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TO: Senate Education Committee

FROM: Debra A. Silk, General Counsel
Montana School Boards Association

SENATE EDUCATION
EXHIBIT NO. 3
DATE 3-14-05
BILL NO. HB-681

RE: HB681

DATE: Monday, March 14, 2005

The Montana School Boards Association appreciates Representative Raser's introduction of HB681. MTSBA stands in strong support of HB681.

The existing statutory provisions on consolidation and annexation have created uncertainties and barriers to the consolidation and annexation processes. This bill addresses those issues by removing uncertainties, inconsistencies and barriers to consolidation. As noted in the Bill's introduction, the Public School Renewal Commission studied this issue at length and, in its report to the Education and Local Government Interim Committee, recommended that the consolidation statutes be clarified to eliminate the current barriers to voluntary consolidation. This is clearly an issue of local control to be decided by local school districts.

I am currently involved in assisting school districts through the consolidation process. It is difficult to provide legal assistance to those districts, when the law is void on some very basic issues regarding consolidation. As an example, the K-G School District and the Blue Sky School District have recently consolidated. Due to the lack of statutory guidance, the County Superintendent, Shirley Isbell, had to take matters into her own hands and come up with a consolidation order which addressed many of the practical issues which the law does not address. To her credit, she drafted a consolidation order which was very concise in terms of the creation of an interim board, the duties of the interim board, and the duties and responsibilities of those trustees sitting on the individual boards which were part of the consolidation.

This bill does a number of things to assist school districts in the consolidation process. For example, in our existing statutes, there is no process enumerated for the consolidation of k-12 school districts. If one digs deep enough in the Administrative Rules of Montana, one can find one statement that would support using the process for high school districts for a k-12 district consolidation, but the law as it stands right now is unclear on the process of consolidation of k-12 school districts. Because of the absence of any specific process for consolidation of k-12 school districts, there is real confusion among the public schools regarding the need to dissolve a k-12 school district prior to initiation of consolidation proceedings. There is no logical reason for creating additional barriers for k-12 school districts to consolidate than for elementary districts or high school districts.

This bill also simplifies the process by doing away with separate and distinct statutory provisions for elementary school districts and for high school districts by the inclusion of one process for all

school districts. So there would no longer be one set of statutes for consolidation of elementary schools and another set of statutes for the consolidation of high school districts or k-12 districts. This bill establishes and simplifies the processes and the statutes establishing those processes.

This bill clarifies critical timing issues. The bill establishes a deadline for holding a consolidation election and provides that the consolidation election must be held no later than December 31 preceding the school year in which the consolidation is to become effective. Current law does not address this. Furthermore, the bill clarifies that the consolidation will be effective July 1 of the ensuing school year.

This bill clarifies critical governance issues, i.e., the board of trustees and the make-up of the board for the newly formed school district. For example, current law provides that for elementary school district consolidation, the County Superintendent is responsible for appointment of the trustees of the newly formed school district. However, current law is void on this issue for high school districts and for k-12 school districts. This bill clarifies the process and makes it consistent for all consolidations. This bill provides that upon passage of a consolidation proposition, an interim board of trustees governing the newly formed school district will consist of all of the members of the boards of trustees involved in the consolidation, until the next regular election in May. So the trustees would, in essence, have dual functions. They would continue to perform those duties necessary for the operation of their individual districts until the effective date of consolidation and would also perform those duties necessary for the formation and transition to the newly formed school district. A statutory provision establishing an interim board is absolutely critical for the purpose of conducting business necessary to ensure that the newly formed district is ready for operation for the upcoming school year. There are a litany of issues which need to be discussed and acted upon prior to July 1; e.g., the hiring of a Superintendent, hiring of certified and classified staff, budgetary issues, transportation issues, curriculum issues, policy matters, etc.

MTSBA appreciates Representative Raser's efforts in addressing current barriers to consolidation and clarifying issues affecting consolidations and annexations. HB681 provides a real example of how the Legislature can promote efficiency in our public schools while recognizing and maintaining local control.

MTSBA respectfully requests your support of HB681.

Thank you.