

**MINUTES OF THE MEETING OF
THE COMMITTEE TO STUDY A NEW METHOD
FOR FUNDING PUBLIC SCHOOLS
Senate Bill 11, 2011 Legislature
March 2, 2012**

The second meeting of the Committee to Study a New Method for Funding Public Schools was held at 9:00 a.m. on Friday, March 2, 2012, at the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, with videoconference to the Nevada Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman Marcus Conklin, Chair
Senator Moises Denis, Vice Chair
Assemblywoman Marilyn Dondero Loop

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Greg Brower
Assemblyman Ira Hansen

COMMITTEE MEMBERS ABSENT:

Senator Shirley A. Breeden (Excused)

STAFF:

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division
Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division
Julie Waller, Senior Program Analyst, Fiscal Analysis Division
Eileen O'Grady, Chief Deputy Legislative Counsel
Kristin Roberts, Senior Principal Deputy Legislative Counsel
Mindy Martini, Senior Research Analyst
Becky Lowe, Committee Secretary

EXHIBITS:

[Exhibit A](#) Meeting Packet and Agenda.
[Exhibit B](#) Excerpt from the Federalist Papers provided by Knight Allen

A. ROLL CALL.

Chairman Marcus Conklin called the meeting to order at 9:16 a.m. The secretary called roll; all members were present except Senator Breeden who was excused.

B. PUBLIC COMMENT

Mr. Knight Allen presented the members with an excerpt from the Federalist Papers Number 78 written by Alexander Hamilton ([Exhibit B](#)). He thought the ideas in the excerpt applied to what the Committee was considering. Reading from the excerpt, he said “The judiciary has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever.”

Mr. Allen said that legislators have a passion for education and want to be up-to-date in terms of funding for education. He said the Legislature created the Committee to Study a New Method for Funding Public Schools, and the Committee would meet and be presented with information about education within the state. The Committee would then look for an outside view, which was an almost fatal error in judgment. He said the question of equity always returned to the issue of funding. He expected the report to conclude that the state did not adequately fund education, even to the point of perhaps violating the constitution. He said that report would be presented to the full legislature, which would not pass any recommendations, political realities being what they are.

Mr. Allen said at that point people with a real passion for education, who do not like the Legislative Branch of government, would go to court and find a friendly judge to decide that the state was not living up to its responsibilities, and take control of education funding in the state.

Mr. Allen predicted that decision would be appealed in the Nevada Supreme Court, which was also quite hungry to grab the power of the purse away from the Legislature. The Supreme Court would rule that the state was not funding education properly, and seize the power of the purse from the Legislature. He said this was not a “Nostradamus” type prediction. He noted that Washington State recently lost its legislative power of the purse, as well as New Jersey, Kansas, Texas and several other states.

Mr. Allen said Agenda Item E, which proposes to contract with an outside consultant for a study will provide those that do not like the Legislature with the necessary ammunition to take the power of the purse away from the Legislature. He said the Committee cannot let that happen. He said there was more than enough talent to perform such a study within Nevada. As an alternative, he suggested that the Brookings Institution and the Nevada Policy Research Institute testify before the Committee on the topic of school funding at the same meeting, and take questions from the Committee members.

Mr. Allen quoted from a newspaper article saying that according to the U.S. Department of Education, Nevada ranked 39th in funding, with \$10,377 in support per student in 2010. He noted that was not in agreement with the statement that Nevada ranked 50th with about \$6,000 in support per student. He did not know how the federal government could rank the state 39th, while others in the state ranked Nevada 50th. Mr. Allen said these questions have to be answered by people in Nevada. He urged the Committee

not to encourage those whose ultimate goal and objective was to get the courts to say “you will do what we tell you to do” when it comes to financing education.

Mr. Allen said the power of the purse was with the Legislature. The only check on the Legislature's authority to decide what is equitable and adequate in Nevada was the Executive Branch veto, which could be overridden. If the Legislature loses that authority, as has happened in other states, the system of government would not be what it is supposed to be.

