



# Quality Schools Interim Committee

## 59th Montana Legislature

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GOVERNOR BRIAN SCHWEITZER  
DESIGNATED REPRESENTATIVE  
DAVID EWER

HOUSE MEMBERS  
WILLIAM GLASER  
MONICA LINDEEN  
HOLLY RASER  
PAT WAGMAN

SENATE MEMBERS  
DAVE LEWIS  
DON RYAN  
ROBERT STORY  
JON TESTER

PUBLIC MEMBERS  
LINDA MCCULLOCH  
KIRK MILLER

COMMITTEE STAFF  
CONNIE ERICKSON, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
FONG HOM, Secretary

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

May 4, 2005

Room 137, Capitol Building  
Helena, Montana

### COMMITTEE MEMBERS PRESENT

LINDA MCCULLOCH  
KIRK MILLER

SEN. DAVE LEWIS  
SEN. DON RYAN  
SEN. ROBERT STORY  
SEN. JON TESTER

REP. WILLIAM GLASER  
REP. MONICA LINDEEN  
REP. HOLLY RASER  
REP. PAT WAGMAN, excused

### STAFF PRESENT

CONNIE ERICKSON, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
CHRIS LOHSE, Staff Research  
FONG HOM, Secretary

### Visitors

Visitors' list, Attachment #1.

## **COMMITTEE ACTION**

- Elected Representative Monica Lindeen as Chair
- Elected Senator Robert Story as Vice Chair
- Approved the RFP, as revised, and directed staff to issue the RFP on May 6

## **CALL TO ORDER AND ROLL CALL**

Senator Tester called the meeting to order at 9:00 a.m., May 4, 2005.

## **AGENDA**

### **ELECTION OF CHAIR AND ADOPTION OF COMMITTEE PROCEDURES**

Senator Ryan nominated Representative Lindeen as Chair and Senator Story as Vice Chair of the Quality Schools Interim Committee. Before agreeing to the nomination, Sen. Story expressed his concerns about the process used to appoint members to the Committee. Sen. Tester responded by explaining how the members were appointed.

Motion to accept the nominations of Chair and Vice Chair was approved unanimously.

Chair Lindeen introduced three ex-officio members of the Committee: Dr. Kirk Miller, Board of Education; Linda McCulloch, Superintendent of Public Instruction; and David Ewer, Governor's Office. Dr. Kirk Miller offered some comments to the Committee for its consideration. (Exhibit #1)

The question of how to handle proxy votes was raised. A motion to accept written proxies was approved unanimously.

### **REVIEW OF COURT DECISION**

ALI BOVINGDON, Attorney General's Office, gave a brief overview of the Court's decision as it relates to providing guidance to the Committee in formulating the new funding system. She handed out the Court's Findings of Fact and Conclusions of Law (Exhibit #2) and emphasized that Indian education needs to be addressed in the Interim Committee's study.

SEN STORY wanted to know how many of the Court's Findings were accepted by the Supreme Court. MS BOVINGDON said that the Supreme Court referenced Judge Sherlock's findings but she couldn't say exactly how many were or were not referenced.

SEN STORY asked why quality education was never an issue before the District Court and has either court determined that the present system isn't a quality system. Ms Bovingdon said that the Legislature has never defined quality. Therefore, the courts don't know if we have a quality system. The issue of quality was before the Court; it was brought under Article 10, Section 1(3), where the Legislature shall provide a basic system of free quality public schools.

Sen Story asked for Ms. Bovingdon's opinion about Findings 195, which states that the state share must be in an amount adequate to fund the base. What determines what a base system is. Ms Bovingdon said Judge Sherlock's response was based on the current funding system with the minimum and maximum budgets, and that all schools have to be funded at the base level. Base was the term created by HB 667.

#### **REVIEW SENATE BILL 152 AND SENATE BILL 525**

EDDYE McCLURE, Staff Attorney for Legislative Services, reviewed SB 152 (Exhibit #3) and SB 525 (Exhibit #4) for the Committee.

#### **REVIEW 2005 JOINT SELECT COMMITTEE REPORT**

SENATOR RYAN presented the 2005 Joint Select Committee Report (Exhibit 5).

#### **REPORT ON K-12 FUNDING REQUIREMENTS AND STUDY MODEL OPTIONS**

JIM STANDAERT, Legislative Fiscal Division, talked about K-12 School Funding Court Decision: Fiscal Data Requirements/Options, (Exhibit 6).

