SENATE FINANCE & CLAIMS

Exhibit No. 2

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Bill No. SB 107

SB 107 Senate Finance Committee Testimony **Tuesday, February 17, 2015**

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The financial impacts of the implementation of SB 107 are far reaching and substantial to the taxpayers of three of the largest schools in Montana and to the three elementary districts involved in this k-12 expansion bill. These involve the immediate impact of 1) limiting the new district to levy only for tuition and transportation, 2) the lack of understanding the impact of the negotiations on existing bonded indebtedness to the existing schools, 3) the missing guidance on the division of assets and now debts, 4) the misunderstanding of the definition and use of a Multi-District Agreement as currently written in state law and 5) looping on taxation of existing district. Finally, the proposed law has implications to the districts after the new schools open their doors.

These comments apply to the **transition years** when the new district is approved but has not opened its doors.

1) The existing schools (the AA) will finance the operations of the new districts (the new K-12 districts) for at least 6-24 months after the formation of the new high school. How? The proposed law permits **only** a tuition levy, a transportation levy, and a building (transition) reserve levy.

- Transportation and Building Reserve Funds (equal to the 80% Base budget) levies will not appear until the tax bills are mailed and paid with first half payments the end of November, the existing high school district will have to upfront finance these costs and continue operations without the repayment by the new district for at least 6 months. In Helena, this amount will be about $2,000,000 in the general fund and about $180,000 in the transportation fund. The current cash reserves are insufficient to handle this amount of financing and will go negative. Absent sufficient cash balances in other funds, the district could be forced to register warrants.
- Tuition levy repayment is 18 months later. Under tuition law, the reimbursement is based on the previous year of attendance. The new district students would attend the first year a bill is sent to the new district (based on enrollment), appears on the tax bills and is paid 6 months later. This is 18 months after the start of the new district. This is about $700,000 based on the numbers that Jim Standaert was hired to provide.
- Nowhere in Montana law are other school districts required to finance a new school districts either in past creation or even in consolidation of districts.

2) Negotiation of debt – this applies to any outstanding debt of the existing high school district. The amendment to the bill struck 9(a) but then added to back to 9(b) which was one step forward accompanied by two back. As bond counsel for Dorsey Whitney and D. A. Davidson's pointed out at the Senate Education Committee hearing, this language is legally unprecedented, and more likely than not unconstitutional. This bill damages the existing district in terms of planning for future expansion – what size? For guarantees the bond indenture guarantees of the existing debt and will negatively impact the bond ratings by firms

such as Standard and Poor's or Moody's. This means high interest rates and higher taxes to the existing high school district.

3) Negotiations – assets and debts. The proposed law was murky enough about guidance on the division of assets; but by adding the amendment this all comes to battle of the numbers. It has the following problems:

- Identification – which assets are included? Does this mean that the home district is to provide an inventory list of all assets including those of the Helena Middle School which was originally the old High School?
- Valuation - Helena School District has a **historical value** of land, building, and equipment of about $32.5 million. The **book value after depreciation** is $21 million. The **replacement value** from insurance appraisals is close to $100 million dollars. What about the value of the things that they don't want (football helmets in the wrong school colors) or can't be moved (technology wiring in the walls). Does "assets" mean the value of everything or only those the new district wants and the rest traded – for what?
- Existing debt is excluded from valuation such as leases – represent significant long term commitments of the existing high school for all students including those of the proposed new district.
- Proration – no guidance. Are the assets divided by a percentage of what: a) the number of current students from the new district (17%), or b) an average of students over the past 100 years, or c) the percentage of the new high school taxable value (12%)? There is no precedent for taxpayers or district to assets of existing district to address this.
- Basis of Distribution – no guidance. Are items that cannot be moved - traded for cash? Or converted to other assets? What about the value of the Self Insured Health Insurance fund or other funds with cash value but no assets that may have been supported from tax levies paid by East Helena?

4) Use of Multi-district agreement law is misapplied. The proposed law seems to contemplate the conversion from the negotiations of assets and debts into a single dollar value. Why? – The multidistrict agreement law was created for the payment of cash from one district to another. This proposed legislation requires the use of such an agreement. BUT cash cannot be sent to the new district – section 20-6-416 absolutely prohibits the transfer of cash in a situation such as proposed in this law. Also, the Multidistrict agreement law prohibits an increase of local taxes in order to "restore" funds that may be transferred. In the case of Helena, there will be a negative impact on cash and it would be impossible to transfer a dime.

5) Once the electors of the potential new district say "yes" we want a new high school, several actions are mandated immediately without choice. The building reserve (transitional) levy is placed on the tax bills, negotiations begin and the existing district re-taxes or loops back the taxes that the new district taxpayers would have paid (but are exempted in the proposed language.) For Helena, these are for the Helena Building Reserve fund, Adult Education, Technology, and Tuition funds. This will result in increased taxes to the existing taxpayers immediately. The existing district must educate the new district (East Helena) students for up to five years using these funds for their education, but the new district will not have to support

any of the education that results from these funds. The estimated cost for these funds from this year is close to a quarter of a million dollars that Helena taxes will increase automatically without choice without a voice.

IMPACTS AFTER THE NEW HIGH SCHOOL OPENS

- Increased state support for new high school(s). Without doubt the state will pay more. Regardless of the battle of numbers and which side you prefer to support, the state will pay more. (per ANB and entitlement)
- The existing high school district will be harmed. Taxes will increase for all of the levies because of the decrease in the taxable value.
- The new high school district taxpayers will pay more for their high school than they would for a new high school in the existing district – by at least twice.
- The state support of public school debt will include debt from new construction for new high schools and unless the state infuses more funding, the pot is split between more schools – meaning less state support and high local taxes.
- False assumptions regarding what the existing Board of Trustees will do with the maximum budgets once the new district begins operations.
- The taxable value for existing bonding and any future bonding of the existing high school district will be nebulous. By being on the books and without being exercised, this proposed law impacts the bonding capacity of the existing high school district. Just the fact that a new high school district could form creates uncertainty in the bonding world.

Questions that have no answers

1) How come the new high school district during the transitional phase does not have to pay into the Retirement fund? Every other district in the state does.

2) Why, if the stated goal of the transitional levy is to have NO NEGATIVE IMPACT to the existing district, why have all of these new finance sections in it at all? Why not follow decades of proven law and keep the existing law intact until the new school opens? It there is no impact during transition, what is the real reason for this re-write of existing law?

3) Why call it a divorce? In the case of Helena and East Helena, the County Superintendent has researched centuries of information to find that there was only one high school district that included Helena and East Helena elementary districts. A divorce requires a marriage to begin with and that never happened here. The split of millions of dollars of assets and debts is to give them to a district that could not afford them otherwise – the choice is to give preferential treatment that no other district in the state has ever enjoyed.

4) Why no provision to sunset? The voters of an eligible elementary district can keep voting (every five years) for a high school district and never open the doors. The new district could enjoy unlimited tax benefits while choosing to take advantage of their neighbor and choosing not pay an equitable share of the costs to educate their students. Assets are divided and the doors may never open.

5) Why is this choice? Without precedence, the bill promotes inequity, financial mandates in order to pit community against community. The purpose is so that all students have less and taxpayers pay more all under the misused, overused, and misunderstood concept of "Choice."