a means of limiting property taxes by imposing part of the burden of funding local schools on out-of-district shoppers and persons who do not own property. But this use of sales taxes not only increases funding disparities between metropolitan and rural schools, but also imposes a regressive tax on poorer individuals. Further, it drains additional funds from poorer rural communities into metropolitan areas as rural residents must increasingly travel to metropolitan areas to shop for goods and services. It is unlikely that the political and fiscal dynamics that created and perpetuate these inequities will change in the near future. A legislative solution may be unlikely given the political status of rural areas. Accordingly, litigation may be the only remaining option in achieving greater funding equity for some rural schools.

Future Litigation Strategies for Rural Schools

Seventeen federal and state supreme court opinions have discussed the unique concerns of rural schools in funding cases, and future plaintiffs would benefit from a careful review of these cases (see Table 2). Further, advocates for rural schools could learn from the extensive school funding litigation since *Serrano v. Priest* (Dayton, 1992). Other recent cases may also be helpful. For example, the U.S. Supreme Court’s decision in *Missouri v. Jenkins* (1995) contains a useful discussion of the relationship between expenditures and educational achievement, an issue frequently addressed in school funding litigation.

Debates concerning correlations among expenditures, educational opportunity, and achievement are also likely to confront rural school advocates in future cases. For example, many courts have denied relief to funding equity plaintiffs finding that they were merely alleging relative differences in expenditures and not a denial of substantive educational opportunity. To avoid this conclusion, rural school advocates could follow the example of successful plaintiffs in *Campbell County School District v. State* (1995, p. 1275), *DeRolph v. State* (1997, p. 744), and *Roosevelt Elementary School District v. Bishop* (1994, p. 808) and include more tangible evidence of inequities in substantive educational opportunity, rather than merely focusing on numerical disparities in dollars. Among the factors plaintiffs may use to sway courts are very specific and easily demonstrable evidence related to disparities in facilities,

curricula, class sizes, textbooks, supplies, and other tangible demonstrations of inadequate educational resources.

Regarding disparities in facilities, for example, plaintiffs could use photographs, building plans, state inspection reports, and other tangible evidence of inequities that may have a stronger evidentiary impact than uncorroborated expert testimony concerning more abstract statistical comparisons. This is especially since the matter at issue is the quality of educational opportunity and not mere mathematical equivalence of expenditures. As the Supreme Court of Minnesota found in *Skeen v. State* (1993), “none of the state cases . . . has required complete funding equalization” (p. 311). State constitutional provisions concerning education generally address adequate provision of educational opportunities and do not guarantee an exact equality of expenditures per pupil.

Although plaintiffs in recent cases have been successful with this type of evidence, future plaintiffs should be certain that the evidence presented is representative of plaintiffs’ districts to negate charges that such evidence is merely anecdotal. Further, they should clearly establish that inequities in facilities, for example, are merely a tangible demonstration of broader inequities in educational opportunities to preempt suggestions that any remedies should be limited to facilities improvement only.

Demonstrable disparities in teacher salaries may also prove to be a useful basis for achieving greater funding equity for rural schools. Successful plaintiffs in *Tennessee Small School Systems v. McWhorter* (1993) are following their prior winning suit with a new suit based on disparities in teacher salaries between rural and urban districts. The suit is intended to correct funding inequities that remain despite the enactment of remedial legislation following the successful 1993 suit. The Tennessee Small Schools Association, a coalition of 75 small rural school districts, is arguing that the continued availability of greater local resources in urban districts has disadvantaged rural schools in the bidding wars for the best new teachers. Rural schools in Tennessee can only offer an average starting salary of \$28,000, while urban schools are offering up to \$9,000 more to new teachers (Tennessee teacher, 1998). Although the outcome of this suit is uncertain, the dramatic differences in teacher salaries and qualifications may help rural plaintiffs to provide persuasive evidence of funding inequities.

Rural school advocates can also learn from cases that have addressed the difficult expenditure, educational opportunity, and achievement relationships that are certain to recur in future cases. For example, plaintiffs will find by reviewing cases since *Serrano v. Priest* (1971) that no school funding plaintiff has ever prevailed without convincing the court of the existence of a positive correlation between expenditures and educational opportunity, making this a critical issue for plaintiffs (Dayton, 1994, p. 167).