SENATOR STORY asked when the Augenblick & Myers study was done, was it with the intention of generating dollars or what the needs were. Mr. Standaert said that the study was done two years ago and did not look at resources.

#### **LUNCH**

**Meeting reconvened at 11:35 a.m.**

#### **CONTRACTS - REQUEST FOR PROPOSAL - TIME LINES**

GREG PETESCH, Code Commissioner, presented three recommendations to the Committee from the staff (Exhibit 7). The first was a time line for completing the study by December of 2005. The second was a proposed interagency contract with the Montana University System for a salary market analysis for school personnel. The third recommendation was a Request for Proposal to hire a professional school finance consultant to oversee and direct staff in the collection and evaluation of data necessary to assess the educational needs of public schools

based on the definition in SB 152 and develop a new funding formula. Mr. Petesch reviewed the draft RFP with the Committee. The consultant would meet with staff at prescribed times during the course of the study to provide technical assistance in the analysis of the data and its application to the accepted school finance methodologies. Staff would do the actual data collection and analysis under the direction of the consultant. The consultant would provide a written report that would include the findings regarding costs, recommendations for the funding formula, and ways to adjust the formula based on the educationally relevant factors. If the Committee authorizes the RFP today, it can be issued by this Friday (May 6) and we could move our response time up to May 27. The Committee also needs to decide how to weight qualifications, costs, and methods of providing services in the evaluation of the responses to the RFP. You can assign equal weighting to all of them or you can weight one more heavily than the others.

SEN STORY asked if the RFP could be sent to just experts in Montana or do we need a nationally known expert? Mr. Petesch replied that we need someone who is knowledgeable in the several methodologies that are recognized as valid methods of determining costs and funding. That may be someone from Montana. The RFP will be sent to in-state experts. We want the best person possible for the job. Montana expertise will be provided by the staff we have assembled from various state agencies to do the actual work.

SEN STORY asked about timing and costs. Will the consultant be able to meet our tight time schedule? What about the costs to bring this expert to Montana when we need them? Mr. Petesch replied that the time schedule is part of the RFP and the tightness may limit the number of people who bid. As to costs, reimbursement for costs will be part of the contract.

SEN LEWIS asked about hiring the consultant under an exigent circumstances contract to avoid the time it will take for the RFP process. Could staff make a recommendation to the Committee Chair and Vice-Chair and then seek full Committee approval through a conference call? This would take about three weeks off of the process. Mr. Petesch replied that you could justify a sole source purchase of this service because of the time schedule. But because of the importance of this study, you want to avoid the perception, accurate or not, that you are choosing a particular consultant because you want a certain outcome. THE RFP will give everyone a chance to respond and is the best method for choosing the consultant. Staff will be busy gathering the necessary data while the RFP is out there. However, if you want to use sole source, we can do that.

SEN RYAN stated that the RFP is important because we have to demonstrate to the Supreme

Court that we've done everything possible to craft a solution that can be defended in court. The consultant may be someone from Montana, but at least we will have offered the opportunity for outside experts to come and help us.

DR KIRK MILLER agreed that the RFP is important because we do not want to taint the study in any way. He also suggested that two practicing educators be included on the staff assembled for the study. For example a district superintendent and a district finance person who are knowledgeable about school funding and could assess the implications for districts when changes to the funding formula are recommended. The educators would be selected by the education organizations.

SEN TESTER asked Mr. Petesch if limiting the RFP to instate bidders would shorten the time line. Mr. Petesch replied that we've shortened the RFP process time line as much as we can, and limiting it to instate bidders will not make a difference. Whoever bids will need time to read the background information, ask questions, and then prepare a bid.

SEN STORY asked if it would be possible to include in the RFP a request for letters from people who are interested in bidding so that we could begin investigating their backgrounds: whom they've worked for, what kind of studies they've conducted, what kind of work product they've produced, etc. Jim Standaert replied that he has collected the resumes for almost everyone on the list.

REP LINDEEN asked how the professional educators would interact with the staff. Mr. Petesch replied that staff had already recognized the need to involve educators at some point in the process because this study is going to be very carefully monitored by the education community. These educators would be kept apprised of what staff was doing, how we were doing it, and offer feedback on whether or not it would work. Staff's concern was that the study is being conducted in the summer and how much time would educators have to devote to the process.

DR MILLER responded that district superintendents and finance people work year-round so they would be available in the summer. Also, the use of video conferencing, e-mail, and conference calls would make it very convenient for people to participate without having to travel very much. These educators could also make sure that information gets disseminated to the larger education community.