C. APPROVAL OF MINUTES OF THE JANUARY 24, 2012, MEETING.

SENATOR DENIS MOVED TO APPROVE THE MINUTES OF THE JANUARY 24, 2012, MEETING OF THE COMMITTEE TO STUDY A NEW METHOD FOR FUNDING PUBLIC SCHOOLS. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN DONDERO LOOP.

THE MOTION CARRIED UNANIMOUSLY.

D. REPORT FROM CLARK COUNTY SCHOOL DISTRICT REGARDING FINDING OBTAINED TO CONDUCT THE STUDY.

Joyce Haldeman, Associate Superintendent, Clark County School District, expressed her appreciation to the Chairman and the Committee members for allowing the district extra time to raise funding for the study. She said it was a good exercise because it showed that many people across the state felt this was an important issue. She said the Clark County School District was successful in raising \$125,000 for the study, and the check has been transmitted to the Legislative Counsel Bureau. The funds were raised from a variety of sources, including private individuals, and two corporations in Northern and Southern Nevada.

Ms. Haldeman noted that in the process of raising the funding, she had conversations with many people, one of whom was Bob Dolezal, the Superintendent of the White Pine County School District, one of the smaller school districts in the rural area. Mr. Dolezal told her that he hoped the study would include a method to calculate the impact of small schools in remote areas. He told Ms. Haldeman that two communities within his district had very small school populations, and were 50 miles or more away from other centers of learning.

E. DISCUSSION REGARDING A CONSULTANT TO ASSIST THE COMMITTEE IN CONDUCTING THE STUDY:

1. REVIEW AND APPROVE DRAFT REQUEST FOR PROPOSALS FOR A CONSULTANT.

Julie Waller, Senior Program Analyst, Fiscal Analysis Division, referred to page 39 of the meeting packet ([Exhibit A](#)) to a draft copy of the Request for Proposals (RFP). She described the changes to the draft since the February 24, 2012, meeting. Referring to

page 45 of the meeting packet, Ms. Waller said based on the discussion from the January 24, 2012, meeting, the Scope of Work which identifies the populations to be included in the study has been narrowed from the eight originally listed in S.B. 11 to pupils with disabilities, English Language Learners (ELL), and pupils who are at-risk. She noted the use of the terms “poverty” and “at-risk.” She asked for guidance from the Committee as to what that terminology should encompass. She said that pupils in poverty could be identified by the free and reduced-price lunch metric, or by a broader metric that included both test scores and free and reduced-price lunch.

Ms. Waller said the dates in the RFP have changed, but the Scope of Work items 2 and 3 have basically not changed. She said based on Ms. Haldeman’s comments, the Committee may decide to include a component to study the impact of small schools in remote areas. She asked the Committee to approve of the modifications that had been made to the RFP, and she would incorporate any further changes requested by the Committee. She expected the RFP to be posted by March 7, 2012.

Chairman Conklin believed that the characteristics of pupils with disabilities and ELL were easy to identify. He said the Committee may choose to use as a measurement of at-risk pupils only those pupils who qualify for free or reduced-price meals, or ask the consultant to consider metrics used by other states.

Senator Brower thought that the study should be performed in a comprehensive way, and the consultant should be instructed to consider all of the various factors that other districts around the county consider. He noted that the results and recommendations of the study were not yet known. He had heard some suggest that the Washoe County School District would come out ahead if the system was changed, and others disagreed. He said the consultant would be well instructed to look at the criteria used by other school districts, so that the Committee would have sense of which criteria made sense, and which did not.

Senator Brower addressed a question to Ms. Haldeman as to how much money was raised for the study. In addition, he asked for a list of the donors, which he said should be part of the public record. Chairman Conklin said the Legislative Counsel Bureau received a check for \$125,000 for the study, which was the minimum amount agreed upon at the January 24, 2012, meeting. He noted that amount would narrow the scope of the study.

Ms. Haldeman said she would make the list available to the Committee members. She said some contributors did not want to be identified, but she explained to them that it was a matter of public record.

