

FINDINGS OF FACT

The State of Montana files its proposed pretrial findings of fact and conclusions of law according to the Court's scheduling order as amended.

I. INTRODUCTION: THE LEGISLATURE'S INITIAL RESPONSE TO THE COURT'S OPINION

1. This Court issued an order in this case dated April 15, 2004, declaring Montana's school finance system to be unconstitutional and holding in part that "the State's school finance system must be based upon a determination of the needs and costs of the public school system, and the school finance system must be designed and based upon educationally-relevant factors." (04/15/04 Order at Concl. of Law, ¶ 13.)

2. After an expedited appeal, the Supreme Court issued a preliminary order dated November 9, 2004, affirming this Court's holding "that the current Montana school funding system, which has evolved without the benefit of any definition of what constitutes 'quality,' fails to adequately fund Montana's public schools." (11/09/04 S. Ct. Order at 3.)

3. The Supreme Court issued an opinion replacing the preliminary order on March 22, 2005, "affirm[ing] the court's determination that the current system violates article X, section 1(3) [of the Montana Constitution]," but "defer[ring] to the Legislature for the definition of 'quality' as used in that constitutional provision. Columbia Falls Elem. School Dist. v. State, 2005 MT 69, ¶ 11.

4. The Legislature transmitted to the Governor Senate Bill 152 on March 31, 2005, defining a basic system of free quality schools and providing a process for funding that system. The Governor signed the bill into law on April 7, 2005.

5. The 2005 Legislature also created the Joint Select Committee on Education Funding, whose purpose was to develop an education funding formula based on the definition and the educationally relevant factors in Senate Bill 152. The Select Committee met 3-4 days every week through the 2005 legislative session. It identified several funding components, but needed more time to continue its work.

6. The Select Committee proposed, the Legislature adopted, and the Governor signed into law Senate Bill 525, creating the Quality Schools Interim Committee ("QSIC"), in April 2005. The QSIC's duties included assessing the educational needs of Montana students, determining the costs of a basic system of quality schools, and constructing a funding formula that met the requirements of Senate Bill 152. The interim committee was to complete its tasks by December 1, 2005, in anticipation of a special legislative session in December to address school funding.

II. THE QUALITY SCHOOLS INTERIM COMMITTEE

7. The Quality Schools Interim Committee was composed of 11 members, eight voting legislators and three nonvoting representatives: Senator Dave Lewis, Senator Don Ryan, Senator Bob Story, Senator Jon Tester, Representative Bill Glaser, Representative Monica Lindeen, Representative Holly Raser, Representative

Pat Wagman, Superintendent of Public Instruction Linda McCulloch, Chair of the Board of Public Education Dr. Kirk Miller, and Budget Director David Ewer (for the Governor).

8. The QSIC was staffed by: Connie Erickson, research analyst; Chris Lohse, research analyst; Eddy McClure, attorney; Jim Standaert, fiscal analyst; and Fong Hom, secretary. In addition to the legislative staff, the QSIC created a working group that included: Mike Burke, Amy Carlson, and Nancy Hall of Governor's Office of Budget and Program Planning; Joan Anderson and Madalyn Quinlan of the Office of Public Instruction; Savage Public Schools Superintendent John McNeil, Helena Public Schools Superintendent Bruce Messinger, and Poplar Public Schools Superintendent Ivan Small; and Kathy Fabiano for the Montana State Senate.

9. Between May 4, 2005, and December 5, 2005, the QSIC held 17 meetings, including two 2-day meetings and one 3-day meeting. In addition, the working group met on an almost weekly basis during that same period. The QSIC's charge was to "assess the educational needs of children and determine the costs of providing the basic system of free quality public elementary and secondary schools" through studies authorized by or conducted by the committee and existing studies by reputable and reliable experts. In the end, the QSIC received reports from more than a dozen expert consultants and legislative staff, and took testimony and exhibits from members of the public and education community, including the Plaintiffs.

A. Professional Consultants & Studies

10. The QSIC contracted with several professional consultants to assist in its work, including R.C. Wood & Associates ("R.C. Wood"), a school finance consultancy

that, in turn, formed a team of national and Montana education experts. R.C. Wood and others conducted and presented several different studies for the QSIC.

11. Dr. Donald Robson of the University of Montana led a needs assessment based on a survey of 83 percent of the school districts in the state. The assessment led to findings of needs in several areas, particularly: the American Indian student achievement gap; Indian Education for All; a favorable school climate and compensation to recruit and retain qualified teachers; a facility condition inventory; elimination of the 3-mile restriction on school transportation; and student assessment. The assessment also found that, on a statewide level, Montana school districts employ the number of certified personnel required by the accreditation standards, and suggested that under the proper distribution of funding, all school districts would meet the appropriate accreditation standards.

12. Based on the needs assessment, Dr. Robson and Dr. Merle Farrier of the University of Montana conducted a statistical analysis that found the requirements of Senate Bill 152 could be met for the 2004-05 school year with approximately \$34 million in increased costs, plus an additional unspecified amount for recruitment and retention of qualified educators.

