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LEGISLATIVE FINANCE COMMITTEE EDUCATION SUBCOMMITTEE
67th Montana Legislature

SENATE MEMBERS

Janet Ellis
Edith (Edie) McClafferty
Daniel Salomon

HOUSE MEMBERS

David Bedey
Moffie Funk
Bruce Grubbs
Bradley Hamlett
Llew Jones

COMMITTEE STAFF

Karen Gilbert - Secretary
Kris Wilkinson - Fiscal Analyst

LFC Education Subcommittee
MINUTES LOG

December 16, 2019
9:01 AM

State Capitol Room 102

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ROLL CALL

Members Present:

Rep. David Bedey, Chair (R)
Sen. Edith (Edie) McClafferty, Vice Chair (D)
Sen. Janet Ellis (D)
Rep. Moffie Funk (D)
Rep. Bruce Grubbs (R)
Rep. Bradley Hamlett (D)

Rep. Llew Jones (R)
Sen. Daniel Salomon (R)

Staff Present:

Karen Gilbert, Secretary
Kris Wilkinson, Lead Fiscal Analyst

Call to Order, roll call

09:01:26 Rep. Bedey called the meeting to order and the secretary called the roll.

Approval of September 2019 minutes

09:02:01 Rep. Jones moved the minutes be approved, Sen. McClafferty seconded the motion.

Vote:

09:02:01 Carried unanimously by voice vote.

09:02:24 Rep. Bedey discussed upcoming issues.

HB 657 - Community College Funding

09:03:24 Rep. Bedey invited Katie Guenther, Legislative Fiscal Division analyst, to present on the Community College Funding formula.

09:04:26 Ms. Guenther gave her presentation. ([Exhibit 1](#))

09:08:36 Sen. McClafferty asked about 2017.

09:09:01 Ms. Guenther responded.

09:10:05 Ms. Guenther continued her presentation.

09:28:57 Rep. Jones presented a summary about the formula change since he served on the committee that made the change.

09:35:56 Sen. Ellis asked Ms. Guenther what WUE meant.

09:36:16 Ms. Guenther said Western Undergraduate Exchange.

09:36:33 Sen. Ellis asked about local support for community colleges.

09:37:19 Rep. Jones responded.

09:38:31 Rep. Hamlett asked about state percent share.

09:39:17 Rep. Jones responded.

09:40:02 Rep. Bedey discussed funding per FTE.

09:42:03 Rep. Grubbs said the Education Interim Committee visited Gallatin College in the fall and heard from students who weren't full time students but getting courses for their jobs.

- 09:42:44 Rep. Jones discussed how they might consider the formula moving forward.
- 09:45:25 Rep. Bedey said the topic would continue to be significant moving forward.

HB 657 - Career & Technical Education

- 09:47:00 Rep. Bedey invited Pad McCracken from Legislative Services to present.
- 09:47:52 Mr. McCracken began his presentation. ([Exhibit 2](#))
- 10:07:06 Sen. Salomon asked about CTE at flagships.
- 10:07:34 Mr. McCracken responded.
- 10:08:45 Rep. Funk asked about tracking non-credit training.
- 10:09:08 Mr. McCracken said he'd refer the question to someone else.
- 10:09:27 Tyler Trevor, deputy commissioner, Office of the Commissioner of Higher Education, responded.
- 10:10:22 Rep. Bedey asked about Mr. McCracken's presentation.
- 10:11:26 Mr. McCracken responded.
- 10:11:33 Rep. Bedey asked about distribution of CTE opportunities across the state.
- 10:11:58 Mr. McCracken said that had been done and was presented to the MUS 2-year commission.
- 10:12:13 Rep. Bedey said taking work already done and cross referencing existing programs into NTCS taxonomy is valuable.

