SENATE EDUCATION
Exhibit No. 1
Date 1/19/15
Bill No. SB 107

SB107 – Allow Creation of a High School District

1. SB107 would allow the voters in an existing Elementary School District that has a minimum of 1000 students to consider whether their community wants to create a high school district.

2. This bill would give local school districts the freedom to decide to do what is best for the students and the taxpayers in their communities. It allows local control and encourages local school districts to be innovative in addressing areas where populations are expanding. In those few K-8 school districts where enrollment has expanded beyond 1000 students, but there is still no high school for those students, this legislation allows them to consider whether they want to tax themselves and expand to a K-12 district.

3. The text of this bill is a little bit complicated, because so much work has been put into it to correctly spell out the exact process by which a new High School District would be set up. It is important that the community referendum be held properly, and that the proposal does not have an adverse impact on the original district where students attended before. This legislation was carefully vetted last session, and has been refined even more during these past few months by some of the most respected thought-leaders in Montana Education.

4. There are not many K-8 districts that are growing this rapidly, so there are probably only three communities that would be likely to consider this idea, but current law prohibits those communities from even starting the discussion. This is a bill that is about empowering local control, and giving communities the freedom to do what is best for their own citizens under the same law as everybody else.

Some of the smartest individuals in Montana Education have studied this bill, and please be aware that there may be several amendments still to be suggested. That is fine. This is an important issue and we want to get this right. We want this process to be transparent, fair and equitable.

I will explain one such amendment that we think dramatically improves the bill, regarding existing bonded debt.

Our goal here is to empower local communities and taxpayers, to allow them to choose to tax themselves and to make local decisions about what is best for their students, but not at the expense of existing schools or current debt commitments.

Senator Taylor Brown
406-860-7293
taylor@northernbroadcasting.com

I. Local Election process to consider Expansion:

Page 1, Line 26 through all of Page 2 describes how a local expansion election would be held:

5. If a Special Election is held, then it would require that at least 30% of the local voters in the district must vote in that election to make the decision. If the turnout is over 40%, then it must pass by a majority in favor. Or, if less than 40% of the electors vote, then at least 60% of those must be in favor.

6. If the expansion is considered as part of a General Election or a Mail Ballot, then a majority must be in favor.

II. Transition Costs Tax Levy, Multi-District Cooperative Agreement to retire Bonded indebtedness

Line 1 at the top of Page 3 through Line 4 at top of Page 5

7. If the proposition for expansion is approved, then that will result in a Transition Costs Tax Levy that will be made by the county commissioners.

8. The trustees of the new district, must negotiate a Multi-District Cooperative Agreement with the existing high school district, to address (a.) how districts will retire any past bonded debt previously approved for the existing district, and (b.) division of assets held in trust for the mutual benefit of all students in the existing district.

9. If trustees cannot reach agreement, then the county superintendent shall issue a resolution of the issues to be adopted into the Multi-District Cooperative Agreement. The country superintendent's actions can be appealed to District Court.

10. The newly approved k-12 district must open and operate a high school within 5 years (increased from the current 3 years).

III. Proposed Amendment (regarding Bonded Indebtedness) SB107 explanation (page three)

NOTE: Thanks to a review by OPI's Bond Counsel we have identified language in this bill that could be an unconstitutional impairment of the original contract for repayment of existing High School District bonds that are still outstanding.

That is because the way the SB107 was originally written, it permits an existing high school district to negotiate with a new district regarding the retirement of bonded indebtedness; indebtedness that was approved prior to the creation of the new high school district. The negotiated decision could impair security of holders of those outstanding bonds.

That negotiation concept might also violate the existing rule that, when district boundaries are changed to reduce the size of the district, the outstanding bonded indebtedness remains the bonded indebtedness of the original territory.

It is important that the bondholders of outstanding High School District bonds are entitled to enforce the original covenants made with regard to the security for their repayment at the time the bonds were issued.

Proposed Amendment: SB10701.APM

Page 3 strike from Lines 25 through 29

Page 4, Line 1, insert that division of assets must consider original bonded indebtedness

Page 5, Lines 6 through 16, strike all of section 2

11. Removes the amending of 20-6-411 with the result that any bonded indebtedness would remain with the original territory that voted for it

12. Changes the language regarding the agreement between the two districts to reflect that bonded indebtedness cannot be negotiated away, but rather is a factor to be considered in the division of assets

IV. Initial Calculation of Average Number Belonging (ANB)

Page 10, Lines 11 through 15

13. For the first year of Average Number Belonging funding calculations, the ANB for the new high school district will be calculated by dividing the ANB of the elementary district by 9, and multiplying by 4. In subsequent years the ANB will be based on the October enrollment count.

V. Page 12, Lines 6 and 7

14. The levy imposed for transition costs is limited to no more than 5 years, (increased from 3 years).

VI. Page 13, lines 6 through 8

15. When a new k-12 district is created , the amount of the block grants provided by the Office of Public Instruction to the districts must be established based on the proportion of high school ANB in each district.

Fiscal Note for SB107

- (9.) Assumes that all three eligible Elementary districts would vote to become K-12 districts next year in 2016.
- (17.) Assumes that the existing High School Districts will not decrease the number of teacher FTEs.
- (Pg 5.) Because of three-year averaging in calculating ANB, you can see that the fiscal impact goes down.
- (12.) Most of the long-term increase in cost, and the transition levies, are paid by local taxpayers, so there is no state fiscal impact until local taxpayers decide to tax themselves.
- If everything happened immediately, the first General Fund impact would be in three years, in Fiscal Year 2018, of about $9.0 million. Then in 2019 it drops to under $6.0 million, and probably $3.5 million the year after that. Eventually it probably stabilizes at about $2.0 million, which mostly comes from the cost of the basic entitlement and the ANB decrement.
- In the Technical Notes, items 6 through 9 are meant to be addressed in the Amendment SB10701.APM

Closing thoughts:

SB107 represents a very important Policy Choice for our state. We have been struggling with this, and working with this for years, and we still have a major decision to make here.

The question is: Do you want a process that allows for change, or not?

And how much of that decision will be decided by the local people in the affected community?

To take a snapshot in time, and freeze what all School Districts must look like, is just not realistic, and it is not the right thing to do. What if in the future, things change, and we need schools in different places?

We have worked hard here to develop a Process to address this important Policy choice. The process to do this worked. There may be further tweaks, and more suggestions coming....we invite those amendments.

But the uncertainty needs to end. This policy issue needs to be decided.