LINDA McCULLOCH supported the idea of including professional educators on the staff but also felt it was important that at different times during the study, the Committee bring in other

educators to review what has been done and provide feedback to the Committee.

SEN STORY said that there needs to be some clarification of the roles of the different entities involved in this study. What is the role of the Committee? What is the role of the consultant? What is the role of the staff? Will the Committee just show up every three weeks and get a progress report or will they be more hands on?

SEN RYAN said that the Joint Select Committee set out a framework but needed numbers to finish the work. That's where the consultant and the staff come in. The consultant and the staff will not be telling us what to do but will help us arrive at a funding formula that we can defend in court.

CHRIS LOHSE asked if the RFP includes the provision that the data sets and methodologies used by the consultant is the property of the Committee. Mr. Petesch replied that anything we pay for we own. He went on to respond to some earlier questions about the roles of staff, consultant, and Committee. The staff will have weekly meetings to share information and make sure everyone is on track. Staff will not make decisions; that is the role of the Committee. Staff will gather data and present reports to the Committee that will allow you to make informed decisions at every step. It will also allow you to tell us if we are going in the wrong direction.

SEN STORY expressed some concern that we are spending most of our time on the needs assessment and costs study and nobody is looking at the distribution formula. Mr. Petesch replied that that is where the consultant comes into play. We want the consultant to be knowledgeable about several types of funding formulas. The consultant can make sure staff is gathering the appropriate data and then using the data to develop a formula that is defensible in court. At the August 19 meeting, we hope to have initial runs of models and comparisons for you to look at.

SEN TESTER asked Sen. Ryan about the funding formula that the Joint Select Committee worked on during the session. When will the interim committee review that formula? SEN RYAN replied by reviewing the different entitlements in the report of the Joint Select Committee and what each entitlement would cover in terms of costs. The purpose of the entitlements is to get away from the current system that relies so heavily on funding per student.

REP GLASER said that one of the failures of the current system is the high reliance on ANB for funding. A classroom component makes much more sense. Jim Standaert and I have been working on a classroom entitlement. The Joint Select Committee agreed but reached a point

where more information and resources were needed. We think we are on the right track, but we need to be prepared to change course if the numbers show that we are on the wrong track.

SEN STORY asked if the consultant will be asked to use only one methodology for costing out the system. Mr. Petesch replied that the RFP calls for a consultant to be familiar with all of the methodologies. The consultant would then report on what the different methodologies show, and then the Committee will have some choices.

SEN RYAN said that the Joint Select Committee recognized that "one size fits all" does not work in Montana. Montana is very unique with the large number of small schools that we have. The funding formula has to take into account the different size school districts. The consultant has to understand this and not try to bring in a formula from another state and try to fit it to Montana.

REP LINDEEN asked if the Committee members felt they were at a point to make some decisions about the RFP? Do you have enough information to move forward or do you want to discuss it some more? REP GLASER felt the members were almost to a decision-making point. He suggested that the Committee allow public comment before a decision is made. SEN STORY suggested that public comment be limited to the RFP at this time, then later in the meeting, general public comment can be taken. REP LINDEEN agreed.

The Committee took a break and reconvened at 1:15 pm.

### **PUBLIC COMMENT**

DAVE PUYEAR, Montana Rural Education Association, supported the general direction of the Committee but urged the Committee to give greater consideration to in-state experts. He also felt that the requirement for experience in school finance litigation would rule out many Montana experts. He agreed with Dr. Miller that professional educators need to be more involved in the study. He was also concerned that the interagency contract was going to MSU when there were other experts at other MUS units that could do the job just as well. He offered a word of caution about doing the study and running the numbers simultaneously. He felt this was not a legitimate way to proceed.

ERIK BURKE, MEA/MFT, said that this study was the most important issue in the state of Montana today. Therefore, you need to take your time in making decisions, especially regarding the RFP. He agreed with Mr. Puyear that Montana expertise is needed and that

litigation experience should not be a qualification. He also expressed some concerns about some of the methodologies that were discussed by the Committee. The successful schools model requires vast amounts of student data as well as a definition of "success". Do not define success by test scores. He also urged the Committee to move cautiously on the interagency contract.