13. R.C. Wood conducted an evidence-based analysis to determine the cost of the educational strategies and concepts that appear to be most successful in improving achievement in the public elementary and secondary schools. The analysis identified several such educational strategies: preschool, small schools, reduced class size, full-time building principals, family outreach, professional development, technology, and

trained teachers. The analysis found approximately \$20.6 million of increased costs, plus the cost of recruiting and retaining trained teachers. The analysis also recommended that these new programs be implemented on a pilot basis so they may be evaluated.

14. R.C. Wood also conducted a successful schools analysis based on all public schools with regular accreditation status that met certain student achievement and graduation benchmarks. A wide variety of analyses to compare average per-pupil expenditures of successful and unsuccessful schools found a range of \$0 to approximately \$96 million of increased costs above overall expenditures for public schools in Montana, with most estimates on the lower end of the range.

15. R.C. Wood, with assistance of Montana education experts, also surveyed 122 school districts and convened an expert panel for a professional judgment analysis which built on the work of the 2002 Augenblick & Myers report presented at trial. The study noted that the professional judgment approach results in the highest cost estimates of the four cost analysis, and that the connection between resources and outcomes proposed in professional judgment analyses is at best, speculative. That analysis found approximately \$329 million of increased costs.

16. Joyce Silverthorne, education director for the Confederated Salish and Kootenai Tribes, convened an additional expert panel to analyze the education of American Indian students. This panel focused on closing the American Indian student achievement gap. The study noted that no other state has developed a general model for closing the American Indian student achievement gap, and that costs of closing the gap could not be determined. It recommended several school and community pilot programs

that ranged in cost from \$3.6 to \$5.1 million, and totaled \$15.7 million for all the pilot programs.

17. Christiana Stoddard and Douglas Young of Montana State University studied recruitment, retention, and salaries of teachers and other school staff. Their findings included: Montana teacher salaries have decreased relative to the national average, but that did not significantly change the fraction of Montana schools that report difficulty hiring; more isolated school districts tend to have the most severe recruitment and retention problems; and the pay gap between Montana and other states is similar in the school and non-school sectors. In general, they found that raising salaries for high- and medium-salary districts would not reduce any recruitment and retention problems that a district might have. Recruitment and retention problems appear to be concentrated in districts that are rural and isolated and pay low salaries. Stoddard and Young cited the unavailability of data at the district level as a limitation of their study.

18. Michael Griffith, program director for the Education Finance Initiative of Education Commission of the States, studied the issues of small and isolated schools and districts. That study found that the disproportionately high number of small schools in Montana may be related to the State's current funding structure, in particular its basic entitlement. Mr. Griffith recommended lowering the high school basic entitlement to a number closer to the elementary entitlement; providing a financial incentive for voluntary school district consolidation; and creating an "isolated school" entitlement that provides a large basic entitlement guarantee for small schools that meet the state's definition of isolated.

19. Mike Burke of the Office of Budget and Program Planning reviewed school facilities. The review found that Montana facility expenditures appear reasonable and adequate for schools, and compare closely to or above what schools spend nationally and regionally. However, the review also noted that the Department of Administration's Architecture and Engineering division estimated higher per-square-foot costs in its review of the state-operated Montana School for the Deaf and Blind. It found the School Facilities Reimbursement Program has been successful in allowing districts with low taxable value to improve facilities (although it lacks a means to determine if major maintenance needs are being met). Mr. Burke recommended several options to determine future facilities funding, including a facility assessment that would cost an estimated minimum of \$2 million.

20. Christopher Lohse of the Legislature's Office of Research and Policy Analysis performed several studies of at-risk funding, both for American Indian students and at-risk students generally. He developed a detailed index to estimate the numbers of at-risk students in each district, and proposed adding 10 percent to a district's per student component so that each district could develop a comprehensive program for meeting the needs of at risk students, plus an additional amount for districts with worse at-risk indices. He estimated the costs of the at-risk weighting mechanism to be \$7,485,091, and also estimated costs of a grant mechanism to be \$3,410,846.

21. The QSIC and its staff also studied health benefits, capital and risk management, options for restructuring revenues, and taxpayer equity issues.

B. Proposed Funding Components and Cost Estimates

22. Based on the work of the Joint Select Committee from the 2005 legislative session and the professional consultants, the QSIC defined nine components that would comprise the new school funding formula. The components were directly related to the definition of a "basic system of free quality public elementary and secondary schools" contained in Mont. Code Ann. § 20-9-309.

23. The components were: per-student; classroom; accredited program; building operations and maintenance; special education; transportation; capital projects; school facility payment/debt service; and Indian Education for all. The per-student and classroom components were further divided into six categories of elementary school sizes (ranging from fewer than 41 ANB to more than 2500 ANB) and five classes of high school sizes (ranging from fewer than 75 ANB to more than 1250).

24. The QSIC estimated costs through a variation of the resource cost methodology, a recognized school funding methodology that identifies the education resources envisioned to deliver the program and then estimates the prices of those resources. QSIC identified the resources needed in each of the components and estimated the resources/prices of these components based on the most recent known expenditure data. With the exception of the capital projects and the Indian Education for All components, the QSIC adopted a base level funding for each component (fiscal year 2004 expenditures inflated to fiscal year 2007) and then adjusted the funding based on the estimated costs of specific policy decisions.