

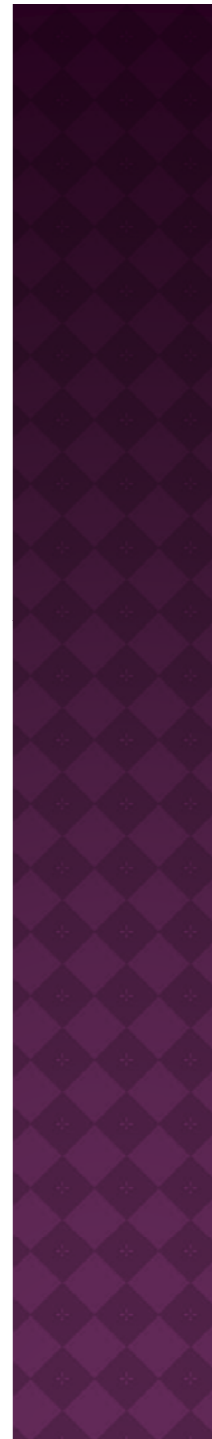
# A HISTORY OF LEGAL CHALLENGES TO PUBLIC SCHOOL FUNDING

Part II

*Columbia Falls Elementary School Dist.  
No. 6 v. State*

*Columbia Falls Elementary School District  
No. 6, et al., v. State of Montana, Cause No.  
BDV-2002-528*

First Judicial District Court, Lewis and Clark  
County - Judge Jeffrey Sherlock



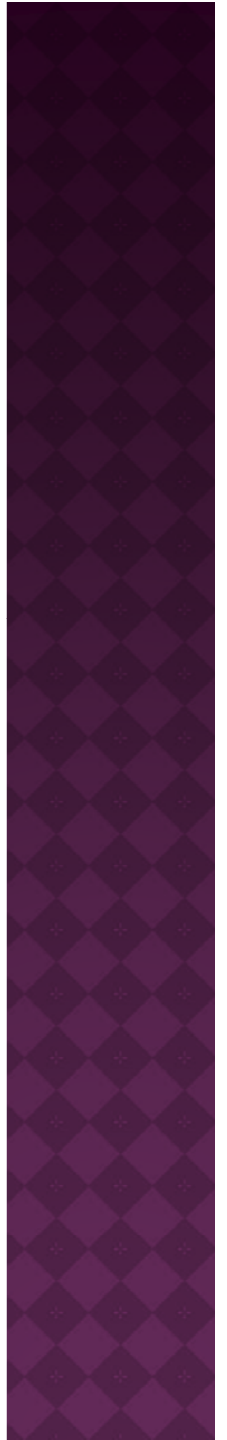
# HOUSE BILL NO. 667

## “INHERENT PROBLEMS”

- School financing scheme is clearly complicated and hard to understand
- Provided no mechanism to deal with inflation
- Did not base numbers on any study of teacher pay, the cost of meeting accreditation standards, the fixed costs of school districts, or the costs of special education
- Any increases allowable to school districts were in no way tied to the costs of increased accreditation standards or content and performance standards
- The information upon which HB 667 relied was already 2 years old
- Did not conduct any study to justify the disparity in ANB dollars provided for high school and elementary students

# HOUSE BILL NO. 22

- Reduced state support of public education by 4.5 percent, or \$19 million to the state general fund



# CONSTITUTIONAL REQUIREMENTS

## ARTICLE X, § 1

**Educational goals and duties.** (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

# EQUITY V. ADEQUACY

## Helena School District No. 1 v. State - Equity

- Spending disparities among school districts
- Disparities of spending on pupils between similarly sized school districts

## Columbia Falls v. State - Equity and Adequacy

- Court rejected equity argument
- State failed to adequately fund its share of the elementary and secondary school system in Montana, a violation of Article X, § 1 of the Montana Constitution

# ADEQUACY ISSUES

- ◉ A. The growing number of school districts budgeting at or near their maximum budget authority.
- ◉ B. The increasing number of schools with accreditation problems.
- ◉ C. The difficulty in attracting and retaining teachers, based to a large degree on the decreasing salaries and benefits offered to Montana teachers compared to their counterparts in the United States.
- ◉ D. The large number of programs that have been cut in recent years as evidenced by the testimony of numerous superintendents.
- ◉ E. The increasing difficulties that schools are having constructing safe and adequate buildings or maintaining the code compliance of the buildings that currently exist.

