

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON EDUCATION FUNDING

Call to Order: By **CHAIRMAN MONICA LINDEEN**, on January 11, 2005
at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Monica Lindeen, Chairman (D)
Rep. Bill E. Glaser, Vice Chairman (R)
Rep. Norma Bixby (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Holly Raser (D)
Rep. Jon Sonju (R)
Rep. Pat Wagman (R)

Members Excused: None.

Members Absent: Rep. Tim Dowell (D)
Rep. Dave Gallik (D)

Staff Present: Connie Erickson, Legislative Branch
Kim Leighton, Committee Secretary
Eddy McClure, Legislative Branch
Jim Standaert, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: Organizational Meeting
Executive Action:

DISCUSSION:

CHAIRMAN MONICA LINDEEN opened the meeting by introducing herself as the chair. She stated the purpose of this meeting was organizational. She ran through procedures and protocol for running the meetings. She then would turn it over to **Eddy McClure, Legislative Branch**. **REP. LINDEEN** also stated that this committee has a big opportunity to look at education for children. She believes that everyone can agree that education is very important. She said she hoped everyone can keep an open mind to ideas and suggestions, and they could find some common ground.

REP. BOB LAKE asked **REP. LINDEEN** if in fact this committee was meeting to discuss more than just funding of education.

REP. LINDEEN stated that absolutely there was more to it than that.

REP. LAKE then asked that the word "funding" be dropped from the title of the committee name.

REP. LINDEEN agreed to this. She also stated that she would not tolerate personal attacks, either against other members of the committee, or against witnesses or visitors. She hopes that everyone will respect each other's opinions, and keep an open mind. At this point, **REP. LINDEEN** asked **VICE-CHAIRMAN WILLIAM GLASER** to say a few words about the committee.

REP. GLASER remarked that the committee as a whole, needs to move past special interests and understand that this needs to be about children. He also stated, "If you can't leave your egos at the door, then you don't belong here." He was referring to both members of the committee as well as attendees of the hearings.

REP. LINDEEN thanked **REP. GLASER** for his comments. She then asked **Ms. McClure** to continue with staff introductions.

Ms. McClure began by introducing herself. She then introduced **Jim Standaert**, Legislative Services Division as a Senior Fiscal Analyst. He works on fiscal policy and number crunching. **Ms. McClure** then went on to introduce **Connie Erickson**, Legislative Services Division as a Research Policy Analyst. She was able to attend this meeting today, because the Senate was not meeting. **Ms. McClure** proceeded to introduce **Chris Lohse**, Legislative Services Division as a Research Analyst. Mr. Lohse was unable to attend this meeting due to a Senate Fish & Game meeting. **Ms. McClure** stated that Mr. Lohse would be giving a report on the

ramifications of federal mandates on Thursday, January 13. He would attend these meetings as much as possible.

Ms. McClure went on to talk about an informational sheet that she passed out to all members. This sheet contains information pertaining to the staff of the Legislative Branch. It contains phone numbers, hours they are in the building, as well as committees they are working on.

REP. LINDEEN then went on to introduce the secretary of the committee, Kim Leighton. **REP. LINDEEN** asked all of the members to introduce themselves.

The committee members stated their names and some shared personal information as follows:

REP. PAT WAGMAN (R), HD 62, LIVINGSTON

REP. HOLLY RASER (D), HD 98, MISSOULA, said that she was a teacher for 25 years, and is now working as a remedial teacher. She helps train other teachers. She also belongs to the School Renewal Commission. **REP. RASER** contended that this is a great opportunity to help kids, and she said she is really looking forward to it.

REP. JON SONJU (R), HD 7, KALISPELL

REP. VERDELL JACKSON (R), HD 6, KALISPELL

REP. BOB LAKE (R), HD 88, HAMILTON. He stated that he does have a son who is a teacher. Therefore, he has some contact with the education community. He has also been in business for 38 years, and believes he can bring that aspect to the committee. Also, he is involved with the House Tax Committee.

REP. NORMA BIXBY (D), HD 41, LAME DEER, stated that she has been a teacher and a principal in the past. She is currently working to develop the Tribal Education Department for the Northern Cheyenne Tribe. She has also worked for the Office of Public Instruction, and the Board of Regents. She also worked on the second group that tried to define quality education on request from the Legislature. She stated that she hopes they can really come up with a definition for quality education this time, because it is very important.

