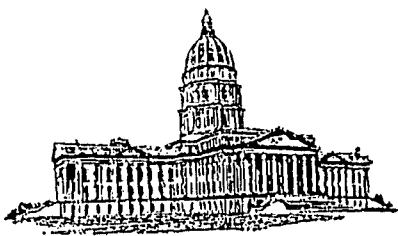


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TO: 2010 Commission
FROM: Theresa Kiernan, Senior Assistant Revisor of Statutes
DATE: July 10, 2008
RE: Montoy v. State

M E M O R A N D U M

The education provisions of the Constitution are contained in Article 6. Two key provisions concerning the legislature's duties which were construed in the Montoy case are found in Sections 1 and 2 of Article 6 which provide:

Section 1. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

Section 2. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents.....

The Court found that these Constitutional provisions impose a mandate that the Kansas educational system cannot be static or regressive; that it must be a system which advances to a better quality or state.

Factors which were critical to the Court in Montoy when determining that the Legislature's efforts in 2005 and 2006* were in substantial compliance with the Court's prior orders to correct the flaws in the school finance law that was in place when Montoy was filed in 1999 included:

- Adequacy of funding
- Equity in the distribution of funding among school districts
- Cost-based funding scheme which: Was based on the actual and necessary costs of education; reliance on relevant and accurate information; included cost of the outcomes required by rules and regulations of the State Board of Education which require the achievement of measurable standards of student proficiency
- Continual monitoring and oversight of the school finance system

Funding provisions which the Court held in disfavor:

- District-based property tax measures which are: Disequalizing; not beneficial to all districts; or exacerbate district wealth-based disparities
- District-based measures because they demonstrate that the state is not meeting its constitutional duties

*The constitutionality of the 2006 SB 549 was not before the Court; the Court stated it was new legislation and if challenged it must be in new litigation.

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