# ADEQUACY ISSUES (CONT.)

- ◉ F. The increasing competition for general fund dollars between special education and regular education, which lowers the available money to students in regular education programs.
- ◉ G. The results of an Augenblick & Myers study, estimating resources necessary for a prototype school.
- ◉ H. The testimony of various superintendents that, if they were forced to provide their educational programs at the BASE general fund amount, they could not meet accreditation standards or offer a quality educational program.
- ◉ I. The declining share of the State's contribution to the general fund budget of Montana's school districts.
- ◉ J. The fact that Montana's funding formula is not reasonably related to the costs of providing a basic system of quality public elementary and secondary schools. Further, it is clear that the current funding system was not based on a study of the funding necessary to meet what the state and federal governments expect of Montana's schools.



## ADEQUACY ISSUES (CONT.)

- ◉ K. The fact that the Montana Supreme Court has stated that it is the State's obligation to adequately fund its share of the school financing formula. Helena Elementary I.
- ◉ L. In 1972, when the Constitutional Convention met, approximately 65% of General Fund revenues were funded through the state funded Foundation Program. In 1993, it was 54.29%, in 2002 it was 42.59%.

# ADEQUACY DEFICIENCIES

- ◉ Technology Fund - for purchase and maintenance of technology-related services
  - Unpredictable - No guarantee of state funding
  - GTB aid does not apply to the technology fund
- ◉ School Flexibility Fund - To allow districts to spend money outside of the HB 667 spending caps
  - Unpredictable - No guarantee of state funding
  - Dependent on the wealth of the district
  - GTB aid does not apply

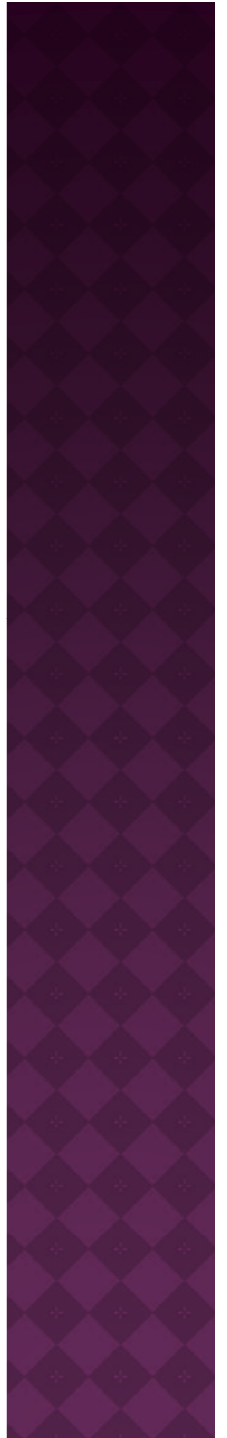
# ADEQUACY DEFICIENCIES (CONT.)

Mandates and Standards -- Federal and State Government impose financial requirements on school districts without a funding source

- ◉ Federal No Child Left Behind
  - Federal financial aid for schools conditional on meeting academic standards
  - Adequate Yearly Progress (AYP) - Financial impacts if states fail to continue to grow the percentage of students proficient in math and reading or if test score gap between advantaged and disadvantaged students fails to narrow
  
- ◉ Montana School Accreditation Standards
  - 1989 required 16 units for high school, but 20 units under standards in place in 2004
  - New classrooms necessary
  - Additional teachers
  - Standards required full endorsements in areas such as special education, math, science, and counseling
  - More schools considered deficient
  - No additional state funding provided to meet new standards

## ADEQUACY DEFICIENCIES (CONT.)

- ◉ Mandates and standards do not define a quality education, but set forth the minimum standards that schools must provide
- ◉ Lack of inflationary component in HB 667 resulted in many accreditation problems in schools