REP. LINDEEN remarked what a diverse group this committee is. She then reminded the members that this committee meets Tuesday, Thursday, and Friday at 3:00 in Room 137. She said that they would work with each other's schedules as needed. She contended

that all the members are busy with several different committees, and asked that they all be respectful of that.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 10.2}

(REP. TIM DOWELL entered the hearing)

REP. LINDEEN reminded the committee members to always be respectful of each other, and try and always stick to the issues. She then went on to state that there will be three different kinds of hearings. The first of these is informational, the second being bills, and the third are via vision net hearings around the state. This enables individuals from around the state to interact, without traveling to Helena.

REP. LINDEEN introduced the practice of executive action next. She clarified that bills requiring executive action would be discussed within the committee members, unless input from others was requested. She doesn't want to make a habit of including information from exterior sources.

REP. LINDEEN conveyed that amendments would go through Eddy McClure. She also stated however, that amendments can be drafted by anyone on the staff. These efforts will be coordinated throughout the process. Also, all members are busy on several bills at once, so she asked the committee to please be aware of this and try not to duplicate any efforts. **REP. LINDEEN** also commented that when amendments are being introduced, sponsors should always be notified.

REP. LINDEEN informed the members next of proxy voting. She urged that if a member is not going to be present, to please let the Vice Chair, or Chair know, and leave a proxy vote in lieu of your absence. Also, if they were going to be absent, they should let the Chair, or Vice Chair know. Next, **REP. LINDEEN** brought up the topic of video streaming. This committee will have it's hearing broadcast on the internet. **REP. LINDEEN** did not have this address at the moment, but stated that it would be available at a later time.

REP. LINDEEN reminded everyone to turn off cell phones during proceedings. General housekeeping was taken care of. She then asked if there were any questions related to procedure and protocol. There were none. Therefore, she gave Eddy McClure the floor.

{Tape: 1; Side: A; Approx. Time Counter: 10.2 - 16}

Eddy McClure opened by introducing herself again, and thanking Jim Molloy, Attorney for Plaintiffs in Montana Quality Education Coalition(MQEC) Lawsuit, for being available. She indicated that

REP. LINDEEN wanted her to give a little background on the Supreme Court ruling on defining quality education. She was also going to give some information on what she perceived the court was asking this committee to do. **Ms. McClure** brought to everyone's attention the red binders that were provided to them. These binders contain Article X, constitutional transcripts, a three-page Supreme Court order, a 52-page District Court order, a 1988 study on trying to define a quality education system, as well as the 2003 legislative session's proceedings of the Montana K-12 Public School Renewal Commission. **Ms. McClure** added that there may be more documents to add to the binder at a later date. The first thing that she wanted to talk about was the constitutional provisions, specifically Article X, Section 1. Subsection 1 primarily deals with defining an equal opportunity education system. Subsection 2 deals with what is referred to as the Indian Education Article. She stated that she will talk at length about this at a later time. Subsection 3 refers to implementation of the goals set forth in Subsection 1. **Ms. McClure** emphasized Subsection 2 in that it is important to employ Native-American studies into the education system. There is an important area in Subsection 3 that states that the legislature shall fund the state's share of cost for a quality elementary and secondary education system. This consists of defining basic education, quality education, and quality, equitable education. It is the job of the legislators and attorneys to decipher what is reasonable for this definition. Another situation that can be problematic is that of defining the basic system. Some say that 8th or 10th grade is acceptable, because that is a possible time that kids drop out. However, many don't want to settle with that and want to push the definition to the 12th grade.

Ms. McClure went on to discuss the fact that many of these definitions were introduced in a different time. At that time, many people didn't work on computers; now many children are very computer savvy. Quality systems are always changing.

{Tape: 1; Side: A; Approx. Time Counter: 16 - 27.2}

Ms. McClure continued to talk of the District Court order, as well as the Montana Supreme Court order. These were interjected in order to jump start the delegations of education funding. They agree that Montana schools do not have adequate funding for our education system. They also stated that the state does not pay it's fair share. The Supreme Court affirms that the information in the District Court order is correct. However, they do not necessarily affirm each and every aspect of it. **Ms. McClure** attested that she believes the three page document is a suggestion of a blueprint for the legislature to use in order to come up with a definition. It is also quite clear that the

courts realize how difficult it is going to be to do this, as well as the time constraint that the legislature has.