Further, issues concerning relative achievement are likely to arise in the struggle for resources between disadvantaged rural and urban schools. In a struggle for funds between rural and urban schools, urban school advocates will likely argue that because student achievement on standardized tests may be higher in many rural schools than in urban schools, that any available resources should be allocated to urban schools to attempt to equalize achievement, despite the fact that per pupil expenditures in urban schools generally exceed per pupil expenditures in rural schools (Green & Schneider, 1990, p. 303). If this argument is not sufficiently rebutted by rural school advocates, rural students may be further disadvantaged for their modest success in achievement despite the state's failure to equitably provide them with educational resources.

To rebut this argument, rural school advocates must carefully distinguish between the state's duty to provide adequate educational opportunities to all students, and students' individual academic achievement. While the state controls the distribution of funds essential to providing adequate educational opportunities to all students, equality in individual achievement is impossible for the state to guarantee because the state does not control all of the factors associated with achievement (*Roosevelt Elementary School District v. Bishop*, 1994, p. 815). For example, even if the state could provide unlimited funds to promote equality in achievement, the state cannot control the degree to which individual students will be motivated and able to take advantage of the provided educational opportunities. As the U.S. Supreme Court recognized in *Missouri v. Jenkins* (1995), state controlled expenditures cannot guarantee increased individual achievement.

However, rural school advocates must emphasize that this does not mean that money is irrelevant, only that money is not sufficient to guarantee individual achievement. Instead, rural school advocates must argue that funding for adequate educational resources is a necessary prerequisite to adequate educational opportunities, so that all students, including those from rural communities, will have access to the constitutionally mandated adequate educational opportunities that must precede educational achievement. Equality of achievement is neither the proper constitutional standard, nor a practical possibility.

To protect the constitutional rights and educational interests of rural children, rural school advocates must become more proactive in obtaining educational resources. They should be aware of the relative quality of educational resources throughout the state so that the interests of their students in obtaining equitable access to these resources is protected. As many courts have recognized, there is a long history of poverty among rural schools (*Edgewood v. Kirby*, 1989; *McDaniel v. Thomas*, 1981; *McDuffy v. Secretary of the Executive Office of Education*, 1993; *Pauley v. Kelly*, 1979; *Rose v. Council for Better Education*, 1989). This

history may have contributed to a culture of acceptance of inferior educational funding and opportunities in many rural areas. Local residents and educators may be unaware of the tremendous disparities that exist in their state's public schools, or they may be reluctant to ask for additional assistance.

But one reason many urban schools may have had greater success in obtaining resources may be that they asked for assistance more vocally and more persistently. Although to some it may seem more noble to suffer in silence with inadequate educational resources, ultimately it is not just the pride of local officials at stake, but the rights of rural students to equitable educational opportunities. Enhanced communication among rural schools, sharing of strategies for improving funding, and increased coalition building to establish a more significant voice in the state's legislature could also improve rural schools' prospects for more equitable funding.

Despite the difficulties facing rural schools, there are also some exciting new possibilities for improving rural education. For example, advances in technology promise to eliminate some of the logistical disadvantages faced by rural schools in providing a diverse, high quality educational program to children in remote rural areas. But to take advantage of these technological developments rural schools must have access to adequate funding to purchase and maintain equipment, and to provide training in the use of these educational resources.

Conclusion

Since *Serrano v. Priest* (1971), 17 federal and state supreme court opinions have discussed the unique concerns of rural schools in funding cases, with 11 of these opinions occurring since 1993. Many of these more recent cases prominently illustrate what may be an escalating legal battle between rural and metropolitan area schools over financial resources. If the fiscal situation of rural schools continues to deteriorate, and if state lawmakers fail to provide adequate remedies, the only option for obtaining relief may be litigation.

Thirty-four states' highest courts have already ruled on constitutional challenges to their states' funding systems. Many of these courts reviewed state constitutional debates concerning the adoption of public education provisions. A review of these debates indicates that constitutional delegates recognized that significant human potential would be wasted by failing to provide adequate educational opportunities for all children, regardless of their place of residence or the wealth of their families and local communities. Further, they recognized that inadequate education would have serious consequences for individuals, communities, the state, and the nation.

To address these concerns, constitutions in all 50 states charge the state's legislature with appropriately funding free public schools for all children. But many states use funding systems that disadvantage some children based on their place of residence and local wealth, factors irrelevant to the state's constitutional duty to provide educational opportunity for all of the state's children. Notwithstanding current inequities, rural school advocates must continue to strive for adequate financial resources to meet the educational needs of their students and to avoid the spiral of poverty associated with inadequate education. If litigation is necessary, rural school advocates may learn many useful lessons from a careful review of the school funding cases discussed above.

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