# ADEQUACY DEFICIENCIES (CONT.)

## ○ Special Education

- Under federal law, school districts must provide special education and related services to all eligible students with disabilities
- Neither federal nor state government provide necessary funds to fully pay the costs of providing required services
- 1989 state share of special education costs = 81.49%
- 2002 state share of special education costs = 41.49%
- Creates a competition between regular and special education programs for dollars - local districts are using general fund money for special education costs

## ADEQUACY DEFICIENCIES (CONT.)

- Increasing trends towards budget maximums
  - Fiscal year 1994, a total of 75 districts and 7,971 ANB were at 100% of the maximum general fund budget allowed by law
  - By FY 2003 number of districts had increased to 172 and the ANB to 35,495
  - The number of districts and ANB at 98% or more of maximum general fund budget allowed by law in 1994 was 92 districts representing 12,511 ANB
  - By 2003, the number of districts had increased to 220, and the total students increased to 81,915

# ADEQUACY DEFICIENCIES (CONT.)

## ○ Teacher Salary and benefits

- Teacher salaries lagging behind national averages
  - 1992 Montana teacher salaries were 39<sup>th</sup>
  - 2003 Montana teacher salaries were 47<sup>th</sup>
- Decrease in district-paid benefits for teachers
- 70% of graduates receiving B.A. in education from Montana university system left the state
- Dramatic decrease in teacher applications for available positions
- State had already recognized this problem before suit

## ADEQUACY DEFICIENCIES (CONT.)

- Facilities, Construction, and Maintenance
  - Court noted that adequate and safe school facilities are an essential component of a quality education system
  - Not enough funding for maintenance of existing buildings
  - Insufficient funding for additional classrooms
  - Some districts had buildings that were deemed unsafe or condemned



# EDUCATIONALLY RELEVANT FACTORS

- The Court found that HB667 funding was not based on educationally relevant factors
- Also not based upon a determination of the funding levels that are necessary to meet the standards required for public education
- Instead, the system was designed to be a mathematical, statistical regression analysis based on previous expenditure patterns
- State made no effort to determine the components of a basic system of quality education, nor did it make any attempt to relate the funding formula to the cost of providing that education or to meet the requirements of its accreditation standards.
- The base amounts allowable under HB 667 were never based on a determination of the costs of meeting mandates and expectations.

# EVIDENCE THAT HB 667 IS NOT BASED ON EDUCATIONALLY RELEVANT FACTORS

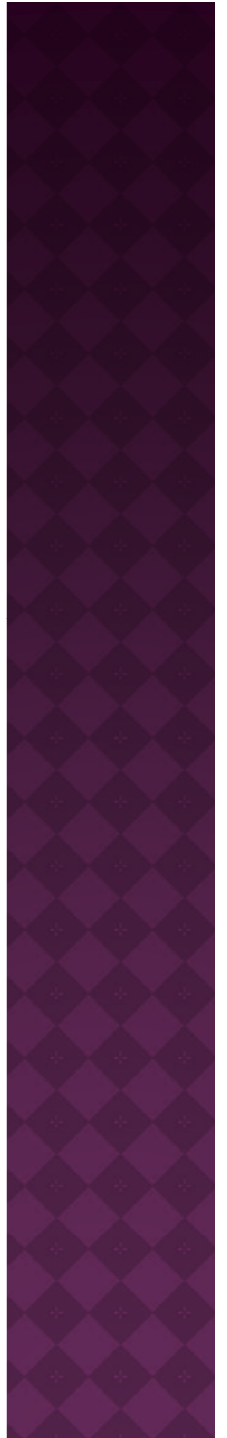
- HB 667's formula provided for decreasing general fund budget authority as ANB decreased
  - As enrollment goes down, districts lose money, but fixed costs do not decrease - physical plant, heating bills, electrical bills
- No funding directly related to allow school districts to meet standards, expectations, and mandates
- Per pupil spending not based on actual costs of educating pupils
- Schools over statutory budget maximums could not meet new costs or staffing expectations