{Tape: 1; Side: A; Approx. Time Counter: 27.2 - 31.9}

At this point, **Ms. McClure** resumed speaking of the Indian Education Act. **Ms. McClure** stated that while she was in law school, her focus was on Indian law. Something she noticed during her studies was that during the 70's there was something called the Indian Studies Bill. This stated that it was not required of schools on reservations to have Indian studies. She thought this was very odd, so included in her work, she approached the Board of Regents and the Board of Public Education to ask why this wasn't required. They replied that they didn't know exactly what they should be doing to rectify this. Following this, a survey was done on each district within the State of Montana, as well as private institutions such as Carroll College, and Rocky Mountain College. They found that many of the answers were N/A, or blank. Many didn't have any Indian studies, or they had very few. This information was recorded back to the Board of Regents. At this point, with a little guidance it was up to the Board of Regents to implement this curriculum. It is thought to be very important to preserve the Indian culture. The legislative staff claimed that not providing these studies is a disservice to the people. **Ms. McClure** added that while the legislature was hearing these bills, and voting on them, she had members coming into her office, reading material, and feeling enlightened. This was information that they were not aware of beforehand. People didn't think it was important because they didn't learn it in school.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 10.2}

Ms. McClure showed examples as to what she perceived the court order was trying to convey. She referred to it as a metaphorical ladder. The bottom rung consists of the accreditation standards. The next rung is Title XX, which deals with what the schools are expected to do for education. The next rung is Title XXXIX, which deals with worker's compensation and audit provisions. Federal mandates come next. With this come monetary problems. Some of these come with enough money to implement them, and some do not. Lunch programs are next up. The education systems need proper plans for feeding the children. Following lunch programs are teachers. There are certain expectations that go along with teaching. Textbooks and computers come next. The children need the appropriate learning devices in order to learn. The following rung is that of buildings. There are a lot of maintenance and safety precautions that need to be done in order for it to be suitable for education. Another safety issue is that of buses. There needs to be careful examination of the transportation system and the laws that accompany it. This leads

the committee to the top, and most important rung: children. This is the primary focus of the whole system, and what they are working toward. It is important that the system be examined in terms of accommodating both gifted and talented children, as well as those with special needs.

At this point in the juncture, **Ms. McClure** illuminated on the attempt in 1988 to define quality education in terms of equity. She then went on to discuss the problem of equity, with reference to Montana being sued in 1989. There was a dilemma with how the money was being distributed. The lawsuit stated that it doesn't matter where you live. All areas should have equal opportunity, everyone deserves the same amount.

In conclusion, **Ms. McClure** reiterated that she believed the essential focus of this committee is to discuss what the important resources are in order to define what a quality education system is. Also, she believed they need to build a funding formula to accommodate this system.

{Tape: 1; Side: B; Approx. Time Counter: 10.2 - 30}

Mr. Molloy, Attorney for Plaintiffs in MQEC Lawsuit. He began by stating that they are anxious, willing, and to some extent able to help in finding a solution. He then presents a couple documents that shall serve as guidance.

[EXHIBIT\(esh07a01\)](#)

[EXHIBIT\(esh07a02\)](#)

Mr. Molloy stated, referring to his opening statement, that nobody can say that we don't have a quality system of education in Montana. The problem is that we need the proper funding, in order to maintain the quality system. Without the funding, quality is being compromised.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.4}

(REP. DAVE GALLIK entered the hearing)

Mr. Molloy then highlighted Judge Sherlock's findings that the definition must be based on levels that are necessary to meet standards of education in Montana.

In conclusion, **Mr. Molloy** reiterated that he was anxious to help the committee with this daunting task. He welcomes any input that will help. We owe it to the children to meet these standards. At this point, he welcomed questions.

REP. LINDEEN thanked Mr. Molloy for being at the meeting, and helping out. She also stated that the committee is very lucky to have **Ms. McClure** working on this committee. She then opened the floor to ask questions.

REP. DAVE GALLIK directed a question to Mr. Molloy. He stated that the District Court wanted there to be some affirmative act by October. He inquired as to what Mr. Molloy thought was necessary to be in compliance with this date.

Mr. Molloy responded by saying that deadlines are coming into play right now, which is a substantial problem. We need to do this earlier, before the school year starts. By doing this, we can try to omit funding pressures that often occur.

REP. WAGMAN petitioned that they, as a committee, be able to have access to the raw data from the Augenblick Study.

Mr. Molloy stated that they will do all they can, with some assistance from legislature, to get this data. He would need a letter from the legislature declaring that they are requesting this information. They are not hiding anything. They simply need protection for disclosure.

REP. WAGMAN inquired as to whether this would include all empirical data from all the individuals involved in this process.

Mr. Molloy alleged that he believed it was done primarily by panels of individuals. He also stated that he was actually not allowed in the area. He was unable to answer with a definite response.

REP. LINDEEN implored **Mr. Molloy** what specifically the legislature needs to request.