Senator Brower said, unless Legislative Counsel advised otherwise, he thought it would be a matter of public record. He said it was important that the Committee and those who might be evaluating the study later on know exactly how it was funded.

Chairman Conklin asked Senator Brower his opinion on the RFP language identifying at-risk pupils in the Scope of Work section under item 1.3. (page 45, [Exhibit A](#)). Chairman Conklin said the language in the RFP was fairly broad in that at-risk pupils were defined by certain metrics such as, but not limited to, test scores or students eligible to receive free or reduced-price meals. Chairman Conklin said the two metrics were the most commonly used to define at-risk students, and the second metric was currently used in the Nevada school districts. In addition, the consultant would not be limited to those two metrics if there was a better method to identify at-risk pupils.

Senator Brower agreed, and added that the consultant would be an expert in the field, and the Committee should rely on that consultant to use the best practices.

Chairman Conklin asked the Committee members if they wanted to amend the list of individual student needs and characteristics in the RFP in any way (page 45, [Exhibit A](#)). He noted that Ms. Haldeman reported a request that the study include a method to calculate the impact on funding of small schools in remote areas. He said the Committee may want to add that criteria, or it can be assumed to be included under item 1.4. if the consultant believes it is something that should be considered in the study. There being no comments from the Committee members, Chairman Conklin asked that the record reflect that was a concern, and the if the consultant deemed the issue to have a significant impact, it would be considered to be included under item 1.4.

Ms. Waller, referring to the Scope of Work, said item 1 on page 45 ([Exhibit A](#)) indicates that the consultant is requested to provide inventories of states that address individual student needs and characteristics. The consultant shall provide the Committee with a list that incorporates the following specific populations: pupils with disabilities, ELL, and pupils who are at-risk as defined by various metrics. She said item 2 would be an analysis of the methods used in selected comparable states for addressing individual students needs and characteristics. She said the consultant will be asked to select five states most comparable to Nevada in terms of demographics and the existence of urban and rural regions to provide an analysis of the methods that these public schools use to provide targeted funding for these individual student needs and characteristics.

Ms. Waller said item 2.B. (page 46, [Exhibit A](#)) requires the consultant to identify the best practices in comparable states, define a standard based on those best practices, and make recommendations to Nevada. Item 3 requires the consultant to show the fiscal impact for each school district in the state, as well as the state as a whole, for any of the recommendations or modifications to incorporate weighted funding or additional categorical funding to provide targeted funding for individual student needs and characteristics.

Ms. Waller said item 4 (page 46, [Exhibit A](#)) requests that the consultant attend two meetings of the Committee to Study a New Method for Funding Public Schools to present a preliminary report of the findings and recommendations, and to present the final report.

Ms. Waller said the tentative plan was to incorporate any changes requested by the Committee to the draft RFP, and post the document on the Legislative Counsel Bureau website by March 7, 2012. The potential consultant's responses to the RFP would be due by April 6, 2012 (page 59, [Exhibit A](#)). She noted that the timeline was not final, and was open to discussion and changes by the Committee members.

Chairman Conklin asked if there were any suggested amendments to the RFP. He said the timeline would be discussed in detail under Agenda Item F, but it can be discussed under this agenda item as it relates to the RFP.

Assemblyman Hansen suggested the addition of the following language to the Scope of Work of the RFP: "the needs and challenges of smaller school districts and districts with small schools." He said this would not simply identify the individual students, but also included the smaller counties, which have unique funding issues due to their size.

Chairman Conklin recalled that language was included in the original version of the RFP. He noted that specific language was requested by the White Pine County School District, and asked if Mr. Hansen wanted to change that suggested language. Mr. Hansen suggested that be left up to staff.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, felt that if the issue brought up by the White Pine County School District was going to be addressed by the consultant, it should be spelled out in the RFP, rather than assuming it would be included under the individual needs and characteristics. He said staff could either use the language in the draft presented at the January 24, 2012, meeting, or the language from Ms. Haldeman that the consultant would consider issues related to small schools within a rural area of the state, or a rural school district.