# EDUCATIONALLY RELEVANT FACTORS - COURT INSTRUCTIONS

- ◉ Funding system must be based on the costs of meeting the standards that govern operation of Montana's schools
- ◉ Once adequate levels of funding are determined, the State must then fund its share of the cost of the system
- ◉ State's share must be an amount that is adequate at the BASE levels to allow districts to meet the standards
- ◉ This applies not only to general fund, but to the overall costs of the elementary and secondary system
- ◉ Include a provision for inflationary cost increases
- ◉ Include a provision for periodic review

# MONTANA SUPREME COURT

*Columbia Falls Elementary School District  
No. 6, et al., v. State of Montana, 2005 MT  
69, 326 Mont. 304, 109 P.3d 257*



# JUSTICIABILITY

Whether Questions Arising Under Article X, §1(3) are “Nonjudicial”

- ◉ If the constitutional language addresses the Legislature, it is non-self-executing - “the Legislature shall . . .”
- ◉ If the language addresses the courts, it is self-executing

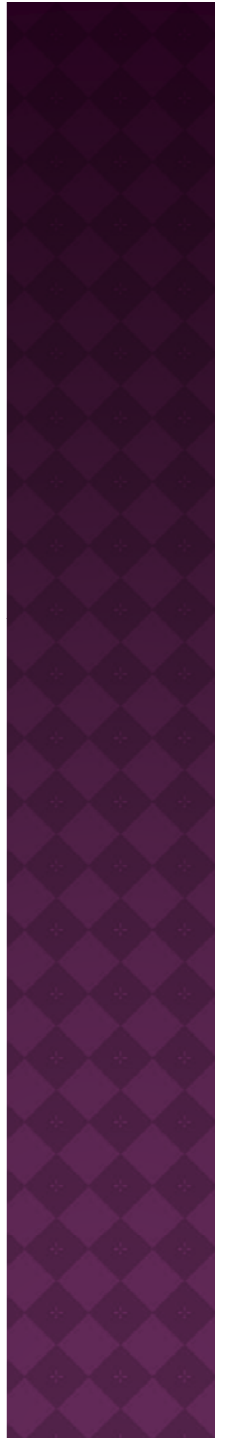
# JUDICIABLE OR NON-JUDICIABLE

- ◉ Article X, §1(3), “The legislature shall provide a basic system of free quality public elementary and secondary schools”
  - Non-judicial
- ◉ Once the Legislature has executed the provision that implicates individual constitutional rights, the courts can determine whether that enactment fulfills the Legislature’s constitutional responsibility
  - Judicial



# I. THE EDUCATIONAL PRODUCT OF THE CURRENT SCHOOL SYSTEM IS CONSTITUTIONALLY DEFICIENT

- ◉ The Legislature currently fails to adequately fund Montana's public school system
- ◉ Legislature has not defined the meaning of "quality", without which, it cannot conduct a "quality" system of education
- ◉ Without an assessment of what constitutes a "quality" education, the Legislature has no reference point from which to relate funding to relevant educational needs



## II. WHETHER OUTPUT MEASURES EQUAL A CONSTITUTIONAL SYSTEM

- ◉ The State argued that Montana compared favorably with other states on standardized tests, concluding that the system works and must be constitutional
- ◉ The Court held that test scores do not tell the whole story
  - A “system” of education includes more than high achievement on standardized tests
  - Integration of academics and extracurricular activities
- ◉ Unknown whether test scores are attributable to the current educational system
- ◉ Unknown whether this level of achievement will continue



# III. WHETHER ARTICLE X, §1(2) OF THE MONTANA CONSTITUTION HAS BEEN VIOLATED

“The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.”

- ◉ The Supreme Court held that the State failed to recognize the distinct and cultural heritage of American Indians
- ◉ State failed to show any commitment on its educational goals to preserve Indian cultural identity
- ◉ Committee on Indian Affairs studied issues related to implementation of Art. X, §1(2), from which the Indian Education for All Act was derived.
  - Required resources and programs
  - Legislature provided no funding for implementing the act