HB 657 - Career & Technical Education

- 10:12:55 Mr. Trevor gave his presentation. (Exhibit 3)
- 10:25:26 Rep. Jones asked about state costs per share.
- 10:25:51 Mr. Trevor responded.
- 10:26:55 Rep. Bedey commented on revenue for community colleges.
- 10:28:25 Mr. Trevor responded.
- 10:28:54 Rep. Bedey asked about revenues balanced against expenses.
- 10:29:22 Mr. Trevor responded.
- 10:30:41 Rep. Bedey said the matter of expense being people-driven remains.
- 10:31:49 Rep. Jones asked about expenses related to mixed-vocational.
- 10:32:51 Mr. Trevor responded.
- 10:33:05 Rep. Jones continued.
- 10:33:24 Mr. Trevor said the data is not available for analysis at the level they are discussing.

10:35:25 Rep. Hamlett asked about entities coming into Montana offering free continuing technical education (CTE) courses.

10:35:51 Mr. Trevor said zero.

10:36:01 Rep. Hamlett said an organization he was appointed to discussed at their winter meeting companies offering CTE courses at the embedded college in Bozeman & Missoula and would like to do more.

10:38:30 Mr. Trevor presented shared policy goals.

10:44:30 Rep. Funk asked about overlap with the OCHE portal and Department of Labor and Industry.

10:45:06 Mr. Trevor responded.

10:45:44 Sen. Salomon asked about financial aid and if it's linked to counselors and students.

10:46:46 Mr. Trevor responded.

10:47:42 Rep. Jones commented on the third MOU with the regents, and said they've had an outstanding working relationship.

10:48:20 Rep. Hamlett said he is concerned that the portal is focused on going to college and the career after, he said the wording should reflect career-technical training.

10:49:08 Rep. Bedey said he shared the concern.

Break

10:49:19 The committee took a brief recess.

11:00:48 The meeting reconvened.

HB 633 - Montana State Library

11:01:24 Jennie Stapp, state librarian, Montana State Library, gave her presentation.

11:02:30 Rep. Bedey said he had meant to let President Karas have public comment.

Public Comment

11:02:59 Jane Karas, Flathead Valley Community College president

11:04:17 Ms. Stapp resumed her presentation.

11:18:04 Sen. Ellis asked about the proposed budget.

11:18:17 Ms. Stapp responded.

11:18:25 Sen. McClafferty asked about the real time network and LIDAR programs.

11:18:53 Ms. Stapp responded.

11:19:36 Sen. McClafferty asked if the computer system needed an up grade.

11:19:50 Ms. Stapp responded.

11:20:37 Rep. Hamlett said LIDAR is of great value to the state and it is useful for monitoring forests, he said with drone technology the costs should come down.

11:24:51 Sen. Ellis asked for an acronym guide for funding sources.

11:25:18 Ms. Stapp responded.

11:27:00 Rep. Bedey said he was concerned current funding was through the Natural Resource Information System. He asked if it was correct to state that funding for that program is inadequate?

11:27:57 Ms. Stapp said that was largely accurate for that system.

11:28:54 Rep. Bedey said many dollars are in the Digital Library Services category, it seemed the primary focus is what are the funding sources that represent the stakeholders.

11:30:28 Rep. Jones asked about funding and use.

11:32:26 Ms. Stapp responded.

11:34:00 Rep. Jones said it was easier for him to look at what is politically feasible and link funding to usage.

11:37:05 Ms. Stapp responded.

11:40:25 Sen. Ellis asked about DSL funding.

11:41:24 Ms. Stapp said she would work with staff on requests by the committee.

11:41:38 Rep. Funk asked about fees.

11:43:01 Rep. Hamlett said when the law was put in on pass-through funding, the agencies that use it the most have changed.

11:45:31 Rep. Bedey said he agreed and said if they are going to make progress in this area they will need to look at the librarian's budget and identify revenue sources.

11:47:47 Sen. Ellis asked about the Montana, Fish, Wildlife & Parks game animal piece and how much the parallel system is integrated.

11:49:10 Ms. Stapp responded about a long standing MOU with FWP.

11:51:20 Rep. Bedey said the expectation for the March meeting is an identification of revenue sources for the programs identified and have some proposed legislation. He said they need to figure out some way to mandate use of library services unless a case can be made.

Lunch recess

12:01:16 The committee recessed for lunch.

13:00:57 The committee reconvened.