Chairman Conklin preferred the language, "impact on small schools in remote areas," because it was fairly well-defined. He did not want for the language to be broad and open-ended, because that would diminish the value of the study. He suggested that be inserted as item 4, and the previous item 4 would become item 5. Mr. Hansen agreed.

There were no additional changes from the Committee members. Chairman Conklin asked for a motion to approve the RFP with the proposed changes from Assemblyman Hansen that item 4 be inserted to require the inclusion of the impact of small schools in remote areas. He asked the Committee members to include in the motion that the chairman had the authority to approve the final RFP with the changes that have been agreed upon, and only those changes, so that staff can post the RFP when it has been redrafted.

Senator Brower noted that on page 46 of the meeting packet ([Exhibit A](#)) under item 3.A., the consultant was required to show the fiscal impact to each school district in the state for each written recommendation. He thought that requirement was critical. On another topic, he asked whether this sort of private funding mechanism had been used in the past. He did not want for the Committee to move forward with a funding

mechanism that was not allowed under statute. He asked Legislative Counsel about the legality of the funding for the study.

Kristin Roberts, Senior Principal Deputy Legislative Counsel, asked for clarification of the question. Senator Brower explained that the idea of using privately raised funds for a study by an interim legislative committee seemed to be unique. He asked if it had been done before, and whether it was authorized in *Nevada Revised Statutes*.

Eileen O'Grady, Chief Deputy Legislative Counsel, explained that S.B. 11 specifically states that the Committee can carry out its duties only to the extent that money is available to do so from sources including gifts, grants and donations. She said that S.B. 11 specifically authorizes the funding.

Senator Brower asked if there was anything in *Nevada Revised Statutes* that allowed this type of funding, or whether the funding method was allowed by S.B. 11. Ms. O'Grady said that S.B. 11 was the specific source authorizing the funding. She was not aware that privately raised funds have been used for an interim study in the past.

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, said he was not aware of any recent studies that were funded with private donations, or any bills that provided for that. He recalled there was another bill passed during the 2011 Legislative Session that provided an appropriation for a study of the Public Employees' Retirement System (PERS). That bill provides for the appropriation to be used if it was matched with funding from other sources.

Senator Brower said his questions have been answered by staff.

Chairman Conklin said he has not seen an interim study funded by privately raised donations, but he has seen legislation for Executive Branch agencies allowing them to accept gifts and donations as part of their revenue stream to fulfill their missions. It is not uncommon to accept gifts and donations, but it is new to the Legislature to accept funds in the course of performing its business.

Chairman Conklin asked for a motion to approve the RFP with the proposed changes from Assemblyman Hansen to require the impact of small schools in remote areas be included under Scope of Work. He asked for the authority as chairman to approve the final RFP with the changes that have been agreed upon.

SENATOR DENIS MOVED TO APPROVE THE DRAFT RFP WITH THE PROPOSED CHANGES, AND TO ALLOW CHAIRMAN CONKLIN TO APPROVE THE FINAL RFP. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN DONDERO LOOP.

THE MOTION CARRIED UNANIMOUSLY

2. PROCESS FOR SELECTION OF A CONSULTANT.

Julie Waller, Senior Program Analyst, Fiscal Analysis Division, said it is envisioned that the RFP will be posted on the Legislative Counsel Bureau's website and the State Purchasing Division's website, and mailed to a targeted list of known consultants that have worked on K-12 education funding studies. That RFP will be posted for 30 days, at which time responses to the RFP will be due from the potential consultants. The tentative timeline is for the RFP responses to be due on April 6, 2012. Depending on the number of responses, staff will gather a team of evaluators to review those responses. The evaluation team will comprise several members of the staff of the LCB Fiscal Analysis Division, the LCB Research Division, and a staff member from the Nevada Department of Education and/or the Budget Division. The evaluation team will review the responses to the RFP to ensure that the responses meet the conditions and are responsive to the request. All responses will be provided to the members of the Committee. The RFP permits the responses to be submitted either electronically or on paper. Once the evaluation team has reviewed the responses and determined the number of qualified potential consultants, Chairman Conklin would determine how many vendors would be asked to present at the following meeting, at which time the Committee would select the consultant to assist in the study.

