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Education Interim Committee

65th Montana Legislature

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TO: Education Interim Committee
FROM: Pad McCracken, Committee Staff
RE: Moving towards wrapping up the interim
DATE: March 20, 2018

As you can see from the attached work plan outline, we are planning on two more committee meetings this interim, one in June and the final meeting in August. You can also see that we have been planning to have “preliminary discussions of any findings and recommendations, committee reports, and bill drafts” at our March meeting. This memo is intended to help facilitate that process.

Interim Requirements and Options

Each interim committee has the duty under [5-5-215, MCA](#), to:

- accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work; and
- prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.

These duties do not require the committee to prepare draft legislation or a final report. The information the committee has gathered over the course of the interim is already compiled and readily available through the committee’s website and through paper files and audio minutes that the branch will maintain before delivering to the Montana Historical Society.

It is up to you to determine the necessity of committee bill drafts and whether your explorations this interim warrant a formal report with your findings and recommendations, a staff summary of the interim, or no report at all. A realistic timeline requires that you begin making those determinations at this March meeting.

Our assigned interim study under HJ 1 has slightly different requirements that do require some sort of report to the 66th Legislature with “the final results of the study, including any findings, conclusions, comments, or recommendations.” This may include include committee bill drafts as you determine necessary.

Findings and Recommendations—Guiding Questions and Examples

While it might be helpful to consider the committee’s general work separately from HJ 1, similar questions may help guide you as you consider the committee’s “final product”:

1. Has the committee’s exploration of the topic led to clearly agreed-upon findings? If so, how would you articulate those findings? You might think about these as findings of fact, or perhaps as areas of concern or problems that need solving.
2. Do those findings lead to clearly agreed-upon recommendations? If there are concerns or problems, does the solution require legislation or can it take some other form? (Reminder—at its initial meeting the committee decided to require 2/3 support for any committee-requested legislation.)
3. If the committee’s recommendations all take the form of legislation, does the committee prefer to articulate its findings and provide supporting documentation in a formal report or could a preamble to the legislation suffice?

Here are some examples of findings and recommendations that include bill drafts and nonlegislative recommendations from the 2015-2016 School Funding Interim Commission:

Commission Findings on Special Education and Special Needs

1. Special education cooperatives are struggling to cover costs in providing basic services and state support has been flat.
2. Flat state support for special education has led to greater local share of special education expenditures.
3. Needs and costs for special education are increasing and changing.
4. Gifted and talented programs are locally determined by school districts.
5. Gifted and talented education has not been an educational priority (ex. lack of teacher training, inconsistent or no identification of students, variability of programs if they exist at all).

Commission Recommendations on Special Education and Special Needs

1. LCs SE01, SE02, and SE03—options for increasing the state special education payment
2. LC TBD—increase the appropriation for grants for gifted and talented programs by \$1.25 million in each year of the 2019 biennium
3. LC SNSY—requesting study of costs of special needs and exploration of different special needs funding mechanisms
4. OPI, BPE, and teacher preparation programs should ensure that prospective and practicing teachers are able to identify and serve gifted and talented students

Committee “Clean-up Bills”

There are several statutory issues that have been identified as requiring/benefiting from some legislative clean-up. Staff can provide more information/explanation as the committee desires and can, at your direction, prepare bill drafts for review and public comment at your June meeting.

1. [SB 307](#) (Llew Jones, 2017). The calculation of school major maintenance aid in support of the new permissive local levy for school major maintenance in the bill contains errors and needs to be fixed in [20-9-525, MCA](#). Because there has been no appropriation for school major maintenance aid, this has not been a problem, but making this correction early in the 2019 Session (and appropriating sufficient funds for the aid) will allow OPI to provide accurate information to local trustees as they plan for 2020 budgets.
2. [15-36-332, MCA](#). There is a temporary version of this statute that makes reference to [20-9-310, MCA](#), which prior to 2013 had been scheduled to terminate. Because 20-9-310, MCA, will no longer terminate, the temporary section of 15-36-332, MCA, should be made permanent. Staff prepared a [brief](#) on recent changes to the distribution of oil and natural gas production taxes and school funding that provides more information on this issue. The brief also mentions the existence of several special revenue accounts related to changes to oil and natural gas production tax distributions that are no longer in use and could be repealed.
3. Special Education Joint Boards. [20-7-457, MCA](#), and [20-9-321, MCA](#), both include references to a “joint board for special education services formed under 20-3-361 prior to July 1, 1992.” No such joint boards exist and this language could be removed.
4. [HB 390](#) (Don Jones, 2017) and the return of local tax dollars following an overestimated ANB increase. Districts that estimate an increase in ANB that does not materialize are required to refund state funding that results from the overestimate, and now under HB 390, the local taxes as well. HB 390 requires that the “overpaid” local taxes be returned to both the BASE and overBASE budget areas in the ensuing year. Applying this money to the BASE reduces state GTB aid for eligible districts and results in not fully refunding local property taxes. Addressing this issue will require amending statutes related to how the overpayment is refunded or providing trustees with more flexibility regarding how to return the overpaid local taxes.
5. Pupil Definition. Both [20-1-101, MCA](#), and [20-5-101, MCA](#), indicate that to be considered a pupil a child must be 6 years old by Sept 10 of a given school year or enrolled by special permission of trustees under 20-5-101(3). Does this mean that all 5-year-old kindergarteners should be enrolled by special permission? This confuses [20-7-117, MCA](#), which requires a district to make at least half-day kindergarten available to all 5-year-olds in the district.