

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

JOINT SELECT COMMITTEE ON EDUCATION FUNDING

Call to Order: By **CHAIRMAN DON RYAN**, on April 4, 2005 at 8:10
A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Ryan, Chairman (D)
Rep. Bill E. Glaser (R)
Rep. Holly Raser (D)
Sen. Bob Story Jr. (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Eddy McClure, Legislative Branch
Lois O'Connor, Committee Secretary
Jim Standaert, Legislative Branch

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

Committee Business Summary:

Continued Discussion on Education Funding.

Connie Erickson, Legislative Services Division (LSD), provided an overview of LC 8888 establishing a quality schools interim committee. LC 8888 is based upon the language contained in SB 152 and includes all provisions discussed by the Subcommittee at its April 1, 2005, meeting.

EXHIBIT(jes71a01)

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Jack Copps, MT Quality Education Coalition (MQEC), provided an overview of an amended version of LC 8888 that was based upon recommendations from Coalition members and included language that addressed the request for proposal (RFP).

EXHIBIT(jes71a02)

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Greg Petesch, Director of Legal Services, Legislative Services Division (LSD), said that certain provisions within the Coalition's draft are not needed for the purposes that the interim committee will be charged with. His first concern is that there is no cause of action based upon the award of the RFP. If that language is added, then further language for a two-thirds vote of the Legislature should be added because the language provides immunity to the entity issuing the RFP. There is also the legal issue of access to the Court. This language is not needed because there would be a contract that follows state law and LSD very closely follows state law when it issues any RFP.

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SEN. ROBERT STORY, SD 30, asked what would determine who is the most qualified consulting firm when issuing the RFP. **Mr. Petesch** said that the RFP would be rewarded to the best respondent who meets the qualification established by the interim committee.

SEN. STORY asked if the language required an RFP. **Mr. Petesch** said that it gives the interim committee the authority to issue the RFP. It does not require it. A consultant is needed for the purposes of conducting the study, but the interim committee has the authority to do that now.

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Mr. Petesch commented further that the Subcommittee needed to be very careful that whatever language it puts into the study bill conforms with the requirements that will be in law under SB 152. He added that the assessment of educational needs includes a lot

of specificity on how it is done in the Coalition's document. It provides the committee with little alternative. The problem he sees is that the proposed panel of Montana educators would work independently of the interim committee, leaving the committee with no control over how quickly or to what degree that panel conducts its work. The ability of the committee to move forward in its work is limited by the panel doing its job. **Mr. Petesch** added that the timelines in the Coalition's proposal also somewhat troubling in that it writes a call for a special session into law, and it does not conform with the methods for calling a special session. The Governor has the discretion to call a special session or, under 5-3-102, MCA, while in session, the Legislature can call itself into a future special session by written petition.

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With regards to the panel of Montana educators, **Mr. Copps** believed that the interim committee could control the work of the panel by establishing timelines under which the panel would be working. **SEN. STORY** questioned how the panel would operate. **Mr. Copps** said that the committee could outline the duties of the panel. The most important thing is calling the panel together to review and critique the committee's work.

REP. HOLLY RASER, HD 98, was uncertain whether the language creating the panel had to specifically be in law. **Mr. Copps** recommended very strongly that a professional assessment of educational needs be included in statute. He said that it makes sense to the Coalition members that the committee use the professional expertise within Montana to provide the assessment, and it is in the interest of the general population to understand, from a professional perspective, what the thoughts are regarding the work that has been done on educational needs. **REP. RASER** agreed, but felt that too much specificity would make the legislation harder to implement.

{Tape: 1; Side: A; Time Counter: 28.5}

SEN. STORY'S concern with putting too many specific things in law is that it could provide the opportunity for a person to invalidate the committee's work if the person thinks that something was not done. **Mr. Copps** said that it is MQEC's hope, that as the process moves forward, that there would be substantial input allowed from the profession itself.

Jim Molloy, Attorney for the Plaintiffs, felt that MQEC's goal is an understanding that a substantive process was going to be undertaken, followed by legislation action, before the end of

2005. He asked how the Legislature would, at this point, say that it intends to have a special session in December. **Mr. Petesch** did not recommend that the Secretary of State poll the Legislature, but recommended that the call for a special session be circulated now while the Legislature is still in session to see if it can get 100 signatures.

{Tape: 1; Side: B; Time Counter: 2.5}

SEN. STORY asked if the Legislature could recess rather than call itself back into a special session. **Mr. Petesch** preferred that the Legislature not recess because all of the 2005 Session legislation would be active, and he would be unable to conduct any codification, leaving nothing to amend once the Legislature returned.

SEN. RYAN asked if the language referring to the adoption of an analyses of educational needs and costs contained in existing studies would be a problem. **Ms. Erickson** said that the language authorized the committee to conduct a study or it can simply look at existing studies. **Mr. Molloy** did not believe that there was an existing study that would meet the definitions in SB 152.

{Tape: 1; Side: B; Time Counter: 6.2}

SEN. RYAN asked if there was anything contained LC 8888 that would not work or would be unacceptable. **Mr. Molloy** said, no, adding that the most important things are the four benchmarks that MQEC feels are the essentials to the success of the process. He added that nothing that MQEC has said is precluded by LC 8888. MQEC felt it a benefit for the Subcommittee to hear more specifically what it thought the timelines would be in terms of getting the work done and flushing out the needs assessment process more completely to involve Montana educators. **Mr. Copps** reiterated that language needed to be in statute that there needs to be a process that assess educational needs.

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Subcommittee members and staff discussed the funding of the interim committee in this biennium (before July 1, 2005) through the LSD's Program 21 funds with the authorization of the Legislative Council. Staff will also begin the selection process and have the contract for the cost analysis ready for implementation when the money was available.

{Tape: 1; Side: B; Time Counter: 26.9}

REP. GLASER requested that **Mr. Petesch** speak with **Mae Nan Ellingson, Bond Counsel**, to see if further language was needed to address the bonding issue.

Motion: **SEN. STORY** moved the approval of LC 8888 with the addition of general language to address the assessment for educational needs. Motion passed unanimously by voice vote.

The Subcommittee will meet April 5, 2005.

ADJOURNMENT

Adjournment: 9:10 A.M.

SEN. DON RYAN, Chairman

LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

EXHIBIT ([jes71aad0.PDF](#))