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ABSTRACT

This document summarizes the Minnesota state district court opinion in "Skeen v. State of Minnesota" and outlines changes made by the 1992 legislature in the state school finance system. In "Skeen," the court found several elements of the state's school finance system unconstitutional. These included the referendum levy, the debt service levy, and supplemental revenue. Legislative alternatives discussed in the district court opinion included: (1) eliminate property wealth-funding mechanisms; (2) fund districts' identifiable special needs and differential costs; and (3) eliminate elements of the school finance system that prevent efficiency. Following the court decision, the 1992 State Legislature made the following changes in the state's school finance system--it adopted and funded a debt-service-equalization program over a 3-year phase-in period, and lowered the cap on referendum revenue from 35 to 30 percent of the general education formula allowance. The district court opinion has no precedential value, which means that other Minnesota judicial districts need not follow the case. However, the state appealed the case to the Minnesota Supreme Court, which will likely decide the matter in 1993. The court's final decision may have a significant impact on the structure of the state's school finance system and the legislature's ability to make decisions affecting the system. Fourteen endnotes are included. (LMI)

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Information Brief

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Skeen - Minnesota's School Finance Case

This information brief summarizes the state district court opinion in Skeen v. State of Minnesota, and outlines changes made by the 1992 Legislature in the state school finance system. In Skeen, the court found several elements of Minnesota's school finance system unconstitutional. The district court opinion has no precedential value, which means that other Minnesota judicial districts need not follow the case. However, the state appealed the case to the Minnesota Supreme Court and the court likely will decide the matter in 1993. The Supreme Court's final decision may have a significant impact on the structure of the state's school finance system and the legislature's ability to make decisions affecting the system.[1]

What follows is an overview of various topics addressed in the district court opinion in Skeen v. State of Minnesota, including:

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Elements of Minnesota's School Finance System Found Unconstitutional

In December 1991, Wright County District Court Judge Gary Meyer ruled three elements of Minnesota's K-12 school finance system unconstitutional: the **referendum levy**, the **debt service levy** and **supplemental revenue.** The judge found constitutionally permissible the training and experience revenue component of the general education formula.[2]

The judge's ruling on the referendum and debt service levy and supplemental revenue is based on his reasoning that education in Minnesota is a fundamental right and that property tax wealth is a suspect class.[3] The remainder of this section discusses those elements of the school finance system the judge found unconstitutional.[4]

Timeline of Minnesota's School Finance Lawsuit

1987	SGSD school districts threaten a lawsuit claiming inequality of educational opportunity.
1988	Plaintiff districts file suit in Wright county district court.
1988	Defendants move to change venue to Ramsey county. Motion is denied.
1989	Defendants' summary judgment motion is denied.
1991	Trial begins.
1991	District Court decides for plaintiffs, finding three elements of the state school finance system unconstitutional.

Referendum Levy Found Unconstitutional

Under Minnesota's school finance system, a local school district's property tax levies are strictly limited to amounts the legislature establishes in statute. A school district may not levy for more than the amounts allowed by the statutory formulas unless the voters of the school district approve an additional levy through a referendum. This levy is often called the excess levy referendum, or the referendum levy. Judge Meyer ruled the referendum levy unconstitutional because the amount of revenue a district receives from the levy is dependent upon the property tax wealth of that district.

Although the referendum levy accounts for only six percent of the state's total K-12 education revenue, the judge found that school districts' use of the referendum levy grew substantially. Also, property wealthy school districts used the referendum levy more often and generated, on average, six times more revenue than property poor school districts. The judge found a direct correlation between school district property wealth and the amount of education revenue districts generated through levy referenda.

The 1991 Legislature altered the referendum levy in two important ways: it placed a cap on the total amount of referendum revenue a district could raise; and it partially equalized the first $305 per pupil of each district's referendum levy, giving the state aid to property poor districts. Even with these changes, the judge found the disparity in revenue among districts too great[5] and the level of equalization too small to meet the constitutional requirement of a uniform system of public schools.

The judge found that the per pupil referendum revenue cap the 1992 Legislature established at 35 percent of the formula allowance ($1,067 in FY 92) and then lowered to 30 percent of the formula allowance ($915 in FY 93) was not sufficient to narrow the disparity in revenue. The judge suggested that a cap of $600 per pupil, which was part of an executive branch budget proposal, was more adequate. The judge declined to name an actual dollar amount in revenue variation he would find acceptable.

The judge also found that the 1991 Legislature's partial equalization of only the first ten percent of referendum levy allowed under the funding formula ($305 per pupil in FY 1993) was not a sufficient enough level of equalization to remove the wealth based disparities in revenue the referendum levy created.[6]

Supplemental Revenue Found Unconstitutional

The 1987 Legislature created supplemental revenue when it replaced the foundation aid program with a new program called the general education revenue program. The new program eliminated several categorical aids and foundation tier revenue. Supplemental revenue guaranteed that no district would receive less revenue per pupil under the general education program in FY 1989 than under the foundation aid program in FY 1988. In other words, the supplemental revenue component provided a floor below which a district's per pupil general education revenue could not fall.[7]

The judge declared unconstitutional the supplemental revenue portion of the general education formula. He believed that supplemental revenue was not justified by any specified cost factor or need, and that it was substantially related to a school district's property tax base. He noted, however, that the legislature has the ability to pursue legitimate cost differences between school districts that affect the level of expenditures between school districts, including population sparsity, teachers' training and experience, transportation aid, and compensatory revenue.

