EXHIBIT 14
DATE 3/25/11
HB 397

SPONSOR'S REBUTTAL TO FISCAL NOTE

Bill Number: HB397 **Date Prepared:** 3-22-11

Short Title: Tax Credits for Non-Public School Tuition

Sponsor: Rep. James Knox

Fiscal Note Version and Date: Bill As Amended 3-21-11

Generally, why do you disagree with the fiscal note?

The Governor's note assumes:

1.) Non-public school enrollment which was 5.1% of all school enrollments in 2009 will remain at the same percentage of total student enrollment after the tax credit is enacted.
2.) DOR's estimate of department expense is higher than a similar bill from the 2009 session.
3.) OPI's general fund expenditure per student ANB is less than LFD's general fund expenditure per student ANB.
4.) 186 students from K-8 schools in elementary districts of 236 students or less will move to a non-public school and claim a tax credit.
5.) DOR's assumptions give full tax credit to currently attending private school students when the bill allows only the amount by which the tuition has increased over the previous year. Section 1(3)a

Specifically, what in the fiscal note do you feel is flawed?

1.) Number 9 of the Governor's note states 5.1% of the total enrollment are non-public school students and assumes this percentage will continue if the bill is enacted. Number 32 of the Governor's note assumes the reduction in ANB would consistent and ongoing. Number 33 of the Governor's fiscal note assumes a constant reduction of ANB of 1,584 students with no increasing demand as the credit value increases.

These assumptions are flawed. The Governor's note underestimates the demand for private school education. According to the Office of Public Instruction from school year 2007-08 to school year 2009-10 private elementary school enrollment declined by 1056 students or 15.7% During the same period public elementary school enrollment increased by 1,440 students or 1.6%. The timing of this enrollment shift from tuition based schools to "free" public schools aligns with the beginning of the recession in 2008. In school year 2007-08 private elementary enrollment was 6,702, private high school enrollment was 2,005 and home school enrollment was 4,106. In school year 2009-2010 there are 5,646 students in private elementary schools (1,056 student decline), 1,999 students in private high schools (6 student decline) and 4,079 students in home schools (27 student decline) in Montana. The

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recession has affected those with least financial means the most, young families. Currently there are Montana families with approximately 1,056 students who had been in private schools who may want to return their student to a private school if given the financial assistance of a tuition credit. The cost to the taxpayer of this enrollment shift is 5.7 million dollars per year (3.8 million State general fund and 1.9 million local).

Brain Gottlob Senior Fellow with the Milton Friedman Foundation in 2009 studied the demand for tax credit scholarships in Montana. His study shows a demand of 3,389 public school students with parents with incomes less than 200% of free/reduced lunch eligibility for private school scholarships valued at $2,500.00. When Gottlob conducted his study in January of 2009 he could not predict the full impact of the recession on the budgets of parents sending their students to private schools. He would only have had enrollment data through the 2007-2008 school year, the year before the recession impacted enrollment. The full impact remains to be seen with private schools seeing enrollments decline again at the start of the 2010-2011 school year. The Governor's note may be fairly accurate in the FY 2012 estimating the demand at 1,584 but in the following years the demand is underestimated. Using the Gottlob study the estimated demand for FY 2013 is 2,073, FY 2014 is 2,562 and FY2015 is 3,051

2.) Governor's fiscal note 21, 22, 23 and 24; DOR's expenditures are $14,700.00 more than stated on a note from a similar bill from the 2009 session, SB342.

3.) Governor's fiscal note number 28; the state share of support per ANB values from OPI are less than the values from LFD.
OPI Elementary-$3,099 High School-$4,028
LFD Elementary-$3,346 High School-$4,346
LFD determine current per-ANB entitlement for elementary ANB is $5,099, and for middle school and high school ANB is $6,651. The state share of support per elementary ANB is $3,346 and local share is $1,753. The state share of support per high school ANB is $4,346 and local share is $2,305. Local government savings FY 2012 $3.1million, FY 2013 $3.9 million, FY 2014 $5.1 million and FY 2015 $6.1 million.