Public Comment

13:01:16 Superintendent Elsie Arntzen, Office of Public Instruction

13:02:52 Nanette Gilbertson, Montana Library Association

HB 657 - Special Education

13:04:15 Laura Sankey Keip, Legislative Services Division attorney, presented state statutes related to special education in Montana. ([Exhibit 4](#))

13:21:23 Mr. McCracken presented his memo. ([Exhibit 5](#))

13:31:22 Rep. Jones asked about the relationship between FTE and ANB.

13:31:45 Mr. McCracken responded.

13:32:18 Rep. Jones asked about mileage payments.

13:32:32 Mr. McCracken responded.

13:32:37 Rep. Jones asked about specific examples regarding contractor's travel. Mr. McCracken responded.

13:34:54 Rep. Jones asked about mileage vs. personnel.

13:36:38 Rep. Bedey said coordinating travel payments is not possible with this new formula.

13:38:43 Kris Wilkinson, Fiscal Division analyst, presented her report. ([Exhibit 6](#))

13:49:46 Rep. Bedey asked about revenues.

13:50:30 Ms. Wilkinson responded.

13:50:56 Rep. Bedey said the participating districts may have ANB dropoffs.

13:51:31 Paul Taylor, Office of Public Instruction, responded.

13:52:05 Ms. Wilkinson continued her presentation.

14:00:04 Sen. McClafferty asked about the Bitterroot Valley Mental Health Center.

14:00:21 Ms. Wilkinson responded.

14:00:47 Ms. Wilkinson continued her presentation.

14:01:15 Rep. Bedey asked about services for significant needs students.

14:01:48 Ms. Wilkinson responded.

14:03:02 Ms. Wilkinson continued her presentation.

14:14:11 Rep. Jones asked about the identification rate for those outside coops.

14:14:41 Ms. Wilkinson responded.

14:14:47 Rep. Jones asked about the national special identification rate.

14:15:20 Ms. Wilkinson said identification is guided by federal requirements.

14:15:37 Rep. Jones asked about states with comparable demographics.

14:15:45 Rep. Bedey said he looked into that question as well and nationally it's about 13 percent. He said in Montana it is approximately that number and across the states, interpretations vary.

14:19:02 Rep. Hamlett asked how many kids get into special education because of inadequate preparation for school.

14:19:32 Rep. Bedey deferred the question to Mr. Taylor.

14:19:53 Mr. Taylor said he was a finance guy and couldn't speculate.

14:21:09 Rep. Grubbs said there are experts from OPI in the room that could answer the question.

14:21:47 Dick Trerise, assistant state director for special education, said eligibility is a two-part test.

14:22:54 Rep. Jones commented on pre-K.

14:23:39 Ms. Wilkinson discussed a memo regarding special education co-ops. ([Exhibit 7](#))

14:28:04 Rep. Bedey said it appeared the co-op operating agreements don't detail conditions to transfer funds between co-op and districts.

14:28:31 Ms. Wilkinson responded.

14:28:45 Rep. Bedey said the other districts are the participating districts in the co-op.

14:29:14 Mr. Taylor deferred to co-ops.

14:29:28 Rep. Bedey said he made the assumption it was districts within the co-op. They can verify.

14:30:05 Rep. Bedey suggested a break now, recess until 2:45.

Break

14:30:28 The committee took a brief recess.

14:47:24 The committee reconvened.

14:47:33 Panel discussion on the benefits and challenges of funding cooperatives: Shelly Dempsey, Prickly Pear Cooperative; Sara Novak, Great Divide Cooperative; Michelle Halberg, Gallatin-Madison Cooperative; Tim Miller, Bitterroot Valley Cooperative; Jenny Malloy, Park County Cooperative

14:49:20 Ms. Halberg gave her presentation.

15:09:53 Mr. Miller gave his presentation. ([Exhibit 8](#))

15:25:34 Ms. Novak gave her presentation.

15:32:40 Ms. Dempsey gave her presentation.

15:34:27 Rep. Grubbs asked about funding.

15:35:20 Ms. Halberg responded.

15:39:51 Rep. Grubbs said when he served on the school board in Bozeman they had to take care of the special education services, he said it was a different relationship with a co-op.

15:40:26 Ms. Novak responded.

15:42:39 Ms. Halberg responded.