Ms. Waller said the proposed timeline was on page 59 of the meeting packet ([Exhibit A](#)). It is anticipated that the RFP will be released on March 7, 2012, with responses due on April 6, 2012. During that interval, the evaluation team will meet as necessary depending on the number of responses to make sure the responses qualify, rank the consultants and provide the responses to the Committee members. She said the potential consultants will be available to answer questions at the third meeting of the Committee. Staff would seek to have a contract in place with the selected vendor by April 27, 2012, depending on the date that the final selection is made.

Ms. Waller noted that the proposed timeline was very tightly scheduled. The process was starting later in the interim, and the proposed timeline allowed the vendor approximately 9 weeks to conduct the study, make recommendations and provide the preliminary report by August 1, 2012. The Committee would meet in early August to discuss the preliminary report, at which time the vendor would be present to answer any questions from the Committee members. The vendor would then finalize the report, and provide that report to the Committee several weeks later at which time the Committee would determine whether it wished to submit any bill draft requests to the 2013 Legislative Session.

There were no questions from the Committee members.

F. DISCUSSION OF TIMELINE FOR CONDUCTING THE STUDY.

Chairman Conklin said that the timeline was presented thoroughly under Agenda Item E. He was concerned that the Committee was very small, with only six members, and there were still three remaining meeting dates to be scheduled. It was very

important that as many Committee members attend the three remaining meetings as possible. The proposed meeting dates are Friday, April 20, 2012; Thursday, August 9, 2012; and Tuesday, August 28, 2012. He noted the meeting dates were tentative, but he asked the Committee members add those dates to their calendars and let Fiscal Analysis Division staff know if there is a conflict with any of the dates. It would be possible to move the meeting dates by one or two days, but because of the tight timeline, it would be difficult to move the meeting dates any further.

G. PUBLIC COMMENT

Mr. Knight Allen said he thought it was interesting to watch the Committee take the same steps that have been taken by other Legislatures before. He said that when the process was complete, ultimately, the process itself would provide ammunition for people to go to the Judiciary, which happily chooses to ignore its constitutional restrictions, and would take the power of the purse away from the Legislature. He said he may be one of the few private citizens in the state with a passion and a love for the Legislature. He said the Committee has taken a fatal step with its decision to move forward with the study. He knows that the Committee members do not believe him, and that the machinery would move forward like a “John Deere through a wheat field.” He predicted that the Legislature would be taken to court, which would result in the Legislature being told what to do by a branch of government that has no business telling it anything. He said the process would take four or five years – it would not happen tomorrow, but it would happen. He thanked the Committee for allowing him to speak twice.

Chairman Conklin said he appreciated Mr. Allen’s vigilance, and the fact that citizens were willing to take the time to share their concerns and participate in the process.

Senator Brower also thanked Mr. Allen for his willingness to testify and his eloquence on this topic. He commented that the Committee members were very mindful of the separation of powers and zealously defend the independence of the Legislature. He appreciated Mr. Allen’s position, but he believed the legislators understood the independence of the Legislature, and the separation from other branches. He noted that the Committee was only contracting for a study. He said even without a study, anyone who thought the Nevada Plan was unconstitutional, and wanted to file a lawsuit, could certainly do that. He disagreed that the mere study of the issue by the Committee would give rise to litigation. He said Mr. Allen’s points were very well taken with respect to the Legislature needing to be very vigilant about how it exercises its power as given by the people, separate from and independent from the other branches.

H. ADJOURNMENT

The meeting was adjourned at 10:06 a.m.

Respectfully submitted,

Becky Lowe, Secretary

APPROVED:

Assemblyman Marcus Conklin, Chairman

Date:_____