4.) Governor's fiscal note number 31 assumes 186 students from K-8 elementary districts with less than 236 students will move to a private school. The vast majority of these communities with schools this size or smaller will not have access to a private school. The net impact for these students has not been removed from this estimate of fiscal impact. The ANB expense would be $895,656 plus the expense of the tax credit. In FY 2012 $1million, FY 2013 $1million, FY 2014 $1.1 million and FY 2015 1.1 million could be added to the net impact of the general fund if this impact was not assumed.

5.) Governor's fiscal note number 9 assumes all private school students are eligible for the tuition tax credit and does not make the distinction between students who move to a private school and those students who are in a private school. Section 1 (3)a only allows a credit for the amount of the tuition increase over the previous year. Which means with new private school students the increase is 100% and continuing private school students may experience an inflation related increase with only the amount above the previous year's tuition eligible for the tax credit. If all current private school students received no increase in tuition over 5600 students would not be eligible for the tax credit and the reduction in revenue to general fund in Governor's note is overstated by; FY 2012 $2.5 million, FY 2013 $4.5 million, FY 2014 $6.1 million and FY 2015 $6.9 million

What is your estimate of the fiscal impact?

Each Chart considers the addition of the sponsor's assumptions and illustrates the savings realized with each assumption.

Fiscal Summary (Using Sponsors assumptions 1,2 and 3)

		FY 2012	FY 2013	FY 2014	FY2015
Expenditures:					
General Fund		($5,934,108)	($7,789,836)	($9,640,335)	($11,495,159)
Revenue:					
General Fund		($3,251,223)	($6,071,304)	($8,812,312)	($10,520,192)
Net Impact-					
General Fund Balance:		**$2,682,885**	**$1,547,932**	**$857,423**	**$1,004,367**

Fiscal Summary (Using Sponsors assumptions 1,2,3 and 4)

		FY 2012	FY 2013	FY 2014	FY2015
Expenditures:					
General Fund		($5,934,108)	($7,789,836)	($9,640,335)	($11,495,159)
ANB Expense Small Schools Amendment		($895,656)	($895,656)	($895,656)	($895,656)
Sub Total		($6,829,764)	($8,685,492)	($10,535,991)	($12,390,815)
Revenue:					
General Fund		($3,251,223)	($6,071,304)	($8,812,312)	($10,520,192)
Tax Credit		$100,000	$100,000	$200,000	$250,000
Sub Total		($3,151,223)	($5,971,304)	($8,712,312)	($10,420,192)
Net Impact-					
General Fund Balance:		**$3,678,541**	**$2,714,188**	**$1,823,679**	**$1,970,623**

Fiscal Summary (Using Sponsors assumptions 1,2,3 and 5)

		FY 2012	FY 2013	FY 2014	FY2015
Expenditures:					
General Fund		($5,934,108)	($7,789,836)	($9,640,335)	($11,495,159)
Revenue:					
General Fund		($3,251,223)	($6,071,304)	($8,812,312)	($10,520,192)
Gov. Overstatement		$2,500,000	$4,400,000	$6,100,000	$6,900,000
Actual Collection		($751,223)	($1,671,304)	($2,712,312)	($3,620,192)
Net Impact-					
General Fund Balance:		**$5,182,885**	**$6,118,532**	**$6,928,023**	**$7,874,967**

Fiscal Summary (Using All Sponsors Assumptions)
Real Total Savings

		FY 2012	FY 2013	FY 2014	FY2015
Expenditures:					
General Fund		($5,934,108)	($7,789,836)	($9,640,335)	($11,495,159)
ANB Expense Small Schools Amendment		($895,656)	($895,656)	($895,656)	($895,656)
Sub Total		($6,829,764)	($8,685,492)	($10,535,991)	($12,390,815)
Revenue:					
General Fund		($3,251,223)	($6,071,304)	($8,812,312)	($10,520,192)
Tax Credit		$100,000	$100,000	$200,000	$250,000
Sub Total		($3,151,223)	($5,971,304)	($8,612,312)	($10,270,192)
Gov. Overstatement Assumption #5		$2,500,000	$4,400,000	$6,100,000	$6,900,000
Net Impact-					
General Fund Balance:		**$6,178,541**	**$7,114,188**	**$8,023,679**	**$9,020,623**