15:43:54 Rep. Jones discussed state share.

15:48:47 Ms. Novak responded.

15:49:06 Mr. Miller responded.

15:50:01 Rep. Jones asked about services.

15:50:16 Mr. Miller responded.

15:50:44 Rep. Bedey asked for clarification on assessing fees.

15:51:00 Ms. Halberg responded.

15:51:56 Rep. Bedey said districts should fund co-ops with general fund money, as non-co-op districts do.

15:54:04 Rep. Bedey asked about OPI significant needs program. He said he was sensing a problem with district funding for coops.

15:55:12 Ms. Halberg responded.

15:58:58 Ms. Malloy responded.

16:00:34 Rep. Hamlett said the co-ops keep communities from going bankrupt. He said they can't address this like they have with the Digital Academy.

16:01:47 Rep. Hamlett asked Ms. Halberg about travel costs.

16:02:10 Ms. Halberg responded.

16:02:23 Rep. Hamlett said travel time limits service time.

16:03:09 Rep. Hamlett asked staff to look into cost of compliance for these programs.

16:03:54 Rep. Bedey asked for clarification.

16:04:12 Ms. Wilkinson responded.

16:04:39 Rep. Jones requested additional data on special education funding and the average rate of increase of all coops from 2014-2018.

16:06:39 Rep. Bedey asked the panel if they were satisfied with the 60/40 administration/travel funding.

16:07:57 Mr. Miller said he would like to see an increase from 5 percent to 9 percent.

16:08:10 Rep. Bedey said that was not on the table and asked about the 5 percent.

16:08:24 Mr. Miller responded.

16:11:11 Rep. Hamlett asked the panel what is the percentage of students they are dealing with as a result of drugs and today's society.

16:11:41 Ms. Novak responded.

16:12:54 Rep. Hamlett asked if there was no meth, heroin, opioid problem, would there be less students in special ed?

16:13:10 Ms. Novak responded.

16:13:34 Rep. Bedey asked about co-ops not assessing fees, does that play into the district's eligibility?

16:14:43 Mr. Trerise responded.

16:16:12 Rep. Bedey asked about funds available for districts.

16:16:34 Mr. Trerise responded.

16:18:09 Rep. Bedey said they needed to do additional follow-up research on this topic.

16:19:51 Ms. Halberg responded.

16:21:43 Rep. Hamlett asked if they get their portion of the state gas tax back.

16:22:08 Ms. Novak responded.

Public Comment

16:22:36 Dennis Parman, Montana Rural Education Association
16:28:01 Rick Duncan, School Administrators of Montana

Discussion of Statutory Requirements included in 5-5-224, MCA

16:37:10 Mr. McCracken discussed his memo. ([Exhibit 9](#))

16:40:11 Rep. Bedey said some of the items are a manner of routine business during the appropriations process, but some were never performed. He said he would report out to the Legislative Finance Committee and recommended they seek to repeal it.

16:41:44 Rep. Funk asked if the Education Interim Committee would have to repeal it?

16:42:10 Mr. McCracken responded.

16:42:18 Rep. Bedey proposed a motion that the LFC favor repeal.

16:42:52 Sen. Salomon said there are a couple things that make sense in the memo, they just need to clean it up.

16:43:42 Rep. Bedey said for clarification, he's referring to the highlighted text.

16:44:36 Rep. Jones said the LFC got roped in due to the education finance section of the code.

16:45:16 Rep. Jones moved and Salomon seconded Rep. Bedey's motion.

Vote:

16:46:06 The motion carried unanimously by voice vote.
16:46:21 Rep. Hamlett said legislature needs to make sure it sticks up for itself.

Directions to Staff

16:46:48 Rep. Bedey discussed the possibility of a 2-hour meeting of the subcommittee during Legislative Week in January to continue special education discussion. (Exhibit 10)

16:49:04 Rep. Grubb said they need to address start-up costs vs ongoing.

16:49:43 Ms. Wilkinson asked about clarification regarding HB 633.

16:50:09 Rep. Bedey said let's say we'd like to see legislation.

