



EXHIBIT 8
DATE 2-15-05
HB 634

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

Montana Legislative Services Division

Office of Research and Policy Analysis

To: Interested Parties
Fr: Christopher Lohse, Legislative Research Analyst
Re: **Educationally relevant factors**
Date: 4 February 2005

On 9 November 2004, the Supreme Court issued a preliminary order setting forth the Court's conclusions regarding issues raised in *Columbia Falls Elementary School District et. al. v. the State of Montana*. On appeal, the state asked whether the district court erroneously concluded that the current school funding system violates Article X, Section 1 of the Montana Constitution, by failing to provide adequate funding for public schools. The Court's opinion follows:

[sic] We affirm the District Court's conclusion that the funding system is not based on educationally-relevant factors. Article X, section 1(3), mandates that "[t]he legislature shall provide a basic system of free quality public elementary and secondary schools." To date, the legislature has not developed a working definition as to what constitutes "quality" as that term is used in the Montana Constitution. Until such time as the legislature assesses education needs and defines "quality," it is not in a position to construct a funding system rationally related to educationally-relevant factors.

The Court's inference that a legislatively-designed funding system ought be based on educationally-relevant factors requires an understanding of the term. To that end, I was asked by various parties to assemble research products relating to the genesis of the term in Montana court deliberations. This document represents those research findings, and should not be construed to endorse a definition, or its use.

In the district court ruling in the Columbia Falls case, judge Jeffrey Sherlock ruled that Montana's funding system was not based on educationally-relevant factors. The Office of Research and Policy Analysis contacted Sherlock's office, but because Sherlock retains jurisdiction in the order, we were denied comment. This office searched the Court cases reviewed in the Sherlock decision for the first mention of "educationally-relevant factors." The earliest reference appeared in the 1989 *Helena Elementary School District v. State of Montana* decision, which held that the State's funding mechanism was inequitable. It appears from trial transcripts that the term was introduced by Dr. Arthur Wise, author of the book "Rich Schools, Poor Schools," and the current president of the National Council for Accreditation of Teacher Education. The law librarian for the Office of Research and Policy Analysis, Lisa Mecklenberg-Jackson, has placed the book on rush order, as it was not available in any Montana library. We also conducted a phone interview with Dr. Wise on 1 February 2005.

The trial transcripts, alongside the clarifying statements and writings of Dr. Wise, guide the present discussion of educationally-relevant factors. When asked to articulate educationally-relevant factors, Wise, in his 1989 testimony, offered "disadvantaged social background, educational handicap, and differences in the cost of producing education, which, most typically, relate to school size." Wise also provided guidance on factors he did not view as educationally-relevant, when he said "[educationally-relevant factors] do not include the willingness of one community to spend more education than another because it places a higher value on it." In the early February phone interview, Wise indicated that neither statement was meant to be exhaustive, and articulated several other factors he viewed as educationally relevant. In terms of general categories, Wise argued that educationally relevant factors could most frequently be divided into one of two classes: characteristics of children, or programmatic policy

because of a low property tax-base, for instance, was covered by state funds. Most states allowed districts to levy well beyond the minimum amount, but each district was guaranteed some level of support.

The Minimum-Attainment Definition

The minimum-attainment model asserts that resources are allocated to every student until a specified level of achievement is reached. Like the opportunity model, it predicts spending discrepancies based on inherent differences among pupils, but does not stop at simply providing opportunity.

The Leveling Definition

In the leveling definition, resources are allocated in inverse proportion to the students' ability level. The basic premise is that students should leave school with similar opportunities for success.

The Competition Definition

The reverse of the leveling definition, a competition definition demands that resources are allocated in direct proportion to a students' ability level. The demand for equality is only in access to resources, not in outcomes. Students are expected to compete for ever-greater educational rewards.

The Equal-Dollars Per Pupil Definition

The equal-dollars per pupil definition assumes that there is no justifiable reason to grant any individual student more resources than any other student. Per-pupil spending should always be the same.

I hope that this information helps to inform your decisions in the upcoming weeks. Best of luck.

Sincerely,



Christopher D. Lohse
Legislative Research Analyst
Legislative Services Division, Office of Research & Policy Analysis
Montana State Legislature
clohse@state.mt.us
(406) 444-5367