TOM BILODEAU, MEA/MFT, focused his comments on the interagency contract for a labor market analysis of educational salaries. Any analysis must also include benefits because salary is not total compensation. Salary is not the only incentive to recruit and retain teachers in Montana. He also said that the labor market analysis must be broadened to include the western states because that is the market for quality educators. Comparing salaries of teachers to salaries paid to other professionals in Montana is not educationally relevant.

LANCE MELTON, Montana School Boards Association, agreed with the previous speakers. He also had some specific concerns with the RFP, especially having the consultant direct and oversee the staff. He felt a better process would be to have a group of in-state education researchers and people with actual K-12 experience as the group that would lead the process. An out-of-state expert could then be called in as needed. The expert should have demonstrated expertise in working with the Montana Legislature as well as some familiarity with Montana geography, demographics, and constitutional history. With regard to methodologies, the successful schools model will not work in Montana because we do not have the necessary data and the model will not work in a system that is artificially capped. There is not enough time to do a professional judgement study. Mr. Melton asked the Committee to provide more timely notice to the public of the availability of documents that will be considered by the Committee at its meetings.

JACK COPPS, Montana Quality Education Coalition, said that it might be in the Committee's interest to hear from the plaintiffs' attorney who could provide some valuable insight into the expectations of the Court. While financial experts and policy experts are important, you have to make sure that the body of experts that you use represent the educational interest. As far as analyzing data is concerned, remember that much of the data that is available flows from an unconstitutional system. You also need to remember that there is a difference between assessing the educational needs of our children and our schools and costing out the needs of those children in our schools. He thanked the members for serving on this Committee and stressed that we only have one chance to do this right and if we fail, we move into endless litigation.



DENISE JUNEAU, Montana Indian Education Association, reminded the Committee that the Supreme Court said that Indian Education for All must be adequately funded. It needs to be an integral part of the new school funding formula. It is especially important for Indian education that the school finance expert be familiar with Montana issues and the constitutional mandate. You also need to remember that Indian Education for All is different from the needs of Indian students. MIEA also has some concerns about the successful schools model if it relies only on test scores and graduation rates. MIEA supports the RFP process but urges the Committee to move cautiously, especially in the endorsement of any tools that measure school success. MIEA has lots of data on the educational needs of Indian students and on Indian Education for All and is willing to share that information with the Committee.

MARY WHITTINGHILL, Montana Taxpayers Association, spoke about the school funding study that her organization has commissioned based on the successful schools model. She believes that it is important for the Committee to get as much information as possible. We are willing to work with the education community in conducting our study. Please make sure that you have public input throughout the entire process. The Montana Taxpayers Association will provide any assistance you may need during this study.

ALI BOVINGDON, Attorney General's Office, suggested that the Committee include the cost-based methodology in the RFP so that the Committee has more options available. Make sure that what you do is tied to the definition in SB 152.

ROD SVEE, Billings Public Schools, suggested that finding a consultant with expertise in Indian student achievement may be difficult. Also, make sure the consultant has some experience with rural states. There are a number of people in Montana that will come forward and volunteer to help you.

REP GLASER asked if Mr. Petesch had any comments on the input from the public.

MR PETESCH responded that many of the comments regarding style were appropriate and would be incorporated. With regard to limiting the proposal to Montana people, we run some risks there. The suggestion to make sure that people understand what rural means in Montana is important and we thought were subsumed in the qualifications. If it is not, then we can certainly make sure it is there. As to litigation experience, we want someone who can help us craft a funding formula that is defensible in court. Those are my comments, but the final decision is up to the Committee.

REP RASER asked, when looking at qualifications, is it more important to be qualified in the history of litigation concerning school finance or more important to be familiar with Montana school funding and the rural nature and characteristics of Montana?

SEN TESTER felt that knowledge and expertise with Montana school finance is more important. The consultant must understand the landscape of Montana overall so we can develop a finance mechanism that fits Montana.

REP RASER stated that everyone agrees we want the best person with an overview of school finance but suggested there be a separate qualification item specific to Montana. The Committee agreed and Rep. Lindeen asked Eddy McClure to draft language for the RFP to reflect Rep. Raser's recommendation.

DR MILLER suggested that we rewrite the litigation qualification to eliminate the reference to experience in litigation. He did not want to exclude anyone simply because they had not actually litigated. The Committee agreed and the new qualification will ask for knowledge of school funding litigation, including the history of litigation in Montana.

SEN STORY suggested that the person have demonstrated expertise in working with legislative bodies, executive agencies, and other stakeholders, not other states. Stakeholders includes all of the other people you might want to work with. The Committee agreed with the change.