Mr. Molloy responded by saying that they should ask for all the data that was entered by the panels, as well as the sources of the data.

REP. LINDEEN asked **REP. WAGMAN** if he had any further questions.

REP. WAGMAN followed by saying he would like to have access to this data.

REP. LINDEEN indicated that they will draft a letter.

REP. VERDELL JACKSON attested that he went to the Office of Public Instruction(OPI) database, and he was unable to get data for answers to busing and building information. He believed that

if the data was gathered and available, the committee could better be able to generate funds. He also questioned **Mr. Molloy** as to whether this is a legitimate means to the funding question.

Mr. Molloy replied by stating that this information is something that the committee should try and have made available. However, the depth of this data may be somewhat difficult to attain. He also cautioned that the members need to differentiate between what people spend and what the actual costs is. These do not always match. He said that the committee needs to move down a path of worthy data.

REP. NORMA BIXBY commented on the topic of American Indian studies. She requested that the Amicus Brief be provided for the members. **REP. BIXBY** stated that it is a very important document to include.

Ms. McClure said she had a copy and it would be distributed.

REP. HOLLY RASER commented on the process of the committee and how they could best get the job done. She also inquired into a document in the red binder that referred to trying to define quality education.

REP. GLASER then expanded on this document. He replied that it was a summation of his personal thoughts on how to come up with a definition. He also reiterated that the members need to leave their egos at the door. **REP. GLASER** added that their job was to define a quality system of education that is both adequate and equitable, and these two terms do not live well together.

Ms. McClure added that she had also generated a similar document, and then combined them together.

REP. RASER stated that she was impressed by this document. She also voiced a concern that they not focus too much on bills, but rather act and make decisions.

REP. LINDEEN commented that the committee does indeed have time to hear these bills. However, there are deadlines within the appropriations as well. She also stated that the committee does not need to see each and every bill that pertains to funding. Even so, there are definitely some very important issues that they need to tackle.

REP. GLASER remarked that it will be difficult to be a theoretical committee rather than an active one. He also claimed that it will be difficult to get it done in 85 days. It will be a road that will most likely have to be retraced at a later time.

This will be a lengthy project, but we need to stay focused on the kids. He believed it may in fact take four years to finish.

REP. RASER explained that she is concerned that hearing too many bills could be a waste of time. She also agrees with **REP. GLASER** that it is a good idea to incorporate each other's ideas when trying to find a solution to this problem. She stated that it is important, not only because of the court order but rather because it's right.

Ms. McClure went on to explain that some of these bills would be effective immediately. Some of the bills the committee hears are comprehensive, and others are more step by step. Some are more applicable than others, and will be applied differently.

REP. JACKSON requested a few more details on the Augenblick Study, while he had the resource of **Mr. Molloy** at the committee's disposal. He inquired about the aspect of at risk students in regards to federal mandates.

Mr. Molloy stated that the Augenblick Study was meant to be an illustration for the court. It was done to show that there are methods that are used which can be very useful in formulating school finance. He cautioned the committee against relying on this study too heavily.

REP. GALLIK questioned as to whether or not **Mr. Molloy** was implying that we do a rubber stamp of this report.

Mr. Molloy replied that they were not implying this.

REP. JACKSON asked about school administration and school districts in regard to the Augenblick Study.

Mr. Molloy stated that the state does have the power to change some organizational things. He also claimed that MQEC did not do any detailed analysis on changing the efficiency of the administration system. **Mr. Molloy** added that he does not believe that administration reorganization would reduce the net cost of education.

Ms. McClure inquired about obtaining a business card from **Mr. Molloy**.

REP. LINDEEN thanked **Mr. Molloy** for his time.

Ms. McClure reminded the committee that **Jim Standaert** would be speaking on Thursday about the financial implications of education, and **Chris Lohse** would be reporting on federal

mandates. She also stated that there would be a report on Friday about accreditation standards by **Dr. Kirk Miller**.

REP. LINDEEN announced that there would be an opportunity for all representatives interested to attend a conference on school funding. This would be held on January 22, 2005 from 9:30 A.M. to 4:00 P.M. at the Great Northern Hotel. They can call the Burton K. Wheeler center at 994-0336 with any questions. She also supplied the committee with the web site for the hearings. That website is www.opi.state.mt.us/Streamer/Legislature.

ADJOURNMENT

Adjournment: 4:55 P.M.

REP. MONICA LINDEEN, Chairman

KIM LEIGHTON, Secretary

ML/KL

Additional Exhibits:

EXHIBIT ([esh07aad0.PDF](#))