16:50:48 Ms. Wilkinson asked about direction regarding funding for community colleges

16:51:07 Rep. Bedey said Rep. Jones was the point person. He said they are looking for a funding formula that preserves FTE and looks for another metric to drive CTE.

16:51:55 Sen. Ellis asked about the role of individuals drafting items.

16:52:28 Rep. Bedey said please keep interested individuals apprised.

16:52:43 Rep. Jones said it won't be the final formula, but they have to have something to talk away from.

16:53:59 Rep. Bedey said that is why he wanted committee members involved with staff and discussed questions the subcommittee needs to focus on.

16:56:13 Rep. Hamlett said he thought about school trust lands and taking a percentage to fund special education.

16:57:22 Rep. Jones said the school trust lands are funded through general fund and that would change nothing.

16:59:23 Rep. Hamlett said they could put some of the money in a state special account and if they needed an emergency appropriation for special education they could access it. He said they will see an increase in school trust lands over time and could look at using strictly the increase.

17:00:06 Rep. Jones said he wouldn't support that, he said he would rather give schools freedom to use the school trust lands for whatever they wanted.

17:00:27 Rep. Hamlett said school trust lands weren't distributed equally and they need to find some way to have designated funding.

17:00:53 Rep. Bedey asked that they address that in January.

17:01:07 Rep. Bedey asked staff to do a reasonable catch-up calculation and what if there was an adjustment for ANB growth. He said the numbers may not be politically palatable.

17:02:04 Rep. Funk suggested one of the first places they start is to check the formula for equity. She said special education was left out inadvertently.

17:02:43 Rep. Bedey said he is proposing looking forward at inflation.

17:03:07 Rep. Jones said he left special education out of the bill on purpose because he wasn't comfortable with the argument and wanted a discussion of maintenance of effort.

17:03:57 Rep. Bedey said it would be reasonable to expect inflation to have an effect.

17:04:39 Ms. Wilkinson clarified the staff request.

17:05:09 Rep. Bedey asked if they should adjust for inflation or student population changes? He discussed options.

17:06:44 Rep. Funk said it might be good leverage for some people but it's terrible for the special education people to be wondering and waiting.

17:07:24 Rep. Bedey said it was important to see the numbers. He went through additional discussion items and said he was wary of moving to a different formula.

17:12:23 Sen. Salomon said little districts don't have the ability to hire and pay full time salaries, that is why they are in a co-op. For larger districts, that might not be cost effective, he asked how they can make an incentive for larger districts to want to stay in a co-op.

17:14:14 Rep. Jones said he has found that little schools can afford to do what they want to do and can't afford what they don't want to do. He said he was interested in discussing incentives.

17:16:06 Ms. Wilkinson said she understood Rep. Jones' request.

17:16:32 Rep. Funk said the services are required by law.

17:16:43 Rep. Jones said he wasn't challenging that the services were required. He said he was trying to figure out how to incentivize local districts to put up a portion for a match.

17:18:18 Rep. Bedey said the co-op issue remains unresolved. He asked about SB 191 tuition levy.

17:21:27 Sen. Salomon asked if he was looking at a statewide reserve for special education?

17:22:25 Rep. Jones said SB 191 works well but they didn't consider building in a reserve. He said he wonders if you could use it to reimburse districts.

17:23:46 Rep. Hamlett said that was a good idea, they should look at it.

17:24:02 Rep. Bedey asked if staff and OPI understood the ask to craft a response.

17:24:21 Rep. Grubbs asked if it would work like anticipated enrollment increases.

17:24:37 Rep. Jones said they could design it to pay back or store funds in advance.

17:25:31 Rep. Funk asked if districts didn't use funds would they grow?

17:25:54 Rep. Jones said they could cap the reserves.

17:26:29 Mr. Taylor said they would have to research this more.

- 17:26:56 Rep. Jones said 191 could deal with an unexpected student, knowing they rarely see that in advance.
- 17:27:26 Mr. Taylor said most districts would have to tap into reserves or a different fund.
- 17:28:17 Ms. Wilkinson asked for clarification on staff work.
- 17:34:23 Rep. Bedey suggested the subcommittee meet for two days in March.

ADJOURNMENT

- 17:35:43 Rep. Bedey adjourned the meeting.

DRAFT