Debt Service Levy Found Unconstitutional

School districts usually finance major building projects by selling bonds. Districts use the revenue from their annual debt levy to pay the principal and interest on the bonds. Before the 1991 legislative session, districts repaid the bonds largely from the proceeds of the local

debt service levy. The 1991 Legislature passed a debt service equalization program. The equalization program would have fully equalized a district's debt levy in excess of 12 percent of the district's adjusted net tax capacity (ANTC). The governor's veto of the program's appropriation made the program inoperable.

The judge recognized that the debt service levy did not represent the same strong degree of wealth-based disparity as did the referendum levy. He wrote that some disparities in revenue from the debt service levy were justified by differences in districts' building needs and growth patterns.

The judge distinguished between "bricks and mortar" and actual classroom instruction. He noted, among other things, that disparities in district facilities are marginal, school buildings are not inadequate, and what is critical to educational opportunity is pupil-staff ratios, teachers' training and experience, and the breadth of curriculum offerings. He acknowledged that the legislature does much in the area of facilities to equalize the advantages of property wealthy districts by providing aid to low property wealth districts in the form of maximum effort loans and by fully equalizing capital expenditure facilities and equipment revenue.

The judge stated that the 1991 Legislature's effort to equalize debt service amounts above 12 percent of ANTC would have gone far toward reducing wealth-related discrimination were it not for the governor's veto of the appropriation. He said the debt service equalization program would meet the requirements of the state education clause if it were funded and if the referendum levy and supplemental levy were changed.

The 1992 Legislature modified the debt service equalization program by lowering the qualifying amount of debt levy to ten percent of ANTC and by lowering the equalization factor from 100 percent to 50 percent of the general education equalization factor. It left the funding, beginning in FY 93, intact. Whether the modified plan meets constitutional requirements is unclear.

Legislative Alternatives Discussed in the Decision

The judge proposed several alternatives to the legislature for reshaping the school finance system to meet what he viewed as the state constitutional requirements:

- **Eliminate property wealth-related funding mechanisms.** The judge observed that in Minnesota there has been a historical trend toward greater equity in school financing. At first, most school funding came from local property taxes; some revenue came from the permanent school fund. Later, the state began appropriating to school districts flat grants and supplementary aid. In 1971 the state enacted the "Minnesota miracle" with the goal of decreasing wealth-based disparities among districts through an equalized funding formula. The state increased the state's share of the cost of education, increased the foundation aid formula, and limited local property tax levies. The judge listed the continuation of this trend as an important goal. He declared that the state's reliance on unequalized referendum and debt service levies, which perpetuate property wealth-based inequities among districts, precluded the state from achieving its goal of decreasing wealth-based disparities among districts.

- **Fund districts' identifiable special needs and differential costs.** The judge acknowledged that school districts have special needs and differential costs that justify some dollar per pupil disparities across districts. He declined, however, to mandate a permissible dollar difference in per pupil revenue. He emphasized that substantial dollar per pupil disparities are not constitutionally permissible if based on a school district's ability to raise revenue, which results from differences in property tax wealth.

- **Eliminate elements of the school finance system that prevent efficiency.** Despite the fact that neither plaintiffs nor defendants raised the issue, the judge concluded that small school districts'[8] use of the referendum levy and supplemental revenue created inefficiencies.[9] He found that use of such revenue[10] allowed districts to survive that were too small to offer equal educational opportunities. The judge maintained that small districts were more limited in their choices of teachers, the breadth of their curriculum, and their ability to attract and retain staff. The judge stated consolidation of and cooperation between districts furthered the state's education policies[11] and was consistent with the constitutional mandate requiring the state to provide for the efficient operation of schools and the equitable distribution of revenues to schools.

1992 Legislative Changes

In 1992, after the district court issued its opinion, the legislature made two important changes to the structure of the state's school finance system.[12] One or both of these changes may affect the Minnesota Supreme Court's analysis regarding the constitutionality of the finance system. The 1992 Legislature:

- adopted and funded a debt service equalization program[13] over a three year phase-in period similar in concept to the 1991 program that went unfunded due to the governor's veto of the program appropriation; and

- lowered the cap on referendum revenue from 35 percent to 30 percent of the general education formula allowance, with districts above the cap "grandfathered" in at their current level of referendum revenue.[14]

Probable Timeline of Future Events Concerning Skeen

Dec. 1992	Parties' briefs are submitted to the Minnesota Supreme Court.
Jan. 1993	The governor presents the state budget to the legislature after considering changes recommended by the State Board of Education and Minnesota Department of Education.
Jan. 1993	Parties present their oral arguments to the court.
Feb. 1993	The legislature begins work on the budget and considers changes to school finance system.
? 1993	The Minnesota Supreme Court issues a ruling.