REP LINDEEN suggested that the wording throughout the RFP be changed to reflect the desire of the Committee that the consultant's role is to recommend and assist the staff, not oversee and direct the staff. The Committee agreed to the change.

EDDYE MCCLURE asked the Committee members if they wanted to add two people from the education community to the staff list in the RFP? Should they be people who served on the Public Schools Renewal Commission?

LINDA McCULLOCH replied that service on the Renewal Commission was not necessary, but these people should have actual experience in Montana schools, both urban and rural. She also advocated for a larger group of educators to be brought into the process at various points to review what the Committee is doing.

SEN STORY expressed concerns about creating another large group to work on this issue. It could slow down the whole study. However, you don't want to shut people out completely. You

need to find some middle ground, perhaps a small liaison committee from the education community that could work with staff and serve as a means of communication for the education community.

REP LINDEEN said that it sounds like we need two names from the education community to work with staff. Who are these two people? Should they be named in the RFP or should staff just be directed to work with them? Maybe we should let the education community name them, the sooner the better.

REP GLASER asked about including someone with experience in American Indian schools.

There was considerable discussion about the number of educators as well as the make-up of the educators appointed to work with the staff. Some members felt that staff would work with the education community without any direction from the Committee. Other members felt that a more formal arrangement was necessary.

DR MILLER finally recommended that two educators selected by the education community be assigned to work with staff. The Committee agreed.

SEN LEWIS expressed some concerns about accountability. The Committee has authority over legislative staff but not necessarily over staff from other agencies. He wanted to make sure that legislative staff, working with the Committee, has the responsibility to make sure that everyone is doing what they agreed to do in the time they agreed to do it.

REP LINDEEN asked if there were further comments or suggestions on the RFP. Hearing none, she directed the staff to revise the RFP.

LINDA MCCULLOCH asked if the Committee would see the final RFP before it was issued. She felt the Committee had a legal responsibility to see the final document before it was issued.

SEN STORY and REP LINDEEN both felt that staff could make the changes and send out the RFP without a final review by the Committee.

The Committee finally decided to have staff send out the revised version of the RFP to Rep. Lindeen or Sen. Story who would have the authority to approve or make further changes.

REP RASER moved that the Committee approve the RFP as revised and issue the RFP on Friday, May 6, 2005. The motion passed unanimously.

MR PETESCH stated that there was one final decision for the Committee to make: weighting of the three factors in evaluating the responses to the RFP. The three factors are qualifications, method of providing services, and budget.

REP LINDEEN asked if the weighting had to be determined before the RFP was issued. Mr. Petesch replied that the basis for evaluating the responses had to be in the RFP.

There was much discussion as to the weighting of the factors. Some members felt that knowledge of Montana should be given a greater weight than any other factor. It was pointed out that by actually including knowledge about Montana in the qualifications, the Committee had already weighted for that factor. It was decided that by giving a little more weight to qualifications, you were weighting for Montana knowledge.

REP RASER moved that 40% of the points be awarded for qualifications, 30% be awarded for the method of providing services, and 30 % be awarded for the budget. The motion passed unanimously.

SEN STORY asked about the interagency contract with the Montana University System. Do we need to make a decision today?

MR PETESCH responded that no decision was necessary today beyond directing staff to develop a proposed contract for Committee approval at the June 6 meeting. Staff will consider the comments from the public in drafting the proposal.

REP RASER asked about the time line. Mr. Petesch replied that there is no need for a May 13 conference call to approve the RFP. Responses will be due on May 27, and the Committee can award the RFP on June 3.

REP LINDEEN asked how the selection will be made. Mr. Petesch said that was up to the Committee. Either the full Committee or a subcommittee could make the award.

SEN STORY asked how the process for awarding an RFP works. Mr. Petesch replied that the responses have to be evaluated in an open meeting, using the Department of Administration's bid opening and scoring procedures. If the Committee wants, staff can do the scoring and

make a recommendation to the Committee at a conference call meeting on June 3. The Committee can award the RFP on June 3, and then meet on June 6 with the selected consultant. The Committee agreed to this procedure.

REP LINDEEN asked if there were any further comments from the Committee. Hearing none, she turned the meeting over to Sen. Story who read a letter from Sen. John Esp (Exhibit 9) into the record.

**ADJOURN**

REP RASER moved that the meeting be adjourned. The motion passed unanimously and the meeting adjourned at 3:25 p.m.