Endnotes

1. Any decision the Minnesota Supreme Court issues is binding on all state courts. To the extent the decision involves an interpretation of the state constitution, the decision cannot be appealed to the U.S. Supreme Court.

2. In October 1988, fifty-two outer ring suburban and rural school districts representing 25 percent of the state's K-12 enrollment filed a lawsuit in state district court claiming that Minnesota's education finance system was unconstitutional under the Education and Equal Protection Clauses of the Minnesota Constitution. The plaintiff school districts argued that because the state's school finance system was not uniform, districts received disparate amounts of government aid. The districts claimed that the Education Clause of the Minnesota Constitution required the judge to: (1) enjoin the use of the referendum and debt service levies and school districts' receipt of supplemental and training and experience revenue; and (2) direct the state to use state funds to equalize education expenditures on a per pupil basis, taking into account those factors that increase the costs of operating an education program.

The State of Minnesota, the Commissioner of Education, and the State Board of Education defended the constitutionality of the state's school finance system. They are represented by the state attorney general's office. The defendants asserted that neither the Minnesota Constitution nor state statutes require equal revenue per pupil or equal revenue per pupil for the same tax effort, and that the state is meeting its specific obligations under the state Education Clause. Furthermore, the defendants argued that the issues raised in the lawsuit presented political questions that the Minnesota Legislature ought to decide.

Twenty-four school districts, inner ring suburban school districts and several districts from greater Minnesota that together represent 17 percent of the state's K-12 enrollment, intervened as additional parties. The intervenors supported the constitutionality of the state's school finance system. The Minneapolis, St. Paul and Duluth school districts and most of the state's smallest school districts were not parties to the suit.

3. Court challenges to a state's school finance system are based on the legal principle of equal protection, a state's education article, or both. The claims are of two types: (1) that a state has a specific constitutional obligation to provide a certain quantum of education; and (2) given the importance that a state places on education, a state school finance system that results in fiscal disparities among school districts should be subjected to strict scrutiny under equal protection analysis.

4. States today are divided over whether equal educational opportunity requires absolute equality in per pupil spending. A few states are attempting to define equal educational opportunity in terms of pupils' achievement of specific performance goals.

5. Apparently, the judge believed the Legislature set the cap on the total amount of referendum revenue too high.

6. The 1991 Legislature appropriated $13.4 million in referendum equalization aid in FY 1993, and it is estimated that referendum equalization aid will total $27 million in FY 1994, and $40 million in FY 1995.

7. The base for supplemental revenue for each district includes categorical revenues such as summer school and teacher retirement revenues, training and experience revenue, AFDC revenue, and the grandfather levy carried in the foundation tier program. The supplemental revenue formula has been adjusted almost every year since 1987. In 1991, the Legislature essentially recalibrated the supplemental revenue formula using FY 1992 per pupil revenue as the floor. For FY 1993 and later years, the supplemental revenue formula guarantees that a district will receive as much per pupil revenue in FY 1993 as in FY 1992. The per pupil revenue in FY 1993 does not include revenue generated by new training and experience revenue or by AFDC components included in the formula.

8. The judge defined small school districts as those districts having no more than 780 pupil units per district or fewer than 60 pupil units per grade.

9. The judge hypothesized that the state could save $10 million by closing the 85 smallest school districts.

10. In FY 1991, of the 229 small school districts, 164 used referendum levies, 31 received supplemental revenue, and 26 used referendum levies and received supplemental revenue.

11. The number of Minnesota school districts dropped from 432 in 1990 to 411 in 1992 due to small districts' efforts to combine or consolidate.

12. The 1992 Legislature also: converted referendum amounts to compensate for reduced tax rates on high value homes and commercial and industrial property so that districts would not receive less revenue due to the reduced tax rates; gave districts the option of determining referendum revenue amounts on a per pupil basis and having their levy authority expire July 1, 1997; permitted the education commissioner to authorize districts in statutory operating debt to hold referenda on days other than election days if the referenda are part of the districts' plan to get out of debt; and restricted school districts to holding referenda in the calendar year before the increased levy becomes effective.

13. Under the 1992 debt service equalization program, debt service levies that exceed 10 percent of adjusted net tax capacity (ANTC) are equalized at 50 percent of the level of the general education formula. Under the general education formula, a one percent tax capacity rate is guaranteed to raise $109.32 per pupil unit in 1992-1993. Under the debt service equalization formula, a one percent tax capacity rate is guaranteed to raise $54.66 ($109.32 X .5) for levies in excess of 10 percent of ANTC.

All debt incurred before July 1, 1992 is eligible for debt equalization. Debt incurred after July 1, 1992 is eligible for debt equalization if the debt is for a project that receives a positive review and comment and the district serves an average of at least 66 pupils per grade or is eligible for sparsity revenue.

The program is phased-in over a three year period. Districts receive one-third of the aid amount in 1992-1993, two-thirds in 1993-1994, and the full amount beginning in 1994-1995. The program was funded for $6 million in FY 1993, $14 million in FY 1994, and $21 million in FY 1995 and thereafter.

14. Districts above the 30 percent cap are "grandfathered in" at the higher level but may not increase the amount of referendum revenue they receive.